

MADRAS RECORD OFFICE.

Government of Madras.

Indiv DEPARTMENT.

G.O. No.	2103	Press
		~~Mis~~
Dated	20. 12. 1867	

892-268
8/5

Not to be folded or roughly handled

Read the following papers:—

From G. THORNHILL, Esq., Acting Magistrate of the Madras District and late Magistrate of the Kistna District, to the Acting Chief Secretary to Government, Fort Saint George; dated Sydapet, 24th August 1867, No. 170.

I have the honor, with reference to paragraphs 3 and 5 of Proceedings of Government, dated 20th August 1867, No. 1343, to state that I have no personal recollection of the occurrence alluded to, and am unable to give the explanation called for without a reference to the Kistna District, which I shall at once make.

2. In similar cases, it was always my custom to communicate immediately with the Resident at Hyderabad, and, on his application for the delivery of the accused for trial before His Highness the Nizam's Courts, to submit the case for the orders of Government, under Act VII of 1854.

3. In this instance, I certainly was not aware that the individuals alluded to had been in confinement so long, or I should have asked permission to release them long ago.

From V. VENCATACHELLAM, Deputy Magistrate, Kistna District, to W. WILSON, Esq., Acting Magistrate, Kistna District; dated Dachepalli, 7th September 1867, No. 39.

I have the honor to acknowledge the receipt of your Memorandum, dated 26th ultimo, forwarding a copy of the Proceedings of the Government, dated 20th idem, calling for a full explanation of the whole circumstances connected with the arrest and detention of the six prisoners noted in the margin, and such justification as I may have to offer for the delay which has occurred in connection with this case.

1. Vuddera Vamoola Vencadloo.
2. Do. Boodathe.
3. Vamoola Yelludoo.
4. Nullaboya Suttoegadloo.
5. Do. Mussegadloo.
6. Do. Bagie.

2. I respectfully beg to state that I received, on 15th January last, an Urzee from the Sub-Magistrate of Toomurucota reporting that a Peon, by name Sheik Hyder, brought a Takeed from the Naib at Marepully for the apprehension of

- (1) Vuddera Vamoola Vencadloo,
- (2) Vuddera Vamoola Boodathe,
- (3) Vamoola Yelludoo,

who are subjects of the Nizam, and who are charged with having committed thefts in the Nizam's Territory, and that he and the Police Inspector apprehended those three persons, and three others who are inhabitants of Palnad, together with stolen property, and that he has given a Remand Warrant to detain them in custody, and

* Kistna District Gazette, of 9th June 1866.—The following Extract from the Proceedings of the Madras Government, Judicial Department, dated 8th May 1866, is published for the information and guidance of the Magistracy in the District, who are requested to follow the course pointed out whenever the necessity arises.
23rd May 1866. (Signed) G. THORNHILL,
Magistrate.

requesting orders, with reference to the Circular Order* of the District Magistrate, dated 23rd May 1866, whether he should send the prisoners to the authorities in the Nizam's country, or in what way he should deal with them.

3. I received a report from the Police Inspector of Toomurucota Division, reporting that a Peon having brought a Takeed from the Ameen of Davaruconda Taluq (Nizam's Territory) for the apprehension of the persons who committed thefts

in the Nizam's Territory, he and the Peon and others apprehended the six prisoners with stolen property, and that the three prisoners, in whose house the three primary offenders were apprehended, acknowledged that the stolen property found was brought by those three persons, who came from the Nizam's Territory, and that the Peon wishes to take the prisoners and property to their authorities, and requesting orders whether they and the property should be made over to them, or what is to be done regarding them.

4. On the day on which I received the Sub-Magistrate's Urzee, that is 15th January, I issued the following order to him:—
“The Government”

"The Government having directed, in their Proceedings of 8th May 1866, that persons who have committed offence in the Nizam's country, and have taken refuge into the British country, and there apprehended, cannot be made over to the Nizam's authorities without the previous sanction of Government, you are required to inform the Taluq authority of Marepully of the Nizam's country, that those prisoners will be detained in Police custody until the Government send their orders to the District Magistrate. You may release the three prisoners who are inhabitants of our district, and who are detained on a charge of receiving stolen property, on their furnishing a bail of one hundred Rupees each to appear when required."

I informed of the same order to the Taluqdar of Marepully.

5. On 22nd January last, the Sub-Magistrate, Maricully in the N. ...

5. On 22nd January last, the Sub-Magistrate addressed a letter to the Amcen of Marepully in the Nizam's country, informing the above order, and requesting him to bring the same to the notice of the authorities in the Nizam's country.

6. On 15th May 1866, I received an Urzee from the Sub-Magistrate of Marepully, reporting that the Amcen of Marepully had brought the above order to the notice of the authorities in the Nizam's country.

6. On 15th May 1866, I received an Urzee from the Sub-Magistrate of Toomurucota, reporting that the three prisoners who are required to give bail, not being able to produce the same, have been under custody, and that Rupees 23-13-5 have been already expended for the batta expenses of six prisoners, and that the prisoners have asked as to the period they should stay in custody.

7. On the day on which I received that Urzee, that is, on 15th May last, I submitted copies of this and the first Urzee to the Magistrate of the District, with my Yadast, No. 40, reporting the order I issued on 15th January, requesting to know whether he received any communication on the subject from the Resident of Hyderabad, or whether the prisoners may be released, or whether I should await some time more.

8. The Police Inspector having

8. The Police Inspector having reported to me that the prisoners represent that the batta which is being given to them is not sufficient for them and their children, I have issued an order, on 21st June 1866, to the Sub-Magistrate, requiring him to pay daily a batta of two Annas each to the six prisoners, and on the same day submitted a Yadast to the Acting Magistrate, No. 49, bringing to notice that I was not favored with a reply to my Yadast of 15th May, No. 40, and that I directed the Sub-Magistrate to pay a daily batta of two Annas each to these prisoners.

9. On 4th August, I received a reply from the Acting Magistrate that the matter has been laid before Government.

9. On 4th August, I received a reply from the Acting Magistrate, informing that the matter has been laid before Government, and that the result will be communicated hereafter.

10. The Sub-Magistrate reports that the prisoners are being paid a daily batta of two Annas each to these prisoners.

10. The Sub-Magistrate reports that the three prisoners, who are inhabitants of this district, having furnished the bail, were released from custody on 22nd August last.

11. Having fully detailed all the circumstances of the case, as required, I respectfully beg leave to represent the grounds on which I acted in this matter.

12. The procedure regarding such prisoners, as approved by Government in their Order of 8th May 1866, is as follows:—

The Nizam's Officers having entered British Territory and gave information to the Police, and apprehended the offenders and made them over to the Officers in this district, it is for them to make their

13. As the Government ruled in the said Order that offenders of the Nizam's Territory taking refuge in the British Territory shall not be delivered up without an order of Government, I did not

* * * G. O. paragraph 3.
provided always that the accused party shall not
"be delivered up without an order of Government."

* * * provided always that the accused party shall not be delivered up without an order of Government."

Territory shall not be delivered up without an order of Government, I did not order the Sub-Magistrate to make over the prisoners to the Nizam's Officers; and as the Government Order did not require that a report ought to be made to them as soon as such an offender has been apprehended in British Territory, or that information ought to be given to the Resident, I did not report it to the Magistrate for being reported to Government, or for being informed to the Resident.

14. In reply to paragraph 4 of the Government Order under acknowledgment, I beg to represent that Mr. Wilson was Acting Sub-Collector and Joint Magistrate in April last, and that he did not write anything to the Deputy Magistrate in April last about these prisoners when he went to Toomurucota on settlement duties. I do not know if he had directed the Sub-Magistrate of Toomurucota on the subject; the Sub-Magistrate did not

Paragraph 4 of the Government Order.
From the Acting Magistrate's report, it would seem that the Deputy Magistrate was directed by him, in April last, to report upon these prisoners to the Magistrate, Mr. Thornhill, for orders. This report was not submitted until the 15th May last.

The order (verbal) was given to the Sub-Magistrate on the evening of the 17th April at the Taluq Cutcherry. I had no call to write to the Deputy Magistrate, and communication to his Subordinate was all that could be required to secure the end I had in view. If the Sub-Magistrate did not think fit to notice the order I gave him, he must be asked why.

(Signed) W WILSON,

he must be asked why. (Signed) W. WILSON,
17th September 1867. Acting Magistrate.

report any such thing to me, or to the District Magistrate, in April last. I had already stated in paragraph 6 that, on 7th May, the Sub-Magistrate reported about the batta of the prisoners, and that I reported the matter to the District Magistrate on the date on which I received it, requesting to know whether he received any communication from the Resident, or whether the prisoners may be released.

15. My Yadast of 15th May would reach Masulipatam for five or six days according to the present state of Taluq Tapal, owing to the reduction of runners, and as Mr. Thornhill delivered over charge of the office on 25th May, I think there was no sufficient time for the matter being settled by that Officer; and my second Yadast, dated 21st June, was sent during Mr. Leman's days, for which I received, on 4th. August, a reply from you.

16) The Sub-Magistrate reports that the three prisoners, who are subjects of the Nizam, were released on 3rd instant, under the orders of Government under reply. I trust that it will be manifest that the three prisoners of this district would have been released in January last if they had given the bail which they have furnished

Proceedings of the Madras Government, Judicial Department,
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in August last, and that the three prisoners who are subjects of the Nizam were in custody owing to the Nizam's Officers not making, through the prescribed channel, application for surrendering them to their custody.

17. I trust you will perceive that there is no wilful neglect or delay on my part in this case, and submit this explanation to Government.

Not sent herewith, as the Deputy Magistrate has referred to their contents at length.

(Signed) W. WILSON,
Acting Magistrate.

18. I beg to enclose copies of the Urzeds, Hukums, &c., referred to in this letter, for your perusal.

No. 261.

Submitted to Government, as per G. O., No. 1343, dated 20th August 1867.

BUNDER,

17th September 1867.

(Signed) W. WILSON,

Acting Magistrate.

From G. THORNHILL, Esq., late Magistrate of the Kistna District, to the Chief Secretary to Government, Fort Saint George; dated Sydapet, 4th November 1867, No. 229.

With reference to Proceedings of Government, Judicial Department, 20th August last, and Official Memorandum, No. 332, dated 2nd November, I have the honor to state that, from information I have received from the Kistna District, I find that I was informed, for the first time, of the confinement of the individuals alluded to in the Order, by the Deputy Magistrate, in his Yadast, dated 15th May 1867, which reached me on the 21st idem. I at the time ordered inquiry to be made as to whether any communication on the subject had been received from the Resident at Hyderabad, and was informed that none had been received.

2. I made over charge of the district on the 25th of the same month, or four days after the receipt of this report, and I regret to find that, in the hurry of departure, the subject did not again attract my notice.

ORDER THEREON, 20th December 1867, No. 2103.

From the papers above recorded it appears that on the 30th of July 1867 Mr. Wilson, the Acting Magistrate of the Kistna District, brought to the notice of Government that he had found, on examining the vernacular correspondence in the Magisterial Department of his office, an unanswered reference, dated 15th May 1867, from the Deputy Magistrate on general duty, regarding the disposal of six prisoners who had been in confinement in the Lock-up at Toomurucota in the Palnad, since the 5th January 1867. Three of these prisoners had been arrested by the Police of the Kistna District, on a charge of theft, and three on the charge of dishonest retention of stolen property. These arrests were at the instance of the Naib of the Marepully Taluq in the Nizam's Territories.

2. The arrest of these men was reported by the Sub-Magistrate on the 5th January 1867 to the Deputy Magistrate, who instructed the Sub-Magistrate to inform the Nizam's Taluq authorities of the arrest, and here all action on the part of both Deputy and Sub-Magistrate ceased, until Mr. Wilson (then Acting Joint Magistrate and Sub-Collector in the Kistna District) discovered, while on settlement duty in Palnad in April 1867, that these men were in custody. On being informed that they had been nearly four months in detention, Mr. Wilson verbally directed

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the Sub-Magistrate to report again at once and to obtain the Magistrate's orders regarding the disposal of these prisoners. The Deputy Magistrate soon after this submitted the Memorandum which is the unanswered reference which Mr. Wilson found on the 15th May when in charge of the Kistna District.

3. Mr. Wilson, in his report, stated that no action had been taken by the Nizam's authorities, and that none seemed to be contemplated. On the receipt of this communication, the Government directed the immediate release of these prisoners and called upon Mr. Thornhill, who was the Magistrate of the Kistna District from January until the 25th May 1867, during which period the prisoners had been in confinement, to explain how it happened that there had been so inordinate a delay in taking the necessary steps for communicating with the authorities of the Nizam's Government, at whose instance these individuals were arrested so far back as January.

4. The Acting Magistrate was required at the same time to obtain from the Deputy and the Sub-Magistrate such explanation as they might have to offer in justification of their neglect, by which the prisoners had for many months been kept in confinement in the Taluq Lock-up.

5. This information has now been furnished, and confirms the impression created by the first report forwarded to the Government, that there has been on the part of all the officials concerned in this matter serious neglect of duty which has led to the confinement, without trial, for many months, of these persons, three of whom it now appears were British subjects, the others being subjects of the Nizam.

6. Mr. Thornhill explains that he was informed for the first time of the confinement of the parties in question by a Memorandum from the Deputy Magistrate dated the 15th May 1867, which reached him on the 20th of that month, when he ordered inquiry to be made as to whether any communication had been received from the Resident at Hyderabad on the subject and that he was informed that none had been received.

Mr. Thornhill made over charge of the district to Mr. Wilson on the 25th May, and he expresses his regret that in the hurry of departure the question of the arrest of these men escaped his attention.

7. V. Vencatachellam, the Deputy Magistrate, under whose orders the Subordinate Magistrate acted, explains that the arrest of the six prisoners was first reported to him by the Subordinate Magistrate of Toomurucota on the 15th January, and that on that date he issued an order to the Sub-Magistrate, directing him to inform the Taluq authority in the Nizam's Territories that the three prisoners who were subjects of the Nizam and who were charged with theft, would be retained in custody until the Government issued orders regarding their extradition through the District Magistrate. He further directed the Subordinate Magistrate to release the prisoners charged with being in possession of stolen property, and who were British subjects, on their furnishing, if able, bail, of one hundred Rupees each, to appear when required. The Sub-Magistrate on the 22nd January communicated these instructions to the Ameen of Marepully in the Nizam's Territories.

8. The Deputy Magistrate goes on to state that, on the 15th May 1867, four months after the first order issued by him, the Subordinate Magistrate wrote to him regarding the batta expenses of the three prisoners who were unable to give bail,

and asked him regarding their further detention. On receiving this Urzee, the Deputy Magistrate transmitted it, and a copy of the original Urzee regarding the arrest of the prisoners, to the Magistrate of the District, Mr. Thornhill, requesting to be informed if any communication had been received regarding them from the Resident of Hyderabad and asking whether he should release them. The Deputy Magistrate states that again on the 21st June he addressed a Memorandum to the Acting Magistrate, Mr. Leman, on the subject of the expense incurred in feeding these men in jail, and brought to his notice that the report sent on the 15th May to Mr. Thornhill remained unanswered. On the 4th August, the Acting Magistrate (then Mr. Wilson) replied that the matter had been reported to Government. On the 22nd August, the three prisoners who are British subjects furnished the bail required of them, and were released.

9. The Deputy Magistrate defends his conduct in respect of the continued detention of these men, on the ground that, in the instructions contained in G. O. dated 8th May 1866, No. 701, it is stated that offenders taking refuge from the Nizam's country in British Territory, and who are there arrested, shall not be delivered up without an order of Government, and that as in the G. O. it is not stated that the Magistrate under whose orders such an arrest is made should report the arrest either to Government or to the Resident, the Deputy Magistrate did not report the arrest to the District Magistrate, believing that the report would be made by the Taluq officials in the Nizam's territory to the Minister, and by him to the Resident.

10. The Deputy Magistrate further explains that Mr. Wilson's verbal order to the Sub-Magistrate, given in April, was not communicated to him. The Sub-Magistrate, as stated above, wrote on the 7th May regarding the prisoners who had not furnished bail, but said nothing about Mr. Wilson's order.

11. No explanation is furnished of the Sub-Magistrate's conduct in the affair. He appears to have contented himself with having originally reported the arrest of the prisoners to the Deputy Magistrate, and, under his direction, to the Taluq official of the Nizam's territory, and to have taken no further action whatever to obtain orders.

12. The explanations which have been made regarding the prolonged detention of the six prisoners in the Polico Lock-up at Toomurucota are, in the opinion of the Governor in Council, most unsatisfactory, and reflect discredit on the Officers concerned.

13. Mr. Thornhill, the Magistrate of the Kistna District, on learning, as he did, on the 21st May last, that these suspected persons had been in confinement for a period of five months without any attempt to bring them to trial, should immediately have reported these circumstances to Government. The excuse that he has offered for neglecting to perform so obvious a duty is quite inadmissible, and his conduct is deserving of severe censure.

14. Mr. Wilson, when he discovered that these prisoners had, at the time of his visit to the Palnad in April, already been nearly four months in confinement without any order being given for their disposal, should immediately have communicated this fact to the District Magistrate. In resting satisfied with giving a verbal order to the Sub-Magistrate, desiring him to report the matter to the Magis-

trate, Mr. Wilson showed an indifference to the prolonged detention of these men and to the suffering entailed thereby, which is most reprehensible.

15. Mr. Leman remained from the 29th of May until the 1st July in charge of the Kistna District, and during this period he failed to notice both the reference made regarding the detention of these men by the Deputy Magistrate, which was addressed to his predecessor on the 15th May, and that addressed to himself by the Deputy Magistrate on the 21st June, and by this negligence he assisted in prolonging the serious abuse of authority which has been brought to light.

16. The Governor in Council fails to see any justification of the conduct of the Deputy Magistrate in leaving the Magistrate of the District during nearly five months in entire ignorance of the important fact of the arrest of parties, some of whom were British subjects and the others refugees from the Nizam's country.

17. The most ordinary sense of official duty should have made him at once report the circumstances of this arrest to the District Magistrate, and it is inconceivable that he should have permitted months to elapse, and have remained silently conscious that not a single step was being taken to bring these men to trial.

18. The Subordinate Magistrate seems to have taken no notice of Mr. Wilson's verbal order regarding the prisoners given to him in April, and to have delayed, until the 7th May, addressing the Deputy Magistrate on the subject of the continued detention of these prisoners.

19. The Governor in Council directs that these Officers be informed that they have incurred the grave displeasure of the Government, and that any recurrence on their part of such neglect of duty will be punished by removal from the Service.

20. The Governor in Council considers the occurrence of a case which reflects so much discredit on the efficiency of the Administration to be a matter for serious regret, and, although he trusts that this case is most exceptional, he thinks it necessary to call upon all the District Magistrates to submit to Government the forms of Return which they are in the habit of requiring from the Subordinate Magistracy with reference to prisoners in confinement in the Subsidiary Jails. This requisition is made with a view to prescribing, if necessary, such alterations or additions to these means of control over the Sub-Magistrates as may ensure the inclusion in these forms of every person under detention from any cause soever, and render impossible the occurrence of such lamentable negligence as is shown by this correspondence to have taken place in the Kistna District.

(True Extract).

Chief Secretary.

To G. Thornhill, Esq., Magistrate of the Kistna District.

„ W. Wilson, Esq.

„ G. D. Leman, Esq.

„ V. Venkatachellam, Deputy Magistrate of the Kistna District.

To the Sub-Magistrate of Toomurucota, Kistna District.

„ Magistrate of

Ed. J. H. Burns.

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Memoirs by H. E. The Governor.
1854

When subjects of the Nizam cannot come in
the territory of the Nizam and fly to British
territory the proper course for their arrest
detention and extradition appears to be
as follows.

The officers of the Nizam's Govt. are authorized
to follow the offenders into the territory of
Great Britain without waiting for any formal
permission and there as private individuals to
give information to the British officers and
assist them with a view to effecting the arrest
of the suspected parties, the arresting, of
course executed by the British authorities.
(See order of Govt. 8th of May 1866. No 701)

The arrest of the suspected party having been
effected and that I presume much in the first
instance to be done summarily by any authority,
Magistral or other, the supposed offender
is to be "carried forthwith before a Magistrate
or Justice of the Peace of the Zillah or District
in which he shall be arrested." (Act VIII. 1854. clause VII.)

The Magistrate or Justice of the Peace before
whom the prisoner is produced having satisfied
himself that there is a prima facie case against
the prisoner is to hold the prisoner to bail or
commit him to some fitting place of confinement
or sending such to the "Jail of the Presidency" there.

to remain till he shall be "delivered up or discharged"
by order of Government. (Act VII. 1854. clause VII.)

The Magistrate or Justice of the Peace after
committing the accused or holding him to bail is
forthwith to report the result of his proceedings
to Government with his remarks and with a copy
of all the documents and depositions used
before him. (Act VII. 1854. clause XIII.)

Upon the receipt of the Report of the Magistrate
and after considering the same the Government
is at liberty to order the delivery of the accused
to the officer of the Nizam's Govt. making the
requisition. (Act VII. 1854. clause XIV.)

The delivery is to take place by British officers
on the British frontier who will then & there make
over the prisoner to the Nizam's officer. If an
officer of the Nizam appears to receive the prisoner
the prisoner is to be taken before the nearest
Magistrate who may set him at liberty.
(Act VII. 1854. clause XV.)

If the accused has not been delivered up or
discharged or brought to trial before the
elapse of two months the "Principal Court of
original jurisdiction in criminal cases in the
District" (that is I suppose the Magistrate of
the District) may direct the prisoner to be
discharged with or without bail, having
however first given notice to Government.
(Act VII. 1854. clause 20)

In the order of government (May 8th 1866. 701/ I
 don't find it distinctly laid down how the
 application for extradition is to be made by the
 Govt. of the Nizam to the British government.
 In the case of a British subject who has
 committed a crime on British territory and
 fled to the Nizam's territory the application
 is to be made to the Nizam's Govt. through
the Resident for the Nizam's surrender.
 "a like course, it is added will be followed by
 the Nizam's Govt."

The Nizam has no resident at Madras.
 We may therefore presume that the Govt. of the
 Nizam on learning that their subject committed
 a crime on British territory for an offence
 done on the Nizam's territory ought to apply
 directly ~~to the Madras Govt.~~ ^{to the British Govt.} through the
^{at Hyderabad} ~~the Chief Secretary~~ ^{the Chief Secretary} who would stand in
 lieu of a diplomatic officer, and the Madras
 Govt. having meanwhile obtained the Report
 of the District Magistrate would determine
 whether the extradition should take place
 or not. The application of the Govt. of the
 Nizam might as well also be addressed
^{through the Resident at Hyderabad} ~~to the District~~ ^{to the District} of the District who
 would forward it to the Govt. with the
 other papers. I think the former alternative.

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

would be the more regular but I understand that the latter has been generally adopted for local convenience and dispatch. It more perfect security would be obtained if the Resident at Hyderabad was directed in forwarding the demand to the District Magistrate to advise the Government of Madras that he had done so at the same time.

assuming that the proceedings laid down in the previous paragraphs represent the course which ought to be followed in cases of extradition let us compare them with what occurred in the case of the three individuals recently arrested and illegally detained.

The three men were arrested on or about the 1st of January of the present year (I don't find the date exactly stated) and committed to prison on information laid before the Submagistrate of Immuragode by a police officer from the Mysore territory. The Submagistrate being, as I understand, a Magistrate in the meaning of the Act, the arrest and detention were legally effected. The Submagistrate then reported his proceedings to the Asst Deputy Magistrate, his immediate superior at Dackshilli. The report appears to have been made on the 5th of January. We are not informed why it did not reach the Deputy Magistrate till the 15th. The distance between the two places being about 20 miles.

I see also on the other side of the leaf N

The Deputy Magistrate having replied to his subordinate did nothing more, and the sub-magistrate did nothing more, both appear to have waited in helpless inaction for the intervention of the Puzan's authorities. Meanwhile in violation of the Law the accused lay in jail for nearly four months when they were discovered by Mr. Bulson. -

In this inaction the sub-magistrate, was perhaps heart to blame. He was a subordinate officer, he had done his duty once according to the letter of the Law. He showed a want of feeling, and a want of sense in allowing these people to languish in prison without an effort to release them. He ought to have forced the case to a decision by submitting it again and again to his immediate Superior and failing action on the part of that officer to the District Magistrate. If the culpability of the sub-Magistrate, however, had stopped here and if it had only affected the three prisoners awaiting extradition I would have been disposed to exonerate him more easily. But his culpability

did not stop here. It was aggravated by subsequent remissness and by the fact that the case did not involve only the liberty of three subjects of the Nizam, but the liberty of three British subjects whose case was associated with and contingent on that of the foreigners. When Mr Wilson discovered the prisoners on the 17th of April, he gave the Submagistrate orders to report the case again to the Deputy Magistrate. The Submagistrate allowed twenty days to elapse before performing this simple act of obedience, humanity and duty. He can hardly be supposed to have forgot the verbal order, the prisoners were there staring him in the face, a living memento, but if he did forget it, that forgetfulness was an example of negligence and inattention for which he should be blamed or punished. The conduct of the Submagistrate in respect to the three British subjects will be noticed hereafter. —

The Deputy Magistrate seems even more obnoxious to blame than the Submagistrate being an officer of superior education and station. After instructing his subordinate he did nothing more. He made no report to the District Magistrate. But he ought to have

made a report for otherwise how could the District Magistrate fulfil the prescriptions of Act VII. of 1854? How could he make his report to Government and how could Government without such a Report sanction the extradition? The extradition could not be sanctioned on information received from the Govt. of the Vizianagaram directly or through the Resident and the District Magistrate. The District Magistrate is to send up the papers, and add his remarks and this could not be done without a report from the Deputy Magistrate to the District Magistrate. It is obvious too that such a communication is indispensable to guard against neglect or delay on the part of the Vizianagaram authorities, the very neglect and delay which occurred in the present instance.

If, however, the report from the Deputy Magistrate to the District Magistrate was not plainly implied in the wording of the act it could still be dictated by humanity and common sense and by the spirit of our institutions and policy. If some excuse may be made for the indifference of a Submagistrate in such a case, the same excuse cannot be made for a

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Deputy Magistrate whose incapacity¹³
and blindness in allowing three foreigners
and three British subjects to be in prison
untried for four months is perfectly excusable.

It was ~~clearly~~^{the business} the duty of the Deputy
Magistrate to report at once to the District
Magistrate and to have renewed his representa-
-tions even before the lapse of two months
but what shall we say of his conduct in
not reporting after the lapse of two months?
After the lapse of two months the act
prescribes that "the Principal Court of
original jurisdiction" shall consider the
summary release of the prisoners and take
the orders of Government on the subject, but
how could the Government carry this
provision of the act into effect in the absence
of any report or application on the part of the
Deputy Magistrate or any ~~report of the~~
application on the part of the Prisoners?
I hold that it was clearly the duty of the
Deputy Magistrate to mark the lapse
of the two months, to report it emphatically
to the District Magistrate and in the absence
of any other interceptor to act in the interests
of the Prisoners as their advocate and protector.

The responsibility of the Deputy ~~for~~ Magistrate would have been highly culpable if the three subjects of the Ruzem had been alone concerned but it was extremely aggravated by the fact that the fate of three British subjects was linked with that of their foreign associates, a portion of the case to which I shall revert below.

I now turn to the Native Magistrates & the British functionaries connected with the District and with this affair. They are three, Mr. Wilson, Sub-collector and joint Magistrate, Mr. Thornhill District Magistrate, and Mr. Leman Acting District Magistrate.

Mr. Wilson being engaged in the work of the Annual Settlement discontinued the business on the 17th of April. He directed the submagistrate to make a new report to the Deputy Magistrate and having given this verbal order he appears to have taken no further notice of the matter until the 30th of July when he had become acting District Magistrate and when his attention was recalled to the subject in another way. I consider that the conduct of Mr.

Wilson in dealing with this matter slightly
 is worthy of your reprehension. It is here
 that the remarks of Mr. The Foreman (Chief)
 seems peculiarly applicable. Who can doubt
 that if these men had been persons of station
 or importance their case would ~~not~~ have
 been prosecuted with greater solicitude. There
 was a question of legality at issue as a
 question of humanity at issue. The men
 Hydrabad were lying in jail against
 the provisions of a British Law and they
 had been there for four months without trial.
 Yet Mr. Wilson is contented with a verbal
 order to a native subordinate. He ought
 to have pointed out both to the Sub Magistrate
 and to the deputy Magistrate that they
 had committed a gross wrong in allowing
 this abuse to continue, he ought to have
 himself reported the matter to the
 Collector without the delay of an instant.
 He ought never to have rested until
 the men were liberated or delivered
 up. - But why did Mr. Wilson make
 no such representation to the District

Magistrate but he did not even see that
his own verbal order, message as it was, was
executed. He gave the order and thought no
more about it and when the Submagistrate
tardily obeyed it he seems to have done so
on his own impulse. -

Mr. Thornhill behaved better. The
Submagistrate wrote for the second time on
the 7th of May. The Deputy Magistrate
received his report on the 15th and forwarded
~~it with the signature of the Submagistrate~~
demand for instructions as to maintenance
of the prisoners without delay sending at the
same time copies of both the Submagistrate's
reports. The communication of the Deputy
Magistrate reached Mr. Thornhill on the
21st of May. Mr. Thornhill had four days
to deal with the case and it could have
been disposed of in a moment. He had
only to send the particulars in the
implicit form to Government and the
prison doors would have been thrown open.
But he only asked whether any application
had been received from the vizier's govt.
and learning that none had been received
he allowed the subject to lapse into
complete obscurity. He did not point out

that even to his subordinates! He did not
renew the case to the attention of his
superior, he did not address the Gov.
officially or unofficially on his arrival at
Madras to which he repaired directly, he
coolly sacrificed the liberties of these men
without attempt to obtain them justice and
from the tone of his letter he hardly seems
to feel that he did wrong, or to have the
least compunction.

Mr. Loran succeeded Mr. Thornhill
as Acting Collector on the 25th of May and
he remained in office till the 4th of
July! The letter for the Deputy Magistrate
was lying unopened in his office all
this time. He never reviewed it and the
subordinate officials did nothing to bring it to his
notice. This lapse ^{alone} would reflect great
discredit on Mr. Loran and his clerk
but his conduct is aggravated by the
fact that the Deputy Magistrate sent
up another report on the 21st of June
which must in all probability have come
under the personal notice of Mr. Loran.
This letter had the same fate as it's

predecessor. It remained unsolved. -

Finally on the 4th of July Mr Wilson reappears on the scene and after the lapse of twenty six days ~~he is not to be~~ ^{in the course of an examination into the file of correspondence} ~~of good fortune we do not know the subject~~ ~~is recalled to his memory and he accordingly~~ he lighted a letter from the Deputy Magistrate on the 15th of May. He announced the Deputy Magistrate and that he reported the case to Government.

He ought to have telegraphed in my opinion and the Government ought to have telegraphed in reply. The Hyderabad prisoners were all released with the order of Government under date of August 30th was sent. The ^{Hyderabad} prisoners had then been about eight months in confinement of which six months were in defiance of the Law. -

If the three Hyderabad prisoners had alone been concerned there would be in my opinion ample ground for passing a severe and public censure on all the public functionaries later

and foreign who had to do
business but the three foreigners
extradited were not alone concerned.
As I have stated incidentally already
there were three British Subjects
arrested on the charges of being parties
to the concealment of the property
stolen by their Hyderabad confederates.
These three British Subjects were
arrested at the same time and
detained in the same Jail. Their
arrest was known to the Submagistrate
and to the Deputy Magistrate and
they were actually seen by Mr. Wilson
an English officer after they had
been ^{really} ~~allegedly~~ detained for ~~four~~
months without a trial. Mr. Thomson
knew that ^{on the 21st of May} these British Subjects
had been detained ^{really} five months without
a trial. The Submagistrate in his
office knew it. Mr. Lennox ought
to have known it. Yet nothing was
done to bring these men to justice or to
effect their liberation till late in August.

It is true that the Deputy Magistrate on being informed of the arrest of these men ordered them to be held to bail for 100 R. and that this amount was actually returned eight months later but in the interval the Sub Magistrate, the Deputy Magistrate, W. Wilson and Mr Thornhill stood quietly by and unlawfully allowed these men who awaited no demand for satisfaction from Hyderabad to be deprived of their liberties. -

It will be contended that the British Subjects being arraigned on a charge of concealing stolen property could not be prosecuted until the property was proved to be stolen and that thus their case depended upon the case of the Hyderabad subjects and that they must therefore either remain in jail or be held to bail until the Hyderabad prisoners were disposed of.

If this be true surely there was the most cogent ground for vigilance and activity on the part of the British authorities. They ought to have felt bound to clear as stone unturned to effect the extradition and procure the trial of the principal prisoners in order that their own subjects might be released from imprisonment and not subjected to a legal sentence. The same notion should have influenced the Deputy Magistrate in holding the English and British subjects to bail in a more moderate sum. Nor can I avoid remarking that if the case of the Hyderabad subjects had been brought in the terms of the act for decision at the end of two months the case of the British subjects would infallibly have been disposed of at the same time, for if the principals in the alleged crime had been discharged the accessories must have been discharged too. —

Considering that the guilt of the
 Submagistrate and the Deputy Magistrate
 in regard to the Hyderabad Prisoners
 was aggravated by a criminal neglect
 of the rights and liberties of three
 British Subjects. I am constrained
 to submit my opinion once more that
 the two Native Magistrates should be
 suspended for their functions for the
 period of one month with the expression
 of the censure of Government. I also
 propose that Mr. Wilson, Mr. Thornhill
 and Mr. Leman should all receive
 an official rebuke and that the order
 of Government should be published.
 I do not propose the suspension of the
 English officials because I conceive that
 the publication of an official censure
 will be a severer punishment for
 them than for their active subordinates.

The Government ought at the same time to cause distinct directions to be drawn up and circulated for the guidance of
 Public Officers in cases of introduction

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

The first of the great
 principles of the
 government is the
 separation of the
 powers. The
 legislative power
 is vested in the
 Congress, the
 executive in the
 President, and the
 judicial in the
 Supreme Court.
 The second principle
 is the right of
 the people to
 alter or to abolish
 the government.
 The third principle
 is the right of
 the people to
 elect their
 representatives.
 The fourth principle
 is the right of
 the people to
 elect their
 President.
 The fifth principle
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 The sixth principle
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 The twentieth principle
 is the right of
 the people to
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P. S. After committing the previous remarks to
paper I forwarded them to Mr Phillips
who in his shortening has denied that the
case under consideration was an extrajudicial
case at all, and who intimates that in his
opinion the Act of 1854 was practically
superceded as a rule of procedure by the
order of May 8th 1856.

My honorable colleague raises his question & the applicability of the act on the ground that neither of the offences charged (i.e. against the perpetrator of the theft in the Mysore territory and their confederates, or ours) comes within the definition "heinous offence" as defined in the act; but Section 22. of the act defines "heinous offence" to include "any other offence (than those specified in Section 21. or the first part of Section 22) which in the judgment of the Government to whom the requisition for extradition shall be made shall be serious or aggravated and for which the person accused cannot be tried within the territories under the Govt. of the East India Co. under the provisions of Act I. of 1849." Therefore the act of 1854 would have applied to the case in point if the Govt. had thought it a serious one, but not otherwise, for simple theft tho' a felony in 1854

20
is not specified in Section XXI. (X). There is nothing
in the papers to show that the "theft" was ^{known} not
really a robbery - or a theft in a dwelling, in
either of which cases the act would have been
of necessity. -

It is evident that all the local officers, native
and English, when the case came before them, had
case, and dealt with it or expected it to be
dealt with, accordingly. They are therefore as
culpable as if it was an extradition case,
a fact which could only be determined by the
Govt. which all these officers failed to inform.

But if the case was an extradition
case how much more culpable were the
local officers, for in that case the Foreign
Officers could not have been tried on
British territory and ought to have been
confronted, and for more shame worthy still
was their conduct towards the three British
Subjects, for one of two things is certain,
they could either not be tried at all
or they ought to have been tried directly.
If they could not be tried as accessories to
an unpriovoked offence they ought to have
been set free. But if, as I am assured,
they could have been tried for concealing
stolen property, property stolen on foreign soil,

"The cooperation of the officers of the two parties in
 "the manner suggested is in no way opposed
 "to the provisions of Act I. of 1849. and Act
 "VII. of 1854. on the contrary it is in
 "accordance with the course prescribed
 "in Section 19. of the latter Act &c." -
 The order was framed to facilitate
 the working of the Act as to subside
 it. -

Mr. Phillips admits that Act
 VII. of 1854 was applicable, the only
 officers capable of taking cognizance of it
 were the District Magistrate, the Joint
 Magistrate, the Head Assistant Magistrate
 and any Magistrate exercising the
full powers of a Magistrate. It follows that
 neither the Sub Magistrate nor the
 Deputy Magistrate had any jurisdiction
 neither being, as I assume, invested
 with full powers. -

In conclusion accordingly I have to observe
 that whether the case was an extradition
 case or not I see no ground for modifying
 my view with respect to the course
 and conduct of the local officers. N^o

The first thing I noticed
 when I stepped out of the car
 was the cold. It was a
 sharp contrast to the heat
 of the car. I shivered
 as I walked towards the
 door. The air was crisp
 and clean. I took a deep
 breath and felt a sense of
 relief. The world outside
 was so different from the
 one inside. I was free.

I do not see that in so doing the
way is wise. There is one requirement common
to both the first order and the act:— that
is, a person cannot be given up to
the

Preamble
Section XXII
* XXI

The Officers of this Bureau without an order from this Govt. It was the waiting for this order which caused the delay, under remark. - and we have to determine to what extent Messrs. Thornhill, Leman and Wilson, the Deputy Magistrate & the Sub Magistrate are to blame for the share they have had in causing it. -

I consider this Lordships minute fairly indicate the points on which the two first named gentlemen are liable to severe censure but I doubt whether we can fairly condemn Mr. Wilson for what he did not do, but ought have done, seeing that the junior Magistrate of a district would naturally feel a delicacy in bumping to ^{the} ^{of the District Magistrate} ^{what} would seem to cast a slur on the District Magistrate's management of his own division. When Mr. Wilson received charge of the Dist^y, we at once obtained from him the information on which we were able to release the six men accused. and we have Mr. Wilson's own statement that he discovered their continued detention on looking over the file of unanswered comm^{os}. He had only this means available for learning what were the arrears of the Magistrate's office. -

The Govt. order 8 May 1866, is so wanting in detail compared with the Act & it practically supercedes, that some excuse may be made for the two native Magistrates who evidently expected that their superiors

superior would procure & send what
 was not sent. What they were principally
 full of, in my opinion, in the suspicion
 to repeat their visitation for order from
 the European magistracy and the un-
 feeling manner in which they stood
 by whilst the accused were lingering
 in jail, because no order came.
 But Mr. Thomhill & Mr. Keman ex-
 hibited similar concern in a more
 or less degree, and if we pass over
 the suspicion & neglect of these two
 gentlemen & clearly censuring them,
 I think the two native officers should
 be treated similarly. - and in severe
 notice of that kind as respects these
 four officers, I am prepared cordially
 to join. -

Advancing to the note on the back
 of page 4 of the Lordship's Minute,
 I think there can be no doubt that
 the "Magistrate" referred to in Act 7
 of 1854 was a native Sub-Magistrate
 of the class constituted by the Code of
 Crim. Proc. &c. came into operation only
 in January 1862. Clearly the Magistrate
 of 1854 and only such Magistrates are meant;
 but, as I have before submitted, the
 case of these prisoners is not one falling
 within the provision of that Act. It
 had to be treated according to the
 Criminal Police & Magisterial rules
 now prevailing & in conformity with
 those laid down in the S.O. of May 1866.

21 Nov 67

W.D.

+
 Magistrate
 Sub-Magistrate
 H. A. Magle
 Asst. Magle, who
 "lawfully exercised
 the powers of a
 Magistrate" at
 the date of the Act.

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N₂

My previous note on this case was written with special reference to the proposed draft which appeared to me to attach blame too prominently to the Deputy Magistrate and to censure the District Magistrate for a part of the delay which I did not consider that it was clearly in his power to prevent. I concur in the opinion of His Excellency the Governor that all the Officers concerned are deserving of severe censure for the extraordinary apathy with which this case was treated by them; but I would not suspend either of the Native Magistrates, and I would not give greater publicity to the censure than by circulating the Proceedings to the several Magistrates of Districts. I regard suspension from office as a punishment which should be very rarely resorted to, which when resorted to should be inflicted for a period of some duration, and which should invariably be accompanied by removal to another charge. As regards the European Magistrates, the publication of

of the case in the Newspapers would doubtless be a very severe punishment, but I question whether the effect would be beneficial either to the officers themselves or to the public service.

It appears to me that assuming the officers charged to have been simple theft and receiving stolen property, the provisions of Act VII of 1854 do not apply to the case, but this consideration does not affect the merits of the case so far as regards the neglect of the local officers, as it is evident ^{that} they all regarded it as a case coming under the Act in question. Some short time back there was a correspondence with the Mysore Government regarding the extradition of persons charged with petty offences committed in that Territory, and I rather think ^{that} the opinion of the Advocate General was taken on the subject. This might be looked to, and a Circular might be issued to the several Magistrates pointing out what is the proper course in such cases.

I do not consider the G.O. of

I do not think it would be in any way superseded the provisions of the Act of 1854. It merely authorizes what was deemed to be a simple mode of carrying out the provisions of that Act.

9th Decr. 1877

My dear Sir, I have the honor to acknowledge the receipt of your letter of the 27th inst. in relation to the measure of the Report of the Judicial or Political Commission - the Prisoners were unnecessarily detained in confinement for a very extended period without due inquiry. I have been with Mr. Justice that it would not be expedient to give public notice of the same pursued by process will refer to the act of negligence without criminal. It might be sufficient to circulate the Proceedings to the Magistrates with the order of process and instead of suspension to remove the principal offender to another district if this be the first offence - of recidivism I would suspend for a long period. M. H.

10/11/18
Memorandum.

When this matter was discussed in Council yesterday, it was proposed that Mr Thornhill and the Deputy Magistrate should be severely censured and that the Sub Magistrate in whose jail the prisoners were detained should be suspended from office for a time. The draft order ⁺ censures the Deputy Magistrate but takes no notice of the Sub Magistrate's error. On going through the papers it appears to me that the responsibility for the detention of these prisoners rests

⁺ which had been prepared previous to the meeting of Council,

as much on the Sub Magistrate as on the Deputy Magistrate, that both these officers are to blame, but that they are both chargeable rather with a mistaken apprehension of what was their proper duty than with such wilful negligence and carelessness as to render it necessary that a severe punishment should be inflicted on them. No time seems to have been lost by the Sub Magistrate in reporting the arrest of the prisoners or by the Deputy Magistrate in passing orders on that report. The error of the Deputy Magistrate lay in not forwarding the ~~proper~~ Sub Magistrate's report to the District Magistrate

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Magistrate, but this I submit was rather an error of judgment than an act of culpable carelessness. It would have given him no trouble while he was about it to pass on the Sub Magistrate's report. It simply did not occur to him that this was the proper course for him to pursue. When the Sub Magistrate reported to him in May that the prisoners were still in confinement he lost no time in reporting the case to the District Magistrate. It was certainly his duty when he received no reply to his report to have made a further reference

reference before the
expiration of six weeks,
but this delay can
hardly be regarded as
seriously culpable; for
he naturally expected
from week to week
to receive orders on his
report.

On the part of the
Sub Magistrate there
was no delay in reporting
the arrest of the pri-
soners, and apparently
no delay in acting
upon the orders passed
by the Deputy Magistrate
on his report. His
error consisted in not
sooner intimating to
the Deputy Magistrate
that the Nizam's autho-
rities had taken no
notice of his communi-
cation

34
cation, and his having
delayed for a month
to act on the verbal in-
structions given to him
by Mr. Wilson, is certainly
deserving of censure,
but I hardly think that
under the circumstances
his error can be regarded
as one which calls
for the severe punish-
ment of suspension.
Verbal orders, as I know
from experience, are
very liable to be forgotten
especially if the person
to whom they are given
is much occupied at
the time with other
business, and this was
probably the case
in the present instance,
Mr. Wilson's order having
been given when he
visited the Talook for
the

the Annual Revenue
Settlement and at
which time the Sub-
Magistrate would nat-
urally be much en-
gaged with his Revenue
duties. That part of
the delay which occurred
previous to the receipt
of Mr Wilson's order
was probably caused
by a mistaken notion
that nothing could
be done until the answer
of the Nizam's officers
had been received.

I would censure
both the Deputy Magis-
trate and the Sub-
Magistrate, but I
would not inflict on
either of them any
further punishment.

In

35
In regard to Mr
Thornhill's share in
the business, I am not
satisfied that the
returns which are
necessarily furnished by
the subordinate Magis-
trates to the District
Magistrate in regard
to cases pending before
them are such as to
include a case of the
nature of that now
under consideration.
It was not a case
pending before the
Sub Magistrate in the
ordinary sense of the
term; in other words
it was not a case
of persons awaiting
trial before the Sub-
Magistrate and whose
trial for certain
reasons could not
be

be proceeded with by
that officer. It was the
case of persons arrested
for an offence committed
in the Nizam's dominions
and in confinement
pending the result of
a reference to the
Nizam's officers. It is
abundantly clear that
the reports made to the
District Magistrate
should include the
cases of persons so con-
fined just as much
as the cases of persons
in confinement for
offences committed in
British Territory; but
it is quite possible
that no case may have
previously occurred
to show the necessity
of issuing any special
orders on the subject;
and

and I cannot see
that the present excep-
tional case furnishes
such evidence as would
warrant the Govt in
attributing Mr. Thornhill
general laxity in his
supervision of the
subordinate Magistracy.
In preference to censuring
Mr. Thornhill for such
laxity I would conclude
the order by expressing
the regret of the Govt
at the occurrence of
a case which is by
no means creditable
to the efficiency of the
administration, and
by calling upon the
several Magistrates
to submit to Govt copies
of the forms of return
which they are in the
habit

habit of receiving from
the Sub Magistrates
with reference to
prisoners in confinement
in the subsidiary jails,
on the receipt of
which such an im-
provement of the forms
may be directed as
will ensure every
person under detention
from whatever cause
being included in it

by A.

7/7 Nov/87

The men were arrested

on the 5th Inst. On the
following 15th, the Deputy
Magistrate heard of their arrest
from the Sub Magistrate of
Sumerapadoo in whose
lockup they were unceremon-
iously. On the latter date,
the Deputy Magistrate issued
certain orders about them

them to the Sub Magistrate - where the matter
rested until April, when the Acting Magistrate
Mr. Wilson, happening to be out on duty in
the direction of Sumerapadoo, discovered that
the men had been lying in confinement
for four months. The notice of the matter
taken by Mr. Wilson led to the Deputy
Magistrate, on the 15th Inst, of an adjoining
the Magistrate, Mr. J. Thornhill, who
putted the matter on the following 25th.

The Deputy Magistrate communicated a
third time with the Sub Magistrate on
the 25th Inst. Mr. Wilson was then Acting
Magistrate.

Apart from Mr. Thornhill's ignorance
that it was possible for his Magisterial
subordinates to stand by looking on at
these poor creatures lying in prison
for four months without trial or formal
charge being preferred against them, or
claim being made for their removal,
I consider he was really wanting in
proper duty when, on hearing, on the 15th
Inst, of their long detention at Sumerapadoo,
he did not at once call on the Resident
to adopt any measures for their release
or trial; - or for the collection of money
from the Govt. to set them at liberty, as
was done two months later for the Acting
Magistrate, Mr. Wilson, when he got charge
of the District in Mr. Wilson's transfer
to the post at Panton.

The two native Sub Magistrates
have exhibited a deal of cool
indifference about the Prisoners, and
on that account are I think

15th May 1867, from the Deputy Magistrate on personal duty, regarding the disposal of six prisoners who had been in confinement in the Lock up at Tonnaccola in the Palnadi since the 5th January 1867. Three of these prisoners had been arrested by the Police of the Pootna District on a charge of theft and three on the charge of dishonest retention of stolen property. These arrests were at the instance of the Mail of the Mangalaj Taluk in the Vizianagiri territory.

2. The arrest of these men was reported by the Sub Magistrate to the Deputy Magistrate on the 5th January 1867. Mr. Wilson (then Acting Joint Magistrate and Sub Collector in the Pootna District) who instructed the sub mag to inform the Vizianagiri Taluk authorities of the arrest, and here all action on the part of both Deputy, Sub Mag and until

discovered, while on duty in Palnadi in April 1867, that these ~~prisoners~~^{men} were in custody and finding that they had been nearly four months in detention, ~~the~~^{Mr. Wilson} virtually directed the Sub Magistrate to report again at once, for and to obtain the Magistrate's order, regarding the disposal of these prisoners ~~before the Deputy Magistrate~~. The Deputy Magistrate, submitted the Memo. which is the memorandum referred which Mr. Wilson forward on the 15th May 1867 in charge of the Pootna District.

3. Mr. Wilson in his report stated that no action had been taken by the Vizianagiri authorities and that none seems to be contemplated. On the receipt of the communication from the Pootna District of the Pootna District the

the Government directed the
immediate release of the
prisoners ~~and~~ ^{and} ~~the~~ ^{the} ~~prisoners~~ ^{prisoners}
Mr. Thornhill, ~~who~~ ^{who} ~~was~~ ^{was} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~charge~~ ^{charge} ~~of~~ ^{of} ~~the~~ ^{the} ~~prisoners~~ ^{prisoners}
the ~~prisoners~~ ^{prisoners} ~~of~~ ^{of} ~~the~~ ^{the} ~~prisoners~~ ^{prisoners}
District Prison, January
until the 25th of May 1857, during which
period the prisoners had
been in confinement, to
~~explain~~ ^{explain} ~~the~~ ^{the} ~~reasons~~ ^{reasons} ~~for~~ ^{for} ~~their~~ ^{their} ~~confinement~~ ^{confinement}
that there had been so
inordinate a delay in
taking the necessary steps
for communicating with
the authorities of the Mysore
Government, at whose
instance these ^{individuals} ~~persons~~
were arrested as far back
as January, with a
~~view~~ ^{view} ~~to~~ ^{to} ~~obtain~~ ^{obtain} ~~from~~ ^{from} ~~the~~ ^{the} ~~Deputy~~ ^{Deputy} ~~and~~ ^{and} ~~the~~ ^{the} ~~Sub~~ ^{Sub} ~~Magistrate,~~ ^{Magistrate,} ~~such~~ ^{such} ~~an~~ ^{an} ~~explanation~~ ^{explanation} ~~as~~ ^{as} ~~they~~ ^{they} ~~would~~ ^{would} ~~be~~ ^{be} ~~able~~ ^{able} ~~to~~ ^{to} ~~offer~~ ^{offer} ~~in~~ ⁱⁿ ~~proof~~ ^{proof} ~~of~~ ^{of} ~~their~~ ^{their} ~~neglect,~~ ^{neglect,} ~~by~~ ^{by} ~~which~~ ^{which} ~~the~~ ^{the} ~~prisoners~~ ^{prisoners} ~~had~~ ^{had} ~~been~~ ^{been} ~~in~~ ⁱⁿ ~~confinement~~ ^{confinement}

illegal
I would
I think it the word
there is any doubt
I would say it to
council. N?

the parties in question
N?

for many months been
kept in confinement in
the Salig Lach of
5. The information has
now been furnished and con-
firms the impression created
by the first report forward-
ed to the Government that
there has been on the part
of all the officials concerned
in this matter a serious neglect
of duty which has led to
the confinement without
trial for many months
of these ~~persons~~ ^{persons}, three of
whom it now appears were
British subjects, the others
being subjects of the Mysore.
6. Mr. Thornhill explains
that he was informed for the
first time of the confinement
of these ~~persons~~ ^{persons} by a
Memorandum from the Deputy
Magistrate dated the 16 May
1857 which reached him on
the 20th of that month
when he ordered enquiry
to be made as to whether
any

any communication had been received from the Resident at Hyderabad regarding the prisoners and that he was informed that none had been received.

Mr. Thornhill made over-charge of the District to Mr. Wilson on the 20th May and he expressed his regret that in the hurry of departure the subject of the prisoners escaped his attention.

V. Venkateshuluni the Deputy Magistrate under whose orders the Subordinate Magistrate acted explains that the arrest of the three prisoners was first reported to him by the Subordinate Magistrate of Timmarayodda on the 16th January and that on that date he issued an order to the Sub Magistrate directing him to inform

the subject

execution of the arrest of these men

British subject

if all

inform the Taluk authority in the Nizami territories that the three prisoners who were subjects of the Nizams and who were charged with theft would be retained in custody until the Government issued their orders regarding their extradition. [The prisoners] through the District Magistrate further directed the subordinate Magistrate to release the prisoners charged with being in possession of stolen property and who were British subjects on their furnishing bail of one hundred rupees each to appear when required. The Sub Magistrate on the 22nd January communicated these instructions to the Ameen of Marripally in the Nizami territories. The Deputy Magistrate goes on to state that on the 15th May 1871, four months after

after the first order issued
by him, the subordinate
Magistrate wrote to him
regarding the better expenses
of the three prisoners who
were unable to give bail
and asked him regarding
their further detention.

On receiving this letter,
the Deputy Magistrate
transmitted it and a copy
of the original order regarding
the arrest of the prisoners
to the Magistrate of the

District Mr. Thornhill, request-
ing to be informed if any
communication had been
received regarding them
from the President
of Hyderabad and asking
whether he should release
them. The Deputy Magistrate states that again
on the 21st June
the Magistrate
that he addressed
a memorandum to the

The person under
confinement

The better expenses incurred
account of these men
the expenses of the men
confined in the Police lockup
Sustenance in jail
N.

The expense incurred in feeding
these men in jail,

46
The Magistrate Mr. Leman
on the subject of the
of these prisoners and brought
to his notice that the report
sent on the 15th May to
Mr. Thornhill remained
unanswered. On the 12th August
the Acting Magistrate (then
Mr. Wilson) replied that
the matter had been reported
to Government. On the 22nd
August the three prisoners
who are British subjects
furnished the bail required
of them and were released.

9. The Deputy Magistrate
depends his conduct in respect
of the continued detention
of these ~~prisoners~~ men on the
ground that the instruc-
tions contained in G.O.
dated 8th May 1886
it is stated that offenders
taking refuge from the
Punjab country in the
British territory and who
are there arrested shall
not

The person referred to
is

not be delivered up without
an order of Government
and that as it is not stated
that the Magistrate under
whose order such an arrest
is made should report the
arrest to Government
or to the President the
Deputy Magistrate did not
report the arrest to the
District Magistrate believing
that the report would be
made by the Taluk
officials in the Vizian-
agator to the Commissioner
and by him to the President.

10. The Deputy Magistrate
further explains that Mr.
Wilson's verbal order to the
Sub Magistrate (regarding
the prisoners) given in
April was not communicated
to him. The Sub Magis-
trate as stated above
wrote on the 7th May
regarding the prisoners
who had not furnished

and to have taken no
further action whatever to
obtain orders (regarding
the prisoners) and

40
bail, but said nothing about
Mr. Wilson's order.

11. No explanation is
furnished of the Sub Magistrate's
conduct in the affair. He
appears to have contented
himself with having originally
reported the arrest of
the prisoners to the Dy.
Magistrate, and under his
direction to the Taluk
officials of the Vizian-
agator. The explanations
which have been made
regarding the prolonged deten-
tion of the six prisoners
in the Police Lock up
Tammanna are in the
opinion of the Government
in Council most in-
satisfactory and reflect
discredit on the officers
concerned.

12. Mr. Thornhill the
Magistrate of the Chittoor
District in Bangalore
did on the 21st May last
that

in prolonging the ^{sum}detention abuse of authority which
~~(all these prisoners)~~ has been brought to light.

15 The Governor in Council
fails to see any justifica-
tion of the conduct of the
Dy. Magistrate in leaving
the Magistrate of the
District during nearly
five months in entire
ignorance of the important
fact of the arrest of ^{and J. J. J. J. J.}
~~these prisoners~~ some
of whom were British
subjects and the others
refugees from the Siam
country.

16 The most ordinary
abuse of official duty
should have made him
at once report the circum-
stances of this arrest
of ~~these persons~~ to
the District Magistrate
and it is inconceivable
that

that he should have per-
mitted months to elapse
and have remained silently
conscious that not a
single step was being
taken to bring these men
to trial.

17 The subordinate Magis-
trate seems to have taken
no notice of Mr. Wilson's
verbal order regarding
the prisoners given to him
in April and to have
delayed until the 7th May
addressing the Deputy
Magistrate on the sub-
ject of the continued
detention of these prisoners.

18 The Governor in Council
directs that three Officers
be informed that they
have incurred the severe
displeasure of the Govern-
ment and that any re-
currence on their part
of such neglect of duty
will

2500260

Dated 20th Dec 1867

PROCEEDINGS OF GOVERNMENT.

No. 2103

1867 Department.

Received
Sd/-

To
Major J. H. D. of
Madrass District
M. H. D. of
M. H. D. of

CD 16

Judicial Department. 47

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter

From the M. H. D. of Madras District. Received 24th Aug. & 17th Sept. 1867. No. 170. 251.
Date May 1867 No. 229.

Order thereon

From the explanation furnished by Mr. Thornhill it appears that the only information which he received of the confinement of the prisoners to whom this correspondence relates, in the Telug Lock-up reached him on the 21st May last, four days before handing over charge of the Madras District. Mr. Thornhill states that he then directed inquiry to be made as to the steps taken by

by the Mysore's Officer in
respect of these prisoners and
was informed that nothing
had been received from the
President of Hyderabad. Mr.
Thornhill expresses his regret
that in the hurry of departure
the subject escaped his further
attention.

2. From the explanation
afforded by Mr. Thornhill, the
Governor in Council considers
that the Deputy Magistrate
is responsible for the disastrous
delay that has occurred in
this case, and for the detention
of prisoners without trial
for 8 months in the Taluk
lock-up. Upon his own
showing he contented himself
with ^{simply} directing the Sub. Magis-
trate to communicate the
arrest of the prisoners from
the Mysore country to the
Taluk authority of Maragully
in

and to have reiterated
his representations
if necessary N.

48
in the Mysore's territory;
and directed that the three
prisoners who were in-
habitants of the Vistna
District and were charged
with receiving stolen property
should be required to fur-
nish bail.

3. It was clearly the
duty of the Deputy Magis-
trate to have addressed the
District Magistrate ^{of the} ^{in the subject}
arrest ~~and~~ ^{in the} detention of these
prisoners, but he allowed
four months to pass without
taking any further action
in the matter; and it was
only on a question arising
as to these prisoners' bat-
that he reported the matter
to the District Magistrate
and asked for orders.
The Deputy Magis-
trate then allowed another
period of six weeks to pass
without

without again addressing
the District Magistrate
although he had received
no reply to his first report.
The defence made by the
Deputy Magistrate that he
waited for an application
to be made by the Nizam's
Government to have the
prisoners made over to them
is totally inadmissible as
any excuse for allowing
so many months to pass
without reporting the deten-
tion of these prisoners in
the Soling Sacka.

The Acting Magistrate
of the Nistna District will
inform V. Venkatachellum
the Deputy Magistrate, that
the Governor in Council
considers his conduct in this
matter deserving of severe
censure, and that any
similar

similar neglect of his duties
will lead to his being
removed from his appoint-
ment.

The Governor in Council
is anxious to show
that the principal detention
of these prisoners without
interim orders is his-
torical and
is directed to his
name in a book
to be sent to the
Governor in Council
and the District
Magistrate by P.M.

Magistrate of the Nistna District
V. Venkatachellum Esq.
Revenue Department

Dec 5
1867. Department.

No. 2108.

PROCEEDINGS OF GOVERNMENT.

*Off. 2884-9-46-58-57-79-
80-11-122-131-133-267-276-362-
67-528-135-642-703-761.*

Dated Dec 5 1867

2580268