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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

G.O. No.	156	Press.
B.P. No.		Mis.
Dated	31-1-1868	197

Not to be folded or roughly handled

Ghaz

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*Proceedings of the Madras Government, Judicial Department,
31st January 1868.*

No. 275. Read the following letter from D. F. CARMICHAEL, Esq., Collector of Ganjam, to the Chief Secretary to Government, Fort Saint George; dated Camp Itchapore, 20th December 1867, No. 3775.

The Acting Magistrate of Nellore, it appears, recently entertained some doubts as to the proper disposal of certain unclaimed property, and was led to relieve his mind by a reference to the Board of Revenue. The subject is not one within the jurisdiction of the Board, but the Acting Magistrate seems to have been misled by some loose notions regarding the nature of "Escheats," the general superintendence of which is vested in the Board by Section 6, Regulation VII of 1817.

*Proceedings, Board of Revenue, Volume for August 1867,
page 4985.*

2. However, with characteristic urbanity, the Board hastened to Mr. Boswell's assistance, quoting certain Sections of Act V of 1861, an enactment which regulates the Police of any Province in which it may be declared in force by the Governor General in Council, but which Act never was extended to Madras for obvious reasons, Madras having taken the initiative in Police Improvements under Act XXIV of 1859.

3. It was ruled by the late Sudder Udalut on the 7th August 1835 (*vide* the Civilian's *Vade Mecum*, page 152) that it is the duty of the Civil Judge, not of the Magistrate, to take charge of all unclaimed property, excepting strays, although such property may not come specifically within the provisions of Clause 7, Section 16, Regulation III of 1802; and I believe it is the practice in most districts for the Magistrate to forward such property to the custody of the Judge, after deducting expenses and selling all articles of a perishable nature. Strays are now disposed of under the Cattle Trespass Act, and for unclaimed *stolen* property the Code of Criminal Procedure (Sections 130 to 132) makes a special provision.

4. No doubt there is a great deal of trouble in this, both to the Magistrate and the Civil Judge, and very often, ultimately, to the Government, to whom the Judge is to submit an inventory of the property and report the circumstances of the case for orders, should no claim be preferred within twelve months; but, as the law now stands, there seems no help for it. If it is proposed to alter the law, making it more summary in assimilation to the Act indicated by the Board of Revenue, I submit that the Police should be shut out from intervening in the matter, which should be left to the Heads of Villages and Taluq Magistrates, under the supervision of the Magistrate of the District.

No. 276. ORDER THEREON, 31st January 1868, No. 156.

The letter above recorded will be sent to the Board of Revenue, with reference to their Proceedings, dated 7th August 1867, No. 5056, in which, by an inadvertence, Act V of 1861 has been described as applicable to unclaimed property in the Madras Presidency.

2. The Government have more than once noticed an unbecoming tone in the correspondence of Mr. Carmichael, and are concerned to observe in this instance a

Handwritten signature and text at the bottom of the page.

Proceedings of the Madras Government, Judicial Department,
31st January 1865.

recurrence of this error. The Government will make one more appeal to the better
taste and judgment of the Collector of Ganjam, and record the expression of their
trust that they may not have occasion again to signify their displeasure to him on
this account.

(True Extract.)

Chief Secretary.

To the Board of Revenue.
To D. F. Carmichael, Esq., Collector of Ganjam.

Edw. J. H. Davis

Judicial

Recd letter from Collr of Ganjam

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31st January 1865 No. 156.

Memo for orders

The letter from the Govt Agent
at Ganjam, ^{recommending} will be referred
to the Board of Revenue, notice an error of the
the ~~sub-questions~~ in the Board of Revenue in
Board of Revenue on the subject of directions issued to the
of ~~unclaimed property~~ Collector as Messrs of Nelson
with reference to on the subject of unclaimed
their Pro: of Ganjam in which property. But as we
might by an ~~inattention~~ have not the Boards
Act V of 1861 has been ~~not~~ have not the Boards
described as applicable to unclaimed
property in the Madras Presidency. It may be as well
to refer Mr Carmichael's
letter to the Board
and request explanation.

Mr Carmichael
for the volume
of proceedings of the
Board of Revenue
for the month of

August church is
doubtless in the
Protestant Office
and can be referred to.
But I do not think that
the Govt. should perform
any action on his (Carrick's)
letter as it is under the
time of this letter like that
of his many of its predecessors
- altogether unbecoming an
official communication from
a public officer to his official
superiors. Mr Carrick has
more than once been warned
against a repetition of the
unbecoming tone, which characterizes
his official writings, but in each
effort. I think the first time
should be sufficient to warn
him. As to his (Carrick's)
letter to his (Carrick's)
high command.

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it is written, in a common
- Latin and in proper
language.

by A.
The language of
Carrick is
certainly marked with
undue lenity but I
don't think it so bad
that it need be
returned. I would
try him one more.
In acknowledging his
letter I would point
out that the Govt.
has more than once
noticed an unbecom-
ing tone in his correspondence
and add that the
Govt. has confidence
in his better taste
and judgment and
correctly.

2 The government has more
than once noticed an
unbecoming tone in the
correspondence of Mr.
Carrick and is
concerned to have
recurrence of this error
corrected. The Govt.
will make one more
appeal to the better
taste and judgment

They may remember
 cause to make the
 same complaints again
 for they had to do so.
 The Displeasure of the
 Govt. would be expressed
 to Mr Cairnmuir in a
 form which it would be
 also painful to him
 and to the Govt. to receive
 and which the Govt. would
 be most reluctant to use
 towards an officer of so
 much ability and
 such good intentions.

I would forward a copy
 of the Govt. order to that
 effect to the Board of
 Revenue
 with Mr Cairnmuir
 att'd.

of the right to go on
 and record the whole
 of their time to that they
 may not have any
 to communicate their
 displeasure to him
 in this manner.
 W.H.

To the Hon. Secy. Revenue
 Board, Calcutta.

Camp, Madras 20th December 1867
 15th
 From, The Collector of Coimbatore
 To, The Chief Secretary
 to Government Madras.

Proceedings of the
 Bd. of Revenue
 Page 4, 500

The Acting Magistrate
 of Mellore, it appears, re-
 cently entertained some
 doubts as to the proper dis-

posal of certain unclaimed Property, and was
 led to believe his mind by a reference to the
 Board of Revenue. The subject is not one within
 the jurisdiction of the Board, but the Acting
 Magistrate seems to have been misled by some
 loose notions regarding the nature of "Escheats,"
 the general superintendence of which is vested
 in the Board by Section II, Regulation VII of 1857.
 However, with characteristic urbanity, the
 Board has been to Mr. Bowdell's assistance,
 giving certain decisions of 1867, and
 one which regulates the Police of any
 Province in which it may be declared in force,
 by the Governor General in Council that which
 it has been extended to Madras, and
 now, Madras being the only

in Police Improvements under Act XXIV of 1859.

3. It was ruled by the late Cudder Uda Lal on the 7th August 1835 (vide the Civilian's Vade mecum, page 102) that it is the duty of the Civil Judge, not of the Magistrate, to take charge of all unclaimed property, excepting strays, although such property may not come specifically within the provisions of Clause 7, Section XVI, Regulation III of 1802; and I believe it is the practice in most districts for the Magistrate to forward such property to the custody of the Judge, after deducting expenses and selling all articles of a perishable nature. Strays are now disposed of under the Cattle Trespass Act and for unclaimed stolen property, the Code of C.P. (Art. 130 to 132) makes a special provision.

4. It is doubtless there is a great deal of trouble in this, both to the Magistrate and the Civil Judge, and very often, ultimately, to the Government, to whom the Judge is to submit an inventory of the property and report the circumstances of the case for or against should no claim be preferred within 12 months.

But as the law now stands, there is no doubt, I think, proposed to alter the

to the Act indicated by the Board of Revenue, I submit that the Police should be shut out from intervening in the matter, which should be left to the Heads of Villages and Taluk Magistrates, under the supervision of the Magistrate of the District.

I have the honor to be
Sir,

Your most Obedt Servt

By J. J. J. J.
Collector.

215.14

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