Scott. II-27—45,00—13-11-35.

Judicial (~~193~~ 1880) Department.

Ordy SERIES.

ct ~~G.O.~~ No. 3898

DATED 25-11-1880

Confdl

[Despatch Abstract.]

Rangoon Commissariat Frauds Case—

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Commissariat - Contracts -

No. 7368

Government of Madras.

MILITARY DEPARTMENT.

Fort St. George, the 24th November 1880.

R. D.
24 NOV 80

Read the following papers:—

Telegram from Lt-Col. T. Weldon dated Rangoon 1st Octr 1880.

Pros. of Government Judicial Departt No 2702 of 20th November 1880-

Order.— Ordered that the Proceedings of Government above recorded be communicated to His Excy the Commander-in-Chief with advertence to their second paragraph.

2. With reference to Lieut-Colonel Weldon's report dated 25th October 1880, His Excellency is requested to call upon Major Hunt to state whether he had any connection with, or any interest in, a farm at Toungoo kept by Sub Conductor Weightman

or

or any other, and if so, to report the origin, object and all the circumstances of the connection, and also whether it is true that he did, at any time, owe or still owes money to Weightman in connection with the affairs of the farm, or otherwise.

3. The reports, as per margin, of Lieut. Col. Weldon and Mr Tarrant will be forwarded to His Excy the Commander-in-Chief, for favor of His Excellency's opinion on the cases of Sub Conductors Edwards and Slater, and also in connection with other papers, now with His Excellency, relating to the case of Major Hunt.

From Lt. Col. Weldon of 11 Octr 1850
— — Mr Tarrant of 23d — —
— — Lt. Col. Weldon of 25th — —
— — Mr Tarrant of 27th — —

(True Extract)
J. Michael Colonel
Secy to Government

To the Adjutant General
with 4 enclos
- Judicial Departmt -

Finl. 1880 Dept.

(Rangoon
Commissariat frauds)

(13)

No. 3898. Confidl.

From Mily. Dept.
No. 7368 ✓
Dd 24th
R. 24th } Nov/80.

Mis:
Recorded.

24/11

Scott. II.27—45,00 —15-11-35.

1880

Judicial (~~193~~) Department.

~~SERIES.~~

G.O. No.

Confidential

DATED

Disposal not known

[Despatch Abstract.]

Miscellaneous papers
Connected with Rangoon
Commissariat Frauds Case

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

DEPARTMENT.

[G/13.]

From

Cipher-

Telegram - from Coll. ? Weld Special duty - Rangoon

7th September /80-

Strong public feeling against trying Afghan Conductors after allowed remain so long on duty and on field service since implication - Known sentiments may over-ride facts - I submit consideration of Government - Accused not arrived here yet -

The delay arises simply from his trying [illegible] for a way - I shd not prosecute at present but on arrival refer whole case for consideration of Govt - I do not remember the particulars

K 9/9

I warned the difficulty at the time - that the men ~~could~~ would be pronounced guilty - unless acquitted after lapse of time - [illegible] the difficulties [illegible]

Yours

Traffic Code For

16	17	18

Recd. from L. N. At Hrs. Mts., By

Sent to L. N. At Hrs. Mts., By

MADRAS 27-3-8

Telegraph M

would be to try the men by Court Martial, & then for me to pardon them — but unless the evidence is very clear & ~~the nature~~ to be brought before a Military Court ~~the~~ the trials might break down —

V. 11/9

I should be disposed to simply [illegible] to ask them on arrival if they admit the charges — & if do — wh. I think most very probably in the face of the numerous convictions obtd. — I would prefer to deal with them departmentally —

If they plead innocence I think we must proceed in ordinary course

JMc 11/9

Recd. 13/9/80

Telegram
From
Coll. J. Weldon
On Special duty
Rangoon
Dated 7th } Septr./80.
Recd. 7th }

About trying
Afghan Conductors.

SUBJECT :—

Judicial DEPARTMENT.

No.

Telegram

From Coll. J. Weldon. On Special duty. Rangoon

Dated 7th September/80 —

FOR ORDERS.

Submitted that with reference to the notes of Honorable Members the following telegram be dispatched, in cipher, to Coll. J. Weldon.

"Yours 7th — If Afghan Conductors or any of them admit charges, they ~~will~~ can be dealt with departmentally. If they deny exercise your

[initials] as altered —

Dispd. 15. Septr/80

your discretion to prosecute. "

A1398 or state facts of case for decision of Govt —

M.1419

13/9/80

Rangoon Commissioner
Tarrant
Confidential

FOR ORDERS.

Copies of both telegrams furnished to Military Department 15. Sept/80.

Confidential

Ootacamund
15. September 1880

My dear Mr. Tarrant.

With reference to your demi-official dated 27. August 1880 – Confidential – I am desired to say that if it is necessary to retain Counsel now as regards appeals, the Government will be guided by what you ~~[illegible]~~ and Weldon may advise.

Yrs. sincy.
H 15.9.80

Dr. A. J. Tarrant Esqr.
On Spl. duty – Rangoon –

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Recd 18/9/80

Draft of G.O.
to Mr Tarrant
dy 15 September/80

[G/13.]

.... DEPARTMENT.

From

Subject :—

Reply at once

No need to
circulate

Read Telegram from Colonel
Weldon Rangoon dy 2d April 1880.

—

Proposed Reply — to be sent in Cipher — is submitted for approval.

"Yours telegram second of today. — You must remain and prosecute in Burmah Courts. Tarrant has left for Rangoon." —

despatched 2.4.80 2/4

Traffic Code Form

	14	15
16	17	18

Recd. from L. N.
At Hrs. Mts., By

Sent to L. N.
At Hrs. Mts., By

MADRAS 27-3-8

Telegraph M

Col Weldon's return

304.—7-9-79,—200000.

INDIAN TELEGRAPH.

To 8 (Station) MS

From (Station) Bawaata thro

Local No. 627

Class

ac/ to serious ac-
tion against
an officer, that I
shall place myself
in confidential com-
-munication with Lt
Col Weldon, through my
Mil Secy, on the subject.

20/4

From Colonel Weldon.
Rangoon.

d/d
11/12 April 80.

Fears cannot avail
permission to return
- Hallett wont work

13/4

c 12.4
20 4

Traffic Code Form C. (P.

16	17	18

Recd. from L. N.
At Hrs. Mts., By

Sent to L. N.
At Hrs. Mts., By

MADRAS 27-3-

INDIAN TELEGRAPH.

Local No.

To

FROM (Station)

RECD. FROM

At Hrs. Mts., By

L. N.

SENT TO

At

L. N.

Traffic Code Form

F

INDIAN TELEGRAPH.

Loac No. 2390

To (Station) Ms

From (Station.) Rangoon

Words.	Day.	Hour.	Minute.
15	12	7	51

Official Instructions.

To (Person) Madras

From (Person) Weldon

R. D.
12 APL 80

your	telegram	ninth
fear	cannot	avail
Kind	permission	return
halfbet	wont	work

TRAFFIC CODE FORM C2. (F. 1 F) - G. T. Press,—No. 527,—11-2-79,—5

RECD. FROM

At Hrs. Mts., By

L. N.

MADRAS 12-4-80

Date

SENT TO

At Hrs. Mts., By

L. N.

Telegraph Master

R.D.
30 MAR 80

Rangoon
19.3.80

My dear Davidson

The Court of Inquiry is anxious to dissolve and I have to treat it delicately to get work out of it or them — At first they were inclined to bolt all sorts of unwholesome food but the Chief put a stop to that — then I had to feed them — They are willing enough to masticate any food I put into their mouths reserving the right to spit it out if it tastes nasty — I am like an old crow with a brood. I have to be early a-field, cock my head on one side and peer about — when I see a stray morsel pounce on it and carry it home to my family to be discussed — then one crow amid much flapping of wings and loud cawing insists on having the largest bit, and having got it and swallowed the same amid the gurglings of satisfaction, begins to fear it will disagree with him and wants to get rid of it — With much thumping on the back and soothing words I encourage him to "keep it down" — Even though no visible signs of putting on flesh result it will be satisfactory to feel he has got it — and so we rub on — but I have to do everything — Mangle is very good & willing but

2

I generally find it easier to do things myself —

We cannot make out the cause of delay in disposing of Hunt's case — I am nervous that Nyapoory the Thayet: manager might slip through my fingers if I prosecute him & yet no man ever deserved lodging in jail better than he does. They have now taken to intercepting my letters —

I will be very glad indeed when I am done with this business. I have to stand all the odium — whenever the Ct. Inquiry get hold of an unpleasant thing it is — "Col: Welldon brings to notice &c —" if any responsibility is to be undertaken I am told I have to act — Still the Court has some weight among Milty: people — but if ever Govt. want to find anything out don't employ a Milty. Ct. of Inquiry except to decide Barrack damages or claims to pension — The only machinery that could have got to the bottom of this business wd. have been a Special Commission with power to compel attendance of witnesses and the production of documents. If I could only get hold of Bugwandoss's books they would put Johns completely in the shade. too late now —

I did not write to you again abt. that foreigner Schleiffer at Prome as I think he was principally employed in swindling a young Asst. Comr.

Yrs. sincerely
Welldon

INDIAN TELEGRAPH.
To
FROM
Local No.
Traffic Code Form
RECD. FROM
L. N.
AT Hrs. Mts., By
SENT TO
L. N.
AT Hrs. Mts., By
MADRAS 27-3-80

5 & 6a.

56.

8

INDIAN TELEGRAPH.

Local No. 627

(P. 1)—G. T. Press,—No. 3/4,—7-8-79,—200000.

Traffic Code Form C.

To (Station) Ms

Words.	Day.	Hour.	Minute.
28	27	12	32

From (Station) Bawgata thro Shoaygheen

Official Instructions.

To (Person) Madras

From (Person) Chf Comr

R. D. 27 MAR 80

Your telegram received in jungles on tour will receive immediate attention on my return to Rangoon where I

Recd. from L. N.

At Hrs. Mts., By

Sent to L. N.

At Hrs. Mts., By

RAS 2

INDIAN TELEGRAPH.

Local No.

(P. 1)—G. T. Press,—No. 3/4,—7-8-79,—200000.

Traffic Code Form C.

To (Station)

Words.	Day.	Hour.	Minute.

From (Station)

Official Instructions.

To (Person)

From (Person)

2d

hope to arrive Tuesday thirtieth March.

Recd. from L. N.

At Hrs. Mts., By

Sent to L. N.

At Hrs. Mts., By

MADRAS 27-3-80

Telegraph

…lated. with demi-offici…

Conductor Langley's case

R. D.
31 MAR 80

Madras. March 31st/80.

My dear Mr. Davidson.

As the Steamer leaves early to day for Rangoon I must report my departure to you. I have asked Mr. Walter Morgan, who has acted before as Clerk of the Crown & has been my Deputy for some years to see after the office for the present, & if there are any formal letters to sign on my departure please allow him to sign same for me. I presume there are no further instructions & that you did not want to see me, not hearing in reply to mine of the 29th inst.

I received on the 30th the G. O. No. 710. dated 29th inst. being the last communication which has reached me.

Yours truly
H. S. Bernard

The Honble
R. Davidson C.S.I.
The Chief Secy
Ft. St. G.

M 7/3

lated with demi-official

Conductor Lang's Case

FOR ORDERS.

Wm W Hallister

D.O.
From
Mr. H. J. Lawrence

Dated 31. } March
Recd. 31. } 80.

M 7/3

11

From Secy. to Govt. of India (Home) No 273 d 25 Feby 81 forwarding a letter from the Chief Commr., Burma, enclosing a petition from Conductor Langley convicted in the Commissariat Trials praying for remission of sentence, and asking the opinion of the Madras Govt.

For Orders

Submitted that it be referred confidentially to Col. Weldon for his remarks. The strong point is that later cases were acquitted on the same evidence on wh. Langley was convicted; Col. Weldon will be able to indicate the differentia

I think this sh'd be trfd. to Mil. D. for disposal. The whole of the cases records &c. have been dealt with there.

8 Mr. 573 A J 3.81

Circulated, with demi-official letter dated 10th inst.

H 10/12/80

Judl. (1880) Dept.
R. D. (Commissariat frauds)
10 DEC 80

From
Lieut. Col. J. Weldon
Chief Pres'y. Magte.
Madras

To
The Chief Secretary to Government
Fort St. George

Dated 10th Decr. } 1880
Recd 10 —
No 4117.
Enclosure None.

Trusts that approval of Govt conveyed in G.O. of 20 Nov/80 No 2702 is not confined to manner in which proceedings were conducted in the Criminal Court.

Circulated

10/12/80.

the Order, confined to the manner in which the Civil Prosecutions were conducted.

I have the honour to be
Sir,
Your most obedient Servant

P Wheeler
Lt-Colonel
Chief Presidency Magistrate

Madras
10th December 1880

From
Lieut. Colonel F. Weldon
Chief Presidency Magistrate
Madras

To
The Honorable R. Davidson C.S.I.
Chief Secretary to Government
Fort St. George

Sir/

I have the honour to acknowledge receipt of the Order of Government dated 20 November 1880 No. 2702 – passing orders on the matter of the late prosecutions against certain Commissariat Officials in British Burmah – and I venture most respectfully to express a hope that the approval of Government is not, as might be inferred –

W/ X

Mem.

I have the honor to be,

---

10 December 1880

My dear Davidson

I am most reluctantly forced to make the inquiry recorded in my official letter of this date as the coldness of my reception by H.E. the Governor on my return from Burmah has, to my knowledge, been the subject of remark by my brother Officers – New rulers will shortly reign in the land who may not have full knowledge of the difficulties I had to contend with in order to place at the disposal of Govt. not merely evidence in proof of the criminality of individuals but information of a more general character affecting the wellbeing of Govt. and the Army in one of the most important Depts. of the State

---

1880.

me to try a
the case of
have against
rebels.
especially as
Evidence
fact. to
particularly,
ally.
been unable
the Rebels
to whom
that the
satisfactory
any moment
telegraph

---

has already been given

No. 1461

Madras
10th December 1880

From
Weldon

the approval of Government is

not, as might be inferred.

Mem.

I have the honor to be,

Confidential.

Confidential

Jud. (1880) DEPARTMENT.

Demi Off.

From A. J. Inverarity Esq.
Rangoon

No.

Dated 28 } April } /80
Received 8. } May }

No.

Assist Apothecary
Miles.

---

on. April 28th 1880.

Davidson.

Weldon wishes me to try a
my views on the case of

all that we have against
effect. The Book entries. I
are insufficient, especially as
colouring of oral Evidence
that was, in fact, to
Contract for Pulkan
very many departmentally,
liable criminally.
as yet has been unable
as to what the entries
mean, & until this can
& Col. Weldon, to whom
agrees with me, that the
in are. If satisfactory
we can at any moment
telegraph

No. 1461

Madras
10th December 1880

From
Lieut Colonel T. Weldon

Confidential.

R.D.
8 MAY 80

Rangoon. April 28th 1880.

My dear Mr. Davidson.

Col. Weldon wishes me to say a word or two as to my views on the case of Apothecary Miles.

At present all that we have against this man are, in effect, the Book entries. & those standing alone are insufficient, especially as they may be given a colouring by oral Evidence to mean that all he did was, in fact, to take a kind of Sub-Contract for Puntha Pully; which, tho' very wrong departmentally, would not be punishable criminally.

Col. Weldon as yet has been unable to obtain Evidence as to what the Entries affecting him really mean, & until this can be done, I think, & Col. Weldon, to whom I have shown this, agrees with me, that the matter may as well lie over. If satisfactory Evidence turns up we can at any moment telegraph.

---

disapproval of Government

not, as might be inferred.

Mem.

I have the honor to be,
Sir,

Jud. Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

READ the following
letter from the Govt. Solicitor of 3rd March 1880 No 99.

Order thereon.

Communicated to His Excellency the Commander-in-Chief thro' the Mily Deptt. [and to the Commissary General; also to Colonel Weldon].

Would not this letter stand over until action is decided on

I presume the information has already been given to the Depts.
10/3

No. 1461

Confidential.

Transferred to the Judge Advocate thro' the Mil. Dept.

28/3
R 13/3

Govt. of {1880} Madras.

Confidential

To ____________

Dated } 1880, No.
Recd. }

Nos.

Case

---

e effect that Miles is wanted here.

Tho' we have a general knowledge of the charges against the various parties, the difficulties of starting the cases are great & cause much delay, from the necessity of searching out from the great mass of papers the necessary entries and docts. to support these charges, especially when the matter to which we have to refer is at the Court House, & as difficulties have been raised to taking away any papers or even marking them. There is also the difficulty of having to see the entire set of cases together, as a whole, so as to start them in a way for one not to interfere with the other, or to clash with the steps as to removal into our jurisdiction which we wish to take.

Yrs sincly
W. S. Barnard

To The Chief Secy to Govt.
Ootacamund.

Madras
10th December 1880

From

Govt. of {1880} Madras.

To

Dated
Recd. } 1880, No.

Nos.

Cise

Transferred to the
Judge Advocate
thro' the Mily
Dept

c8/3
R13/3

---

them.

I have the honor to be,
Sir,
Your most obedient servant,

G. D. Burgess
Officiating Secretary.

c30/4
R5/5

Confidential.
Judicial/1880/Deposition
(Rangoon Commissariat
Thefts)
From the Chief Commissioner
British Burma.
Dated 15th }
Recd. 28th } April/80
No. 154.C.

No. 1461

Promising to
render every assistance
to Col. Weldon & Mr.
Tarrant in the matter
of the prosecution of
certain Commissariat
Officers.

Recorded for

Confidential.

It is requested that, in any future correspondence on this subject, the Department, Number and Date may be quoted.

British Burma.

Judicial DEPARTMENT.—No. 154 C

R. D.
28 APL 80

FROM

G. D. BURGESS, ESQUIRE, C.S.,
OFFICIATING SECRETARY TO THE CHIEF COMMISSIONER,

TO

The Chief Secretary
to the Government
of Madras.

Dated Rangoon, 15 April 18~~77~~80

SIR,

I am directed to acknowledge the receipt of your Confidential letter, Judicial Department N° 711, dated 29th March, forwarding proceedings of the Madras Government in relation to the proposed prosecution of certain Commissariat officers in this Province and I am to say that the Chief Commissioner will give every assistance in his power to Colonel Weldon and Mr. Tarrant in discharging the duty entrusted to them.

Confidential

Judicial / 1880 / Despatch
From Rangoon Commissary Frauds /
Lt Col: T. Weldon
On special duty
Rangoon

To
The Chief Sec: to Govt.
Fort St George

Dated 9th April } 1880
Recd 21 — }
Enclosures none
Report to date –

Memo.

It seems to me that what is stated in this letter & in previous communications by Lt Col Weldon – & what has come to the notice of Govt thro' other channels – ~~that~~ suggests steps should be taken to bring these difficulties to the notice of the Govt of India, in view to a change in the law –

It seems absurd for Govt to tie its own hands in a manner that makes it difficult to prosecute its officials accused of corruption –

Before Military men are ordered over to Burma to stand their trial, the learned gentlemen of the Bar had better arrive at a conclusion as to whether they can be tried – before what Court – & with what chance of success in bringing home convictions of guilt:

23/4

to proceed - The Section under which it was suggested application should be made is very wide applying as it does not only to offences "known to have been committed" but also to offences "Suspected to have been committed" - Devisagamony admitted before the Commy General and Govt. Solicitor that he had received gratifications and abetted Sergeant Chapman to Cheat and receive gratifications also. In the other two cases - were at that time only what might be called - cases of reasonable suspicion regarding which there is no doubt!

The Govt. Advocate here is a young man - not wanting otherwise than in Experience - I have taken the liberty to tender him a memorandum for consideration and correction if necessary on the very complicated question of local jurisdictions in this Province - The Recorder is very sensitive on the subject of his prerogatives - He Exercises certain powers of a High Court therefore claims to be a High Court - but there is another gentleman who claims very much the same authority - The Recorder will possibly not do what he is

is asked to do and would be offended if not asked - still more offended if application were made to any other power - The steering has to be very delicate - There are some things he cannot do even if he wanted - others he would not (probably) do even if he could - We must invoke the Local Government in some respects and the problem is how to reconcile every body and everything - Acids and alkalis -

I have been doing what I can to smooth the way for Mr Tarrant - I can sympathize with him for he comes as I did a stranger in the land, with a haziness as to the details of his mission, beyond a general impression that it is to "give trouble" and make everyone uncomfortable - To those to whom I am at liberty to speak on the subject, I convey my assurance that the object of Mr Tarrant's advent is to save trouble to overworked officials and make everyone as comfortable as possible, consistent with the interests of public justice.

Mr Tarrant is Expected tomorrow -

// I duly received Chief Secy's Cipher telegram 3/4/80 and acquainted myself with the contents.

//

Weldon Sol.
on special duty

To Chief Secy to Govt
Fort St George

Confidential

Rangoon
9th April 1880

Report

R. D.
21 APL 80

from Lt. Col. S. Weldon
On special duty

All further action has been suspended pending arrival of Mr. Tarrant who is I presume provided with full instructions.

I fear much delay in obtaining sanction and acting thereon - with a view to concentrating proceedings. Much time will be saved if those whom it be intended to prosecute and who are subject to Military Law be ordered Executively - to proceed to Rangoon and report themselves to the Asst Adjt General for disposal.

The 3 clerks Devisagamony - Trevor and Agappa must be proceeded against by ordinary process when we can get some Magistrate to receive a complaint against them - The Govt Solicitor in Madras advises against instituting proceedings against them in Madras on the ground of no materials on which

---

Confidential
Enc
8 MAY 80

From
Lt. Col: S. Weldon
On special duty
Rangoon
to
Chief Secretary Ft. St. G
to Govt

Dated 28th April } 1880
Recd 8th May

Enclosures - Three packets

Report to date. Requests instructions to Govt. Solicitor to proceed in Madras against the clerks.

and maintenance charges for the time they were absent from Tounghoo.

When I wanted Mr. Elias Cohen himself to come to Rangoon, he demanded a "Guarantee of substantial Compensation for loss of time and business." I decided therefore in future to deal with him under subpœna – So, on hearing of his intention to leave for Calcutta, I immediately proceeded to the Magistrate, stated that I desired to take action under the authority given me to prosecute certain Commissariat Officials but, having personally no knowledge of the facts, I requested a subpœna for the attendance of Elias Cohen to be examined as a witness – I got a subpœna returnable on 4th May and had it forthwith served – I selected Wrightman as the nominal accused as I know he must be prosecuted. I was obliged to act at once without being able to consult Mr. Tarrant – but he approves of what has been done – I have no doubt Elias intended to go and spend a

holiday with his friends and relations in Calcutta and make us pay his passage back to Rangoon – if indeed he ever came back.

Bugrandoss

I regret to learn that Bugrandoss has obtained several Contracts for the current year. Bugrandoss left Burmah immediately I arrived and has not returned – and will not till he hears this enquiry has concluded.

×

Rangoon
28th April 1880

Muldon
Lt. Col.

To
The Chief Secretary to Govt.
Ootacamund

+ If he is a contractor with Govt. there will not I should think be much difficulty in getting him to Burmah if really wanted.

them as public servants would be advisable to prevent argument. The sanction should be in general terms and not confined to any particular sections of the Code.

Conductor Langley

I have only one letter written by Langley asking for money - which, judging by the Cashbook, he did not get - at all events at the time the letter was written. The letter will prove a charge of "Attempt". I do not send this being unwilling to risk the possible loss of the document.

I send Extracts from the Cashbooks Certified by the Magistrate here.

On reconsideration and consultation with Mr. Tarrant I have thought it better not to part with any documents unless absolutely necessary to do so.

Langley is not only a person subject to Military Law but he can even by order of the Commissary General be transferred to Rangoon.

We assume that in the cases of those persons subject to Military Law

Law there will be no difficulty in placing them within reach of ordinary process from the Courts here.

I presume there can be no doubt as to the propriety of Langley's prosecution.

As to Apothecary Miles - his case presents special difficulties and I have therefore requested Mr. Tarrant to advise specially thereon.

Elias Cohen

While in Town yesterday attending the Recorder's Court I received information that Elias Cohen had arrived from Toungoo and was to leave for Calcutta today. I fear this man means to give trouble. It appears he considers I have not dealt liberally with him because I taxed a bill he sent in for the attendance before the Court of Inquiry of a Clerk and Peon of his. Cohen not only charged all their travelling and maintenance expenses but also their wages. I pointed out that they attended quite as much in his interests as on behalf of Government and said I would only pay all their travelling and

Should be made once for all.

The case of the two men now in Madras are connected with two here - viz. Trevor and the Manager Rungasamy Devasagamony and Sub Condr. Wrightman

I applied to Mr Villa Registrar & Official Assignee to hand over to me the original letters &c of the accused - he refused. I then had recourse (not officially) to Mr Wilkinson the Recorder who very kindly spoke to Mr Villa and at last I succeeded in obtaining sufficient to enable us to proceed against Trevor and Devasagamony in Madras. I have had to make out lists and give receipts and made 3 fruitless journeys to Court before I got anything.

I have also got Mr P. C. H. Snow the Asst. Magistrate to Certify the Extracts from Cohen's books.

With these Extracts, supported by the original letters, there should be

be no difficulty in obtaining a warrant from a Magistrate of the place where the offenders are - with a view to their being sent before a Magistr. having jurisdiction in the case.

On being advised by telegraph that warrants have issued and the accused are being sent over, we will take Steps to have these cases tried with the others.

The cases can only be instituted before - Either a Magistrate having jurisdiction over the case or, a Magistrate having jurisdiction (for the time being) over the offender -

There is no one at Toughoo Competent to Speak to the facts - Even if I were there I could not do so.

+ I forward all papers necessary to institute proceedings in Madras and the Government Solicitor may be instructed to take the necessary steps

Although the two clerks may not be public servants "not removable from Office without Sanction of Govt." the authority of Government to prosecute them for any offence Committed by them

Rangoon
28th April 1880.

Confidential

Report
From Lieut. Col. J. Weldon
On special duty.

Extract

I cannot say we have made much progress. Mr. Tarrant has been busy separating the evidence in each case from the record of the Proceedings before the Court of Enquiry. All the cases were so mixed up that it was impossible to know, as the record stood, if one was really in possession of all the evidence against a particular individual

X

The question of jurisdiction still troubles. I am unwilling to take any steps till we get Trevor and Doraisawmy over, as we must be prepared with a complete plan of Campaign before applying to the Govt. of India and the Recorder or Judicial Commissioner. That is - whatever application has to be made should

R. D.
26 APL 80

Rangoon
12 Ap:/80

My dear Davidson

I have to thank you for kindly sending the telegram permitting me to return and directing Hallett to take my place — but Hallett clearly has no intention of playing second fiddle to any one — He cannot recover the shock caused by Govt again referring to the Adv: Genl for an opinion and the Com: in Chief also suggesting that the civil Courts should be invoked when the Depy Judge Adv: of the Circle so clearly indicated the proper course and was available to conduct the cases through — H. is like a crusty old State Coachman — hoist him onto a good high box seat where the world can see him and he will drive the coach if you put the reins into his hands for he won't stoop to pick them up himself — and as to soiling his white gloves by buckling any of the harness: perish first! Having previously posed as the only man who knew anything about the cases which came before the Ct of Enquiry — or was competent to give an opinion thereon he now protests that he knows absolutely nothing about them and can give no assistance! As he won't work willingly he is ~~better~~ as well away and I will do the best I can for Tarrant. It was a very good move sending Mr T. a safe sensible man. The local Bar may not take it as a compliment but

Lieut. Col. J. Weldon

if you saw them you would not think they required much Complimenting.

The Recorder will probably blow off a good deal of steam when asked to accommodate us by transferring jurisdictions but he would Explode altogether if not applied to and if any other authority be first invoked -

I am afraid Mrs Farrant has got touched by the sun which is Extremely powerful here I was rather upset for some time after my first arrival - Farrant has not been feeling very well Yesterday and today.

You must not Expect convictions in all those cases - Indeed some of them may not be fit for trial at all - The problem now will be to collect and keep the witnesses

Yrs truly

J Weldon

R. Davidson Esqr I.S.

Govt. of India and the Recorder or

altogether to like the idea of the work and "
appears rather to imagine that it having been "
decided that there are to be no Courts Martial it is "
beyond his province as Deputy Judge Advocate "
to take any part in the preparation of the cases "
for prosecution in the ordinary Criminal Courts."

The following copy of a Telegram to Col. Weldon's address received by me since my arrival in Burmah seems to bear out my view that it may be intended to recall Col. Weldon and put you in his place, which increases the difficulty of my answering your questions.

"From Madras" "To Mr. J. Tarrant"
"Your letters 26th ultimo. You may return here as
"soon as Tar nt can spare your services. Inform
"Hallett he must then take your place."

I shall now add a postscript to my letter to the Chief Secretary forwarding copies of your letter to me of today's date and of this reply.

I have &ca
(Signed) H. J. Tarrant.
(True Copy)
W. J. Tarrant

R. D.
26 APL 80

Rangoon April 14th 1880.

From

H. J. Tarrant Esquire
On Special Duty

To

Captain W. H. Hallett
Dy. Judge advocate
Officiating Hd. 4 Circle.

Sir,

In reply to your letter of this day's date, I have the honor to forward you hereunder an extract from my letter of today to the address of the Chief Secretary to Government Ootacamund, written before the receipt of your favor, and which I think conveys all that I can say at present on the matter. As I hardly think that it can be expected of me to say at once that I can "see no possibility of your being any use."

Extract

"I believe Captn. Hallett has been asking to be "relieved and has been told that this cannot "be done until I can say officially that he is no "longer required. Now I need hardly say that it "is impossible for me to decide upon this at this "early stage, or until we have fully gone into "the various cases. I have also thought that it may "have been meant that he, being to a certain "extent, acquainted with the matters at issue, "through having been a member of the Court of "Enquiry, was intended to be a stand by in "case of illness or anything happening to Col. "Weldon as there is no knowing what may "take place in this Climate. He does not seem

altogether

pronounces its verdict in the last trial.

VI I am addressing you officially on this subject because I wish to have something definite on which to work.

I have &ca.
(signed) W. H. Hallett. Captain
Dy. Judge Advo Offg. 4th Bde

(True Copy)
W. D. Barnard

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till you report officially to Government that you do not require me.

I shall be obliged by your letting me know at your earliest convenience any way in which you foresee the possibility of my being of any use. After much reflection I am unable myself to see any such possibility. Apart from stray waifs of information incidentally picked up my knowledge of the case begins and ends with the Court of Enquiry's Proceedings. I know nothing of the individuals who did not come before that Court. In the course of my official duties I wrote reports at the time on all cases before the Court, pointing out the evidence &ca. To these reports I do not think I can add anything. This being so, I repeat that it seems to me impossible I can be of any use but perhaps some idea may suggest itself to you, and in that event if you will kindly communicate it to me I may be in a position to say at once whether or no it can result in anything. Should no such idea occur to you, should you see no possibility of my being of any use, I shall be glad if you will wire to Government accordingly, favoring me with a copy of the telegram in order that I may communicate with the Military authorities. IV W.D.

V I do not imagine it to be intended that I am to be kept away from my own station at great pecuniary loss and personal discomfort simply on the chance that something may possibly turn up in the future in which my services may possibly of use, for that would be tantamount to keeping me here till the jury

pronounces

No. 211.

R.D.
26 APL 80

Dy. Judge Advs. Office
No. 4 Circle Rangoon
14th April 1880.

From

Captain W. H. Hallett
Dy. Judge Advocate Offg. No. 4 Circle

To

H. J. Farrant Esquire
On Special duty

Sir,

I have the honor to invite your attention to the following matter.

N.B. I In January 1879 I was ~~[illegible]~~ sent from my pucka appointment at Bangalore to act here for a fixed period of one year. All my arrangements were made accordingly. The Commissariat Enquiry came on however and obliged me to remain some time longer than had been expected. In answer to a letter on the subject, written as the Court was concluding its sittings, I two or three weeks ago received a message to the effect that you were coming over to Burmah specially retained for the Commissariat case and that should you not require me I might leave.

N.B. II Pending your arrival I wrote back, asking whether transport arrangements could be made in anticipation, so that no delay might take place.

III On the 12th Instant I received a telegram to the effect that His Excellency the Comman^r-in-Chief would not sanction my relief till

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FOR ORDERS.

Seen 13/4

C22/4
R26/4

No. 211. R.D.
26 APL 80

Dy. Judge Advs Office
No. 4 Circle Rangoon
1880.

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III On the 12th Instant I received a telegram to the effect that His Excellency the Comman-in-Chief would not sanction my relief till

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such difficulties
set aside & cause
the whole of the
accused to be
tried before the
Rangoon Magte Court.
I should refer
to our Advocate
General.
20/4

D/O. from Colonel
Weldon. Rangoon.

of 20.
d/12 april 80

c 12-4
20-4

Confidential
Communicated Case

From
Col. Weldon

No. 211. R.D. 26 APL 80

Dy. Judge Adv's Office
No. 4 Circle Rangoon
1880.

Circle

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Govt. Advocate Office
Rangoon
2. Ap: 80
8 P.M.

R.D. 12 APL 80

My dear Davidson

You don't know what a Frankenstein has been raised up by this order for General Civil Prosecution - The difficulties owing to diverse jurisdictions are simply overwhelming - If the usual course of procedure be followed viz: prosecuting all the cases in

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Confidential
Commissariat Case

From
Lt Col: J. Nelson
On special duty
To
Chief Secretary
Govt.
Fort St. George
Dated 2/1 April 1880
Recd
Enclosures none
Report to file

I have this day telegraphed to Govt

"No further information procurable"
"may I return to India when"
"warrant arrives".

Rangoon
2. April 1880

Sheldon
Lt. Col.
On special duty

To
The Chief Secretary to Govt.
Fort St. George

I requested the Asst. Adjt. Genl. to inquire in whose service Chinnasamy was employed and where - A reply has just been received -

" Chinnasamy private peon "
" Quarter Masters Office taken on "
" by 43rd from 44th now at Toungoo."
1. 4. 80.

I cannot think that the idea of refusing to attend the Court of Enquiry originated with this native Peon - ~~and~~ why the delay in replying to the first telegram? and how was Chinnasamy employed from 3rd to 30 March while the parties 44th and 43rd were in course of relief?

No doubt Chinnasamy being well versed in the customs of the place is a valuable servant - to any Qr. Master Sergeant. If there had been any real desire to further the inquiry and the interests of justice I am confident that either Chinnasamy's scruples would not have existed or would have been easily overcome.

Chinnasamy and his friends appear to overlook the fact that he is liable under both the Native Articles of War and the Penal Code to be dealt with for abetment.

One of the cases brought before the Court of Enquiry was that of Colour Sergeant Johnson who was acting as Qr. Mr. Sergeant of the Wing H.M. 44th Regt. at Toughoo the evidence against him was (inter alia) an entry in Cohen's books of a payment to him of Rs: 45/. This was corroborated by Sergeant Johnson's own handwriting in a letter to Cohen asking Cohen to "send per peon" - There was an endorsement on the back in the Tamil language.

" 45 Rupees "
(Sd) " Chinnasamy "

This Chinnasamy was said to be a Peon or follower of the 44th Regt. Accordingly on the 3rd March the Asst. Adjt. Genl. telegraphed to Officer Comdg. Toughoo to send down Chinnasamy - No reply of any kind was received till 30th March when a telegram was despatched from Off. Comdg. Toughoo

" Your telegram 3rd March. Chinnasamy "
" is private servant and refuses to "
" go unless pay of present appointment "
" and expenses guaranteed him "
" please telegraph instructions - "

punkah coolies for R.A. Hospital.

This may be read two ways:-

Either Cohen said to Miles - I receive a certain sum from Government to supply Coolies to the Hospital - I will give you Rs: 55. to arrange for these 9 men - or - I get a certain sum out of which I will give you Rs: 55/. and you can do as you like about employing nine or any other number of men -

In neither Baker's or Miles' Cases is there any evidence as to how the punkahs were pulled - or that they were not pulled -

Whether it would be conduct prejudicial to good order and military discipline for Warrant Officers in the position held by these Apothecaries to have such dealings with a Contractor it is not my province to discuss or give an opinion about -

I was not encouraged to offer any opinion as to the sufficiency of the evidence or even the sufficiency of the enquiry in the cases which came before the Court of Enquiry - In these (punkah Coolies) cases I did venture to suggest some investigation as to the system under which money was drawn and paid for such services - but I do not think it was elicited how far, if at all, these

Apothecaries and the Hospital Sergeant were responsible that the full sanctioned number of Coolies was actually employed.

The mere acceptance of a valuable thing without consideration, or for inadequate consideration, from the Contractor would bring them within the provisions of Sec: 165 I.P.C. but the allegation is that there was consideration, in which case Sec: 161 I.P.C. must be resorted to, and that requires proof that the motive or reward was for doing or forbearing to do an official act or showing favor or disfavor in the exercise of official functions - that is - an illegal exercise of official functions plus the receipt of a valuable thing.

I do not remember that any evidence was taken or sought for in Baker's case to show what an Apothecary had to do with the pulling of punkahs.

Of course in both cases the first difficulty to be got over is to prove the receipt by the Apothecaries of any money at all - If that be proved, then, either they did nothing for their money in which case S. 165 will apply - or, they did something which, to bring it within the provisions of S. 161, must have been an official act.

One

but the difficulties to be encountered owing to the divided jurisdiction which obtains in this Province, are very formidable and may eventually necessitate an appeal to the Governor General in Council to exercise the powers conferred by Section 64 A. of Crim: Pro: Code. Some officer will have to be appointed specially to take these cases and there seems to be a difficulty in finding a suitable person -

With regard to the two Apothecaries - Miles and Baker - I am doubtful of the success of their prosecution - I do not know what particular charges were suggested by the [illegible] Advocate General but they must have been founded on the allegations that in Miles' case he had an arrangement with Cohen that he, Miles, should supply Chickens and eggs to the Hospital Miles receiving the amount charged in the Commissariat Bills and also that both Baker and Miles received from Cohen the pay due - or some money on account of pay due to or for Punkah Coolies -

As to Miles - Cohen had the Contract for supply of Chickens &c to Hospitals - Cohen sublet his Contract to Miles - I doubt if this be penal under ordinary Criminal law -

There is no evidence that chickens and Eggs were not supplied - and in fact the greater the consumption the greater - presumably - the profit to the supplier.

As to Punkah Coolies - In regard to Baker the Deputy Judge Advocate framed the Charges on, I presume, entries showing that Baker and the Hospital Sergeant shared 50/ between them on account of Punkah pulling. This I suppose was for "saving" men, that is, employing fewer than the sanctioned number of Coolies - If, as it appears probable, this was a regular monthly allowance and the consideration was that the Apothecary and Sergeant were to connive at the employment of fewer men than were sanctioned and paid for, a primâ facie case would be made out - I have not seen the Deputy Judge Advocates Report on Bakers' case or the charges suggested by him -

In Miles' Case Cohen seems to have made a somewhat similar arrangement as for the supply of chickens and Eggs -

Under Cohens' Contract with the Commissariat he was supposed to supply 9 punkah Coolies to the R. A. Hospital receiving as pay for them Rs: 72/-

Under Cohens' (apparent) Contract with Miles Cohen paid Miles Rs: 55/ on account of 9 Punkah

Confidential

Rangoon
1st April 1880

Report

From Lieut. Colonel E. Weldon
On special duty

R.D.
12 APL 80

1st April 1880

By desire of the Chief Commissioner I waited on him this morning meeting also Mr. Fox the Government Advocate – Mr. Aitchison informed me that the Madras Government had telegraphed a request that the Local Government here should sanction the prosecution, under the Penal Code, of 22 Commissariat Officials and to enable him to sanction such prosecution he required a short statement of the case against each. This I gave but I had to explain that in the case of the Military Officials all details as to the sufficiency of evidence and the charges such evidence would support had been gone into by the Deputy Judge Advocate with a view to trials by a Court Martial if tried at all –

The Chief Commissioner decided to grant sanction in all the cases named leaving details of action to be settled hereafter –

but

W.E.

Confidential

R. D.
12 APL 80

British Burma.

No. 141 C

Military Department.

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COPY OF SERVICE TELEGRAM PER POST.

From CC

From Rangoon

To Madras

To Madras

Dated Rangoon, 1st April 1880.

Chief Commissioner after consultation with Colonel Weldon and Government Advocate concurs in sanctioning prosecution of the twentytwo persons named in your telegram of the 24th March - There are certain difficulties relating to jurisdiction which are being considered

E. S. Symes

Officiating Jun. Sec. BB

Head Clerk, British Burma Secretariat.

Punkah

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of which a post copy (No 141 C Military) was sent to you on the same day, in which the sanction of the Chief Commissioner was conveyed to the prosecution of the twenty-two persons named in the margin of Cr. O. dated 24th March. - The Chief Commissioner in communication with Colonel Weldon and the Government Advocate satisfied himself that there was primâ facie evidence against each of these persons, but he cannot lawfully give general sanction to the prosecution of persons to be afterwards determined and at present unknown to him.

Certainly not - Particulars would be given in each case as in this - along sanction [illegible]

I have the honour to be,

Sir,

Your most obedient servant,

C. P. Burgess

Officiating Secretary.

FBB

Confidential

It [illegible]quested that, in all future correspondence on this subject, the Department, Number and Date may be quoted.

British Burma.

R.D.
26 APL 80

Military Department.—No. 142 C

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From

G. D. BURGESS, Esquire, C.S.,
Officiating Secretary to the Chief Commissioner,

To

The Chief Secretary
to the Government
of Madras

Dated Rangoon, 13th April 1880

Sir,

I am directed to acknowledge the receipt of your Confidential letter No 769 dated the 3rd instant in which you ask the Chief Commissioner to sanction the prosecution of all or any of the twenty-two persons named in the margin of G. O. dated 24th March 1880 connected with the Commissariat Frauds case and of any others whose prosecution may hereafter be determined on by the Government of Madras.

2. In reply I am to refer you to the telegram of the 1st instant —

of which