Read the following papers:—

No. 433-F. From W. S. HARINGTON, Esq., District Engineer, Malabar, to Colonel G. W. WALKER, R.E., Secretary to Government, Public Works Department, dated Calicut, 20th November 1874, No. 173:—

I HAVE the honor to forward copy of letter, No. 339, dated 10th instant, from Lieutenant Dobson, the Officer in charge of the Cannanore Range, bringing to notice the acquittal of Overseer Serjeant Mahoney at the High Court at Madras of the charges on which he was committed by the Acting Joint Magistrate at Tellicherry.

2. Lieutenant Dobson comments upon the acquittal, and brings to notice several circumstances which, had the case been more thoroughly gone into and sifted, should, in his opinion, have ensured the Overseer's conviction, and in this opinion I cannot but concur, as I imagine that a resumé of what took place in Court will be forwarded to Government by Mr. Advocate General. I forbear comment on the case, but one fact is patent to my mind, and that is that although the charge made by Lieutenant Dobson against the Overseer in the Magistrate's Court in Tellicherry was for "forgery *or* for aiding and abetting forgery," the charge as stated in the High Court was for *forgery alone*; the witness "Krishnen" perpetrated the forgery with his own hand, but he was instigated thereto by the Overseer, who employed him as his private writer, and actually made him his instrument in a public fraud; and yet both employer and employe escape punishment altogether, in my judgment because the charge was wrongly made, the crime of aiding and abetting the forgery not being brought against the Overseer at all.

3. I have now the honor to request your orders regarding Serjeant Mahoney. It seems to me, with all deference to your superior judgment, that the man is utterly unworthy of employment in the Public Works Department in this or any other district, and that he should be remanded to his regiment, and even if allowed to do this he may, I think, deem himself an exceptionally fortunate man. Although the charge of forgery has fallen through, and he cannot again be tried for the crime, I do not see why his Agent, "Krishnen," should not be proceeded against for forgery, and the Overseer charged, as he ought to have originally been, with instigating, aiding, and abetting.

4. I forward copy of letter* from Serjeant Mahoney of which I have as yet taken no notice, as of course I must await your orders.

* 6th instant.

No. 433-G. Proceedings of the Madras Government in the Judicial Department, dated 4th December 1874, No. 2,224.

ABSTRACT.—*High Court.*—Copy of the Advocate General's report of the trial of Jeremiah Mahoney, an Overseer of the Public Works Department, at the recent Sessions of the High Court, communicated to that department.

Proceedings of the Madras Government, Public Works Department,
19th December 1874.

No. 433-H. ORDER THEREON, 19th December 1874, No. 3,590-C.

ESTABLISHMENT, No. 35.

HIS Excellency the Governor in Council regrets deeply the miscarriage of justice that has occurred. There is no alternative under all the circumstances but ignominiously to dismiss Serjeant Mahoney from the Department Public Works, and to replace his services at the disposal of the Military Department.

(True Extract.)

Colonel, R.E.,

Secretary to Government.

To the Military Department.
,, District Engineer, Malabar, with copy of Judicial G. O, No. 2,224, of 4th December 1874.
,, Controller of Public Works Accounts.

Erd. S. T. Austin.
Spare Copies

No. 339 — Cannanore 15th November 1874

From

The Assistant Engineer
Cannanore Range, Malabar

To

The District Engineer
of Malabar N. P. W.

Sir,

I have the honor to report for the information of Government that Serjeant Mahoney was acquitted of the charge of criminal Breach of Trust in re. constructing 7th mile Bridge Cootiaddy Ghaut.

As I am quite at a loss how he could have been found not guilty with the strong evidence that was against him, I forward an epitome of the evidence to you, respectfully requesting that you will forward the same to Government for information. To be as brief as possible, the facts were these:- a Platform bridge had to be renewed at the 7th mile cost 347 Rs. Cootiaddy Ghaut. In February last, the work was taken in hand first and an advance of Rs. 50 given by Overseer to Sergeant Kurupayum, to go on with work.

In March a further advance of 100 Rs was given early in the month

At the end of the month other charges were debited against

this bridge the total advance of Rs 156 being written off as recovered viz: 316 cubic feet of timber @ 14 as — 276-8-0 A certain sum for Carpenters and a sum for Coolies. Bringing up the total debit to 333 Rs. All the vouchers were properly sent in and the bill for timber, in the usual NI form, signed and certified to by the Overseer, and duly witnessed. The accounts came in early in April, about 10th or 11th. As soon as I was able, I went out to inspect the work. I found nothing done but simply 16 planks at site. The Overseer was accompanying me. I asked for explanation, he said it was a bad job, and he couldn't understand it, this was after he had certified that every thing was correct. I did not suspend him then and there as I thought I might have been mistaken, but I suspended him for the disgraceful state of the Badagara Tolag Cutcherry. There was a departmental enquiry, a report of which I sent you in my letter No. 122 of 29th May 1874 and I request most respectfully, but in justice to myself that that letter and report may be sent to Government in full.

I was there the 5th May

This letter gives overseer Mahoney's defence

I tried by every means in my

power to get hold of the Contractor named in the Voucher, I could not find him. I tried at Moorat where the timber was supposed to have been paid for. I tried at Cookady where the timber was supposed to have been bought.

The Adigarys of both these Arrahoms were summoned, and both swore that there was no timber merchant of that name in either of their Arrahoms. (It is to be noted that Serjeant Mahoney although several weeks elapsed, between the departmental enquiry and his prosecution and committal never produced this man, whom he surely could have produced if he had really paid him.)

The Maistry Cunny Amboo, who was actually working at the bridge, swore that the timber was cut out of the forest that he had been ordered to get it from there and that there was no Contractor employed. also that he had received an advance of Rs 85 from the Maistry Karuppaswamy out of the Rs 156 advanced by Overseer to carry on the work and that he had paid coolies and sawyers for dragging and sawing timber, but no list was sent in. Also that the list signed in his name was not

his

his writing nor his signature and that no Carpenters were employed.

Christien who was kept privately by the Overseer to write for him, swore that he had written the name Cunny Amboo and also the name of the witnesses by order of the Overseer who told him to write and had given him an English copy to translate into Malayalum, he had also written the Voucher for timber by the Overseers order, but when he returned it to the Overseer there was no signature.

Karpagum said he had received an advance of 150 Rs from me by Cash Book, and that he had received the letters produced, one was to this effect—

My dear Karpagum,

Mr Dotson is coming out to Cootiaddy on Monday so for Gods sake get the bridges &c. repaired before he comes.

Yours

Sd. J. Mahoney

Across this was written in pencil. Rec'd 4th May. and initialed by Karpagum (I was at the bridge on the 5th.)

The other was, "My Dear Karpagum, I am in a little diffienlty, come over at once, I want you emergently.

Yours &c.

Sd. J. Mahoney

Initialed as received 7th May.

This was just after he was suspended. This showed to my mind that the Overseer must have known that the bridge was not repaired and also the degree of intimacy there was between the two, one of which was convicted of exactly the same thing that the other was accused of. If the evidence of the above was not strong enough, there is even still stronger against the Accuser, in his own hand writing. Extract from Official note Book.

30th × × × I started for Cootiaddy in the evening.

31st Paid for 316 Cft. timber Cowlies and Carpenters.

I am unable to give the exact amount as the books are at the High Court, but there was the irony, to say that he actually had paid for three things in his official note book in his own hand writing, when neither had the timber been received, or any Carpenter work done.

Against such evidence as this, he was found not guilty.

I confess I am at a loss to understand on what grounds.

The three Law Officers of the Crown

Crown assured me the case was a good one and that evidence most strong, and that the man could have no chance of getting off.

As an acquittal was obtained against such strong evidence as this, the Law Officers would not proceed in the minor cases, where the evidence was not so good.

The fact remains there are nearly Rs. 300 missing, which the Overseer has not accounted for and cannot account for in this case.

In another case there is Rs. 48. In two cases he sold Govt. timber. The evidence in all these cases amounts to the fact, that he is without doubt morally guilty but has been able by some unaccountable means to obtain an acquittal in a Court of Law.

The man is without doubt thoroughly untrustworthy and unprincipled.

I have only one thing more to say. In one case, the Overseer said he reserved his defence, this was in the case of the I. O. U. for 40 Rs. Surely if he had been an innocent or upright man, he could have accounted for the discrepancy at once, and not reserved his defence until he was tried.

ii. I do not think Govt. should lose so much money; I request instructions as to what I am to do, the Overseer can be sued civilly for the amount or would it be better to indict Krishnen as a forger and Mahoney as his Accomplice?

There are many documents in my Office of which there can be but little doubt (as they are mostly in Krishnen's handwriting) that they are entirely or in part false, if not actual forgeries.

These Vouchers &c. to which I allude above, were sent in by the Overseer when there was no cause of suspicion against him, but since the other cases came out I have been more particularly into the vouchers and I have little doubt in my mind as to their character, but as Krishnan would be the principal witness against the Overseer as the documents are in his handwriting it would be difficult to obtain a conviction even if Government should allow another prosecution. I would however call attention again to the exhibit I forwarded with Mr. Logan's Judgment in my letter No. 165 of 4th July 1876 to shew how unprincipled the man is.

I request instructions as to

to what Government wish to have done.

I have &c-

(Signed) A. L. Dobson Lt. R.E.
Assistant Engineer
D. P. W.

(True Copy)
W. Errington
District Engineer
Malabar

P.S. Dist. Office
Dy. Div. Dept
Jan 13. 1857.

No. 122.

To.

The District Engineer
of Malabar.

Sir,

I have the honor to forward a statement of the charges I brought against Sergeant Mahoney about the Bridge at the 9th Mile Cootiadey Ghaut, and also his defence on the same question also a statement made by Tulug maistry Kurpagum in my presence before him. I would draw your attention to one or two points particularly. His inspection report never mentions his having been on the ghaut at all on the days specified - I sent extract herewith sent also the work he was doing that day.

He says he was there, and saw the bridge without any materials, yet in the face of this, he pays Rupees 276-8-annas for timber &c. Moorat on the 31st March, and certifies that he has received the material, quoting the page of his note book he says he signed the certificate

certificate on the Maistry's representation,
and gave the money to him this the
Maistry denies him into his Note Book
after waiting nearly a fortnight during
which time he kept making excuses
I have at last succeeded in obtaining
from him this morning, and certified
extracts of his doing on March 29th 30th
& 31st are sent. I do not think that any
body reading this could fail to think
that he paid the money himself as he
was not satisfied with the duplicate
voucher, I sent for the original from
the Controller's Office, which is in proper
form and signed and witnessed and
not in the Maistry's handwriting nor
his writers. He told me that the maistry
who was looking after the work was a
man named Cunny Amboo and that
he was also to supply the timber in fact
was a petty contractor & maistry - a
thing I have strictly forbidden - The original
voucher bears quite a different name -
I send a statement obtained from Cunny
Amboo by Overseer Francis through
another maistry as I am going to Telicherry
on Saturday I will verify it. He also
states that the Talley maistry brought
him all the vouchers &c complete
between 1st and 8th April and he signed
them having previously paid the money,
whilst he states in his defence he paid
the money before the 31st. This must be
untrue on the face of it, as the original
voucher is signed dated and witnessed
at Mavrait, 31st March - I have been
making many enquiries about Ahmed,
no such man could be found at Mavrait
at last I have discovered him at Cootiady
and ordered him to come to me at Tellicherry when I hope to find out who
really did pay and receive the money.
Serjeant Mahoney states he did not
know how to make out a Station Book
for less than 2500 Rs. the one marked
A is his own handwriting - and there
are several more in my Office also in
his own handwriting.

A further report, as to what
the Timber Contractor says will
be forwarded.

Cannanore
29th May 1854

I have &c
(Signed) A. C. Robson Lt & C
Actg. Supt. Malabar.
(True Copy)
W. Harington

Caliente 5 May 18 74

When questioned about the reason why there was no timber at the 7th mile Bridge Cootiaddy Plant and what he had to say in his defence Overseer Mahaney read the following confirmation

Para (1) Before the Salu[illegible] maistry returned to the Cootiaddy Plant about the 28th March he gave me the whole of the accounts except the vouchers on a sheet of paper in his own house at Woolungee near Buddagera on the 30th about 10 or 11 A.M. I received a Memorandum at Noonat from Range Office to have my tools and plant ready for inspection on the 1st Instant I advance sent for a large boat and took the Salu maistry one Lazarus one Murriam the Salu maistry Servant Candasawmy and my own Laseur Govindoo with me in a boat and started for Cootiaddy

I reached there next morning very early- I then learnt that the whole of the tools were not at the Bungalow as reported to Range Office on 28th by Tahuk Maistry and that all that 30 fillu and thatt all that 30 fillu Crowbars were at the close of the Ghaut, after a little refreshment I took the Maistry with me and went upon the Ghaut and on arrival I found the bridge in the State as found by Lt Robson left by me. This date is the 31st March

{ Initialled J. C. R. }

I asked the Maistry about the bridge not being done and why he had reported to the Range Officer at Emmanare on the 28th March that the bridge would be completed in a few days.

Vara II He then pleaded that he had been very ill and if I had reported him for this he would be dismissed from the Service and probably imprisoned.

III He pleaded so hard that

The Maistry told me himself in my Office that the bridge was nearly finished.

Initialled J. C. R.

that I was foolish enough to allow him five days to finish the bridge as I knew I was wrong in having done so.

IV That cannot be helped now I returned with the tools to the bottom of the Ghaut put them into the Palankeen and returned to Hoonal where I arrived at 4 A.M. next morning I then proceeded to Shale with the tools arriving at 8 A.M. where I met Lt Robson A.S.

Nothing was said to me about the state of the Bridge

Initialled J. C. R.

V Between 1st and 8th Inst. I could speak to the exact date, I wrote to the Talook Maistry a private letter to know if he had the bridge completed as promised on the 31st March he brought the reply in person, and told me the work was finished. He then handed me over the vouchers &c. for the work done at the bridge, the Coolly Rolls

in-

in Malayalam, and the receipt for the timber in his own handwriting.

VI. A question will now arise why he did not sign the vouchers; but he was ordered to work at the new trace only (by Captain Bailey) and give a general eye to the bridge, which was near his work, this last order by me as I was leading the ghaut having been ordered to superintend the Moorat Bridge work.

I cannot see why he should sign the vouchers as he was ordered only to look after the work. Maistries are not allowed to sign vouchers.
[Initialled] A. C. H.

VII The vouchers were in accordance with the accounts previously submitted I signed them and sent them in with my Station books, which he assisted me to prepare in his own house my writer being under suspension all the time and I did not know how to fill in the Station Books correctly.

Most improper the Overseer should go to a subordinate's house. All the records are in his house at Anhe. he had 3 years' experience of Salary work and the Station Books for works under 2500 Rs are most simple.
[Initialled] A. C. H.

VIII Ac Kurpagum was ill with fever or at all events he told me so, saying he had

Was the bridge ever examined by you or did you see any of the timber for which you signed vouchers.

The Overseer had extra time given him to complete his account as the writer was under suspension.
[Initialled] A. C. H.

was very ill, and being without my writer all the time I wrote the returns and Station Books and made him examine them before I signed them.

Answer to the question in the margin.

I never saw any timber, but what I saw with Lt Robson Of C. viz 18 planks. Explanation of voucher No 63 316 c/f. Sawn timber certified by the Overseer to have been received by him. Page in note book also quoted.

No answer can be given to this. Vouchers Nos 64 and 65 for labour. I did not pay the Coolies, rolls myself but gave the money to the Salary maistry. I knew I had the Orange Officer's permission to travel round the District and make payment although I was especially in charge of the Moorat Bridge. I also knew the orders that every Coolie is to be paid

by my own hands.

Voucher No 28 satisfactorily accounted for bought by myself sent to 6th Mile Pallia I cannot account for the way the money was spent I gave it to the Ministry to pay everything with as he brought bills.

I signed my name to the Station book marked A taking his word for it.

The Overseer was on the ground on the 31st March and saw that the bridge was not finished. Yet both from his cash Book and vouchers the money appears to have been paid on 31st March although he knew the work was not nearly complete & timber supplied.

He states in his defence that he paid the money before this date of this there is no proof.

Extract of Moloki ministry's letter read to Overseer Meahoney. The latter

States

States it is a deliberate falsehood except regarding the advance of 150 Rs which is correct. When asked the Overseer said he had nothing more to say.

The above having been read over to him twice.

Signed A. C. Robson
19/5/74. Lt. R. E.

Overseer

W. Harrington
District Engineer Moloka

Original voucher since received from Controller money paid by Overseer 31st March at Mooral 26/5/74

Initialled A. C. R.

From

Sergeant J. Mahoney
H.P.W. Madras.

To

The District Engineer
Malabar.
Calicut.

Dated 6th November 1874.

Sir,

I very respectfully beg to report that I was acquitted of all the charges preferred against me by Lieut. Wolseley R.E. by the High Court of Judicature yesterday, and to solicit instructions as to my further movements; at present I remain in Madras pending your Orders.

I have reported myself to the Manager Secretary Office H.P.W.

I beg &c.

(Signed) J. Mahoney Sgt.
H.P.W.

True Copy

W. Harrington
Dy. Engineer Malabar

Sir,

I have the honor to forward herewith a letter from the District Magistrate, Malabar, dated 20th Nov. 1874 No. 173 Jail, and to request that you will be pleased to move the Secretary to Government H.P. to issue the necessary orders for the transfer of Sergt. J. Mahoney H.P.W. to Calicut.

I am &c.

(Signed) W. Harrington
Dy. Engineer Malabar

Camp Calicut
the 24th Nov. 1874.

No 173.

From

The District Engineer
Malabar

To

The Secretary to Government
P. W. Department
Madras

Sir,

I have the honor to forward copy of letter No 339 dated 10th instant from Lieut Adam the Officer in charge of the Ernaad Irrigation Works, stating the circumstances that the executive of Beliagherry Magistrate Malabar at the Police Court at Manjeri on which he was committed by the Sessions Court at Calicut.

2. Lieut Adam considers that the acquittal and bringing to notice the renewal circumstances which had the case has some thoroughly gone into and explained in his opinion, have endeavoured the Revenue Courts and this opinion I cannot but concur - as I imagine that a repetition of what has taken place

From in a letter
The Dist Engr
Malabar.

To The Secretary to
Govt P.W.D.
Madras
No 173 dated 20th
November 1874.

P.W. 7347/74

Multiplicate
Copy of letter
dated 6th Nov.
from Sergeant
Mahoney to the
District Engineer
Malabar.

Rly. D/19 Dec 1874
Dis No. 4333 J.

in Court will be forwarded to Government by Mr. Advocate General I forbear comment on the case, but one fact is patent to my mind and that is that although the charge made by Lieut. Dobson against the Overseer in the Magistrates Court in Tellicherry was for "forgery or for aiding and abetting forgery" the charge as stated in the High Court was for forgery alone; the witness "Krishnen" perpetrated the forgery with his own hand but he was instigated thereto by the Overseer who employed him as his private writer and actually made him his instrument in a public fraud; and yet both employer and employé escape punishment altogether, in my judgment because the Charge was wrongly made, the crime of aiding and abetting the forgery nothing brought against the Overseer at all.

3. I have now the honor to request your orders regarding Serjeant Mahoney. It seems to me with all deference to your superior judgment, that the man is utterly unworthy of employment in the P.W.D. in this or any other District, and that he should be remanded to his Regiment, and even if allowed to do this, he may, I think, deem himself an exceptionally fortunate man. Although the charge of forgery has fallen through and he cannot again be tried for the crime, I do not see why his agent "Krishnen" should not be proceeded against for forgery and the Overseer charged, as he ought to have originally been, with instigating, aiding, and abetting.

† 6th Instant. 4. I forward copy of letter from Serjeant Mahoney which I have as yet taken no notice, as of course I must await your orders.

I have the honor to be
Sir,
Your most Obedt. Servant

W. L. Garrington

District Engineer, Malabar

Public Wks Dept.

Proceedings of the Madras Govt.

Read the following:-

From the District Engineer, Malabar } (H. E. Do. 1737 20 Nov/74)

Pro: of the Madras Govt. in the Jud. Dept. G.O No. 3590C dy 19th Nov 74 } (" " 2224 " 4 " Dec/74)

His Excellency the Governor in Council regrets deeply the miscarriage of justice that has occurred. There is no alternative under all the circumstances but ignominiously to dismiss Serjeant Mahony from the Department Public Wks and to replace his services at the disposal of the

I suppose this is the only course to pursue but it is a bad look out for his Regt.
18th Dec. 74

18/12

P.P. 8874 Return of Petitions to the Govt. Engineers &c. Malabar.

for the Secretary to Government (R.W.D.)

dated 20th Sept. 1874.
Rec'd 23rd Sept. 1874.
Cus. 4. V No 173.

Petitioning against dismissal of Sergeant Mahony and requesting an enquiry into the grievances of the Petitioner at Madras.

Pb. No. 3530C 19-12-74.

Ar 1433 Pb

K.R. 18-12-74

Military Département

Guerre

Lo. Emily: Departt

" D'Etat Separation Virtu
" Contr. Copie N° Jud. 902224 Gid. 187
Despes 12/1/75.

Despes to Batto 19/12/74
L. Copies despes to Batto 12/1/75.

433 Ft 433 At

7347 7806

Govt. of [1874] Madras.

PUBLIC WORKS.

To

The Secy. Govt.

Dated

Rcvd. Encl. 4

G. O. 19 Dec 1876, No. 3594

Nos. 433-F 433-H.

Sergeant Mahony

ignominiously dismissed from the Dept. Public Works and his services replaced at the disposal of the Military Department