Case 6319

Govt. of {1884} Madras.

PUBLIC WORKS.

11/84

Dated

Recd. Encl.

G.O., 30th July 1884, No. 1850 W

Messrs Mansfield Brennen & Company

Chisholm finally called
to Show Cause why he
ld not be held personally
able for the loss
tailed by his transactions
— for timber supply

30/3

Specification of Burmah Teak Scantlings required fo
the Post and Telegraph Office Works Madras.

No.	Description	Length		Scantlings	
		ft.	inches	inches	× inches
12	Beams	18	9	11½	13
12	Do	18	9	11½	13
6	Do	16	0	11½	13
6	Do	11	0	11½	13
6	Do	6	0	11½	13
7	Joists	16	0	7	3
27	Do	14	0	7	3
8	Do	8	0	7	3
2	Beams	28	0	12	5
1	Ridge	26	6	12	3
2	Purlins	26	6	8	6
1	Beam	23	0	9	6
8	Do	14	0	8	6
8	Do	12	0	8	6
8	Do	11	0	8	6
4	Do	10	0	8	6
41	Joists	24	0	3	3
4	Beams	13	0	8	6
20	Do	12	0	8	6
12	Do	11	0	8	6
4	Do	9	6	8	6
77	Joists	24	0	3	3
4	Beams	20	6	8	6
8	Do	13	3	8	6
4	Do	11	9	8	6
34	Joists	22	0	3	3
7	Eave boards	11	6	8	2
82	uprights	4	0	3	1½
14	Rafters	24	0	12	10

Pl Jan 5
4575/3

No	Description	Length ft	inches	Scantlings inches ×	inches
7	Beams	16	0	12	10
16	Purlins	16	3	12	8
8	Do	16	6	12	8
3	Do	8	3½	12	8
4	Do	8	0	12	8
4	Ridges	20	0	12	4
8	Do	16	6	12	4
16	Do	16	3	12	4
4	Do	8	0	12	4
10	Uprights	4	6	12	4
20	Struts	18	1½	12	3
14	Do	11	6	8	8
7	Beams	15	9	8	6
109	Rafters	24	3	4	3
49	Do	15	6	4	3
1	Ridge	26	6	12	3
1	Beam	23	0	9	6
4	Purlins	13	6	8	6
2	Rafters	15	6	6	5
36	Joists	12	0	6	3
22	Rafters	18	3	4	3

Schedule

Articles to be supplied	Per	Price	Remarks
Burmah Teak Scantlings	Ton	165 ..	To be delivered at the New Post & Telegraph office, Madras

Signature of Witnesses

Officiating Consulting Architect to Govt

Specification of Burmah Teak Scantlings required for the Ameer Mahal Madras

No	Description	Length ft	inches	Scantlings inches ×	inches	Cubic contents
150	Joists	16'	6"	3"	9½"	489 - 10 - 1 - 6
63	Do	12	9"	3"	7½	212 - 5 - 6 - 4
42	Do	13'	3"	3"	7½	
23	Do	18'	0"	3"	8½	73 - 3 - 9 - 0
92	Do	11'	6"	3"	5¾"	126 - 8 - 10 - 6
3	Breastsummers	12'	6"	6"	7"	19 - 11 - 9 - 0
2	Do	15'	6"	6"	7"	
12	Uprights	12'	0"	6"	6"	36 - 0 - 0 - 0
3	Eaves boards	12'	6"	2"	6"	5 - 8 - 0 -
2	Do	15'	3"	2"	6"	
3	Wall plates	12'	6"	4"	8"	15 - 2 - 8 - 0
2	Do	15'	6"	4"	8"	
16	Joists	13'	9"	3"	5"	38 - 9 - 0 - 0
16	Do	9'	6"	3"	5"	
			Total Cub. feet			1017 - 11 - 8 - 4

Schedule

Articles to be supplied	Per	Price	Remarks
Burmah Teak Scantlings	Ton	165 ..	To be delivered at the Ameer Mahal, Royapettah

Signature of witnesses.

Officiating Consulting Architect to Govt

Description	Length	Scantlings		
	ft. inches	inches	inches	

Ju 4
9575/83

GOVERNMENT OF INDIA 8A^s EIGHT ANNAS

STAMP OFFICE 4 JUNE 83 MADRAS

Schedule Contract

Entered into between Messrs Mansfield Bremner & Co and the Officiating Consulting Architect to Government, on account of the Government of Madras.

Messrs Mansfield Bremner and Co merchants trading in Madras in the Presidency of Madras, do hereby undertake to execute and supply such timber as is enumerated and described in the attached Specifications at the rates for each item entered in the Schedules thereto appended, such timber being on account of the works in progress at the new Post and Telegraph Offices & at the Ameer Mahal respectively situated within the Municipal limits of the city of Madras subject to the conditions printed at back; - also to complete and hand over one half of the same in a satisfactory and workmanlike manner to the Officiating Consulting Architect or his authorized representative on or before the ~~twenty sixth~~ 26th day of June and the other half of the same on or before the sixteenth day of July in the year of Christ one thousand eight hundred and eighty three.

signed sealed and delivered by the
said Messrs Mansfield Bremner & Co
this eighth day of June
in the year of Christ one thousand
eight hundred and eighty three
in the presence of

Mansfield, Bremner & Co

8 [illegible] 3
9575/83

CONDITIONS OF A SCHEDULE CONTRACT

for the supply of Teakwood Scantlings.

A bill will be submitted by the Contractor each month for all work executed or stores supplied in the previous month in accordance with the terms of the Specification, and the Executive Engineer will take the requisite measures for having the same tested, and the claim, as far as admissible, adjusted if possible before the expiry of ten days from the presentation of the bill.

2. No work or stores will be paid for unless thoroughly good and fully in accordance with the Specification, and should, through inadvertence, bad work, or stores be passed and paid for, it will nevertheless be perfectly competent for the Executive Engineer to strike the same out of the account at any future time, and recover the value at any date previous to, or at the time of, granting the final certificate.

3. The bill above alluded to will be submitted in exact accordance with the form supplied by the Executive Engineer, and the rates at which the value of the work or stores is calculated will be those tendered for and accepted and entered in the attached schedule. To allow of a guarantee fund being formed on the part of Government, a deduction of 5 per cent. from all payments to the Contractor is to be made by the Executive Engineer at the time of payment.

Not applicable to the supply of stores.

4. The Executive Engineer is fully empowered to devote all, or such portion as may be requisite, of this guarantee or reserve fund to making good, bad, or indifferent work on the part of the Contractor in such manner as he may think desirable.

5. Similarly, should over-payments have been inadvertently made on the faith of the Contractor's bill, although checked by the Executive Engineer or his authorized representative, it will be competent for the Executive Engineer to recover the same from the Contractor either by deducting the amount from any account subsequently rendered, or from the guarantee fund.

Not applicable to the supply of stores.

6. The Contractor is bound to adopt any alteration or addition to the original design, which the Executive Engineer may direct in writing, and execute the same at the same rates as the other portions of the work. He must also at once undo and make good any work which may be pronounced bad, or not in accordance with the Specification.

Not applicable to the supply of stores.

7. Failing within ten days to conform to the instructions of the Executive Engineer in either of the above cases, that officer has power to execute the work by any agency he may consider desirable at the risk and cost of the Contractor, using, if necessary, any plant or materials which may be collected at site, and paying for the same at his own valuation.

8. Should the Executive Engineer consider that work, although not executed in strict accordance with the Specification, may be allowed to stand, he is empowered to pay for the same at such reduced rates as he may fix, and similarly, in the case of inferior stores supplied, which though not of the quality required by the Specification may yet be passed, he is also empowered to pay for the same at such reduced rates as he may consider equitable. This proceeding is, however, quite optional on the part of the Executive Engineer.

Not applicable to the supply of stores.

9. The Contractor is bound to provide all requisite plant and thoroughly intelligent agency for the execution of the work, failing in which the Executive Engineer is empowered to supply such machinery or agency (either superintendence, skilled or unskilled labor) as he may consider desirable at the cost of the Contractor, removing such as he may object to.

Not applicable to the supply of stores.

10. Advances may be made to the Contractor to the extent of 80 per cent. of the value of all materials (as assessed by the Executive Engineer) deposited at site and mortgaged to Government, the amount of all such advances being recovered as the materials are utilized, or from the bill for completed work, subsequently submitted.

11. All rejected materials will at once be removed from site by the Contractor to such distance as may be desired, failing in which the Executive Engineer is empowered, after giving ten days' notice in writing, to do so himself, recovering the cost of the same from the Contractor.

Not applicable to the supply of stores.

12. No unsightly pits, refuse stores, or other disfigurements will be allowed to remain in the neighbourhood of any completed work, and, should the Contractor not comply with the instructions of the Executive Engineer to rectify such defects, that Officer may, after ten days' notice in writing, take such measures for their remedy as he may consider desirable, charging the cost of the same to the Contractor.

9375/83

13. The Contractor is obliged to conform to all the legitimate instructions of the Executive Engineer in respect to the above conditions, or such other matters as may affect the safety of the work, failing in which that Officer is empowered, after giving ten days' notice in writing, to take the work entirely into his own hands, declaring the contract cancelled, and employing, if necessary, any materials or plant belonging to the Contractor, which he may consider requisite, paying for the same at his own valuation.

14. The Executive Engineer is similarly empowered to annul the contract should he consider that there has been unnecessary delay on the part of the Contractor in attending to or carrying out the instructions relative to the prosecution of the work or in the supply of stores. In the event of the contract having to be cancelled through non-fulfilment of any of the conditions on the part of the Contractor, the amount or so much thereof as may be necessary of the guarantee fund or other security deposited by the Contractor shall be and remain the property of Government in or towards satisfaction of any loss sustained by Government by reason of such breach of contract.

15. No portion of the reserve or guarantee fund can be demanded by the Contractor till such time as the Executive Engineer grants a certificate of completion of the terms of his contract; but in cases of contracts extending over 12 but not less than 18 months the reserve may be paid to the Contractor in the last month of the official year (provided the contract has been in force not less than six months) under the following conditions:—1st, that the Contractor has completed the terms of his contract both as regards quantity and quality of work performed or stores supplied; and, 2nd, that such payment is not to be considered as a final adjustment of the accounts to date, or to invalidate any of the terms or conditions of the contract.

16. When two or more persons combine to take up a contract, it will be absolutely necessary for them to appoint some one person (either partner or otherwise) to be their accredited agent, and to give him powers of attorney to receive payments on account of the work contracted for and to grant receipts; this power of attorney to be lodged in the hands of the Executive Engineer. In the event of one or more of the partners in the contract wishing to withdraw this power of attorney and to transfer it to some other person, he or they must give one month's warning of this in writing to the Executive Engineer, who may on the receipt of such warning consider himself at liberty at any time within the month to declare the original contract null and void, precisely under the same conditions as for non-fulfilment of work, &c., and thereon, *i.e.*, after giving ten days' notice in writing, take over the work and materials on the part of Government, making such arrangements for its progress as above provided in paragraph 7 of these conditions.

17. The final adjustment must invariably be preceded by a thorough re-measurement of the whole of the work performed, which will be made by the Executive Engineer or his authorized representative, and at which the Contractor or his accredited agent must be present. For this purpose a written notice will be sent to him at least ten days before the date fixed for the measurement, appointing the day, hour, and place of meeting. Should he not attend to this, the measurements will proceed without him, and will be conclusively binding upon him.

18. The Contractor will furnish, free of charge, all labor and tools required for such examination of the work as the Executive Engineer at any time considers desirable; failing which he may have this done at the Contractor's cost, deducting the charges incurred from his bill.

19. When a dispute arises between the Executive Engineer and Contractor as to either quantity or quality of any work performed, the matter will, at the requisition of the latter, be referred to the Chief Engineer, who shall be empowered to appoint an Officer or Upper Subordinate to measure and examine the work in the presence of the Contractor. Due notice, as in paragraph 17, will be given to the Contractor regarding the time and place of making these measurements, &c., and should he not be present or be represented by a duly accredited agent, the Chief Engineer may decide the case finally on the report furnished to him by the Departmental Officer deputed as above; any objections to the measurements taken, &c., must, moreover, be stated to the deputed Officer at the time, and a copy of the same in writing forwarded to him for submission with his report to the Chief Engineer at latest within 24 hours.

20. The Contractor shall abide by the decision of the Executive Engineer in case of the occurrence of any dispute or difference (other than that provided for by paragraph 19) arising between him and the Executive Engineer or any officer subordinate to him in regard to the construction of any of the above conditions or to any other question proceeding therefrom and any and every such decision shall be final and conclusively binding on the Contractor and shall not be subject to question or review upon any ground whatsoever.

Not to be applicable in supply of stores.

21. Paragraphs 4, 6, 7, 9, 10, and 12 are not to be considered as applicable in a contract for the supply of stores of any kind.

---

8 As — GOVERNMENT OF INDIA — EIGHT ANNAS

STAMP OFFICE — JUNE 83 — MADRAS

Contract Bond

Know all men by these presents that we Messrs Mansfield Bremner & Compy of Madras are held & firmly bound unto Her Majesty's Secretary of State for India in Council in the penal sum of Rs ~~five~~ two hundred and fifty of Lawful money of British India to be paid to Her Majesty's Secretary of State for India in Council for which payment we bind ourselves our heirs executors and administrators by these presents sealed with our seal dated this eighth day of June in the year of Christ one thousand eight hundred and eighty three and we hereby agree with the said Secretary of State in Council that if any suit shall be brought touching the subject matter of this obligation or the condition hereunder written in any Court subject to the superintendence of any High or Chief Court established by Royal Charter or any act of the Governor-General of India in Council other than the High Court of Judicature at Madras in its original jurisdiction the same shall and may at the instance of the said Secretary of State in Council be removed into tried and determined by the said High or Chief Court in its extraordinary original jurisdiction.

The condition of the above-written Bond is such that if the said Messrs Mansfield Bremner and Co their executors or administrators shall well and truly execute the work described in a certain Schedule Contract signed by C. Vincent Esqr Officiating Consulting Archt.

to the Government of Madras and dated the eighth day of June at the rates mentioned in the said Schedule Contract and shall well and truly perform and abide by all the terms and conditions in the said Schedule Contract contained to be performed and abided by on the part of the Contractors then the above-written Bond or obligation shall be void otherwise the same shall be and remain in full force and virtue.

Signed sealed and delivered
by the said Messrs Mansfield
Bremner & Co in the presence of

Mansfield, Bremner & Co

64 Jul
951/83

8

No. 12

Class. 1st

INDIAN TELEGRAPH.

To (Station) Triplicane Madras

Local No. 41

From (Station) Pondicherry

Words.	Day.	Hour.	Minute.
37	21	10	50

Official Instructions. Urgent

To (Person) R. F. Chisholm Consulting Architect Chepauk

From (Person) R. P. Lennon

Have measured up seventy tons please pay for thirty five tons today on bill of sale signed by Vendors as banks close tomorrow for Easter

Recd. from
At Hrs. Mts., By L. N.
Sent to
At Hrs. L. N.
Date TRIPLICANE 21-3-83
Telegraph Mdst

Traffic Code Form C 1. S. P. No. 1000 G. T. Press,—No. 128,—27-5-80,—1000000.

No. 14

The Executive Engineer Division, Public Works, **Dr.**

To Messrs. Mansfied Bremmer & Co. for Materials supplied by him.

	Price.				Payments.			
Quantity and Description of Materials. 1	Rate. 2	Per 3	Amount. 4	Total of each description. 5	Amount. 6	When paid. 7	For what account purchased. 8	By whom received, and No. of receipt attached if not receipted below. 9
	RS. A. P.		RS. A. P.	RS. A. P.	RS. A. P.			
Balance due for supplies of previous months :—								
Supplied in Current month :—								
Cft. 1750 Teakwood	3 . .	Cft.	5250 . .				Post & Telegraph Office Works	
Total of this bill, Rs. Five thousand two hundred & Fifty in writing				5250 . .				

Dated 21st March 1883.

Signature of Supplier. Mansfield, Bremmer & Co.

Certified that the above claim is correct, and that the materials have been received by and are of good quality.

Dated 21st March 1883.

Signature of Sub-Divisional Officer.

17

NOTES.

Referencé to Madras P. W. D. Code.

Chap. XII.—Paras. 1497, 1506, 1521, 1577 to 1580, 1583, 1589.

Chap. XIII.—Para. 1739.

1. This form will be used by vendors for materials supplied by them; it will be used also as a list to bring together the purchases made from persons who are unable to submit their own bills in the authorized form. In the latter case the heading in Column 5 may be altered to "Total from each Dealer," and the receipt for each payment should be taken separately and tacked on to the Form.

2. Dealers should however be encouraged to send in their bills in this form and will be supplied with printed forms for the purpose.

3. Purchases of materials are charged either to Tools and Plant, or to Specific Works, or to Reserve Stock; and it will be necessary to obtain a separate bill for each of these classes of articles when one dealer supplies all.

4. The purchases for each particular work will be collected and accounted for on the Work-Abstract of that work, those for stock will be collected in the Abstract of Stock Materials received, P. W. Form, No. M 9.

P. W. D. Madras
Form No. M 18.

Division.— Architect No.

Sub-Division.— No.

Cash paid voucher No 53 for March

Bill for Materials.

Encl 2

P.W.C. No 3956/84

REMARKS BY EXECUTIVE ENGINEER.

Dated 21 March 1883.

Mischler

Signature of ~~Executive Engineer~~ Cons. Architect Govt.

CONTRACTOR'S OR SUPPLIER'S RECEIPT.

Received Rupees (5250) in figures. Five thousand, two hundred & fifty in writing. on account of the materials detailed in this bill.

Amount in Vernacular Rs 5250:0:0

Mansfield, Brenner & Co

ONE ANNA 21.3.83

Signature of Contractor.

Dated 21 March 1883.

Gilbert A. Mantrough

M. Sreenevasa Moor

Signature of Witnesses.

A. Stephens

Accountant.

Measurements of Logs at Pondicherry—

No–	Length–	Quarter Girt		C. Contents
1	14	1—7—6	=	~~3~~—11—9 36 — 1
2 ✓	12	1—7—0	=	30—1—0
3	12-9	1—6—9	=	31—1—5—3
~~4~~	12-0	1—1—6	=	15—2—3
5	14-3	1—10—6	=	50—1—1—6
6	13—0	1—3—9	=	22-4-8
7	12—0	2—0—0		48—4—11
8	12-0	1—6—0		27—0—0
9	12-8	1—4—6		22-8—3
10	14-3	1—7—6		37—7—6
11	20-6	1—1—6		25—11—2
12	13-3	1—3—0		24—1—8
13	11—3	1—6—6		26—8—9
14	13—3	1—5—6		28—2—1
15	17—6	1—4—6		33—1—0
16	17—0	1—6—0		38—3—0
17	18—6	1—5—6		39—4—1
			RL	536—~~7~~ 9—1

23—11 1—3—6 40—10—11

2688—4—1—9

3773-0-2-9

Nº	Length	2 Girt	C Conten
		13.7	9-8.9 536-~~7-10~~
18	11-3 ×	1-3-9	19-4-6
19	11-0 ×	1-5-9	24-0-9
20	14-0	1-8-3	39-10-4
21	9-3	1-1-6	11-8-5
22	10-6	1-3-0	16-4-10
23	24-0	1-7-6	63-4-6
24	~~16-3~~ 24-0	1-6-9	58-7-1
25	24-0	1-6-9	58-7-1
26	24-6	1-9-0	75-"-4
27	24-6	1-6-0	53-1-6
28	22-0	1-7-6	58-1-1
29	23-0	1-8-0	63-10-8
30	26-6	1-10-6	93-1-1
31	22-3	1-9-"	68-1-8
32	23-6	1-7-6	62-"-1
33	27-0	1-4-6	51-"-1
			~~1295 x 5~~ 1355-3-1-9

Nº	Length	2 Girt	C Contents
			~~1295-1-7~~ 1355-3-6-9
34	23-6	1-8-3	66-11-0
35	23-	1-7-6	60-8-9
36	23-6	2-"-"	94—
37	25-3	1-7-6	61-4-8
38	24-"	1-6-9	58-7-1
39	24	1-9-9	78-10-1
40	28	1-6-9	68-4-3
41	22-6	1-6-9	~~54-11-1~~ 62-1-9
42	24-3	1-9-"	74-3-2
43	25-0	1-9-9	82-1-6
44	25-	1-11-3	93-10-2
45	23-6	1-10-6	82-7-4
46	24-6	2-0-0	98-"
47	24-0	1-11-3	90-1
48	26-0	2-0-0	104-"
49	21-0	1-5-6	44-7-1
50	24-9	1-8-3	70-5-
57	23-0	1-5-6	48-10
			~~2616-11~~ 2688-0-

			~~26 16 11~~
			2688-0-1-9
52	~~23-0~~ 30-6	1-2-3	43-"-"
53	30	1-3-6	50-~~11~~0-7
54	27	1-8-3	76-10-7
55	25-6	1-2-3	35-11-5
56	27-0	1-4-6	57-0-6
57	27-0	1-6-0	60-9-0
58	24	1-6-0	54-"-"
59	30	1-3-0	46-10-6
60	25	1-2-3	35-3-0
61	27	1-6-0	60-9-0
62	30	1-8-3	85-5-1
63	30	1-3-9	57-8-1
64	27	1-6-9	65-11-0
65	24-6	1-5-3	50-7-5
66	30	1-3-0	46-10-6
67	27	1-9-0	82-8-3
68	28-6	1-4-6	53-10-7
69	28-6	1-6-0	64-1-6
~~71~~ 70	24-0	1-8-3	68-4-1
			3773-0-2-9

			3773-0-2-9
			~~370 0 1 1~~
71	25-0	1-4-6	47-3-2
72	28-6	1-8-9	85-2-6
73	31-0	0-~~10~~9-9	20-5-6
74	25-9	1-9-0	78-10-3
75	25-0	1-9-9	82-1-6
			~~4016-"-"~~
			4086-11-1-9

Original pencil copy in my own writing of logs measured at [illegible] as taken from my original note book for the purpose of taking out cubical contents

W P Lennox
Sub Engineer P.W.D.
In Ch. Cent. S. Dn.
Central Dn.

Camp [illegible]
30th May, 1884

23 " | 1-3-6 | 40-10-11
2688-"-1-9

54 82/49/18/13

1	14	1 — 7 — 6	36 — 11 — 7
2	12	1 — 7 — "	30 — 1 — 0
3	12 — 9	1 — 6 — 9	31 — 1 — 5 — 3
4	12 — "	1 — 1 — 6	15 — 2 — 3
5	14 — 3	1 — 10 — 6	50 — 1 — 1 — 6
6	13 — "	1 — 3 — 9	22 — 4 — 8
7	12 — "	2 — " — "	48 — " — "
8	12 — "	1 — 6 — "	27 — " — "
9	12 "	1 — 4 — 6	22 — 8 — 3
10	14 — 3	1 — 7 — 6	37 — 7 — 6
11	20 — 6	1 — 1 — 6	25 — 11 — 4
12	13 — 3	1 — 3 — "	24 — 1 — 8
13	11 — 3	1 — 6 — 6	26 — 8 — 9
14	13 — 3	1 — 5 — 6	28 — 2 — 1
15	17 — 6	1 — 4 — 6	33 — 1 — "
16	17 — "	1 — 6 — "	38 — 3 — "
17	18 — 6	1 — 5 — 6	39 — 4 — 1
18	11 — 3	1 — 3 — 9	19 — 4 — 6
19	11 — "	1 — 5 — 9	24 — " — 9
20	14 — "	1 — 8 — 3	39 — 10 — 4
21	9 — 3	1 — 1 — 6	11 — 8 — 5
22	10 — 6	1 — 3 — "	16 — 4 — 10
23	24 — "	1 — 7 — 6	63 — 4 — 6
24	24 — "	1 — 6 — 9	58 — 7 — 1
25	24 — "	1 — 6 — 9	58 — 7 — 1
26	24 — 6	1 — 9 — "	75 — " — 4
27	24 — 6	1 — 6 — "	55 — 1 — 6
28	22 — "	1 — 7 — 6	58 — 1 — 1
29	23 — "	1 — 8 — "	63 — 10 — 8
30	26 — 6	1 — 10 — 6	93 — 1 — 11
31	22 — 3	1 — 9 — "	68 — 1 — 8
32	23 — 6	1 — 7 — 6	62 — " — 7
33	27 — "	1 — 4 — 6	51 — " — 6
34	23 — 6	1 — 8 — 3	66 — 11 — "
35	23 — "	1 — 7 — 6	60 — 8 — 9
36	23 — 6	2 — " — "	94 — " — "
37	25 — 3	1 — 7 — 6	61 — 4 — 8
38	24 — "	1 — 6 — 9	58 — 7 — 1
39	24 — "	1 — 9 — 9	78 — 10 — 1
40	28 — "	1 — 6 — 9	68 — 4 — 3
41	22 — 6	1 — 6 — 9	54 — 11 — 1
42	24 — 3	1 — 9 — "	74 — 3 — 2
43	25 — "	1 — 9 — 9	82 — 1 — 6
44	25 — "	11 — 11 — 3	93 — 10 — 2
45	23 — 6	1 — 10 — 6	82 — 7 — 4
46	24 — 6	2 — " — "	98 — " — "
47	24 — "	1 — 11 — 3	90 — 1 — 1
48	26 — "	2 — " — "	104 — " — "
49	21 — "	1 — 5 — 6	44 — 7 — 11
50	24 — 9	1 — 8 — 3	70 — 5 — 8
51	23 — "	1 — 5 — 6	48 — 10 — 11
			2688 — " — 1 — 9

		–10–7
25–6	1–2–3	35–11–5
27–"	1–4–6	51–"–6
27–"	1–6–"	60–9–"
24–"	1–6–"	54–"–"
30–"	1–3–"	46–10–6
25–"	1–2–3	35–3–"
27–"	1–6–"	60–9–"
30–"	1–8–3	85–5–1
30–"	1–3–9	51–8–1
27–"	1–6–9	65–11–"
24–6	1–5–3	50–7–5
30–"	1–3–"	46–10–6
27–"	1–9–"	82–8–3
28–6	1–4–6	53–10–7
28–6	1–6–"	64–1–6
24–"	1–8–3	68–4–1
25–"	1–4–6	47–3–2
28–6	1–8–9	85–2–6
31–"	"–9–9	20–5–6
25–9	1–9–"	78–10–3
25–"	1–9–9	82–1–6
		4086–11–1–9

True copy of measurements length and greatest girt as taken by me at Pondicherry of timber purchased from Mansfield Brenner & Co ~~measurements~~ Cubical contents afterwards calculated from Hoppus' tables at Madras when I returned —

W P Lennon
Sub Engineer P.W.D.
In Ch. Eastn Sub Dn
Central Dn

p. Bendamalanka
th May 1884

Pondicherry

Enqy.

[illegible]
63/9/84

459 G.D.
5/6/84

Camp. Bendamalanka
No 30th May 1884

To
The Officer Incharge
Central Division
Godavery

Sir

Enclosures (3)

In reply to your No. 171C of 15th Instant on Superintending Engineers No 422 G.D. I beg to submit the following for the information of the Honorable the Chief Engineer.

Early in March 1883 under orders from Mr. Chisholm I proceeded to Pondicherry to inspect and report upon certain logs of teak timber said to be there for sale by Messrs. Mansfield Brummer & Co. Some two or three hours after arrival Mr. Mansfield introduced himself as a partner in the firm.

2. He asked me if it would be convenient to go to the beach that evening & see

the timber - we went, he pointed out a large quantity of timber as having been purchased by the firm cheap I believe 165 tons was the quantity. He not only pointed out the timbers that did belong to the firm but that on either side tiers that did not - this of course in reply to my questions.

3. I Know that I thought he had overestimated the quantity as he was not familier with measurements and ad~~dressed~~vised him to secure the services of a professional man if possible in such transactions

4 However the timber shown to me was of very good quality, seasoned, and much in excess of the quantity I ~~reported~~ required, my subsequent measurements will show I was right

5 On my return to Madras I reported results to Mr Chisholm, Mr Mansfield accompanied me and after my and his subsequent interview with Mr Chisholm we parted, as I understood that everything was arranged - However, I think the same evening, just as work was over Mr Mansfield came to me with a Demi off. from Mr Chisholm in his hand informing him that he could only supply any funds on actual measurements and Mr Leeman had better go down to Pondicherry & measure - Mr Mansfield asked me if I could make it convenient to go the next morning - we went and measured up the quantity shown in my list now submitted, copied some 14 months ago by my clerk from my original Note Book and fortunately retained by me -

In addition to these measurements as submitted there are others in my Note Book of Scantlings in sheds which I did not enter in list as I had more than required. Again in addition there were 14 exceptionally lengthy logs all over 32 feet, of these I only noted lengths as the girders were Supposed to give 14 x 12 dimensions of Certain tie beams required.

6. These logs also were promised to me by Mr. Mansfield in fact 4 tie beams were actually delivered in Madras one of which was Condemned by me for a slight flaw and was Sawn up for other purposes

7. As to the point of actual delivery my measurement assisted by Mr Mansfield and his Dubash Constitute a purchase and moreover the timber being so good I informed Mr Mansfield that after Satisfying our first indent I could give him an order for roofing of Small towers, ~~rosses~~ risers and treads of Stairs, latrine fittings &c all of which Could be Supplied from portions of logs which had been Sawn across for Convenient Stowage, as I was told in the hold of the Ship that brought them

I beg to point out that it Should be

borne in mind that I telegraphed that payments Could be made for only 35 tons whereas the logs measured amounted to nearly 82 tons.

It was distinctly understood between Mr Mansfield and me that our Supply on the indent there in question Should be cut from the logs I Selected & balance if any and ~~those~~ more would be required for other parts of the building.

The request for prompt Cash was acceded to Simply on Mr Mansfield's representations of the necessity of Keeping a large number of Sawyers at work &c and Sending along the timber as rapidly as possible. At the time of which I write there were in the Railway Station yard 2 Coupled waggon loads of timber, Some 10 or 12 tons amongst which were four tie beams for us to be Sent down to Madras - Mr Mansfield took me down to inspect them & pointed out that one of them might not Suit

as there was a slight flaw but it could
be used for smaller work. This appear
like bona fides and also that there
was an actual understanding as
to purchase.

8. I had no knowledge then neither
have I now that the timber did not
belong to Messrs Mansfield Brunner & Co.
I had no reason to believe that there
was any thing not straight forward
in the transaction. All I know about
Mr Mansfield there was that he was
a relation or close connection of I believe
the ~~a~~ French Consul with whom he resided
and he visited at Colonel Shairman's. He
invited me to be introduced to both but
in the 1st case I could not speak French
fluently and in the other Military reasons
prevented me. I mention this simply to
show that I believed every thing was correct —

With reference to the last query by the
Honorable the Chief Engineer; it was well
understood that the scantlings were to be
cut from the logs which I selected and
measured and whatever the balance
if any would be, as I have before
stated, required for other portions of
the buildings. This was quite correct
for in last November I had to ~~by~~ buy
wood of superior quality for small
towers at Rs: 3„11„0 per Cft or Rs 184„6„0
per ton which Major Morant noted to me
officially as being considered "cheap".

I now beg to say a little more which
although not called for by ~~the~~ the Honorable
the Chief Engr. may serve to throw some
light on the subject of the timber failure

(a) Mr Mansfield was very much to blame
in leaving for England almost directly
after the purchase had been made — He
should have stayed and seen it sawn up.
as understood that he would

(b) The easiest solution of the failure

is that Brunner as soon as he had the field to himself manipulated the timber and very probably sold it over again or mortgaged it

(c) It has never been mentioned by Mr Vincent that I more than once brought it to his notice when on the work that I considered the firm "Shaky" and suggested prompt measures.

(d) It has also not been brought to notice that my rejections of timber were very large, so large that if I had taken all the timber just as it was sent there would have been only a nominal loss to Government, as far as accounts go, but bad timber in the work — I received a very acrimonious letter from the firm which I enclose in support with reference to ~~this~~ their complaints as to time of granting receipts &c. &c. their agents used to throw the wood

down without stacking properly and very often go without a receipt not from any fault of ours — delay of receipt was simply owing to the bad wood which they wanted me to take but which I rejected. again their man who brought the wood used to give trouble by wanting a receipt immediately; he used at times to come when the work people even at their mid-day meal. and if it was not convenient to give a receipt at once would go away and complain, My Storekeeper was not ~~acknowledg~~ authorized to pass timbers. ~~This~~ Their remarks about the very logs I passed at Pondicherry" is simply absurd, there is only their assertion that the scantlings were sawn from these logs and this only tends still farther to prove that they disposed of the logs selected and tried to pass off inferior timber on me

(e) If I may be so confident in the

matter I do not think there will be such a large loss to Government, if any, but the matter of actual ownership at the time I went to Pondicherry and we measured ~~arrived~~ be proved. If the firm were not the owners then action to be taken is obvious and by the necessary pressure the amount may be made good.

I regret I am so far away as if in Madras I could make enquiries which might somewhat clear up matters. If I can be granted Special leave on duty for the purpose I am willing to proceed to Madras and Pondicherry at my own expense to endeavour to find out what became of the 75 logs which I measured. If they were Mr Mansfields property at the time he and I measured them and were afterwards made away with by the convict Brummer nothing can be done + but if they were not

+ On reconsideration I think the logs may have fallen into the hands of someone who has bought them illegally and knowingly & so if this be the case a recovery might be made or punishment inflicted

Mr Mansfields property at that time we can recover I think all this can be ascertained by a little care & exertion.

I am most anxious on the point of recovery of loss to Government ~~not~~ that perhaps I might be held responsible as a Subordinate of Mr Chisholm's but from a matter of personal feeling that if there is any blame to be attached to me I would much sooner bear the loss by deductions from my monthly Salary than a good ~~active~~ and just officer like Mr Chisholm should be a loser. He acted on my Telegram in good faith as his trusted Subordinate and I acted in good faith in sending it.

I believe Mr Mansfield is still out of India also that his uncle is Magistrate of the Marlborough Street Police Court London, so his whereabouts might be ascertained

Enclosures—original rough pencil notes in my own writing of logs measured at Pondicherry with Mr Mansfield and his dubash and a Copy of the Same in ink, both taken from my note book which I will forward if required, only I do not want to part with all the documents+ in my possession at once for fears of miscarriage in transit.

+ The copies of measurements and have been retained both by accident, I used to keep very important papers in my office box under a Chubb's lock instead of in my Office, hence I brought these two papers away—of course my intention is that obtained properly in case of reference—

I know the dubash who assisted to measure very well by sight, but forget his name, I think from a note which I have that it is Kalamandapam Manikyam. A Copy of my measurement was forwarded to the Consulting Architect Office and should be there

No 103

Forwarded to Supg. Engr. 1st circle with reference to his No 422 G.D. of 13-5-84.

3-6-84

Offg Executive Engr.

3/6/84

Recd 4-6-84

I beg to remain

Sir

Your most Obedient

Servant

W P Lennon

With enclos:

1 G.O. No 396 W.

1 Memo No 91 E.

~~measurement sheets~~

with letter from Mr Mansfield

30

30th July 1884, No. 1850 W., Public Works.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

General.
Establishment.

Read—the following papers:—

From R. F. CHISHOLM, Esq., Consulting Architect to Government (on leave), to the Secretary to Government, Public Works Department, dated 42, Craven Park, Willesden Junction, 19th March 1884, No. 35.

I have the honor to acknowledge the receipt of G.O., No. 396 W., dated the 14th of February 1884.

2. I must express my great regret that any act of mine should have caused the Government loss, and if, after perusing this letter, the Governor in Council is of opinion that I did not exercise ordinary forethought, I will cheerfully submit to any restitution of money by instalments which he may feel disposed to order.

3. The execution of work in Madras is rendered, under the most favorable circumstances, exceptionally difficult, as the orders of Government are framed to suit circumstances which can be hardly said to exist. Still, I must admit that my own difficulties were not greater than those which beset other officers, although possibly they were more numerous.

4. In regard to this particular transaction, I would respectfully submit that, in my opinion, a mistake has been made in mixing up two separate undertakings, each of which has no reference to the other, viz., the purchase of timber, and its conversion into scantlings. These two separate undertakings are as distinct as those of the purchase of cloth from the merchant and its conversion by the tailor. In this case it was convenient, for many reasons, to make the merchant the tailor, but the purchase from the merchant was nevertheless complete and *bonâ fide*.

5. Mr. Lennon went to Pondicherry, selected and marked the timber, so that he could identify it, measured it with Mr. Mansfield, the owner or supposed owner, the bill of sale was made out, the money paid, and delivery taken, and nothing which took place subsequently could affect this transaction. The reason why Mr. Lennon measured timber in excess of the quantity agreed on was, I understood at the time, to save himself a double journey should we require more, and I fail to see the importance attached to this point. Mr. Lennon could without the least difficulty identify the timber he measured (see Government Order, paragraph 5).

6. The timber once purchased might have been converted by Messrs. Mansfield and Company or by any one else. It was, and is now in point of fact, the property of Government and for aught that has been shown to the contrary may be lying at Pondicherry, for neither Mr. Lennon nor any one else appears to have gone there with the view of looking after the property: if it is *not* there it could only have been removed by some fraudulent process.

7. It seems to have been accepted by every one that the part payment I made was an advance, or, to quote the Government Order under reply, "resolved itself into an advance." It was in reality payment for a *bonâ fide* purchase for property marked and delivered. If Mr. Mansfield knowingly sold me timber which did not belong to his firm, the transaction was fraudulent; if it did belong to his firm and has since been removed, either he or some one else must have stolen it.

8. I would respectfully urge that a copy of this letter be sent to the Government Solicitor, together with a copy of Mr. Lennon's measurements, and the original bill of

sale, for I cannot help thinking the case was not fully laid before him. If A purchased from B in Madras 1,000 bags of rice which B agreed to pack in bags and send to Rangoon at so much per bag, A having in the meantime weighed the rice with B and in part paid for it, and if B had sold to A rice not his to sell, or subsequent to selling it to A resold it to C or D, surely the Government Solicitor would not say the proceeding was merely one of failure of contract, towards which A had paid an advance! If such is really the law of the case, I must perforce suffer for my ignorance of the law; at the same time I am constrained to remark that it is the first time I have found the law contrary to the dictates of common sense.

Had I been in Madras and had delay occurred in the delivery of the scantlings, I should have sent Mr. Lennon to Pondicherry with orders to convert the whole into scantlings by any agency at command.

From E. BARCLAY, Esq., Government Solicitor, Madras, to the Secretary to Government, Public Works Department, Ootacamund, dated 2nd May 1884, No. 246.

I beg to acknowledge receipt of G.O., Public Works Department, dated 23rd ultimo, No. 37 E., with its enclosures.

2. There seems to be some uncertainty as to the actual facts of the case against Messrs. Mansfield, Bremner and Company. In August last year I was informed by the then Officiating Consulting Architect to Government that the original purchase of timber was 1,750 cubic feet (35 tons), at Rs. 3 per cubic foot, amounting to Rs. 5,250, and that the total quantity supplied was Tons 14-13-0-7-10, amounting in value to Rs. 2,386-6-1, leaving a balance of Rs. 2,863-9-11, the equivalent of 17·35 tons wrought and delivered, due; and of this balance of Rs. 2,863-9-11, I demanded payment from Messrs. Mansfield, Bremner and Company on the 13th August last.

3. In his letter, of 19th March last, No. 35, Mr. Chisholm says (paragraph 5):—"Mr. Lennon went to Pondicherry, selected and marked the timber, so that he could identify it, measured it with Mr. Mansfield, the owner or supposed owner, the bill of sale was made out, the money paid, and delivery taken." Mr. Chisholm therefore argues that the timber, the whole 1,750 cubic feet, thereupon became the property of Government, and possibly he is right, if up to the time the timber was delivered, it was the property of Messrs. Mansfield, Bremner and Company. To the best of my recollection, however, for I have not now the correspondence before me, the timber was the property of a native and had not been paid for by Messrs. Mansfield, Bremner and Company, and if this is correct, the property in the timber never passed to Government as it was not in Messrs. Mansfield, Bremner and Company to give, unless, as is hardly likely, it had been sold and *delivered* to them upon credit. If, however, the timber was not Messrs. Mansfield, Bremner and Company's at the time it was supposed to have been delivered to Government, and Government were induced by the person who presented the bill for payment to pay for the full weight of timber on the representation that it had all been delivered, the person who made such representation and induced such payment could be prosecuted for cheating. If, on the other hand, it could be proved that when the delivery was made to Government the timber did belong to Messrs. Mansfield, Bremner and Company, and that it was applied by the firm to their own purposes, the member of the firm who so used the timber, or so authorized its use, could be prosecuted for criminal misappropriation.

4. I think, however, speaking from my recollection of the correspondence, that Mr. Chisholm's contention that the timber was actually delivered is not quite borne out. Mr. Chisholm is no doubt supported by the bill for the timber as the bill shows 1,750 cubic feet of teakwood supplied in current month (March 1883). It would be of importance to see whether the correspondence bears this out. I don't think it does myself, and it is a curious fact that the certificate at foot of the bill, to the effect that the claim for the price of the timber, Rs. 5,250, is correct, and that the materials have been received and are of good quality, has not been signed by the sub-divisional officer, as was evidently intended, and as one would have expected to have been done if the timber had been actually delivered. There is also another circumstance that tells against Mr. Chisholm's contention that the timber was in fact delivered, viz., that Mr. Lennon measured more timber than the quantity actually agreed on, so as to save himself a double journey should Government require more timber. It is not suggested that the measuring of this extra timber amounted to a constructive delivery of it, and if not, why should the measurement of the other timber amount to a constructive delivery of that? Mr. Lennon's telegram to the Consulting Architect saying that he (Mr. Lennon) had measured up 70 tons, and asking the Consulting Architect to pay for 35 tons on bill of sale signed by the vendors, is no doubt in support of Mr. Chisholm's contention that the 35 tons had been delivered, but the reason for such immediate payment is given in the telegram itself, viz., that the Banks would close the next day for the Easter holidays, and no doubt Mr. Lennon had satisfied himself that the 35 tons of timber were there and could be delivered when required. It seems to me that Mr. Lennon fell into the same error as to actual delivery as did the Consulting Architect, and indeed led the latter into the error by the telegram.

5. Considering the circumstances that the certificate of the sub-divisional officer at foot of the bill is unsigned, that Mr. Lennon at the time he measured the timber which it is now said was actually delivered also measured timber which it is not suggested was delivered and that Government has called upon Messrs. Mansfield, Bremner and Company for payment of the balance of the *advance* of Rs. 5,250 given them for the timber, such balance arising by reason of the *non-delivery* of part of the timber, I think it would be extremely difficult, indeed almost impossible, now to bring home a criminal charge against either Mr. Mansfield or Mr. Bremner. The case of Government has been entirely changed from what it was in August last when the letter of demand was written to Messrs. Mansfield, Bremner and Company, and of course the very most of that would be made if a criminal charge were now to be preferred.

6. So far I have avoided all mention of the timber having to be cut into scantlings. Mr. Chisholm says it was a mistake to mix up the two things; but if it was a fact that the timber or some of it was to be cut into scantlings by Messrs. Mansfield, Bremner and Company, that is, to my mind, another reason for Mr. Lennon's measuring the timber at Pondicherry not amounting to and not being intended to amount to a constructive delivery of the timber. If, according to the contract, Messrs. Mansfield, Bremner and Company were to cut the timber or some of it into scantlings, it could hardly be contended that they had delivered the timber according to their contract until they had cut it up, or cut up such part of it as they were to cut up, and in that case they were not entitled to payment of the full amount of their bill.

7. I return Mr. Chisholm's letter and the other papers sent to me, and if Government wish for any further opinion on the matter, I should like to be furnished again with the correspondence and with a statement of Mr. Lennon as to what actually took place when he was at Pondicherry, whether he knew then whether the timber was the property of Messrs. Mansfield, Bremner and Company or not, and if not, whose it was, and whether he knew then that the timber or any and what part of it was to be cut up by Messrs. Mansfield, Bremner and Company into scantlings.

From Messrs. MANSFIELD, BREMNER AND COMPANY, to R. P. LENNON, Esq., Sub-Engineer, Post and Telegraph Office Works, Madras, dated Madras, 30th May 1883.

In reply to your letter of this day's date, we have the honor to request that for the future your Storekeeper will be good enough to grant receipts at the time that the timber is delivered on the works. It is most unsatisfactory to us that a fortnight almost should be allowed to elapse before receipts are granted, and we cannot possibly be held responsible for anything that is likely to occur between the time of delivering the teak and the day on which the receipt is granted.

2. We do not understand how any of the scantlings can be deficient in length as they are most carefully cut up in Pondicherry. We would further remind you that we are cutting up the timber that you passed when you visited Pondicherry with our

Mr. Mansfield. We are therefore much surprised that you should have cause to reject so much of it.

3. We think if you will refer again to our Mr. Bremner's letter of yesterday's date you will find that you were not asked to return rejections. We should feel very much obliged if you would kindly answer our letter of the 23rd, as it is very evident that when we last sent our man for rejected pieces the wrong ones were delivered to him.

4. Our Mr. Bremner will inspect the rejections on the last lot delivered this evening at 5 P.M. if quite convenient to you.

5. By this evening's mail we are instructing our Manager to be most careful in selecting the logs, and you may rest assured that we shall do all in our power to give you satisfaction; at the same time we are disappointed to find that the very timber passed by you is now being rejected as unfit for use.

No. 675 G.D.

Submitted to the Chief Engineer, Public Works Department, with reference to his memorandum, No. 91 E., dated 6th May 1884.

DOWLAISHWERAM, (Signed) P. MONTGOMERIE, Lieut.-Col., R.E.,
5th June 1884. Superintending Engineer, I Circle.

From E. BARCLAY, Esq., Government Solicitor, Madras, to the Secretary to Government, Public Works Department, Ootacamund, dated 7th July 1884, No. 340.

I beg to acknowledge receipt of the Order of Government, Public Works Department, dated 19th ultimo, No. 295 E., and the documents therein specified relating to the claim against the late firm of Messrs. Mansfield, Bremner and Company.

2. I have perused again the copy correspondence which passed, and the more it is read the more confused the matter seems to become.

3. On the 8th March 1883, Messrs. Mansfield, Bremner and Company wrote Mr. Lennon that they could guarantee to supply him with 100 tons Moulmein teak in scantlings at Rs. 3-10-0 per cubic foot delivered at his works complete by the 31st idem and that they would give him a quotation for logs the next morning. The next day they wrote Mr. Lennon offering to supply Moulmein teak in logs at Rs. 160 per ton *delivered at his works* in scantlings Rs. 181-4-0 per ton (Rs 3-10-0 per cubic foot). As appears from Mr. Chisholm's letter of 9th March 1883 to Mr. Lennon, the former refused to give the prices named and inquired of the latter what quantity of wood was procurable at Rs. 165 per ton in scantlings. This letter Mr. Lennon appears to have shown Mr. Bremner, for, on the 10th March, he writes Mr. Lennon returning Mr. Chisholm's letter and stating that his firm are willing to supply the timber in scantlings at Rs. 165 per ton. On the 10th March, Mr. Lennon wrote the Consulting Architect that he, Mr. Lennon, was unable to procure teak timber in scantlings at Rs. 165 per ton, This seems inconsistent with Mr. Bremner's letter of same date, but possibly Mr. Lennon wrote his letter before receiving Mr. Bremner's.

4. About this time it appears from Mr. Lennon's letter of 30th May 1884 to the Officer in charge Central division, Godávari, that Mr. Lennon went down to Pondicherry to inspect and report upon certain logs of teak timber said to be there for sale by Messrs. Mansfield, Bremner and Company, and met Mr. Mansfield there. The timber, Mr. Lennon believes about 165 tons, was pointed out to him by Mr. Mansfield, who, Mr. Lennon says, pointed out not only what did belong to the firm, but also some that did not. The timber shown to Mr. Lennon (I presume that said to belong to the firm) was, he says, of very good quality, seasoned and much in excess of the quantity he required. On returning to Madras, Mr. Lennon reported results to Mr. Chisholm, and after that interview Mr. Lennon says he understood everything (what ?) was arranged. On the 19th March 1883, Messrs. Mansfield, Bremner and Company wrote to the Consulting Architect with reference to an alleged purchase of 70 tons Moulmein teak made by Mr. Lennon on account of the new Post and Telegraph office, and applying for an advance, and agreeing in return to give Mr. Chisholm entire control over a quantity of 70 tons teak in logs which they said *was their property at Pondicherry* and which was to be delivered in scantlings by them on or before 31st idem at the new Post and Telegraph office. From this it appears that Government were to have control over the timber as security for the advance, though how that control was to be retained at Pondicherry is not apparent, but the actual delivery of the timber was to be at the new Post and Telegraph office in Madras when the timber was cut into scantlings. In reply to this letter, Mr. Chisholm wrote on 20th March to Messrs. Mansfield, Bremner and Company that he found that the code laid down a rule that no advances of any kind could be made on account of purchases, and that the only way he could suggest of meeting the difficulty was for Mr. Lennon to measure the timber at Pondicherry and wire Mr. Chisholm the quantity. Mr. Chisholm then proposed that he should purchase the timber at a nominal rate, agreeing to sell it back to Messrs. Mansfield, Bremner and Company log by log at the same rate, to be converted by them into scantlings according to agreement.

5. So far, therefore, I think it is quite clear that there had been no delivery of the timber seen by Mr. Lennon at Pondicherry. Of course Messrs. Mansfield, Bremner and Company were only too glad to accept Mr. Chisholm's proposal and wired Mr. Mansfield, who was apparently at Pondicherry, accordingly. Mr. Lennon seems to have gone there again and it is necessary to return to his letter of 30th May 1884 to see what took place there.

6. Mr. Lennon says that he and Mr. Mansfield went to Pondicherry and measured up the quantity of timber shown in the list submitted with his letter of 30th May last. In addition to these measurements, Mr. Lennon says there are others in his note book of scantlings in sheds which he did not enter in the list as he had more than required, and also 14 exceptionally lengthy logs all over 32 feet, of which he only noted lengths, but which he says were also *promised* him by Mr. Mansfield, and he says that four tie-beams were actually delivered in Madras, one of which was condemned (as a tie-beam) for a slight flaw, and was sawn up for other purposes. Apparently these four logs were not delivered in Pondicherry, for they were only promised there and were delivered in Madras.

7. Mr. Lennon then proceeds to argue that his measurement assisted by Mr. Mansfield and his Dubash constituted a purchase. On the 21st March 1883, he telegraphed to the Consulting Architect that he, Mr. Lennon, had measured up 70 tons and asking that 35 tons might be paid for that day on bill of sale signed by the vendors (Mansfield, Bremner and Company I presume being meant), as the Banks closed the next day for Easter. Accordingly the same day the Consulting Architect forwarded to Messrs. Mansfield, Bremner and Company a cheque for Rs. 5,250, for, it is said, timber supplied, and enclosed for signature a bill for 1,750 cubic feet of timber, as if the same had been supplied, at Rs. 3 per cubic foot. No doubt this was done in accordance with the suggestion contained in Mr. Chisholm's letter of 20th March that he should purchase the timber and resell it to Messrs. Mansfield, Bremner and Company to be cut into scantlings. Unfortunately, there is no evidence to show that this arrangement was carried further; there is nothing to show the resale and very little to show delivery to Government, and the subsequent correspondence negatives the idea of any delivery, and still stronger that of any resale, for it speaks of this payment as an advance, as I shall show later on.

8. Curiously enough, though I do not attach much weight to it, in their letter of 21st March to the Consulting Architect, Messrs. Mansfield, Bremner and Company acknowledge receipt of the Rs. 5,250 as *on account* of the 1,750 cubic feet of Moulmein teak, as if the payment were not in full, and here comes in the remark made in paragraph 4 of my letter of 2nd May last, No. 246, that the certificate at foot of the bill, to the effect that the claim for the price of the timber is correct and that the materials have been received and are of good quality, has not been signed by the sub-divisional officer. Of course this may be open to explanation, but when a man is prosecuted on

a criminal charge in what is already a doubtful case, the fewer points there are that require explanation the better.

9. Mr. Lennon says that at the time there were in the railway station yard (at Pondicherry) two coupled wagon loads of timber, some 10 or 12 tons, amongst which were four tie-beams for Government to be sent to Madras. Now, if these four beams were to be sent to Madras as they were, as part of the timber sold, what becomes of their resale to Mansfield, Bremner and Company for the purpose of being cut into scantlings? At any rate as regards those four beams they had been paid for before delivery. Mr. Lennon, I may here remark, seems to have somewhat confounded a bargain and sale with a sale and delivery, for he remarks, with reference to Mr. Mansfield's pointing out a flaw in one of these logs, that it appears like *bonâ fides*, and also that there was an understanding as to purchase. No doubt there was the purchase; but beyond the bill for Rs. 5,250, on which is the unsigned certificate of delivery, I can find no evidence of delivery, so as to make the timber the property of Government. It by no means follows that because a man buys and pays for a thing that the property in it passes to him; there must also be a delivery, and if there be no such delivery, he has only a right of action against his vendor.

10. Mr. Lennon's letter of 30th May last does not throw any light upon the question as to whether the timber was Mansfield, Bremner and Company's to deliver or not. He evidently did not know, but for reasons he gives, he thought everything was straightforward, and if Mr. Mansfield had remained out here it is not, I think, at all unlikely that the timber would all have been delivered. Mr. Lennon suggests that as soon as Mr. Bremner had the field to himself he manipulated the timber and very probably sold it over again or mortgaged it. Mr. Lennon may be right, but there is no evidence of this, or, supposing the timber had become the property of Government, that either Mr. Mansfield or Mr. Bremner misappropriated it. But it is difficult to see how there could be any misappropriation of the timber if it was resold by Mr. Chisholm to Mansfield, Bremner and Company to be cut into scantlings, for it then became their property again.

11. Mr. Chisholm's connection with the matter appears from the correspondence to have ceased in March 1883. On 14th May 1883, Mr. Vincent wrote to Messrs. Mansfield, Bremner and Company inquiring when the remainder of the timber then apparently lying at Pondicherry was to be delivered at the works. This could only be if the timber had already been delivered to Government and resold and re-delivered to Mansfield, Bremner and Company. If this was not what Mr. Vincent meant, then he could only mean that the timber had not been delivered at all, and, taking either view of the case, there could be no criminal misappropriation.

12. The correspondence now gets somewhat confused and confusing. On the 15th May, Mr. Vincent wrote to Mansfield, Bremner and Company inquiring whether the teakwood they reported as on its way from Pondicherry *for delivery on the new Post and Telegraph office works* includes the large logs selected by Mr. Lennon for the tie-beams. In reply, the firm write on the 16th May that the large logs are *not* among the 117 pieces of teak *delivered to Mr. Lennon the previous day*. From this I gather that the timber, the 117 pieces, had arrived on the 15th May, and had been *delivered in Madras*. This is hardly in accordance with the supposed delivery of the timber to Mr. Lennon in Pondicherry. It is only in accordance with Mr. Chisholm's supposed resale, which, as already mentioned, is not consistent with a criminal misappropriation.

13. On the 18th May, Mr. Vincent wrote to Mansfield, Bremner and Company that, so far as he understood the circumstances, the large logs for the tie-beams were specially selected by Mr. Lennon, and that the Rs. 5,250 were paid to the firm by Mr. Chisholm on the understanding that these logs in particular were to be at once *purchased* (they were not apparently, therefore, the firm's property) and sent to Madras, that it was certainly understood that Mansfield, Bremner and Company had secured the logs, and Mr. Vincent inquires whether these logs were still at Pondicherry, and, if so, what prevented their *purchase*. The correspondence does not show how these questions were answered, as, apparently, Mr. Bremner called and answered them in person. I only allude to this letter as showing an apparently new point in the matter, viz., that when Mr. Lennon was at Pondicherry he knew these logs were not Mansfield, Bremner and Company's, and that they had to purchase them. I may not be right as to this, but presuming that Mr. Vincent derived his knowledge from Mr. Lennon, I think I have drawn the natural inference. Now if Mr. Lennon knew these four logs were not Mansfield, Bremner and Company's, how could there have been even a constructive delivery of them at Pondicherry and if they were not delivered there, I do not see how the delivery there of the rest of the timber is to be established. The four tie-beams were subsequently delivered in Madras as appears from Mr. Lennon's letter of 30th May last.

14. This letter has already extended to so great a length that I am unwilling to trouble Government by going further into the correspondence. I will only point out that in Mr. Vincent's letter of 11th July 1883 and in the correspondence subsequent thereto, he has treated the payment to Messrs. Mansfield, Bremner and Company of the Rs. 5,250 as an *advance* on account of the timber sold to Government, thereby entirely upsetting the theory of a sale and delivery of the timber to Government and a subsequent criminal misappropriation of that timber by either Mr. Mansfield or Mr. Bremner. But as already mentioned, if there was no delivery of the timber to Government, there could be no misappropriation, whilst if there was, on the other hand, a delivery and a subsequent resale of the timber to Mansfield, Bremner and Company, there could be no misappropriation so that in neither case could they be prosecuted. But as pointed out, Mr. Vincent has treated the payment of the Rs. 5,250 as an advance for timber to be delivered, thereby treating the matter as a simple breach of contract.

15. I return the papers sent to me and I cannot advise that any criminal proceedings should be instituted against either Mr. Mansfield or Mr. Bremner, for it would be quite impossible to secure a conviction.

Order—dated 30th July 1884, No. 1850 W., Public Works.

The circumstances connected with the transaction in timber, to which the above papers refer, were reviewed in Proceedings of Government, No. 396 W., dated 14th February 1884.

2. The further inquiries which have since been made go to show that it is apparently impracticable to prove *actual delivery* to Government in the first instance. Subsequent misappropriation by Messrs. Mansfield, Bremner and Company cannot, therefore, it would seem, be established. Evidence of the *resale* of the timber to the firm, as had been originally intended by Mr. Chisholm, is moreover not forthcoming.

3. The transaction, as already observed, thus resolves itself into an *advance* for timber which has not been delivered in full; and as in present circumstances there seem to be no means of recovering the balance, Rs. 2,864, due, Mr. Chisholm, who is responsible for the transaction, will now be furnished with the further correspondence on the subject, and he will be finally called on to show cause why he should not be required to make good the loss entailed by his evading a distinct rule of the Public Works Code,* which prohibits advances to contractors without the special sanction of Government.

* Section 1630.

(True Extract.)

Major, R.E.,
Under Secy. to Govt., P.W.D.

To R. F. Chisholm, Esq.
,, the Consulting Architect to Government.

Exd. P. L. Pereira.
Spare Copies

GENERAL.
ESTABLISHMENT.

Govt. of {1884} Madras.

PUBLIC WORKS

Dated July, 30th.

Recd. *Encl.*

G.O., 30th July 1884, No. 1850 W.

JULY.

Messrs. Mansfield, Bremner and Company

Mr. Chisholm finally called on to show cause why he should not be held personally liable for the loss entailed by his transactions with — for timber supply.

This must be forwarded direct to Madras by Mr. Chisholm No. 35.

Read the following papers —

30th July 84 No. 1850 W

42 Craven Park
Willesden Junction
March 19 1884.

From,
R. F. Chisholm Esq
Consulting Architect to Government on leave

To
The Secretary to Government
Public Works Department
Madras.

Sir,

I have the honour to acknowledge the receipt of G.O. No. 396 W. dated the 14th of February 1884.

2. I must express my great regret that any act of mine should have caused the Government, loss, and if after perusing this letter the Governour in Council is of opinion, that I did not excercise ordinary

and delivery taken [illegible]

forethought I will cheerfully submit to any restitution of money by instalments which he may feel disposed to order.

3. The execution of work in Madras is rendered under the most favourable circumstances exceptionally difficult as the Orders of Government are framed to suit circumstances which can be hardly said to exist. - Still, I must admit that my own difficulties were not greater than those which beset other officers although possibly they were more numerous -

4. In regard to this particular transaction I would respectfully submit that in my opinion a mistake has been made in mixing up two separate undertakings, each of which has no reference to the other vizt. the purchase of Timber, and its conversion into scantlings - These two separate undertakings are as distinct as those of the purchase of cloth from the Merchant and its conversion by the Tailor. In this case it was convenient for many reasons to make the Merchant the Tailor but the purchase from the Merchant was nevertheless complete and bona fide.

5. Mr Lennon went to Pondicherry, selected and marked the Timber so that he could identify it, measured it with Mr Mansfield ~~field~~ the owner or supposed owner, the Bill of Sale was made out, the money paid, and delivery taken, and nothing which took place subsequently could affect this transaction. The reason why Mr Lennon measured Timber in excess of the quantity agreed on was I understood at the time to save himself a double journey should we require more, and I fail to see the importance attached to this point. Mr Lennon could without the least difficulty identify the Timber he measured. (see G. O. 5. para:)

6. The Timber once purchased might have been converted by Messrs Mansfield and Co. or by any one else. - It was, and is now in point of fact, the property of Government, and for aught that has been shewn to the contrary may be lying at Pondicherry for neither Mr Lennon nor any one else appears to have gone there with the view

and delivery taken &c. This would therefore [illegible]

that

of looking after the property: if it is not there it could only have been removed by some fraudulent process.

7. It seems to have been accepted by everyone that the part payment I made was an advance, or to quote the G.O. under reply "resolved itself into an advance". It was in reality payment for a bona fide purchase for property marked and delivered. If Mr Mansfield knowingly sold me Timber which did not belong to his Firm, the transaction was fraudulent; if it did belong to his Firm and has since been removed, either he or some one else must have stolen it.

8. I would respectfully urge that a copy of this letter be sent to the Government Solicitor together with a copy of Mr Lennon's measurements, and the original Bill of sale, for I cannot help thinking the case was not fully laid before him. If A purchased from B in Madras 1000 bags of rice which B agreed to pack in bags and send to Rangoon at so much per bag, A having in the meantime weighed the rice with B and in part paid for it, and if B had sold A rice not his to sell, or subsequent to selling it to A ~~he~~ resold it to C or D surely the Government Solicitor would not say the proceeding was merely one of failure of contract, towards which A had paid an advance! If such is really the law of the case I must perforce suffer for my ignorance of the Law; at the same time I am constrained to remark that it is the first time I have found the Law contrary to the dictates of common sense.

Had I been in Madras and had delay occurred in the delivery of the scantlings I should have sent Mr Lennon to Pondicherry with orders to convert the whole into scantlings by any agency at command.

I have the honour to be Sir

Your most obedient Servant,

R. Chisholm.

"and delivery taken" Mr Chisholm therefore argues that

Memo No 36. 20 March 1884

Forwarded through the India Office.

H Chisholm.

To W for orders.
C.S.
17.4.84

~~P.W. No 3385~~

(1)

Encl 1

P.W.C. No 3956/84

Rec 17/4/84

No 2965 W. d/ 18.10.83
" 3162 W " 7/11/83
" 2244 W " 13/8/83
" 277 C. " 6/2/84
396 W " 14/2/84

No. 1887 W d/ 30.7.84

P.S. 30/4.

C. 18/4/84 No. 2515

No 246

Madras 2d May 1884

From
Ernest Barclay
Government Solicitor
Madras

To
The Secretary to Government
Public Works Department
Ootacamund

Sir,

1. I beg to acknowledge receipt of G.O. Public Works Department dated 23d ultimo No 37 E. with its enclosures.

2. There seems to be some uncertainty as to the actual facts of the case against Messrs Mansfield Bremner & Co. In August last year I was informed by the then Officiating Consulting Architect to Government that the original purchase of Timber was 1750 cubic feet (35 Tons) at Rs 3 per cubic foot, amounting to Rs 5250, and that the total quantity supplied was Tons 14.13.0.7.10, amounting in value to Rs 2386" 6" 1, leaving a balance of Rs 2863" 9" 11 the equivalent of 17.35 Tons wrought and delivered, due; and, of this balance of Rs 2863.9.11, I demanded payment from Messrs Mansfield Bremner & Co on the 13th August last

3. In his letter of 19th March last No 35 Mr Chisholm says (para 5) "Mr Lennon went to Pondicherry selected "& marked the Timber so that he could identify it & "measured it with Mr Mansfield, the owner or supposed "owner, the Bill of Sale was made out, the money paid "and delivery taken" Mr Chisholm therefore argues

that the Timber, the whole 1750 cubic feet, thereupon became the property of Government and possibly be is right, if up to the time the timber was delivered, it was the property of Mess Mansfield Bremner & Co. To the best of my recollection however, for I have not now the correspondence before me, the Timber was the property of a native and had not been paid for by Mess Mansfield Bremner & Co, and if this is correct, the property in the Timber never passed to Government as it was not in Mess Mansfield Bremner & Co to give, unless as is hardly likely, it had been sold and delivered to them upon credit. If however the Timber was not Mess Mansfield Bremner & Co's at the time it was supposed to have been delivered to Government, and Government were induced by the person who presented the bill for payment to pay for the full weight of timber on the representation that it had all been delivered, the person who made such representation and induced such payment could be prosecuted for cheating. If on the other hand, it could be proved that when the delivery was made to Government the timber did belong to Messrs Mansfield Bremner & Co. and that it was applied by the firm to their own purposes, the member of the firm who so used the timber, or so authorized its use, could be prosecuted for criminal misappropriation.

4. I think however speaking from my recollection of the correspondence that Mr Chisholm's contention that the timber was actually delivered is not quite borne out. Mr Chisholm is no doubt supported by the bill for the timber as the bill shows 1750 cubic feet of Teakwood supplied in current month (March 1883) It would be of importance to see whether the correspondence bears this out. I don't think it does myself, and it is a curious fact that the certificate

The fact [illegible]
has overlooked is the
circumstance that
the Subdivisional
Officer was at
Sondicherry on the
21st March the date
on which the Bill
was signed at
Madras.
6.5.84

certificate at foot of the bill to the effect that the claim for the price of the timber, Rs 5250, is correct and that the materials have been received and are of good quality, has not been signed by the Sub Divisional Officer, as was evidently intended, and as one would have expected to have been done if the timber had been actually ~~[illegible]~~ delivered. There is also another circumstance that tells against Mr Chisholm's contention that the timber was in fact delivered viz that Mr Lennon measured more timber than the quantity actually agreed on, so as to save himself a double journey should Government require more timber. It is not suggested that the measuring of this extra timber amounted to a constructive delivery of it, and if not, why should the measurement of the other timber amount to a constructive delivery of that. Mr Lennon's telegram to the Consulting Architect saying that he Mr Lennon had measured up 70 Tons and asking the Consulting Architect to pay for 35 Tons on bill of sale signed by the Vendors is no doubt in support of Mr Chisholm's contention that the 35 Tons had been delivered, but the reason for such immediate payment is given in the Telegram itself viz that the Banks would close the next day for the Easter holidays and no doubt Mr Lennon had satisfied himself that the 35 Tons of Timber were there and could be delivered when required. It seems to me that Mr Lennon fell into the same error as to actual delivery as did the Consulting Architect, and indeed led the latter into the error by the Telegram.

5. Considering the circumstances that the certificate of the Sub divisional officer at foot of the bill is unsigned, that Mr Lennon at the time he measured

the timber which it is now said was actually delivered also measured timber which it is not suggested was delivered and that Government has called upon Mess: Mansfield Bremner & C° for payment of the balance of the advance of Rs 5250 given them for the timber, such balance arising by reason of the non delivery of part of the timber, I think it would be extremely difficult, indeed almost impossible now to bring home a criminal charge against either Mr Mansfield or Mr Bremner. The case of Government has been entirely changed from what it was in August last when the letter of demand was written to Mess: Mansfield Bremner & C°, and of course the very most of that would be made if a criminal charge were now to be preferred.

6 So far I have avoided all mention of the Timber having to be cut into scantlings. Mr Chisholm says it was a mistake to mix up the two things: but, if it was a fact that the timber or some of it was to be cut into scantlings by Mess" Mansfield Bremner & C°, that is, to my mind, another reason for Mr Lennon's measuring the timber at Pondicherry not amounting to and not being intended to amount to a constructive delivery of the timber. If according to the contract Mess" Mansfield Bremner & C° were to cut the timber or some of it into scantlings, it could ~~be~~ hardly be contended that they had delivered the timber according to their contract until they had cut it up, or cut up such part of it as they were to cut up, and in that case they were not entitled to payment of the full amount of their bill

7. I

7. I return Mr Chisholm's letter and the other papers sent to me, and if Government wish for my further opinion on the matter I should like to be furnished again with the correspondence and with a statement of Mr Lennon as to what actually took place when he was at Pondicherry, whether he knew then whether the timber was the property of Mess: Mansfield Bremner & C° or not; and, if not, whose it was, and whether he knew then that the timber or any and what part of it was to be cut up by Mess: Mansfield Bremner & C° into scantlings.

I am Sir
Your Obedient Servant
Ernest Barclay
Government Solicitor

No. 3162 Wd/7.11.83
" 2244 Wd/13.8.83
" 2965 Wd/18.10.83
" 277 C d/6.2.84
" 396 Wd/14.2.84 Encl.
" 37 E d/23.4.84

No. [illegible] 1884

P.W. Cir. 395 b

SECRETARY TO GOVERNMENT P.W. DEPARTMENT MADRAS
5 MAY 84

Enclosures 4

Sent to Govt. Solicitor
18/6/84

No. 91 E d/6th May 1884

MANSFIELD BREMNER & CO.,
13, Armenian Street.

129

Madras, 30th May 1883.

R. P. Lennox Esqr.
Sub-Engineer
Post & Telegraph Office Works
Madras.

Sir,

In reply to your letter of this day's date, we have the honor to request that for the future your Storekeeper will be good enough to grant receipts at the time that the Timber is delivered on the Works. It is most unsatisfactory to us that a fortnight almost should be allowed to elapse before receipts are granted, & we cannot possibly be held responsible for anything that is likely to occur between the time of delivering the Teak, & the day on which the receipt is granted.

We do not understand how any of the Scantlings can be deficient in length as they are most carefully cut up in Pondicherry. We would further remind you that we are putting up the Timber that you passed when you visited Pondicherry with our Mr Mansfield, we are therefore much surprised that you should have cause to reject so much of it.

We think if you will refer again to our Mr Bremner's letter of yesterday's date you will find that you were not asked to return rejections.

5/6/84

340 Wd/14-2-84
" 277 C d/6.2.84
" 2965 C d/18.10.83.
" 2244 W d/ 13.8.83
" 3162 W d/ 7.11.83.
" 37 E d/ 23.4.84
" 91 E d/ 6.5.84

From
The Supg. Engineer
1st Circle
(1)
To
The Chief Engineer
P.W.D.
Madras

Dated 5th
Despd. 6th
Received
} June 1884

No. 675 G.D.
Enclosures 6
Sent to Govt. Solicitor 18/6/84

Transaction in Timber
Conductor Lemon's State=
=ment of what took place
at Pondicherry in connection
with — Submits — as called
for —

No. 1850W of 30th July/

O.G.S. 64/6.

Ack. 16/6/84 R 28-7-84

No. 340.

Madras 7th July 1884.

From
Ernest Barclay
Government Solicitor
Madras

To
The Secretary to Government
Public Works Department
Ootacamund

Sir

1. I beg to acknowledge receipt of the order of Government Public Works Department dated 19th ultimo No. 295 E. and the documents therein spec-fied relating to the claim against the late firm Messieurs Mansfield Bremner and Compan

2. I have perused again the copy correspondenc which passed, and the more it is read the more — confused the matter seems to become.—

3. On the 8th March 1883 Messieurs Mansfield Bremner and Company wrote Mr. Lemon that they could guarantee to supply him with 100 Tons Moulmein Teak in scantlings at Rs. 3„10„0 — per cubic foot delivered at his works complete by the 31st. idem and that they would give him a quotation for logs the next morning. The nex day they wrote Mr. Lemon offering to supply Moulmein Teak in logs at Rs. 160 per ton — delivered at his works in scantlings Rs. 181„4„ per ton (Rupees 3„10„0 per cubic foot) As ap-pears from Mr. Chisholm's letter of 9th March 1883 to Mr. Lemon the former refused to give

the prices named and inquired of the latter — what quantity of wood was procurable at Rs. 165 per ton in scantlings. This letter Mr. Lemmon appears to have shewn Mr. Bremner, for, on the 10th March, he writes Mr. Lemmon returning Mr. Chisholm's letter and stating that his firm are willing to supply the timber in scantlings at Rupees 165 per ton. On the 10th March Mr. Lemmon wrote the consulting Architect that he, Mr. Lemmon, was unable to procure teak timber in scantlings at Rs. 165 per ton. This seems inconsistent with Mr. Bremner's letter of same date, but possibly Mr. Lemmon wrote his letter before receiving Mr. Bremner's.—

4. About this time it appears from Mr. Lemmon's letter of 30th May 1884, to the Officer in Charge — Central Division Godavery, that Mr. Lemmon went down to Pondicherry to inspect and report upon certain logs of teak timber said to be there for sale by Messieurs Mansfield Bremner and Company, and met Mr. Mansfield there. The timber, Mr. Lemmon believes about 165 Tons, was pointed out to him by Mr. Mansfield, who, Mr. Lemmon says, pointed out not only what did belong to the firm, but also some that did not. The timber shown to Mr. Lemmon (I presume that said to belong to the firm) was, he says, of very good quality seasoned and much in excess of the quantity he required. On returning to Madras Mr. Lemmon reported results to Mr. Chisholm, and after that interview Mr. Lemmon says he understood everything (what?) was arranged. On the 19th March 1883, Messrs. Mansfield Bremner and Company wrote to the Consulting Architect with —

reference

reference to an alleged purchase of 70 Tons Moulmein Teak made by Mr. Lemmon on account of the New Post and Telegraph office, and applying for an advance, and agreeing in return to give Mr. Chisholm entire control over a quantity of 70 Tons Teak in logs which they said was their property at Pondicherry and which was to be delivered in scantlings by them on or before 31st idem at the new Post and Telegraph Office. From this it appears that Government were to have control over the timber as security for the advance, though how that control was to be retained at Pondicherry, is not apparent, but the actual delivery of the timber was to be at the New Post and Telegraph office in Madras when the timber was cut into scantlings.—

In reply to this letter Mr. Chisholm wrote on 20th March to Messieurs Mansfield Bremner and Co. that he found that the Code laid down a rule that no advances of any kind could be made on account of purchases, and that the only way he could suggest of meeting the difficulty was for Mr. Lemmon to measure the timber at Pondicherry and wire Mr. Chisholm the quantity. Mr. Chisholm then proposed that he should purchase the timber at a nominal rate agreeing to sell it back to Messrs. Mansfield Bremner and Co. log by log at the same rate, to be converted by them into scantlings according to agreement

5. So far therefore I think it is quite clear that there had been no delivery of the timber seen by Mr. Lemmon at Pondicherry. Of course Messrs. Mansfield Bremner and Co. were only too glad to accept Mr. Chisholm's proposal

and wired Mr. Mansfield who was apparently at Pondicherry, accordingly. Mr. Lemnon seems to have gone there again and it is necessary to return to his letter of 30th May 1884 to see what took place there.

6. Mr. Lemnon says that he and Mr. Mansfield went to Pondicherry and measured up the quantity of timber shown in the list submitted with his letter of 30th May last. In addition to these measurements, Mr. Lemnon says there are others in his Note Book of Scantlings in sheds which he did not enter in the list as he had more than required, and also 14 exceptionally lengthy logs all over 32 feet, of which he only noted lengths, but which he says were also promised him by Mr. Mansfield, and he says that 4 tie beams were actually delivered in Madras, one of which was condemned (as a tie beam) for a slight flaw and was sawn up for other purposes. Apparently these 4 logs were not delivered in Pondicherry for they were only promised there and were delivered in Madras.—

7. Mr. Lemnon then proceeds to argue that his measurement assisted by Mr. Mansfield and his Dubash constituted a purchase. On the 21st March 1883 he telegraphed to the Consulting Architect that he, Mr. Lemnon, had measured up 70 tons and asking that 35 Tons might be paid for that day on bill of sale signed by the Vendors — (Mansfield Bremner & Co. I presume being meant) as the Banks closed the next day for Easter. Accordingly the same day the Consulting Architect forwarded to Messrs. Mansfield Bremner and Co. a cheque for Rupees 5250 for, it

p 15

it is said, timber supplied, and enclosed for signature a bill for 1750 Cubic feet of timber, as if the same had been supplied, at Rupees 3 per cubic foot. No doubt this was done in accordance with the suggestion contained in Mr. Chisholm's letter of 20th March that he should purchase the timber and resell it to Messrs. Mansfield Bremner and Co. to be cut into scantlings. Unfortunately there is no evidence to show that this arrangement was carried further, there is nothing to show the resale and very little to show delivery to Government and the subsequent correspondence negatives the idea of any delivery and still stronger that of any resale for it speaks of this payment as an advance, as I shall show later on.

8. Curiously enough, though I do not attach much weight to it, in their letter of 21st March to the Consulting Architect Messrs. Mansfield Bremner and Co. acknowledge receipt of the Rupees 5250 as on account of the 1750 Cubic feet of Moulmein Teak, as if the payment were not in full, and here comes in the remark made in para 4 of my letter of 2nd May last No. 246, that the certificate at foot of the bill to the effect that the claim for the price of the timber is correct and that the materials have been received and are of good quality has not been signed by the Sub Divisional officer. Of course this may be open to explanation but when a man is prosecuted on a criminal charge in what is already a doubtful case, the fewer points there are that require explanation the better.—

9. Mr. Lemnon says that at the time, there were

The Sub divisional [illegible] had been away at discharging on the branch and not therefore signed a certificate in Madras on that date.
RS
10-7-84

were in the Railway Station Yard (at Pondicherry) 2 coupled Waggon loads of timber some 10 or 12 tons, amongst which were four tie beams for Government to be sent to Madras. Now if these four beams were to be sent to Madras as they were, as part of the Timber sold what becomes of their resale to Mansfield Bremner & Co. for the purpose of being cut into scantlings? At any rate as regards those four beams they had been paid for before delivery. Mr. Lemmon, I may here remark, seems to have somewhat confounded a bargain and sale with a sale and delivery, for he remarks with reference to Mr. Mansfield's pointing out a flaw in one of these logs, that it appears like bona fides and also that there was an understanding as to purchase. No doubt there was the purchase; but, beyond the bill for Rs. 5250. on which is the unsigned certificate of delivery, I can find no evidence of delivery, so as to make the timber the property of Government. It by no means follows that because a man buys and pays for a thing that the property in it passes to him, there must also be a delivery and if there be no such delivery, he has only a right of action against his vendor.

10. Mr. Lemmon's letter of 30th May last does not throw any light upon the question as to whether the timber was Mansfield Bremner & Co.'s to deliver or not. He evidently did not know, but for reasons he gives he thought everything was straightforward and if Mr. Mansfield had remained out here it is not, I think, at all unlikely that the timber would all have been delivered. Mr. Lemmon suggests that as soon as Mr. Bremner had the field to himself he manipulated the timber and very probably sold it over again or mortgaged it. Mr. Lemmon may be right but there is no evidence of this, or, supposing the timber had become the property of Government, that either Mr. Mansfield or Mr. Bremner misappropriated it. But it is difficult to see how there could be any misappropriation of the timber if it was resold by Mr. Chisholm to Mansfield Bremner & Co. to be cut into scantlings, for it then became their property again.

11. Mr. Chisholm's connection with the matter appears from the Correspondence to have ceased in March 1883. On 14th May 1883 Mr. Vincent wrote to Messrs. Mansfield Bremner & Co. enquiring when the remainder of the Timber then apparently lying at Pondicherry was to be delivered at the works. This could only be if the timber had already been delivered to Government and resold and redelivered to Mansfield Bremner & Co. If this was not what Mr. Vincent meant, then he could only mean that the timber had not been delivered at all, and taking either view of the case there could be no criminal misappropriation.

12. The Correspondence now gets somewhat confused and confusing. On the 15th May Mr. Vincent wrote Mansfield Bremner & Co. enquiring whether the teakwood they reported as on its way from Pondicherry for delivery on the New Post and Telegraph office works includes the large logs selected by Mr. Lemmon

for the tie beams. In reply the firm write on the 16th May that the large logs are not among the 117 pieces of Teak delivered to Mr Lemmon the previous day. From this I gather that the timber, the 117 pieces, had arrived on the 15th May, and had been delivered in Madras. This is hardly in accordance with the supposed delivery of the timber to Mr Lemmon in Pondicherry. It is only in accordance with Mr Chisholm's supposed resale which as already mentioned is not consistent with a criminal misappropriation

13. On the 18th May Mr Vincent wrote to Mansfield Bremner & Co. that, so far as he understood the circumstances, the large logs for the tie beams were specially selected by Mr Lemmon and that the Rs 5250 were paid to the firm by Mr Chisholm on the understanding that these logs in particular were to be at once purchased (they were not apparently therefore the firm's property) and sent to Madras, that it was certainly understood that Mansfield Bremner & Co. had secured the logs, and Mr Vincent enquires whether these logs were still at Pondicherry and if so what prevented their purchase. The correspondence does not show how these questions were answered, as, apparently, Mr Bremner called and answered them in person. I only allude to this letter as showing an apparently new point in the matter viz: that when Mr Lemmon was at Pondicherry he knew these logs were not Mansfield Bremner & Co's, and that they had to purchase them. I may not be right as to this, but presuming that Mr Vincent derived his

Knowledge

Knowledge from Mr Lemmon, I think I have drawn the natural inference. Now if Mr Lemmon knew these 4 logs were not Mansfield Bremner & Co's how could there have been even a constructive delivery of them at Pondicherry and if they were not delivered there, I do not see how the delivery there of the rest of the timber is to be established. The four tie beams were subsequently delivered in Madras as appears from Mr Lemmon's letter of 30th May last.–

14. This letter has already extended to so great a length, that I am unwilling to trouble Government by going further into the Correspondence. I will only point out that in Mr Vincent's letter of 11th July 1883 and in the correspondence subsequent thereto he has treated the payment to Messrs Mansfield Bremner & Co. of the Rupees 5250 as an advance on account of the timber sold to Government thereby entirely upsetting the theory of a sale and delivery of the timber to Government and a subsequent criminal misappropriation of that timber by either Mr Mansfield or Mr Bremner. But as already mentioned if there was no delivery of the timber to Government there could be no misappropriation, whilst if there was, on the other hand, a delivery and a subsequent resale of the timber to Mansfield Bremner & Co there could be no misappropriation so that in neither case could they be prosecuted. But as pointed out, Mr Vincent has treated payment of the Rs 5250 as an advance for timber to be delivered thereby treating the

matter as a simple breach of Contract.

15. I return the papers sent to me and I cannot advise that any criminal proceedings should be instituted against either Mr Mansfield or Mr Bremner, for it would be quite impossible to secure a Conviction.—

I am Sir
Your Obedient Servant

Ernest Barclay
by
Government Solicitor

Nos 396W. 14-2-84
37E. 23-4-84
91E. 6-5-84

Inch 319

Rcd 29/7/84
In 1 file

No. 1850W of 30th July/84

O.H.S. 24/7. Civ 10/7.
R. 25-7-84

P. W. DEPARTMENT.

READ the following :—

Letter from R.F. Chisholm Esqre No. 35 d/ March 19th 1884
Letter from Condr. Lennon, Sub Engr, P.W.D. d/ May 30th 1884
Endt. thereon by the S.E. I Circle No. 675 G.D. d/ June 5th "
Letter from the — do do " 775 G.D. d/ June 17th "
Memo: to the Govt. Solicitor " 295 E d/ " 19th "
Letter from the — do " " 340 d/ July 7th "

FOR ORDERS.

The money certainly cannot be recovered from the late firm of Bremner & Mansfield & a heavy loss is entailed on govt by one of their officers evading a distinct rule of the P.W. Code. He should be called on to show cause why he shd not make good the loss.
12/7 H.J.

The latest letter from the Government Solicitor, No. 340 d/ 7th July 1884, seems to establish the correctness of the summary of the transaction which is given in G.O. No. 3 d/ 14 Feby: 1884. It is apparently impracticable to prove actual delivery to Govt. in the first instance and therefore subsequent misappropriation by Messrs Mansfield Bremner & Co.

On the other hand there is no evidence to shew resale of the timber to the firm, as had been originally intended by Mr. Chisholm.

The transaction thus resolves itself into an advance for timber which has not been delivered in full. The net result being a breach of contract for which the only remedy is a civil suit. Such suit is, apparently, in the circumstances of Mr. Bremner's present position, out of the question.

Orders are requested as to the final disposal of the matter.

Joh.
10/7/84

R. S.

For W

Ryde ... Q. 28. 7. 84

The Hon. H. E. Sullivan

FOR ORDERS.

1850 W

From orders

Genl Estab

No. 1850 W Public Works Department,

Proceedings of the Madras Govt.

Under date the 30th July 1884

Read the following:—

Letter from R. F. Chisholm Esqre. (H. E. No. 35 d/ 19th March 1884)
" " the Government Solicitor (" " 246 d/ 2d May — ")
" " Condr. R. P. Lennon, Sub Engr. P. W. Dept. (d/ 30th — " — ")
Endorsement thereon by the Supdg. Engr. I Circle. (" " 675 G.D. d/ 5th June ")
Letter from the Govt. Solicitor - - (" " 340 d/ 7th July — ")

19

The circumstances connected with the transaction in timber to which the above papers refer were reviewed in Pro: of Govt. No. 396 W d/ 14th February 1884.

The further inquiries which

have since been made go

show that it is apparently impracticable to prove *actual delivery* to Government in the first instance. Subsequent misappropriation by Messrs Mansfield Bremner & Co. cannot therefore, it would seem, be established. Evidence of the *re-sale* of the timber to the firm, as had been originally intended by Mr Chisholm, is moreover not forthcoming.

The transaction, as already observed, thus resolves itself into an *advance* for timber which has not been delivered in full; and as, in present circumstances, there seem to be no means of recovering the balance – Rs 2864-

Section 1630.

R. F. Chisholm Esqre
Consg. Architect to Govt

p 20

Chisholm, who is responsible for the transaction, will now be furnished with the further correspondence on the subject, and he will be finally called on to show cause why he should not be required to make good the loss entailed by his evading a distinct rule of the P.W. Code, which prohibits advances to Contractors without the ial sanction of Govt.

25.7.84

2C.
59C. 9-1-85.

Show proof

This should be seen by W

for
14/7/84

M.
30.7

Bangalore
14/7/84

R. 25.7.84.

[illegible] 20.7.84