

(1) பக்கங்களின் எண்ணிக்கை 56

(2) புதுக்கித் திருப்பிய நாள் 6/89

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் 6/89

தமிழ்நாடு ஆவணக் காப்பகம்.

(56)

தமிழ்நாடு அரசு

P. W. D. துறை

அரசாணை எண். 1690
மு. கோப்புத் தாள் எண்.

அச்சகம்
பலவகை

நாள் :

27-6-1889

19 .

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

28. Sheets

GOVERNMENT OF MADRAS.
PUBLIC WORKS DEPARTMENT.

General.
Account.

READ—the following papers :—

Letter from the Executive Engineer, Nilgiris, dated 24th January 1889, No. 3853.
Endorsement by the Supg. Engr., IV Circle, " 26th " " " 42 E.W.

Read again—

G.O., dated 31st January 1889, No. 263 W., Public Works.

Read also—

Letter from the Superintending Engineer, IV Circle, dated 5th Feb. 1889, No. 63 E.W.
Memo. to the " " IV " " 12th " " " 690 C.
Letter from the Executive " " Nilgiris, " 28th " " " 4218.
" " Superintending " " IV Circle, " 2nd Mar. " " 107 E.W.
Endorsement to the " " IV " " 2nd " " " 107 E.W.
Memo. to the Examiner, Public Works Accounts, " 14th " " " 1315 C.
Office note from the " " " 3rd April " " 431.

Read again—

G.O., dated 12th April 1889, No. 1021 W., Public Works.

Read also—

Letter from the Superintending Engineer, IV Circle, dated 10th May 1889, No. 202 E.W.
Memo. to the Executive " " Nilgiris, " 16th " " " 185 D.
Letter from the " " " " 20th " " " 603.
Office note to the Examiner, Public Works Accounts, " 27th " " " 227 D.
" from the " " " 5th June " " 781.

ORDER—dated 27th June 1889, No. 1690 W., Public Works.

The above correspondence relates to the loss of a Government promissory note for Rs. 1,000 which was deposited in July 1885 with the Executive Engineer, Nilgiris, Lieutenant-Colonel A. C. Smith, R.E., by Ebrahim Sait and Co. as security for the performance of a contract.

2. It would appear that, on the termination of the contract, the note which had been placed in the office cash-chest was sent by the head clerk on the evening of the 13th September 1888 in a blank cover, gummed, but not sealed, to the house of the Executive Engineer. On opening the cover the next morning the Executive Engineer, Mr. deWinton, found that it contained two blank sheets of paper but no promissory note.

3. The case was reported to the police on the 20th September, and payment of the note and interest thereon were stopped by notifications in the *Gazette of India* and *Fort St. George Gazette* in January following. Nothing has since been heard of the note, and the perpetrator of the theft has remained undiscovered. The lascar who was entrusted with delivery of the cover containing the note has been dismissed and the head clerk reprimanded. It now remains to fix responsibility for neglect of the rules laid down for safe custody of Government securities, and to decide as to what is to be done to prevent loss to the Government.

4. Para. 1891 of the Public Works Code provides that all Government securities deposited with Public Works officers should be forwarded, through the Examiner, to the Bank of Madras for safe custody, or to the Accountant-General, if they are to lie in deposit for more than one year. Had this precaution been taken by Lieutenant-Colonel Smith on receipt of the note in question, his further liability in the matter would have ceased. He, however, failed to carry out the provisions of the rules. He must accordingly be held jointly responsible with Mr. deWinton for the subsequent loss. In determining Lieutenant-Colonel Smith's share of responsibility, the fact that the note was actually in the Divisional office on the 13th September 1888, long after Lieutenant-Colonel Smith had left the division, has not been overlooked. But it is remarked that the note, though coming into Mr. deWinton's hands in regular official course twelve days after taking charge of the division, had never been formally handed over to him by Lieutenant-Colonel Smith, and there is every reason to suppose that had the regular procedure been adopted by Lieutenant-Colonel Smith and the note forwarded to the Examiner for safe custody with the Accountant-General, the loss would not have occurred, for Mr. deWinton's attention would have been drawn to the matter by his having to take steps to withdraw the note from safe custody.

5. Lieutenant-Colonel Smith having failed to carry out the provisions of the rules, it subsequently became Mr. deWinton's duty to rectify the neglect. The correspondence shows that the note came into his hands with endorsement from the Superintending Engineer, IV Circle, No. 545-N.I., dated 20th August 1886. Instead, however, of sending it to the Examiner to be placed in safe custody, he allowed it to lie in his cash-chest, where it remained unnoticed for two years. No interest on the lost note has been drawn since it was deposited; and the papers do not show the amount due upon it since interest was last drawn. This amount should be ascertained.

6. Under the circumstances set forth above, His Excellency the Governor in Council directs that the two officers in question, Lieutenant-Colonel A. C. Smith, R.E., and Mr. deWinton, replace the note by the purchase of a new one of the same value at their joint expense, the new note being dealt with as required by code rules. The former will deposit the interest undrawn upon the lost note up to the date of Mr. deWinton's taking charge of the Nilgiri division, and the latter from that date till the deposit of the new note, which should be endorsed over to the Executive Engineer, Nilgiris. The interest deposited and that accruing on the new note will then be available for payment to the contractor. The Executive Engineer, Nilgiris, will give to the two officers, on receiving the new note, an undertaking that he will hold at their disposal any interest or other refund which may be obtained from the Public Debt office in respect of the lost note.

(True Extract.)

Captain, R.E.,
Under-Secy. to Govt., P.W.D.

To the Superintending Engineer, IV Circle,
for communication to Mr. deWinton.
Examiner, Public Works Accounts.
To Lieutenant-Colonel A. C. Smith, R.E.,
Superintending Engineer, VI Circle.

Exd. J. Henricus.
Spare Copies

1690

✓

GENERAL.
ACCOUNT.

Govt. of {1889} Madras.

PUBLIC WORKS.

Dated June, 27th.

Recd.

Encl.

G.O., 27th June 1889, No. 1690 W.

JUNE.

**Loss of a Government
Promissory Note**

Orders relating to the — deposited in July 1885 with the Executive Engineer, Nilgiris, Lieut.-Colonel A. C. Smith, R.E., by Ebrahim Sait and Co. as security for the performance of a contract.

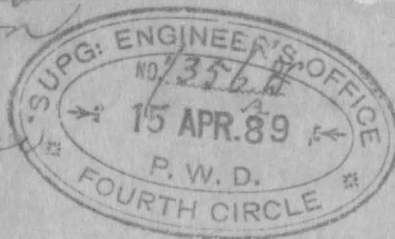
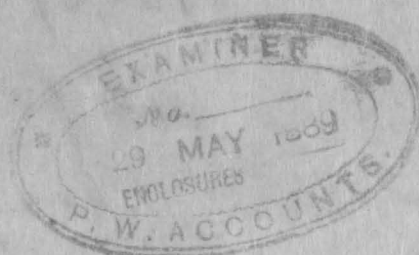


Lost

*mainly standing
in name of*
The Government Promissory
Note No. (Madras) 83/378, Bengal
131,670 of the 4% loan of 1872
43 for Rs 1000, and last en-
dorsed to the Executive Engineer
Nilgiri Division, the proprietor
by whom it was never endorsed
*being lost
in the district*
to any other person. Notice is
hereby given that payment of
the above note, and the interest
thereupon, have been stopped at
the Public Debt Office, Bank of
Bengal, Calcutta, and that
application is about to be
made for the issue of a duplicate
in favor of the proprietor. The
public are cautioned against
purchasing

purchasing or otherwise dealing
with the above-mentioned security
(Signed) W. B. de Winton
Executive Engineer, Nilgiri
Division

Ootacamund }
24th January 1889 }



No. 3389

P. M. D.

NILGIRI DIVISION OFFICE,

STATION, Ootacamund, 24th January 1889.

Enclosures./
1 Notification

From

W. B. de Winton Esquire

EXECUTIVE ENGINEER, NILGIRI DIVISION,

OOTACAMUND,

To

THE SUPERINTENDING ENGINEER,

FOURTH CIRCLE,

COIMBATORE.

SIR,

In continuation of my letter
No. 3389 of the 7th December 1888, concern-
ing the loss of a Promissory Note for Rs 1000,
I have the honor to request you will be
good enough to cause to be inserted in
three successive issues of the Gazette of India
the notification attached.

2. I have this day forwarded
a similar advertisement to the Supdt.
of Fort St. George Gazette Press for insertion
thrice in that Gazette, as per para 18 of the
resolution of the Government of India
published in page 65 of the Gazette

W dated

Dated 24th January 1888.

3. In compliance with para.
17 of the authority quoted, I have also
notified the loss to the Bank of Bengal,
Public Debt Office, Calcutta.

I have the honor to be

Sir,

Yours most obedt. Servt.

B. E. Smith

Executive Engineer

Nilgiri Division.

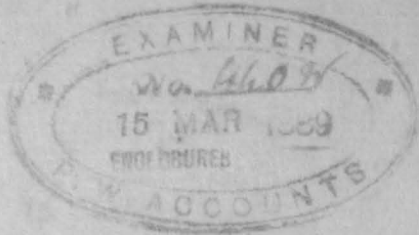
Encl. No. 42
90

Submitted to the Chief Engineer
P.W.D. with a request that he will be
good enough to cause the accompany-
ing notification to be published
in three successive issues of the Gazette
of India

Camp Coimbatore } A. Smith Lt Col R.E.
26 January 1889. } Supg. Eng^r 4th Circle
R.D.

1690

5



From
THE EXECUTIVE ENGINEER,
NILGIRI DIVISION,

To
THE SUPERINTENDING ENGINEER,
4TH CIRCLE.

Dated
Despatched
Received } 24 January 1889.

No. 3853

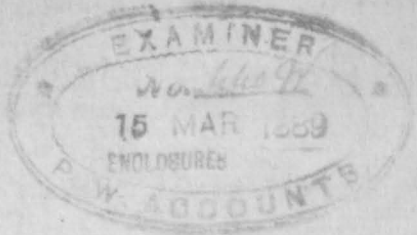
Enclosures. 1

Subject.

Provisory note for Rs 1000/-
lost - Request a notification
and requests to cause
the same to be inserted
in 3 issues of Gazette
of India.

1690

b



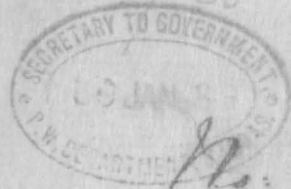
From

The Supg. Engineer,
Fourth Circle.



No. 263-4 W of 31/1/89

Dated 26th Jan'y / 89.



No. 42
908

Encls. 1
Promissory note
for Rs. 1000, lost:-

Submitting a
notification re-
garding a — with
a request to cause
the same to be pub-
lished in three suc-
cessive issues of
the Fort St. George
Gazette.

PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the

READ the following

From the S. E. IV Circle to 42 S. E. of 26. 1. 89.

The notification
will be forwarded
for publication in the
Gazette of India.

2. The Supg. Eng. in
as once submit a
report as to the circum-
stances attending the
loss of the promissory
note. It is considered
that this should have
been done before

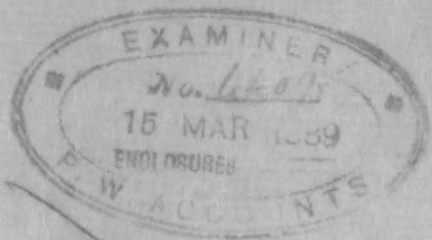
S. E. IV Circle

H.S. No. 264 W of 31/1/89

by the Secy to the Govt. P. W. D.

7 Sir. I am directed to
require

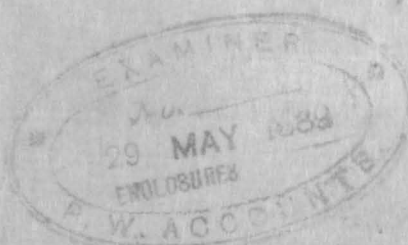
request that, under the
orders of the Govt of India,
the enclosed notification
regarding the loss of a Govt.
promissory note may be
published in three
successive issues of the
Gazette of India.



Mh

30/1/89

31/1/89



No 263-4 W of 31/1/89

SUPG. ENGINEER'S OFFICE 4TH CIRCLE,
Circumstances of 15 February 1889

No. 63
NW

1690

From, Lt Colonel C.B. Smith R.E.,
The Superintending Engineer,
Fourth Circle.

To, The Chief Engineer,
P. W. Department.

Sir,

Adverting to para 2 of G.O. No. 2637
of 31st Ultimo calling for a report as to the
circumstances attending the loss of the Govern-
ment Promissory Note for Rs. 1000 I have the
honor to report as follows:-

2. The Note in question belonging to
Abraham Sait & Co., Contractors for small stores
in the Nitgiri Division, was offered duly
endorsed in favor of the Executive Engineer,
as security for the due performance of the terms
of their Contract.

3. On the termination of the Contract the
note was sent at 6 P.M. on the 13th September
last in a blank cover which was gummed
but

but not addressed and the messenger was particularly ordered by the Head Clerk to deliver the Cover into the hands of the Executive Engineer. This the messenger failed to do.

4. The Executive Engineer on opening the Cover on the following morning at 7.30 found two sheets of blank foolscap paper instead of the Note.

5. The case was on the 20th September reported to the Police and the Assistant Superintendent of Police wrote to say on the 27th November that no clue could be obtained of the missing note.

6. The motive of the theft, if theft it is, is unintelligible, because the note is not negotiable except by the Executive Engineer, Nitigiri to whom it was endorsed.

7. I am inclined to believe that the note was maliciously abstracted and destroyed in order to get the Head Clerk into trouble.

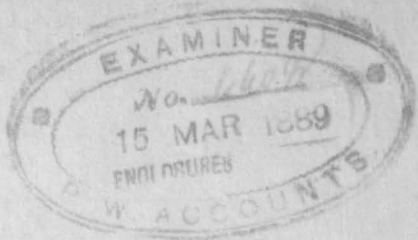
8. The lascar who was entrusted with the note was dismissed the service and the Head Clerk warned.

1690
9. The Executive Engineer has since introduced a system to prevent the recurrence of like mistakes. No paper of any kind to be sent to his house except in a padlocked box or a sealed cover.

I have the honor to be,
Sir,
Your most obed^t serv^t,

Al Smith Lt Colonel R.E.,
Superintending Engineer, IV Circle

R.S.

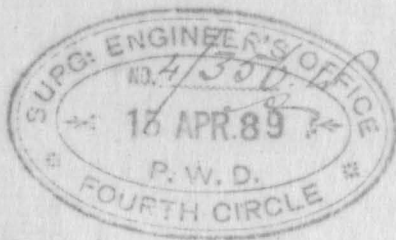
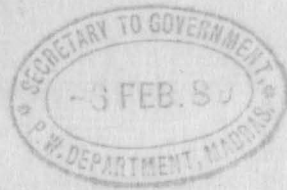


2740 N. 750

From

The Supg. Engineer,
Fourth Circle.

Go. 263.4 W. 31.1.89



Dated 5th } February
Recd }

No 670 C. 12-2-89

No. 63
LW

Government Promis-
sory Note:-

Reporting the cir-
cumstances attending
the loss of the — for
Rs. 1000.

No 670 C. 12-2-89

P. W. Department

Memo

1890

With reference to letter
No. 63 E. W. dated 5th Feb.
1889 from the Superintending
Engineer II Circle the
Secretary to Government
P. W. D. is directed to
request that further de-
tails in regard to the
loss of the Promissory
Note of Rs 1000 may be
afforded. It is not considered
that sufficient notice has
been taken of the loss and
the grounds on which the
Head Clerk was merely
warned and the messenger
dismissed have not been
reported.

10

2. The Supg. Engineer

is requested to submit
a brief history of the
note from the date on
which it was handed
over to the P. W. D. as
security, and he will
report whether the orders
in para 1891 of the Code
regarding the disposal
of deposits of Govern-
ment securities were
carried out.

3. It seems clear in
any case that great care-
lessness has been shown
in the matter and the
Executive Engineer
will probably be held
responsible for any
amount which the Govern-
ment will have to
pay to the Contractor.

4. It should be stated
how

1690

how the note was en-
-dorsed when accepted
as security and also
when lost.

new
9.2.09

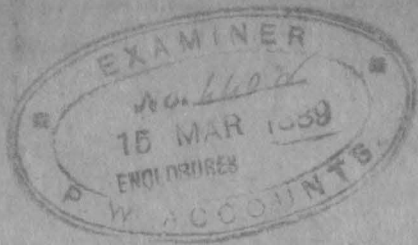
M. H.
9/2/09

F.B.
9.2.09

✓
To The Suptg Engineer IV field

D. H. 2

No. 263-46 of 31-1-89



No. 690C of 12 Feb 1889

DW
W

1690

No. 4218

Nilgiri ^{Dn} office
Vayitr 28th February 1889.

From

W.B. de Winton Esq.,
Executive Engineer,
Nilgiri Division.

To,

The Supg. Engineer,
4th Circle.

Sir,

In reply to your No. 76 of 16th February 1889, I have the honor to state that my letter No. 3389 of 7th December/88 gave a full account of the loss of the Pro-note.

2 Its history before its loss is briefly as follows:—

3. It was received in July 1885 as security for a contract entered into on the 1st of that month with Messrs Ibrahim Saib & Co for the supply of Stores.

4. This contract was to last for 3 years

12

(quod est)

years (i.e.) to July 1st 1888 and was ap-
proved by the Chief Engineer in Memo
No. 2833 dated 18th August 1886.

5. The Pro-note with the contract
bond, schedule of rates and speci-
fication were placed in the DN
office Cash Chest and remained
there until the expiry of the con-
tract.

6. Para 1891 of the Code was not
adhered to at the time, and the
fact, I regret to say, escaped my notice
when I took charge of the Division.

7. The Pro-note when received as
security was endorsed in favour of
the Executive Engineer Kilgiri DN,
and bore the same endorsement
when lost.

8. The contract having expired,
the Pro-note with all the contract
papers was taken out of the Cash
Chest on September 13th 1888 by the
Head Clerk, enclosed in a gummed
cover and sent to me for re-endorsement
to

to the owner.

1690
9. It is my custom to have
papers which are not ready for
disposal during office hours sent to
my house between 7 and 8 P.M. so that
I can dispose of them early next
morning.

10. To convey such papers from
the office to my house, there were at
that time several office trays, or
boxes without lids, and 3 boxes with
lids and pad locks. There was no
fixed rule at the time, such as I
have since made, that all papers
were to be sent up in the latter, or
in a sealed and addressed cover but
it was an understood thing that
all papers of importance should
come up under lock and key.

11. The Head Clerk not only omit-
ted to do this in the present instance,
but enclosed the documents in a
cover without any address or manuscript
writing

writing in it at all, thereby making it possible to effect the substitution which actually took place. I never received such a cover before in the whole course of my service. The Head Clerk who was responsible for it had lately been promoted from a Sub-Office in the West Coast Division, was new to his work and new to the Division, and has since been transferred to Coimbatore. Both his predecessor in my office and the present Head Clerk would have been quite incapable of such piece of carelessness.

12. He has been by your order severely reprimanded and the peon into whose charge he gave the note with order to deliver it into my hands has been dismissed.

13. The note has now been accepted as security for the due fulfilment of a fresh Contract lately concluded with

1690
with Messrs. Iram Sait & Co.
I have &c
/s/ W.B. de Winton.
Executive Engineer.

No. 107
2nd

Copy - Submitted to the Chief Engineer, P.W.D. with reference to his Memorandum dated 12th Feby/89.
N^o 690.e

Aldrich Lt. Col. R.E.

Supdgrs office
Fourth circle
Coimbatore 2nd March/89

} Supg. Engineer 4th Circle



22
No. 2061
3201/89

From
The Supg. Engineer,
Fourth circle.



- No. 1852 W. Apr. 7. 86.
- 2612 C. Apr. 28. 86.
- 2833 C. Apr. 10. 86.
- 3050 W. Apr. 11. 86.
- 3334 W. Apr. 17. 86.
- 3680 W. Apr. 11. 88.
- 5170 C. Apr. 20. 88.
- 263.4 W. Apr. 1. 89.
- 690 C. Apr. 12. 89.

Dated 2^d March /89.



No. 107
md

Pro-Note: -

Submitting letter
from the Executive
Engineer, Nilgiri
Division affording
further particulars
with reference to
the — lately lost.

To The Secy. P. W. Accts
with the papers
in original (Return
requested)

No. 1875 C. Apr. 14. March 1889

1690 J. W. Dept
Go. No. 263. W. dated
31st January 1889.
C. No. 1160 with draft Go.
& Hui's remarks.
Memo. C. No. 690. C. 8 12.2.89
C. No. 2061 with Note for
orders and Hui's
remarks.

Forwarded in
original for favor of
an early expression
of the opinion of the
Secy. P. W. Accts.

The Rules regarding
claims to lost Promis-
sory Notes &c. will be
found embodied in
a Financial Resolution
published at page 171
of the Gazette of India
(Part I) dated 7th April
1883.

1883.
D 14/3-
13.3.89

16
13/3/89

No. 263-4W/31-1-87

" 5170C " 20-12-88

" 4894C " 6-12-88

" 3680W " 21-11-88

" 3334W " 17-12-86

" 3050W " 17-11-86

" 2833C " 18-8-86

" 2612C " 28-7-86

" 1852W " 21-7-86

Act XIII of 1886

Gazette of India from Jan'y

To Dec-83.



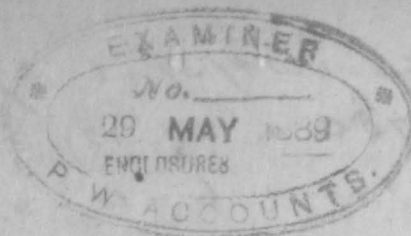
Soon



No. 1315C d/14 March 1889

dw
W.

[C. No. 8.]



GOVT. OF MADRAS.

1889.

P. W. DEPT.

EXAMINER, P. W. ACCOUNTS.

Madras, 3rd April.

1889.

OFFICE NOTE No. 431

Enc. 10

To W.

Your memo No. 1315 C. dated 14th.

March 1889.

I would suggest further inquiry before passing final orders as the responsibility of the present Executive Engineer does not seem to be clearly established.

KEEP-WITH

Genl. No.

dated

188 .

2. The procedure which should have been observed when the note was received in 1885 is as follows:-

(a) the note should have been endorsed to the Executive Engineer (code para 1891);

(b) it should have been entered in the register to be kept in the divisional office in accordance with note 4 on form M.55;

(c) it should then have been forwarded to the Examiner for transmission to the Accountant General Madras, or to the Bank of Madras (code para 1891);

(d) thereafter it should have been noted on the back of the schedules of deposits for the months of September and March in each year (code para I896 and notes on form M 55).

3. If the present Executive Engineer was aware that the note was deposited in his cash chest, his responsibility would not be affected by any earlier breach or disregard of rules, but I can find nothing in the file to show that the Executive Engineer was aware of the fact in question.

4. It is impossible to tell from the Executive Engineer's account of the circumstances attending the loss, how far he is narrating facts within his own knowledge, and how far he is simply following statements made to him, or presumptions based on the supposition that the prescribed procedure must have been followed. Moreover he seems to have written without any notion that he had to clear himself of personal responsibility. In para 6 of his letter No. 4218 he says that the omission to forward the note in the first instance to the Examiner (code para I891) escaped his notice when he took charge of the division, but he does not say when, if ever, the omission did come to his knowledge; and the presumption seems to be that he only came to know of it when inquiries were

1690
made on completion of the contract, whilst it is quite possible that the search for the note was made by his subordinates and that he knew nothing about it until he asked for an explanation of the blank paper in the unaddressed cover. There is nothing to show what is the basis of the statement that the note was endorsed to the Executive Engineer. This may be mere presumption. Again, there is no evidence of the singular action attributed to the head clerk, and this part of the story seems to me most remarkable. What ground is there for believing that the note was ever placed in the unaddressed cover, or that the cover in which it was placed was the same that was given to the peon ?

5. Supposing that the Executive Engineer was not aware, until too late, that the note was lying in his office, the question arises whether he ought to have known it; and this, I think, would to a great extent turn upon whether the note was duly registered (see para 2(a) above). It seems almost certain that it never was registered. The extracts required with the accounts for September and March (see para 2(d) above) were duly furnished to my office every six months, and they show government securities in each case as "nil"; and there is no mention in any inspection

18

report of the failure to keep up the prescribed register. It therefore seems pretty certain that a register was kept, but that this note was never entered in it.

6. It may of course be argued that the Executive Engineer should have come to a knowledge of the facts quite independently of the register. For instance it may be said that he should have ascertained what security there was for the contract in question, and what had become of that security; or that he should have made himself completely acquainted with the contents of his cash chest, and should have seen, as regards all documents prescribed therein, that all formalities had been observed. In the absence however of any instructions on these points, this would perhaps be carrying the theory of responsibility rather far; and as regards the latter suggestion, I may point out that at present there is nothing to show that the note may not have been abstracted before Mr. deWinton took charge. Indeed for that matter there is no information as to the evidence for the fact that the note was ever received at all.

7. I would therefore suggest further inquiry on the following points :-

(a) what evidence is there of the receipt of the note in 1885 ?

Where, then, was particulars of the number of the note obtained for the advertisement which has been issued?

Not

12

- 1690
- (b) what is there to show that it was endorsed to the Executive Engineer ?
 - (c) was a register of securities kept, and was this note registered therein ?
 - (d) did the present Executive Engineer ever see the note, or know anything about it, until its disappearance came to notice; and if so, when ?
 - (e) when was the note last seen, before the occasion of its supposed removal from the cash chest for the purpose of sending it to the Executive Engineer; and by whom was it then seen ?
 - (f) who placed the note in the un-addressed cover; and who saw it so placed, and delivered to the peon ?

8. As the loss has been duly notified to the public debt office (see para 3 of Executive Engineer's letter No. 3853) in the absence of any intimation to the contrary from that office it may perhaps be assumed (if the notice was in proper form) that no interest has been paid since the note was deposited in 1885, otherwise it might be desirable to make inquiries on this point, as, pending information as to when and by whom the note was last seen before its alleged recent disappearance, it is quite possible

It may not be assumed, but inquiry must be made from the Public Debt Office Treasury Office whether interest has been drawn or not.

If Mr. deWinton has signed endorsement for the drawing of interest, knowledge of the note will be brought home to him.

Not

19

that it may have been abstracted long ago and interest paid on a forged endorsement.

9. Statements by the individuals concerned confined to facts within their own knowledge would probably be more useful than any narration compiled either by the Executive Engineer or by the Supg. Engineer, and when possible it might be well to have such statements corroborated by independent witnesses.

10. Referring to the second paragraph of your memorandum, I may point out that the notification quoted by you has been superseded by that printed at page 65 et seq. of the Fort Saint George Gazette dated 24th. January 1888, with reference to which the advertisement of the loss is slightly defective, see pencil remark in the margin of the copy in the file.

11. You will find, with reference to the Honorable Member's inquiry in his last note that under rules 19 and 20 (no portion of the government promissory note being forthcoming) no action can be taken by the Comptroller General for two years from date of the last advertisement; after that date interest may be paid (subject to execution of a bond of indemnity) but no duplicate note can be issued for another four years (or possibly ten years) i.e. for six years (or

possibly twelve) from date of last advertisement.

12. I do not understand the doubt expressed by the Honorable Member in his first note as to the regularity of the alleged endorsement. It seems clear from the Act quoted that in ^{such} ~~similar~~ cases the endorsement should be to the official concerned by the name of his office, and this is the practice not only of Executive Engineers but of the Accountant General Madras and myself. I presume that the office of an Executive Engineer has by notification of the Governor-General in Council been declared a public office within the meaning of the section.

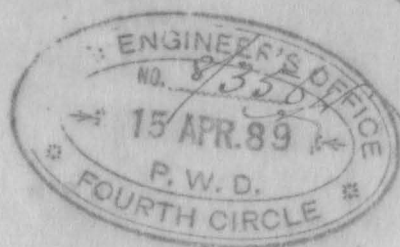
13. The view to be taken of Mr. deWinton's action in treating the lost note as security for a fresh contract should, I think, depend on the decision come to as to his responsibility for the loss. If he is not responsible then, as far as he is concerned, Government is responsible for the note, in which case it would seem to be quite proper to set the liability of Government for the note against the liability of the contractor for security; and even if the Executive Engineer had reasonable ground for thinking that he was not responsible for the loss, his action was perhaps only natural.

*I find that this has been done.
Executive Engineers are included
in the list of officers in Civil Act
Code Vol. 1. p. 56.*

*M.S.
84/10*

20

14. It seems probable that, in connection with certain points in this case, it may be desirable to add to or modify some of the code rules in point; but I shall await the final orders of Government on this case before taking any action in that matter.



Res: 5.4.89

C.
M.H.
D 3/4
Enc.

Memo no 1357C of 14.3.89
" 690C of 12.2.89
Sv. Bus 263-4 W of 31.1.89
Memo no 5720C of 20.12.88
" 4094C of 6.12.88
Sv. Bus 3680 W of 21.11.88
" 3334W of 17.12.80
" 3050 W of 17.11.86
Memo 2832C of 18.8.86.
" 2612 C of 28.7.86.
Sv. Bus 1852 W of 21.7.86

No 1021 W of 12.4.89



Sv. Bus 1021 W of 12.4.89
Memo no 1315C of 14.3.89
" 690C of 12.2.89
Sv. Bus 263-4 W of 31.1.89

PUBLIC WORKS DEPARTMENT,

Ootacamund, 27 May 1889.

OFFICE NOTE.

From

To

1. Adverting to the correspondence ending with your office note No. 431 dated 3rd April 1889 on the subject of a Government Pro: Note for Rs 1000 lost in the Nilgiri Division, it has been ascertained that no interest has been drawn on the Note since it was deposited in the Ex. Engineer's office, and under the rules published at pp. 63-66 of the Fort St. George Gazette of the 24th January 1888, it would appear that interest cannot be drawn for two years from date of publication of notice of loss. A duplicate Note cannot be got for 6 years and possibly for 12 years.

2. Meanwhile the contract

may at any time ask for his interest in arrears from date of last payment on the Note, and when the contract expires in 1891, can demand the Note with interest.

3. To avoid loss of Government, the Note should, it is thought, be replaced by the two officers concerned, Colonel A. C. Smith & E. and Mr. de Winton; that the former should deposit the interest due up to the date of Mr. de Winton's taking charge, and the latter from that date till the new Note, which should be in the name of the Executive Engineer Nilgiris, is issued or purchased by them. From that date the interest on the new Note will be available for the contractor.

4. The Ex. Engineer Nilgiris should give to the two officers, on receiving the new Note, an undertaking that he will hold any interest paid by the Public Debt office, new note issued by it, hereafter, at their disposal.

Please state whether there is your opinion, any other way of dealing with the matter as to avoid loss to Govt.

6. The complete file is herewith forwarded for ready reference.

1680
Rues
27.5.89

R.S.

No 781 of 5 June 1889

To W.

Enc. 1 file

If the intention is to make the officers mentioned responsible - for satisfying all possible claims of the contractor, the proposed procedure seems incomplete, inasmuch as it does not provide for the contingency of the contractor demanding the return of the note, which he may do before a new note can be issued. In order to meet such a claim, it would be necessary - that a sum should be deposited sufficient to meet the probable cost of purchasing a similar note of the same loan.

2. Your fourth para is not understood. If the Executive Engineer Nilgiri Division is to give any undertaking, he should apparently do so on receipt of the deposit. When he receives the new note, the responsibility of the officers in question will presumably be at an end. 22

The note to be purchased should be issued over to the Executive Engineer Nilgiris.

The intention is that the two officers should purchase a new note for Rs. 1000, which should be treated as the cashed security. I shall write under the rules. The contingency of the contractor demanding the return of his security will then be provided for.

is the person who has to deal with the Public Debt office in regard to the note. The note should be held as the security of Mr. de Winton & Mr. Smith until they have been relieved of the Public Debt office in regard to it. The same seems to be the object if we cannot understand the arrangement.

The officers concerned - Mr. de Winton & Mr. Smith - will be relieved from responsibility when they purchase & deposit a fresh note & pay interest due to the date of purchase. They will however have a claim to any note issued by the Public Debt office in lieu of that lost & to any interest which may hereafter be paid on the lost note. They will also have a claim to any note issued by the Public Debt office in lieu of that lost & to any interest which may hereafter be paid on the lost note. The Executive Engineer Nilgiris

3. In determining the responsibility of those concerned, it would be right perhaps to remember that, if the note was actually in the divisional office on the 13th. September 1888, then any proceedings anterior to that date, however irregular, can hardly be held to have contributed to the loss, which might equally have occurred if the note, instead of being found by the head clerk in the cash chest on the 13th., had been received on that day from me, after withdrawal from safe custody.

4. It would also perhaps be well to remember that Government, as the issuer of the note, is not quite in the same position as a private holder and loser. Provided the further payment of interest is effectually stopped, Government can incur no actual loss.

The one might have occurred no doubt, but is hardly likely to have occurred if the attention of the Executive Engineer had been drawn to the matter by his having had to take steps to get the note back from the Examiner. In this point of view the responsibility distinctly contributed to the loss.

There has nothing to do with the matter.

They can, because they are liable to the contractor, for the deposit, and have to pay the interest on it.

C.

H. S.

The Hon. Mr. H. E. Stokes C.S. J.D. 5/6

For Order.

12.6.89

Oct. 5/6. Am 12/6.5

1090

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Under date the

Read the following

Letter from the Ex. Eng., Nilgiris (H.E. No 3853 of Jan. 24. 1889)

Endorsement by the S.E. IV Circle (.. 42 Ew. of .. 26. .)

Read again,

G.O. No 263 W dated Jan. 31. 1889.

Read also,

Letter from the S.E. IV Circle (H.E. No 63 Ew. of Feb. 5. 1889)

Memo: to the — do — (.. 690 C of .. 12. .)

Letter from the Ex. Nilgiris (.. 4218 of .. 28. .)

Letter from the S.E. IV Circle (.. 107 Ew. of Mch 2. .)

Endorsement to the S.E. IV Circle (.. 107 Ew. of Mch 2. .)

Memo: to the Examiner N.A. (.. 1315 C of .. 14. .)

Office note from the — do — (.. 431 of .. Apl 3. .)

Read again,

G.O. No 1021 W dated April 12, 1889.

Read also:—

Letter from the S.E. IV Circle (H.E. No 202 Ew. of May 10, 1889)

Memo: to the Ex. Eng. Nilgiris (.. 185 \$ of .. 16. .)

Letter from the Ex. Nilgiris (.. 603 of .. 20. .)

Office note to the Ex. P.W.A. (.. 227 \$ of .. 27. .)

Office note from the — do — (.. 781 of June 5. .)

Correspondence
G.O. No 1116 of 1889

J.H. 19/6/89 H.E.S.
16 June

This to be circulated.

The above correspondence

relates to the loss of a
Government Promissory Note
for \$ 1000 which was deposited
in July 1885 with the
Engineer Nilgiris - Secy:
Colonel A. C. Smith R.E. - by
Ebrahim Saib and Co., as
security for the performance
of a contract.

2. It would appear
that on the termination
of the contract the note
which had been placed
in the office cash chest
was sent by the Head Clerk,
on the evening of the 13th
September 1888, in a blank
cover, gummed, but not
sealed, to the house of the
Executive Engineer. On
opening the cover ^{the next morning} the
Executive Engineer, Mr. De-
Winton, found that it

210
contained two blank
sheets of paper, but no
Pro. Note. 1680

3. The case was reported
to the Police on the 20th
September, and payment of
the Note and interest
thereon were stopped by
Notifications in the Gazette
of India and Port St. Geo.
Gazette in January following.
Nothing has since been
heard of the Note, and
the perpetrator of the
theft has remained
undiscovered. The
Lascar who was entrusted
with delivery of the cover
containing the Note has
been dismissed, and the
Head Clerk reprimanded.

24

It now remains to fix responsibility for neglect of the rules laid down for safe custody of Govt securities, and to decide as to what is to be done to prevent loss to the Government.

4. Paragraph 1891 of the P.W. Code provides that all Government securities deposited with P.W. officers should be forwarded, through the Examiner, to the Bank of Madras for safe custody, on to the ~~Secy~~ ^{they are} ~~Secretary~~ General, if to lie in deposit for more than one year.

Had this precaution been taken by Lieut. Colonel Smith on receipt

1890

312
of the Note in question, his further liability in the matter would have ceased. He, however, failed to carry out the provisions of the rules. He must accordingly be held jointly responsible with Mr. De Winton for the subsequent loss. In determining Lieut. Col. Smith's share of responsibility, the fact that the Note was actually in the divisional office on the 13th Sept. 1888, long after Lieut. Col. Smith had left the division, has not been overlooked.

25
But it is remarked that the Note, though coming into Mr. De Winton's hands in regular official course

twelve days after taking
charge of the division,
had never been formally
handed over to him by
Lieut. Col. Smith, & there is
every reason to suppose
that had the regular procedure
been adopted by Lieut.

Col. Smith, and the Note
forwarded to the Examiner
for safe custody with the
Accountant General, the
loss would not have occurred.

for Mr. De Winton's attention
would have been drawn
to the matter by his having
to take steps to withdraw
the Note from safe custody.

5. Lieut. Col. Smith
having failed to carry

4P
1690
out the provisions of the
rules, it subsequently
became Mr. De Winton's
duty to rectify the neglect.
The correspondence shows
that the Note came into
his hands with endorsement
from the Supt. Engineer
IV (File No. 545 dated
N.I.
20th August 1886. Instead,
however, of sending it to
the Examiner ^{to be placed in} for safe
custody, he allowed it to
lie in his cash chest,
where it remained un-
noticed for two years.

Interest on the lost note
has been drawn since it
was deposited; and the papers
do not show the amount due
upon it since interest was last
drawn. This amount should be
ascertained.

6. Under the circumstances
^{above} set forth, H.E. the Govt in
Council directs that the
two officers in question,

Lieut: Col: A.C. Smith R.E.,
and Mr. De Winton, replaced
^{by the purchase of a new one of the}
the Note, ^{same of same} at their joint
expense; the new Note being
dealt with as required
by Code rules. The former
^{undrawn}
will deposit the interest
^{upon the old lost note}
due up to the date of
Mr. De Winton's taking charge
of the Algiers Division,
and the latter from that
date till the ^{deposit} issue of the
new Note; which should
be ~~purchased by, and be~~
endorsed over to, the
Eng: Engineer Algiers. The
^{deposited and that accruing}
interest on the new Note
will then be available
^{payment to}
for the contractor. The Eng:
Engineer Algiers will give

1690 to the two officers, on
receiving the ~~price of a~~
new Note, an undertaking
that he will hold at
their disposal any interest
or other refund which
may be ^{obtained from} ~~made by~~ the
Public Debt Office in
respect of the lost Note.

Puesy
15.6.89

S. E. IV (note for communications
to Mr. De Winton -
Eng: P.W.A. ✓ 6/7
Lieut: Col: A.C. Smith R.E.
S.E. IV (note

27
L.S.

The Hon Mr J H Gairdner
C.S.J.
The Rt Hon the Governor

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169° 6

28

Gobt. of 1889 Madras.
PUBLIC WORKS.

28/6/89

Dated

Recd.

Encl.

G.O. of June 1889 No. 16904

Sup of a fort.

Pro: Note - 60

Orders relating to the
— deposited in
July 1885 in the
the Supr, Nilgiris,
Lieut Col A.C. Smith
AR by Ebrahim
Sahib of O. as security
for the performance
of a contract —

(28)

28/6/89