proper carrying out of duties connected with the public service, and had this course been adopted by Mr Elvin in the first instance much inconvenience and trouble would have been saved.

3. The Government acquits Mr Garrett of any intentional discourtesy in his letter of the 28th February 1895 No 822 G.S., but considers that its despatch was injudicious.

Sd D
23/5/95 20.5

comm
21/5/95

No 1278 W. dated 29: May 1895

(The Hon. the Chief Secy for perusal
of [illegible])

DESPATCHED
29 MAY. 95

S. E. I. Conlet
Judicial Dept.

INDEXED

Dr. 1/6

To signature

PUBLIC WORKS DEPARTMENT.

No. 1278 W. dated 29th May 1895

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Letter from the Ag. Registrar of the High Ct. appellate side (H.E. ~~No. 896~~ d/ 26 March 1895)
" " 857 d/ 20 April "
Endt. thereon by the Judicial Dept. (" ")
Letter from the S.E. I Circle (H.E. No. 96 G.L. dated 1st May /95)
Note by the [illegible] Chief Engineer P.W.D. (" 11th " ")

Mr. Garrett's action in communicating with the District Judge by letter instead of by motion in Court was irregular, but it is to be regretted that neither Mr. Elwin on receipt of Mr. Garrett's letter No. 1968 G.D. of 22nd January 1895, ~~or~~ nor Mr. Hammett, when the letter and Mr. Garrett's first telegram were shewn to him, ~~did not take~~ took steps to correct the error in which the letter had fallen.

? either

2. Government has a right to expect its officers to render to each other assistance and advice whenever circumstances arise which shew that they are necessary for the

(40—4,000—14-3-95.)

H E ~~the Governor~~

~~The Hon. Mr. B[illegible]~~

FOR ORDERS.

Correspondence between Mr. Garrett and the District Judge Masulipatam.

P. W. Department.

Read the following:—

Letter from the S. E. I Circle No. 96 G. L. d/ 1st May 1895.
Note by the Chief Engineer P. W. D. d/ 11th " "

FOR ORDERS.

There is no question that Mr. Garretts' communications to the District Judge in this case were irregular throughout - but it is to be regretted that neither Mr. Elwin on the receipt of the letter nor Mr. Hammett when the letter & first ~~sec~~ telegram were shown to him did not take steps to correct the error into wh. Mr. Garrett had fallen. Govt. has a right to expect its officers to render to each other ~~that~~ assistance and advice ~~by~~ whenever circs. arise wh. show that they are necessary for the proper carrying out of duties connected with the public service. Had this been done in this instance there is no doubt that much inconvenience & trouble would have been saved.

The Govt. acquits Mr. Garrett of any intentional discourtesy in his letter of Feb. 28th. 1895 to the District Judge - although it considers that its despatch was injudicious. It appears to me that this letter was written while the writer was under a sense of not unnatural irritation, but at the same time it had much better not have been sent.

CHBB
12/5/95

W
15 May

I agree. Mr. Elwin was the most to blame. But I think that after such a ~~lo~~ length of service as has brought him to the rank of Supt. Engr. Mr. Garrett might have known the proper course to take.

18/5/95

Mr. Garretts part.

as the suit referred to a district outside his own Circle; what he did know was that it was most inconvenient for one of his Executive Engineers to be summoned away from his Division at the busiest time of the year. He suggested for consideration a means of avoiding this inconvenience, and suggested it in a manner which though perhaps technically irregular was the one which ninety nine officers out of a hundred would have adopted under similar circumstances. If there has been any incivility, impropriety or discourtesy in the matter, it has certainly not been on

Hammett's sense of judicial etiquette will not allow him to answer an official ~~response~~ reference from an officer of high standing in another department, upon a matter seriously affecting the interests of the public service, but does allow him to discuss "unofficially" with a party to a suit the nature of the evidence to be given by a witness in that particular suit, and to make official use of the information thus "unofficially" obtained, including the exceedingly improper reference of the party in question to the action of his departmental senior.

7. Mr Garrett of course knew nothing of the nature or importance of the evidence to be given by Mr Paul,

P. W. D.

Letter from the Supdg Engineer I Circle No. 96-G.L. dated 1st May 1895.

Note by the Chief Engineer P.W.D.:—

I have perused the whole of this correspondence with the greatest care and must confess myself entirely unable to find anything in Mr Garrett's communications which can by any stretch of language be described as uncivil discourteous or improper.

2. That his action in applying to the Judge by official letter instead of by motion in court through an authorised pleader was irregular, may be admitted, although I believe that irregularities of this kind are committed

---

P. W. CURRENT No. 3541

S. E. I. / 6 300.-4-4-95

FROM A. H. Garrett Esqr.

SUPERINTENDING ENGINEER

FIRST CIRCLE.

TO

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT.

Encls:

Recd: 7.5.95

DATED 1st
DESPATCHED 4th May 1895
RECEIVED

No. 96 G.L.

ENCLOSURES

SUBJECT.

Submitting certain information on the perusal of A.G. Registrar of the High Court of Judicature's letter.

ofs. 68
R 29/5

For orders
CWMB 10/5/95
C.A. [illegible]

pretty often without any objection being taken, but there is a wide difference between a technical irregularity of this sort and "incivility" or "impropriety".

3. How far Mr. Hannett and Mr. Elvin were justified in sacrificing the public convenience to their sense of judicial etiquette is a point upon which I am not qualified to offer an opinion, but that by their refusal to answer the references made to them they did as a matter of fact cause very great inconvenience is beyond a doubt.

4. Looking at the matter from the point of view, not of judicial etiquette but of common sense and ordinary courtesy, Mr. Elvin's obvious course would seem to be to have informed Mr. Garrett in reply to his first letter that no notice could be taken (if such was the case) of his request unless it was made by a pleader in court, but to take no notice whatever of a request evidently made in good faith by an officer in Mr. Garrett's position appears a course of very questionable propriety from any point of view.

5. Mr. Hannett has in point of fact abandoned his whole position by ultimately, after a delay of two months, giving by telegram the very reply which his *locum tenens* might have given in the first instance.

6. It is somewhat remarkable that Mr.

Not Mr. Hannett's delay!
H.S.

P. W. CURRENT No. 3541

S. E. I. / 6 300.-4-4-95

FROM A. H. Garrett Esqr.

SUPERINTENDING ENGINEER

FIRST CIRCLE,

TO

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT.

Encls:

Recd: 7-5-95

DATED 1st
DESPATCHED 4th May 1895.
RECEIVED

No. 96 Gl.

ENCLOSURES

SUBJECT.

Submitting certain information on the perusal of Ag. Registrar of the High Court of Judicature's letter

For orders
[illegible]
C A [illegible] 10/5-5-95

ofs. 68
R 29/5

No. 96 G.C

FROM

A. H. Garrett Esq
SUPERINTENDING ENGINEER
FIRST CIRCLE.

TO

THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT.

DOWLAISHWERAM, 1st May 1895.

Enclosures.
1 file of papers
1 letter

SIR,

I have the honor to return the enclosures received with your No. 61+ D. of 25 April 95.

× at orty.

2. The facts of the case are given in Mr Hammett's letter and I should be quite content to let those facts speak for themselves.

3. Mr Hammett charges me with having written an uncivil, improper, and discourteous letter. I invite attention to this letter which I consider I was perfectly justified in writing, and which I submit cannot possibly bear the construction placed upon it by Mr Hammett.

4. I also invite attention to Mr Hammett's endorsement on my letter "This man must be handed up to Government" which might I think be fairly described as uncivil, improper and discourteous.

5. I adopted the wrong procedure in trying to get Mr Paul's evidence taken on commission,

but the District Judge did not "expect from me a knowledge of the most elementary principles of legal procedure", whilst I unfortunately made the mistake of expecting Mr Hammett to be conversant with ordinary official etiquette.

6. I submit that my letter No 1968 G.D. of 22d January 1895 should have been answered by the District Judge. It was written in the interests of the public service, and the Distt Judge would have best consulted those interests by answering it. The least he could have done was to have indicated the proper course for me to take, but to absolutely ignore a letter from the local head of a department on the ground of its informality, was I think decidedly unusual not to say discourteous.

7. I submit also that the District Judge was wrong in not answering my telegram of 21st February, and ~~equally~~ again wrong in sending a deferred wire in answer to my urgent telegram of 26th February.

8. Mr Hammett might have inferred from my urgent wire asking him to address Mr Paul c/o Steamer Agents Cocanada, that Mr Paul had left his Division and gone to Cocanada, with the intention of proceeding at once to Masulipatam by sea. If Mr Paul had not been starting for a day or two I should not have sent an urgent telegram.

9. Mr Hammett's deferred telegram informing Mr Paul that his evidence would be taken later on on commission was given to Mr Paul at Masulipatam where he arrived on the 27th February. He was informed that a steamer would leave for Cocanada the next day and decided to return by it. Mr Paul has just left for England and I cannot be certain of all the circumstances that influenced him in this decision. I know that he was most anxious to get back to his work and if he had waited to give his evidence he would have been delayed at Masulipatam for another week till the next steamer arrived. Of course he could have returned to his head quarters by Bezwada and Ellore, but he had made no arrangements for this journey, as he had been daily expecting to hear that his evidence could be taken on commission.

10 The fact of Mr Hammett at last condescending to answer my informal request shows that there was no insuperable objection to his answering it at first.

11. As he did not take this course wh I feel sure would have been adopted by most officers in his position, Mr Paul was put to much personal inconvenience, the work in a very important Delta Dn was hindered, and considerable unnecessa

expense had to be incurred by Government-

12. I felt that all this could have been easily avoided, and that there could be no proper reason for allowing it to occur- It was clearly my duty to protest against the inconsiderate treatment Mr. Paul had received, and though I should be extremely sorry if I had been led to write what could be correctly described as uncivil, improper and discourteous, I submit that my letter was a perfectly proper letter for one local head of a department to write to another.

I have the honor to be,
Sir,
Your most Obedient St.
A. Innes.
Supt. Engr. 1st Circle

P. W. CURRENT No. 3541

S. E. I. / 6 300—4-4-95

FROM A. H. Garrett Esq.

SUPERINTENDING ENGINEER

FIRST CIRCLE,

TO

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT.

Encls:

Recd: 7-5-95

DATED 1st
DESPATCHED 4th May 1895
RECEIVED

No. 96 Gl.

ENCLOSURES

SUBJECT.

Submitting certain information on the perusal of Ag. Registrar of the High Court of Judicature's letter

For orders
[illegible]
C A [illegible] 10/5-5-95

o/s 68
R 29/5

9

SUPERINTENDING ENGINEER
No 1/97 Gl
1 M
FIRST CIRCLE

Ons E.1
3526/5.5

CURRENT No.

No. 896. 1537

High Court of Judicature,
Madras, 26th March 1895.

From
D. W. G. Cowie Esquire,
Ag. Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To
The Honorable J. F. Price, C. S. I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

I am directed to forward a letter (together with its enclosures) dated the 14th instant, No. 838, addressed to Government by the Ag. District Judge, Kistna. The Honorable the Judges remark that the application to examine Mr. Paul on commission ought to have been made in Court through the Government Pleader. Mr. Paul appears to have gone to Masulipatam and it is not clear why he went back without giving his evidence. As he was actually on the spot, there was no need for the issue of a commission.

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

D. Cowie

Ag. Registrar

Enclosure No. I to letter from the High Court of Judicature, Appellate Side, Madras, dated 26th March 1895, No. 896.

SUPERINTENDING ENGINEER,
No. 2/97
1 MAY 95
FIRST CIRCLE.

On 5.2
3541/95

Letter (and enclosures) from the District Judge, Kistna reporting about the conduct of the Superintending Engineer, of the First Circle.

have ~~ever~~ FWH found it necessary to make a reference of this kind either to Government or to the Head of my Department complaining of discourtesy on the part of another officer.

I have the honor to be,
Sir,
Your most obedient Servant
FWHannett
Acting District Judge.

Comp'd
[illegible]

189 5
[illegible]
Enclos. No 1
To 1537
C.O.

unusual and irregular. I can quite understand that Mr Garrett is ignorant of the most elementary principles of legal procedure, but this appears to be no excuse for his writing an uncivil and improper official letter to an officer exercising judicial powers accusing him of causing the greatest inconvenience to another public officer by adopting what he Considers an unusual procedure. The wording of para 4 of Mr Garrett's letter No 822 G/D of 28.2.95 appears to me to be discourteous and improper and I leave it to the Government to pass such orders in the matter as they may deem proper.

8 I may mention that during the whole Course of my Service this is the first occasion on which I have

Government Pleader without any reference to him (Mr Malet)

6 On the 1st March 1895 I heard evidence in the suit. From what then transpired it was clear that Mr Malet's opinion that Mr Paul was a most material witness in the suit for Government, and that his evidence ought certainly to have been given in Court and not on Commission, was Correct. I would probably have had eventually to Summon Mr Paul again to give his evidence but on the 2nd March I found on going through the records that there were certain legal defects in the procedure adopted by the Plaintiffs, and dismissed the suit on a purely technical point of law, without going into the merits.

7 It will be clear from these facts that so far from my procedure being unusual it is Mr Garrett's procedure all through which has been both unusual

Duplicate

68

IN THE COURT OF the Dt. Judge AT Masulipatam

O. Suit No. 3 of 1894.

CHIEF SECRETARIAT
19 NOV. 1896
GOVERNMENT OF MADRAS

G.O. No 1017

PLAINTIFF.

The Superintending Engineer II Circle.

DEFENDANT.

To Mr. J. E. Paul, Executive Engineer
Godavery, Western Division

You are hereby summoned to appear in this Court [in person] on the 1st day of March 1895 at the hour of 10 1/2 in the forenoon [to give evidence] on behalf of the defendant in the abovementioned suit [and] to produce

and you are not to depart thence until you have been examined [or have produced the document] and the Court has risen, or unless you have obtained the leave of the Court.

A sum of Rs. ——————————, being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequences of non-attendance laid down in the Code of Civil Procedure, Section 170.

NOTE.—(1) If you are summoned only to produce a document and not to give evidence you shall be deemed to have complied with the Summons if you cause such document to be produced in this Court on the day and hour aforesaid.

2. If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

Given under my hand and the seal of the Court, this 11th day of December 1894.

(By order of the Court.)

Sd. Sabhapathi [illegible]
Sheristadar.

Dist C. No 1749/95

Enclosure
to letter No 838

SUPERINTENDING ENGINEER,
No.
20 DEC. 94
FIRST CIRCLE.

SUPERINTENDING ENGINEER,
No. 1/1349 GW
14 DEC 94
FIRST CIRCLE.

Nos. 125 & 126.

SUMMONS TO WITNESS.

Sections 159 and 163 of the Civil
Procedure Code.

From

the District Judge,
Kistna

J. E. P.
22 DEC. 94

J E Paul.
Exe. Engr.

Dated 11th } Decr. 94
Despd 11th }

SUPERINTENDING ENGINEER,
No. 9/97 W
1 - MAY 95
FIRST CIRCLE.

Ro 810
3561/95

Summoning Mr Paul Ex Engineer at
davery Western Division
appear in this Court,
person) on the 1st day
March 95 to give evidence
behalf defendant

No. 1851 G.W

68/2

FROM

A. H. Garrett Esq

SUPERINTENDING ENGINEER

FIRST CIRCLE.

Enclosures. 1

TO

THE District Judge
Masulipatam

DOWLAISHWERAM, 28 December 1894

SIR,

I have the honor to return herewith the duplicate copy of the summons× duly signed by Mr Paul Ex Engineer.

×d/11-12-94.

2. The original copy is retained by him.

I have the honor to be,
Sir,
your most Obedient Servt
A H Garrett
Supt. Engr. 1st Circle

Th.

R No 47 Gazette No 1799/95
8/1/95

S. F. I. / 4 600—31-7-94

FROM A. H. Garrett Esq
SUPERINTENDING ENGINEER
FIRST CIRCLE.

TO

THE District Judge
Masulipatam

DATED 28th December 1894.
DESPATCHED 5th January 1895
RECEIVED

O.S 3/94

NO. 1851 G.D

ENCLOSURES, 1

SUBJECT,

Summons. Returns the duplicate copy of the duly signed by Mr Paul.

R.S.
~~[illegible]~~ 3541/95

To lie over till hearing of the suit on 1/3/95
25/2/95

SUPERINTENDING ENGINEER
No 8/97
1

5
1537

306
28-1-95

69

No. 1968 G.D

FROM A. H. Garrett Esquire
SUPERINTENDING ENGINEER
FIRST CIRCLE.

Enclosures;

TO

THE District Judge
Masulipatam

O.S 3/94

DOWLAISHWERAM, 22 January 1895.
Despd 25/—

SIR,

With reference to this office No 1851 G.D dated 28th December/94 and subsequent letter from Government Pleader requesting Mr J. E. Paul Executive Engineer Western Dn Godavari to attend the Kistna District Court on the 1st March 1895 to give evidence in the suit filed by P. Seetaramaswami I have the honor to inform you that it will be extremely inconvenient for Mr Paul to be away from his Division especially in the busiest time of the year just before the annual closure, and to request that you will be good enough to arrange so that he may be examined by Commission in the Tanuku or Ellore District Munsiff's Court Godavari District

Mr Slevin stated that the party who took out summons for Mr Paul should move the Court by petition, when orders can be passed.

9

III

Dis Hle No. 1749/95.
Enclosure 3
to letter No 838.

F. 1
4 600-31-7404

FROM

SUPERINTENDING ENGINEER

FIRST CIRCLE.

TO

THE District Judge,
Kistna

DATED 22nd
DESPATCHED 25 } Feby 1895.
RECEIVED

SUPERINTENDING ENGINEER, No. 7/97 1 MAY 95 FIRST CIRCLE.

No. 1962 G.D.

ENCLOSURES.

SUBJECT.

DISTRICT & SESSIONS COURT, KISTNA RECEIVED

R.S.D.
3540/55

Stating that it will be extremely inconvenient for Mr Paul to be away from his station & requesting to arrange that he might be examined on Commission either in the Tanuku or Ellore District Munsifs' courts.

I have the honor to be
Sir
your most obdt. servant

Supdg. Engr. 1st Circle

E.D.
2371

---

(1)

To Place Coconada

To Person Mr Paul Executive Engineer
care of Hall Wilson & Co Coconada

Dated 26th February 1895

Your evidence will be taken later on on Commission.

(Sigd) F. H. Hamnett
Ag. District Judge

(2)

To Place Dowlaishweram.

To Person Mr. A H Garrett,
Superintending Engineer First
Circle.

Dated 26th February 1895.

Mr. Paul was informed evidence will be taken later on on Commission

(Sigd) F. H. Hamnett
Ag. District Judge.

(True Copies)

F H Hamnett
Ag. District Judge

Compd.

Enclosure 6
to letter No. 53 A

Index (1) 1704/95.

From

The District Judge,
Kistna

Dated 26th
Despd 26th } Feby / 95

Stating that Mr Paul's evidence will be taken on later on Commission

SUPERINTENDING ENGINEER
No. 4/4979
1 - MAY 95
FIRST CIRCLE.

(2)

Pw 55-5
3541/95

From

The District Judge.

Dated 26th
Despd 26th } Feby 1895.

Stating that Mr Paul was informed that his evidence will be taken on, on Commission

Vid
3

1537

Rc No 878
9-3-95.

No. 822 El

FROM

A H Garrett Esqr.

SUPERINTENDING ENGINEER

FIRST CIRCLE.

Enclosures.

This man must be handed of to Govt. Show me the references
FHF 9/3.

TO

THE District Judge
Masulipatam.

DOWLAISHWERAM, 28 February 1895.

Desp. 7th-3-95.

SIR,

With reference to your Deferred Telegram which reached me yesterday I have the honour to inform you that Mr Paul left Cocanada by steamer on the 26th.

2. In my urgent telegram sent at 7.30 A.m on the 26th. I particularly requested that you would wire to Mr. Paul at Cocanada, and if an urgent wire had been sent to him there on receipt of mine, he would have been saved the perfectly unnecessary trouble he has been put to, and his work would not have suffered by his absence at a particularly busy time of the year.

3. I requested you in my no. 1968 G.D 22-1-95

to let me know whether Mr Pauls' evidence could not be taken by Commission, and your attention was called to the urgency of the case by two subsequent telegrams.

4 I have to regret that neither my letter nor my first Telegram received any notice from you, and that in consequence of this unusual procedure you have caused Mr Paul the greatest inconvenience.

I have the honor &c.,

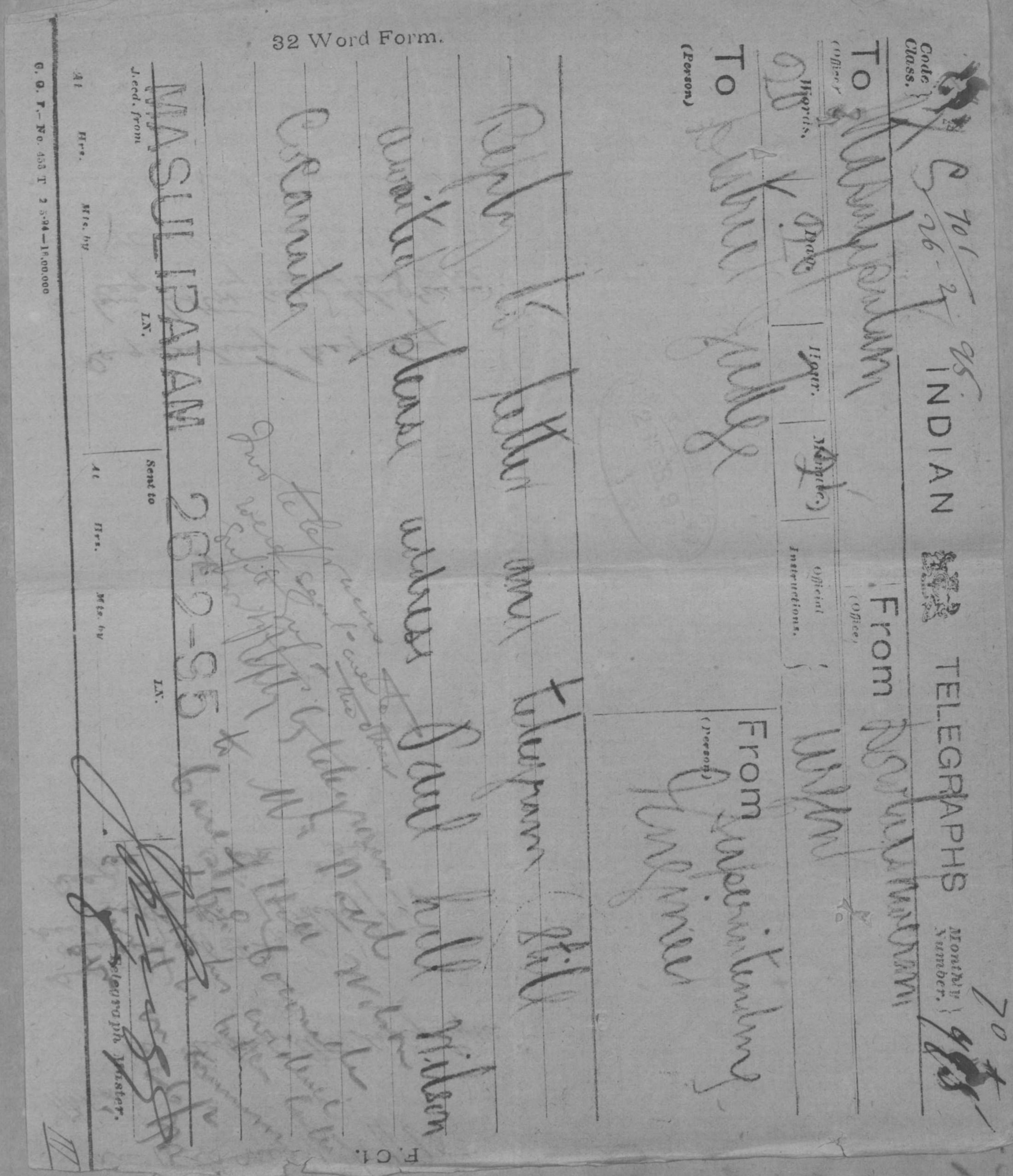
Sir

Your Most Obedt Servt

C. Munro

Supg Engineer

1st Circle



Code Class.	S 70/26-2-95
INDIAN TELEGRAPHS	Monthly Number. 70
To (Office) Masulipatam	From (Office) Dowlaishweram
Words 20	Day 26
Hour 7	Minute 25
Official Instructions.	W.Pm
To (Person) District Judge	From (Person) Superintending Engineer

Reply to letter and telegram still awaited please address Paul hill Wilson Cocanada

MASULIPATAM 26-2-95

Recd. from	I.N.	Sent to	I.N.
At Hrs. Mts. by		At Hrs. Mts. by	

Telegraph Master.

Two telegrams were sent – one to Supdt ~~the other~~ reply by telegram to Mr Paul Wilson [illegible] to [illegible] [illegible] evidence [illegible] commission [illegible]

G. O. P.—No. 453 T 2-3-94—15,00,000

32 Word Form.

F. C1.

Law H. C. No. 1749/95

From

The Superintending Engineer,
1st circle

Dated 20th Feby }
Desp'd 7th March } 1895.

No. 122 G. L.

SUPERINTENDING ENGINEER
No. 3/97
1 M
FIRST CIRCLE

1895

[illegible]
3544/95

forming that Mr Paul left
nada by steamer on the
and stating that if an urgent
had been sent to him there
ceipt of his, Mr Paul
d have been saved
unnecessary trouble he has
put to & his work would
have been suffered (& if his
nd first telegram received any notice
d would have been saved from
test inconvenience

List of papers forming enclosures to letter No. 38 dated 14th March 1895 from the Ag. District Judge Kistna to the Chief Secretary to Government.

1. Summons to Mr. Paul dated 11th December 1894 in O.S. 3 of 1894 Kistna District Court's file.
2. Letter No. 1851 G.D. dated 28th December 1894 from Mr. Garrett to the District Judge, Kistna, returning the above Summons duly served.
3. Letter No. 1968 G.D. dated 22nd January 1895 from Mr. Garrett to the District Judge Kistna asking the Court whether Mr. Paul's evidence may be taken on commission.
4. Telegram dated 21-2-95 from Mr. Garrett to the District Judge, Kistna.
5. Telegram dated 26-2-95 from Do. to Do.
6. Copies of telegrams dated 26th February 1895 from District Court to Mr.

Paul and Mr Garrett

7. Letter No. 822 G.L dated 28th February 1895 from Mr Garrett to the District Judge Kistna, remarking the procedure of the Court as unusual

F.H. Hammett
Ag District Judge

Compd
M.B.

SUPERINTENDING ENGINEER,
No. 10/97
1 - MAY 95
FIRST CIRCLE.

Dw53
3541/95

No. 828/

Kistna District Court,
Masulipatam
14th March 1895.

From
F.H. Hammett Esquire,
Ag District Judge.

To
The Chief Secretary to Government,
through the Registrar of the
High Court, Madras.

Sir,

I have the honor to submit, in original, for such orders as Government may deem proper, the enclosed letter No. 822 G.L, dated 28th February 1895, received by me from Mr Garrett, the Superintending Engineer of the First Circle, together with the previous references and to state that the facts of the case are as follows:-

2. Mr Paul was cited in O.S. 3 of 1894, (a pauper suit brought by certain ryots against the Superintending

Superintending Engineer of the 2nd Circle) as a witness on behalf of the Superintending Engineer. A summons was sent to him on 11. 12. 1894 to appear on the 1st March and the duplicate of this summons was returned duly served by Mr Garrett with his letter No. 1851, G.D., dated 28th ~ December 1894. Mr Garrett or Mr Paul might have at once communicated with the Government Pleader or the Superintending Engineer of the 2nd ~ Circle on whose behalf Mr Paul was cited as a witness, and asked either of these officers to take the necessary steps to move the Court to have Mr Pauls evidence taken on Commission. As a matter of fact, no such steps, as far as I am aware, were taken by Mr Garrett or Mr Paul in the matter, but on the 28 January 95 a letter was received from Mr Garrett (No. 1968 G.D. dated 22. 1. 95) in which he adopted the unusual procedure of addressing the District Judge by letter on a matter regarding which he should have taken steps to instruct the Government Pleader or some other person to make a personal motion in Court. Mr Garrett requested in his letter that Mr Pauls evidence might be taken on commission. The letter was received when Mr Elvin was in charge of the Court and the Court Sheristadar has endorsed on the letter in pencil the verbal order which Mr Elvin rightly passed on it, viz that it was for the party who summoned Mr Paul to move the Court in the matter in the usual way. Subsequently a telegram was received on the 21. 2. 1895 from Mr Garrett asking for a reply to his letter above mentioned. This telegram was received on the day before I took charge and no orders were passed on it by Mr Elvin. After I took charge the ~

the Correspondence was shown me by the Court Sheristadar on the first day I sat in Court after taking charge. I then passed the following order which appears below the docket on Mr Garrett's letter No. 1851 G.D dated 28.12.94.

"To lie over till hearing of the suit on 1.3.95"
"25.2.95
"F. A."

As far as I recollect I verbally consulted the Government Pleader before passing the above order in Court and ordered the matter to lie over as I was unable to decide whether Mr Paul's personal attendance could be dispensed ~~without~~ with FA without going into the merits of the suit in the presence of both the pleaders.

3 Subsequently I received a second telegram from Mr Garrett on the 26th February 1895 again asking for a reply to his letter. On receipt of this I again mentioned the matter in Court on the 26th February and the Pleaders representing both parties being present, I advised them, if possible, to agree to Mr Paul's evidence being taken on Commission, as it appeared to be inconvenient for him to attend in person. The Pleaders eventually agreed to this and I despatched the telegrams of which Copies are Enclosed dated 26.2.95 to Mr Garrett and Mr Paul. The telegrams were sent "deferred" as there did not appear to be any necessity for sending them "urgent", as there is railway Communication between Mr Paul's head quarters and Bezwada and Canal Communication from there to Masulipatam and it did not occur to the Court Sheristadar when despatching the telegrams that Mr Paul might start by the Steamer of the 26th February from Coconada.

4 It will be seen that in sending these telegrams and in obtaining the consent of the pleaders, to Mr Paul's Examination on Commission, I adopted an exceptional procedure purely to oblige the officers of the D. P. W. It was open to me to adopt Mr Elvin's previous procedure and refuse to take notice of informal communications on matters about which a motion should have been formally made in Court.

5 The next thing that I heard in this matter was that Mr Paul had arrived here on the 27th February 1895 but that he had received a telegram (presumably the telegram of the 26th February which I had sent him) and had gone back to Coconada on the 28th February by the B. I. S. N Steamer which called at Masulipatam on the 28th February on its way to Coconada.

This information I obtained unofficially from officers of the D. P. W in this District including Mr Malet, Executive Engineer, Guntur ~~Bezwada~~, who came here to instruct the Government Pleader in the suit. Mr Malet also mentioned to me unofficially that Mr Paul was the principal witness in the suit for the defence, (which was practically the Government, though nominally the Superintending Engineer) and that he (Mr Malet) would not have consented to his evidence being taken on Commission if he had been consulted in the matter. Mr Malet also expressed himself surprized, if I remember rightly, at receiving no communication from Mr Paul, even when he was here on the 27th and 28th February, and at an outsider like Mr Garrett, the Superintending Engineer 1st Circle, interfering in a suit in which he was instructing the Government

70

Code Class. } S 65 2

INDIAN TELEGRAPHS.

Monthly Number. } 824

To (Office) Masulipatam

From (Office) Nidadavole 26

Words. 20 | Day. 21 | Hour. 17 | Minute. 20 | Official Instructions. 0

To (Person) District Judge Masulipatam

From (Person) Superintending Engineer

DISTRICT & SESSIONS COURT, KISTNA.
21 FEB. 95
RECEIVED

Please wire Reply to my letter asking whether pauls evidence can be taken at Nellore by commissioner

Recd. from MASULIPATAM 21-2-95

At Hrs. Mts. by | Sent to At Hrs. Mts. by

Telegraph Master.

32 Word Form.

C. G. P.—No. 151 T—3-5-94—16,00,000.

[illegible]

Enclosure 4

[illegible] enclosure A.B.

SUPERINTENDING ENGINEER,
FIRST CIRCLE.
No. [illegible]
1 MAR 95

From

the Superintending Engineer

Dated & Recd } 21st Feby/95

Recd. 21st Do

D.S.C
3 Sept/95

Requesting reply by wire whether Mr Pauls evidence can be taken on Commission

1537