



Proceedings of the Board of Revenue

(Land Revenue),

Dated 9th June

1893,

No. 3485 Ms

READ

the following letter from J. N. M.
- Kinson Esq. Collector of Kistna, to
the Secretary to the commissioners
of Land Revenue dated 5th May 1893
Dis No $\frac{1350}{ver}$.

I have the honor to
forward herewith copy of my pub.
Collector's letter No 395, dated 18-5-93,
wherein he reports on the discovery
of certain Treasure Trove.

2. I have issued orders
to the Tahildar of Guntur to
forward

forward the gold ingot to the
Muzoor Treasury.

3. The ingot now discovered
seems to be one of, or a part of
one of, those that escaped detect-
-ion when enquiries were insti-
-tuted by Mr. Lemann in 1876
(vide B. P. No 930 of 5-4-1876.)

(vide p. 14 57- the
other side in the B. P.)
P.V.V.
1876-77 (partly)

It is possible however that the
individuals in whose house it
was found may claim that the
gold came into their possession
in an ordinary and lawful manner.

4. I have forwarded a
notification under section 5 (a) of
the Indian Treasure Trove Act 1878
for publication in the several
Presidency Gazettes and in the
Gazette of India as directed
in

in Government Order, No 39, dated
15th January 1891, Public, calling
for claimants to the treasure and
posting the date of enquiry to 30th
October 1893. I have also issued
notices under section 5(b) for service
on the three brothers mentioned in
the Pub. Collector's letter.

5. The Pub. Collector's informant
is one Mr. Carlier, son of Mr. Carlier,
who gave information in 1876 to
Mr. Lemann about the discovery of
a large number of gold ingots and
their appropriation by tank-diggers.
A copy of an unsigned appli-
-cation apparently emanating
from Mr. Carlier asking for a
reward for his services, is enclosed.
There is very good reason to think
that

that Mr. Carlier was playing a double game: and in any case, as the application in question is unsigned, I do not intend to take any notice of it.

6. The result of the enquiry to be held under section 5 of the Act will be reported in due course.

Resolution.

The Collector's letter read above will be submitted to Government with the following remarks.

2. There was no need for the Collector to report the occurrence to the Board, as he deals with matters connected with Treasure Trove immediately under

under the orders of Government. It does not even appear that he was bound to report the matter to Government.

3. The Board observes, however, that the procedure adopted by the District Authorities appears to be open to objection. So far as the papers before the Board show, the Sub. Collector accompanied by the Assistant Superintendent of Police, entered a house occupied by several persons, made a general search, digging freely in all directions, and found a gold ingot. There was no evidence that the Board is aware of, which would show that the house owners had found any treasure. Any private person may conceal treasure in his

his house, and it is not open to the Revenue Authorities or the Police to enter and search for the same, or compel him to give information regarding it. The procedure adopted by the District Authorities in the present case seems to have been unauthorized by law, as they do not purport to have acted under sections 96-98, or 155 of the Criminal Procedure Code, and ~~the~~ action even if purporting to have been taken under that Code would have been irregular.

4. The Board takes this opportunity to point out the defective character of the Treasure Trove Act (V of 1878) with respect to enquiries for unreported treasure

treasure trove. There is no provision in the act empowering the Collector to make any enquiry, except after the receipt of a notice under section 4 from the finder. This defect is not remedied by the rules framed under section 19 of the Act. In the present case illustrates, it is usually on presumption alone that enquiries are made by the Revenue Officials, which lead to the detection of unreported treasure trove. But, as the protection accorded to the Collector by section 17 of the Act applying only to acts done in the exercise of powers conferred by the Act, such enquiries, when called in question, cannot be defended

defended. Nor can the Police Department, on the receipt of information, take steps to make a search for treasure trove in the first instance. Failure to give the notice required by section 4 of the Act is punishable under section 20, but the offence being non-cognizable, the Police cannot interfere without the orders of a Magistrate.

5. It is a point for the consideration of Government whether the difficulty could be removed by a rule made by the Governor in council under section 19 of the Act. In the meantime, the only legal method of searching for treasure trove appears

appears to be for the Revenue official concerned to move a Magistrate under section 191(c) of the Criminal Procedure Code to take cognizance of the suspected offence, and to order the Police to make enquiries under section 155 thereof. This procedure is not, however, unexceptionable, as it is not always necessary or desirable to prosecute an offender under section 20 of the Treasure Trove Act.

6. There is another point on which an authoritative ruling is needed. If, in the course of the prosecution of a person under section 20, treasure trove is discovered

— covered

discovered, and produced before
the Magistrate, it is not clear
how it should be dealt with.

Apparently the Magistrate
should send it on to the
Collector, who will then treat
the Magistrate's communication
as a notice and follow the pro-
cedure laid down in the
Treasure Trove act.

/True copy and Extract/

Deccan
Acting Secretary

To
The Secy. to Govt R.D. ✓
with 3 Encls in
orig to be ret'd
the Collr of Dist.

1783
 Public Revenue 1893. Dept
 Board of Revenue
 (Land Revenue),
 MADRAS.

Current Number 4429.

To

The Secretary to Government
 Revenue Department



13 JUL 93

Recd 19 June Encl. 3.

Proceedings, dated 9. 6. 189
 No. 3485, Mis. Routine. Enclosures. 3

Subject.
 Submitting to Government with
 remarks & report from the
 to officers of District on the discovery
 of gold of an irregular

End. (Mis) 24/3

Transferred to the Public Dept

Notarandum

1st July 1893 } Chatterjee
 Secy to Govt. R.D.

R.V.S.

30/6 SK

Madr. 3/7

B.P. 9300 S 4
 10 27 10
 10 43 24 20
 10 16 32 10 10

Public Revenue

Cur 1783

For orders

Initial proceedings read above the Board
 of Revenue notices two defects in the
 Treasure Trove Act VI of 1878. The first is
 there is no provision empowering the Collector
 to make any inquiry ^{regarding the} ~~proceedings~~ ^{treasures}
 except on receipt of a notice under section 14,
 from the finder. The Board suggests that this
 omission may be supplied by a rule framed
 under section 19. It does not appear however
 that it is the intention of the Legislature that any
 inquisitorial searches should be made ^{of the}
 hidden treasures. Section 20 provides a penalty
 for failure to give notice under section 14 and if
 any prima facie case can be made out
 against any one failing to give notice he can
 be prosecuted under that section. This seems to
 be all that is necessary. The procedure of the
 Revenue Authorities in the present case appears to
 be extremely objectionable as observed by the
 Board.

This would be
 ultra vires.
 W.S.

2. The second defect pointed out by the
 Board is there is no section under which treasure
 trove discovered and produced in the course of
 a prosecution under section 20 can be dealt with.
 In such a case however the finder forfeits his
 share under section 20 but the owner of the land
 seems to be entitled to his ^{share} provided he is not
 aabetor of the offence. The latter has apparently
 established his right to his share before he can

for this purpose
 it does not seem to be necessary for
 the Collr to follow the procedure laid down
 by the Act. At any rate the Magistrate
 cannot send any notice to the Collr as
 suggested by the Board as he is not the
 finder and under section 4 it is the finder
 that has to do it.

The Board's remarks may however be
 brought to the notice of the Govt of India
 that they may receive ^{attention} ~~consideration~~ whenever
 the amendment of the Act is taken up
 into consideration.

I do not see that anything need
 be done in either case. In the
 instance given by the B^d. Section
 517 C.C.D. allows of the Magistrate
 handing over the treasure to the
 Collr who can then deal with
 it under the Treasure Trove Act.

1917
 20 July

C 1917-
 22/17



PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper :—

Order, 26th July 1893. No. 582.

The Govt agrees with the Board of Revenue
 in its remarks in paras: 2 & 3 of its Proceedings
 read above. With reference to para 2 it is observed,
 that a rule under section 517 of the
 Criminal Procedure Code on the lines suggested
 by the Board would be ultra vires it is not the
 intention of the legislature that any inquiry
 or trial searches should be made as regards
 hidden treasures. If any prima facie case
 can be made out against anyone failing to
 give the notice required by section 4 he can be
 prosecuted under section 20 and this is
 all that is necessary.

B. As regards para 6, it will be pointed out
 to the Board that section 517 of the Criminal
 Procedure Code allows of the Magistrate
 handing over the treasure to the Collector who
 then deals with it under the Treasure Trove Act.
 [From order of 1893]

DESPATCHED

1 JUL 29
 IN M.S.

To the Board of Revenue (Land Revenue) copied
 into 3 Encl. No. 31/17

