

Public (1896) Department.

ORDINARY PRINTED.

G.O., No. 969

DATED 7-9-96

INDEXED.

[Despatch Abstract.]

Chemico-legal Examⁿ.

Expressing the opinion of Govt. that the Chemical Examiner was to blame for the course followed by him & for the great ^{delay} which in ^{consequence} occurred in the examⁿ of the suspected matter vomited by Lt. Newell, the officer in charge of the detachment of the 28th Madras Native Infantry at Trichur in the Cochin State; and stating that the question as to the procedure which sh^d. be adopted in future in similar cases will be considered in the Pol^t. dept.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C	1008 of 1897			1458	6-2-97		

Government { 1896 } of Madras. PUBLIC,

Recd.

Enclosures

Regd.

1896.

Spare copies

G.O., No. 969, 7th September 1896.

SEPTEMBER.

Chemico-legal Examination.

Expressing the opinion of Government that the Chemical Examiner was to blame for the course followed by him and for the great delay which in consequence occurred in the examination of the suspected matter vomited by Lieutenant Newell, the Officer in charge of the detachment of the 28th Madras Native Infantry at Trichur in the Cochin State; and stating that the question as to the procedure which should be adopted in future in similar cases will be considered in the Political department.

GOVERNMENT OF MADRAS.
PUBLIC DEPARTMENT.

READ—again the following paper :—

G.O., No. 284, Public, dated 25th February 1896.

READ—also the following paper :—

From the Acting Surgeon-General, dated 27th July 1896, No. 329.

ORDER—No. 969, Public, dated 7th September 1896.

From the papers submitted to Government with the letters above recorded, it appears that on the evening of the 20th September 1895, Lieutenant Newell, the Officer in charge of the detachment of the 25th Madras Native Infantry at Trichur, in the Cochin State, was seized with vomiting and continued to be unwell until next morning. He was attended by Hospital Assistant Simon Francis, and both apparently regarded the illness as due to dyspepsia. Between the 21st and the 22nd idem, however, suspicion arose that poison had been administered with Lieutenant Newell's food, and on the 23rd that officer made a written complaint to the Inspector of Police at Trichur against his cook, one Michael, who was accordingly arrested on suspicion of attempt to poison and was detained in custody until the 30th idem, when he was released on bail.

2. Surgeon-Major Pemberton, who was the Medical Officer in charge of the detachment as well as the Civil Surgeon of Cochin, arrived at Trichur on the 23rd and was at once informed by the Hospital Assistant of what had occurred. He thereupon visited Lieutenant Newell, and after making enquiries took possession of some vomited matter that had been allowed to remain in the bath-room. This was properly packed and was sealed in the presence of an Inspector of the Cochin Police, who promised to report the matter at once to the Sub-Magistrate. The box containing the suspected matter was forwarded by Surgeon-Major Pemberton with a letter and a statement of the case direct to the Chemical Examiner, Madras, on the 2nd October. That officer received it on the 3rd idem, but instead of examining it at once replied to Surgeon-Major Pemberton that he could not do this without the order of a Magistrate or the Police required by rule 2 of the rules embodied in G.O., No. 685, Public, dated 24th August 1893, which, it is to be observed, do not apply to Native States. Surgeon-Major Pemberton then applied to the Sub-Magistrate for the order called for by the Chemical Examiner, but he, on the grounds that the suspected matter had been submitted direct to Madras and not through his court, and that there was no provision for corresponding direct with British officers, expressed his inability to grant it. Copies of the correspondence were duly forwarded to the Chemical Examiner by Surgeon-Major Pemberton, but Surgeon-Major VanGeyzel still refrained from examining the vomited matter sent to him; and on the 13th November—very nearly six weeks after it had reached him—addressed the Resident in Travancore and Cochin, by whom all the circumstances were finally placed before Government for orders. It was not until the 27th November, or thereabouts, that the Chemical Examiner, fearing, so he has stated, "failure in the search for poison on account of decomposition," examined the

vomited matter received by him on the 30th October. It was then found to contain over three grains of white arsenic. In the meantime, Lieutenant Newell had proceeded to Europe on medical certificate, and no further proceedings could be taken.

3. His Excellency the Governor in Council is constrained to express the opinion that Surgeon-Major VanGeyzel was to blame for the course followed by him and for the great delay which in consequence occurred. It was, under the circumstances, obviously his duty not to have wasted time in corresponding with regard to what was a mere technical objection and a rule which he ought to have known could not apply to a Native State, but to have at once examined the article forwarded to him by Surgeon-Major Pemberton and intimated the result to that officer, reporting at the same time, if he thought fit, to the proper authority the irregularity which he considered had been committed. Had he done this, the detection of the person who is suspected of having attempted to poison Lieutenant Newell would probably have ensued.

4. Surgeon-Major Pemberton would have exercised a wiser discretion had he, on learning the difficulty raised by the Chemical Examiner, at once reported the matter to the Resident and requested him to deal with it.

5. Surgeon-Major VanGeyzel is distinctly not entitled to any fee for the examination made by him in this instance. The suspected matter was forwarded to him for examination by a British Commissioned Medical Officer and the person suspected to have been poisoned was a Commissioned Military Officer who was on duty as such in a Native State and under the medical charge of Surgeon-Major Pemberton.

6. The question as to the procedure which should be adopted in future in similar cases will be considered in the Political Department.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Surgeon-General.
" the Chemical Examiner.
" Surgeon-Major J. L. VanGeyzel.
" the Resident in Travancore and Cochin (through the Political Department).
" the Political Department.

Erd. Shaik Karim.

Current No. 422: 1



15 Gunterstone Road
West Kensington
London W.

From.

Surgeon-Major R. Pemberton
J. M. S.

C4/9

To the Secretary to the
Surgeon-General
With Government of Madras
Madras.

4th June 1896

Sir,
With reference to order of the
Government of Madras No 284, dated
25th February 1896, I have the honour
to submit the following explanation
with reference to Lieut. Newell's case.
On my arrival at Trichur on the 28th
September 1895, I was informed by
the Medical Subordinate of the
Regimental Hospital that Mr. Newell
had been seriously ill and that there
was a suspicion of his having been
poisoned by his cook.

2 I immediately went to his house
and took possession of the vomited
matter that remained in his bath room.
The Inspector of Police arrived a short

Ag: Surgt. Genl. with the Govt. of Madras.

in the presence of Mr. Newell and Mr. Engineer of the Cochin State, I was promising to report the case to the Magistrate, who was made by him of an order being necessary for the Chemical Examiner. I really did not know at the time what procedure to adopt in a case occurring in a Cantonment in a Native state.

With reference to Paras 8 + 9 of the British Resident's letter to the Chief Secretary to the Madras Government dated 26 December 1895. I beg to state that immediately I found that an order was needed by the Chemical Examiner, to save delay, as my Head Quarters were 45 miles from Trichur I directed the Medical subordinate in the Regimental Hospital Trichur to obtain the requisite order from the Police Inspector, and I was informed that the Magistrate refused to grant one on the following ground "that the submitted matter in question was not submitted with the intervention of the Court." I enclose copies of the correspondence relative to the above.

I also personally saw Mr. Gunther the Superintendent of the Police of the Cochin State about the matter and he said

said that as the case was on his file the Police could not interfere.

5 I beg to express my regret in adopting the rules laid down by the Madras Government regarding suspected substances sent to the Chemical Examiner for medico legal purposes. I also beg to express my regret for not bringing promptly to the notice of the British Resident the refusal of the Cochin Magistrate and Police Inspector to grant the order required by the Chemical Examiner.

I have the honor to be

Sir

Your most obedient servant.

A. Herbert

Surgeon Major

Trichur

(121)
No. 329

OFFICE OF SURGEON-GENERAL

WITH THE GOVERNMENT OF MADRAS,

Madras, the 27th July 1896.

From

Colonel D.F. Bateman,
SURGEON-MAJOR-GENERAL ~~FR. C. P. I.~~

Ag: SURGEON-GENERAL WITH THE

GOVERNMENT OF MADRAS, JUL 96

UNDER SECRETARY
PUBLIC & DEPT.

To

THE HON'BLE THE CHIEF SECRETARY TO GOVERNMENT,

Public DEPARTMENT.

SIR,

With reference to G.O.No.284, Public, dated the 25th February 1896, I have the honour to forward herewith Surgeon-Major Pemberton's explanation of his conduct in connection with Lieut: Newell's case.

2. As regards the question of the relations which should exist between the Chemical Examiner and (1) the authorities of the Native states and (2) British Officers circumstanced as Surgeon-Major Pemberton was, I am of opinion, in consultation with the Chemical Examiner, that these relations should be the same as those already existing between the Chemical Examiner and other Magisterial and Medical Officers. These are plainly indicated in G.O.No.685, Public, dated the 24th August 1893, which lays down the rules for the guidance of all concerned. If, however, special permission is granted to Magisterial and Police Authorities in Native States to communicate direct with the Chemical Examiner, it would expedite the Examination of matters in cases similar to the one now under reference.

3. The enclosures of the G.O.under reply are herewith returned as requested. The delay has been due to Surgeon-Major Pemberton's being on furlough.

I have the honour to be,

Sir,

Your most obedient Servant,

D. F. Bateman

Surgeon-Colonel,

Ag: Surgn. Genl. with the Govt: of Madras.

(1896.) Public DEPARTMENT.

From Colonel D. F. Batenan,
SURGN.-MAJOR-GENERAL C. SIBTHORPE, F.R.C.P.T.,
AG: SURGEON-GENERAL WITH THE
GOVERNMENT OF MADRAS,

The Surgeon General
is requested to express
his opinion of the
conduct of Surgeon
Major Pemberton
in the matter.

No. 329

Chief Secretary
J. D. B.
5/8/96.

Dated 27th July 1896.
Received 29

Regd 30-7-96

Enclos - 30. (8 subcl 12 ans.
Pol. C. no. 3/96 with end.
Subject. rels)

Forwarding with remarks Surgeon-Major
Pemberton's Explanation of his con-
duct in connection with Lieut: Newell's
case.

G.O.
25 A.
1,903-21-3-96.

Public DEPARTMENT.

C. No. 2444 of 1896

Agree with the C.S. FOR ORDERS.

The Chem. Examt. was dis-
tinctly & blame for his absurd
insistence on form.

Dr. Pemberton might cer-
tainly have had the sense to
apply to the R. S. as soon
as he found there was a hitch.
J. D. B.

See the Note in G.O. No. 204
dated 25. 3. 1896.
The case is altogether a peculiar one and
I do not know exactly which would have
been the correct course to follow. I consider
however that the Chemical Examiner having
found ~~himself~~ on receipt of the letter from
Dr. Pemberton dated 3. Oct. /95 and
its enclosures have at once examined
the vomited matter sent and reported
against which he regarded as an irregularity.
It was in possession of the fact that
by an attempt was supposed to have
been made to poison a British Officer
in a Native State (the examination sub-
sequently made showed that this was the
case) & the matter to be examined
had been sent to him by the Officer
medical attendant, himself a British
Commissioned Officer and yet though
he received the letter and box containing
the vomited matter on the 3. Oct.
it was not until the 27. Nov. or
thereabouts that he examined the
article sent. The time which inter-
vened was spent corresponding about
an order which under the rules
holding in British Territory & which
do not apply to Native States should be
sent before an ~~Chemical~~ Analyst is

of a substance captured to contain poison
could be made by the C. Inman.

I am not quite sure that this was
not with a view to saddling the
Cochin Govt. with the payment
of a fee. Dr. P. I always looks very
sharply after his point.

Dr. Sturtevant's position is that he has
of this Civil Surgeon of British Cochin,
but he is also Medical Officer in
charge of a detachment at Trichur
which is in Native Cochin. Thus
the rules regarding the transmission
of substances for chemical exam-
have no force and the Police &
Magistrate are not bound by
the orders of Govt.

When Dr. I asked if he cared
at all was not in not doing
one of his things viz either handing
the suspected matter over to the
Police and leaving them to get
an order from the Magistrate or
having the Magistrate to send
the substance direct to the C. In-
taking him to analyze it (a
course that I do not know has
any precedent) or to have taken
kept it in his custody and
requested the Police to move
the Magistrate to make out
an order. But if the Magistrate
had agreed to issue such an
order, that was Dr. Sturtevant
to do which with the bonded
matter in his possession which
was distinctly of a very pernicious
character. It would no doubt
have been days before the Govt.
the order out of the Magistrate
of the Govt. at all and for all

FOR ORDERS.

H. M.

G.
25 A.

1,900-21-3-96.

DEPARTMENT

C. No.

FOR ORDERS.

That he knew it might by then have
become impossible to detect poison
even though it existed. This would
have been the case if the Agent-
employed had been say that
by common one nature.
He ought no doubt have handed
up the matter at once to the
Needham. Instead of doing this
he wasted time over correspondence
with a view to getting the order
which was demanded.

That he did appear to have been the
victim of an error of judgment for
which he could at the worst have
he I submit but slightly censured,
if censured at all. It was not owing
to anything that he did but to
the persistence of the C. In- in insisting
upon compliance with a form, that
means to ascertain whether that
Lt. Howell mounted contained
person or not were not promptly
taken. If they had been the
result would have very possibly
been different from what it has
been and that it would be
hardly would probably have
been brought to justice. It was
the delay in making the analysis

which led heavily up not entirely to
the case breaking down and it
was the Chemical Examiner and
his technical objection which
were responsible for this.

Dr. J. G. is I submit not entitled
to any fee for the analysis
in this case. It was the case
a case coming from a Native
State but it was one in which
Govt. was directly interested
and the substance examined was
sent up by a British Commissioned
Officer and had the order signed
by the rules in force in British
Territory been issued it would
have been sent up at the
request of that Officer.

As regards what should be
done with respect to future
similar cases, Govt. has no
power to issue any orders
but there seems no reason
why the Resident should
not be told to advise the
Ambassador to issue instructions
to the Magistrate & Police
that in such cases as a case of suspected poisoning
a British Medical Officer
whether Commissioned or
not applies for an order
of the nature of that contemplated
in our rules, the Magistrate
or District Officer of
Police applied to should
issue that order.

If this arrangement is made
it would be necessary to instruct
the C. S. that he must comply with
such orders No. 1578/96

FOR ORDERS.

H. M.

In lieu of para 5 of the
draft I would suggest
"The question of the
procedure to be adopted
in future similar cases
arising in Native States
will be dealt with
in the Pol. Dept."

The draft is forwarded
to H. S. for consideration
can

Political dept:

Public Dept

With reference to para 5 of the
Public draft G.O., it is thought that
the course suggested there may lead to
difficulties. In Native States the Brit-
ish Medical Officer would ^{apparently} be concerned
only in cases which arise in cantonment
in those States or within the Residency
limits and the Darbar would probably
object to the terms of para 5 of the
draft, as it appears to give such an ^{the} Offi-
cer right of interference in any case
of suspected poisoning. As pointed out
in the note stitched with G.O. No. 284, d/
25-2-96, Trichur, although it should be a
cantonment, is not a cantonment. The same
is believed to be the case with Quilon
also and there are papers on this point
pending in the Judl. dept. Were the ques-
tion of cantonments in the States of
Travancore and Cochin on a satisfactory
basis, it would be sufficient to extend
the rules in G.O. No. 285, d/ 24-2-96 to
the authorities in those cantonments and
a further extension of the rules to
Residencies would fulfil all the require-
ments so far as ^{our} ~~are~~ relations with
Native States ^{are} concerned; but under pre-
sent circumstances this is not feasible
as regards cantonments. Perhaps under
all the circumstances of the case it
would be better to direct Political
Officers to advise the Darbars of the
Native States under the control of this
Govt.

Govt. to adopt the rules in G.O. No. 685 of 1893 mutatis mutandis. The Barbers might be informed that the Govt. would have no objection to the Chemical Examiner complying with orders for the examination of suspected matters sent to him from Native States in accordance with rule 2 of G.O. No. 105 of 1893, the Magtes., Supts. and Asst. Supts. of Police to be recognized being distinctly specified by each Barber.

*C.S.
25.5.96*

H.E. The Governor.

*As it contains a census (para 3)
of S. in Pan Geyzel is
3/9/96*

18
Public Department

Read again G.O. No. 384, Public, dated 25th February 1896.

Read also C. No. 2444 A/ 27-7-96.

O R D E R *N^o 969. 27th September 1896.*

From the papers submitted to Government with the letters above recorded, it appears that on the evening of the 20th September 1895, Lt. Newell, the Officer in charge of the detachment of the 28th M.N.I at Trichur, in the Cochin State was seized with vomiting and continued to be unwell until next morning. He was attended by Hospital Assistant Simon Francis and both apparently regarded the illness as due to dyspepsia. Between the 21st and the 2nd idem, however, suspicion arose that poison had been administered with Lt. Newell's food and on the 23rd that officer made a written complaint to the Inspector of Police at Trichur against his cook, one Michael, who was accordingly arrested on suspicion of attempt to poison and was detained in custody until the 30th idem when he was released on bail.

2 Surgeon Major Pemberton, who was Medical Officer in charge of the detachment, as well as the Civil Surgeon of Cochin arrived at Trichur on the and was at once informed by the Hospital Assistant of what had occurred. He ~~once~~ *thereupon* visited Lt. Newell and after making

encl.

enquiries took possession of some ~~vindict~~
~~ed~~ matter that had been allowed to remain in the
~~case~~ in the bath room. This was pro-
perly packed and was sealed in the pre-
sence of an Inspector of the Cochin
Police, who promised to report the
matter at once to the Sub-Magistrate.
The box containing the suspected matter
was forwarded by Surgeon Major Pemberton
with a letter and a statement of the
case direct to the Chemical Examiner
Madras on the 2nd October. That of-
ficer received it on the 3rd ~~idea~~ ~~and~~ ~~later~~
instead of examining it at once replied
to Surgeon Major Pemberton that he could
not do this without the order of a
Magistrate or the Police required by
rule 2 of the rules embodied in G.O.
No. 685, Public, dated 24th August 1893,
which it is ~~the~~ observed do not apply to
Native States. Surgeon Major Pemberton
then applied to the Sub-Magistrate
for the order called for by the Chemi-
cal Examiner but he, on the grounds
that the suspected matter had been
submitted direct to Madras and not
through his court and that there was
no provision for corresponding direct
with British Officers, expressed
his inability to grant it. Copies
of the correspondence were duly for-
warded to the Chemical Examiner by
Surgeon Major Pemberton but Surgeon
Major VanGeyzel still refrained from
examining the vindict matter sent
in and on the 15th November, very

nearly

*I would rather avoid the use of the
word 'matter' here. We have already used
it so much. I should would suggest
the substitution of 'the substance'
'all the circumstances were'*

nearly six weeks after it had reached
him, addressed the Resident in Travanco
and Cochin by whom ~~the~~ ^{all the circumstances were} ~~the~~ matter was final-
ly placed before Government for orders. It
was not until the 27th November, or there-
abouts, that the Chemical Examiner feared
so he has stated, "failure in the search
for poison on account of decomposition"
examined the vindict matter received by
him on the 30th October. It was then
found to contain over three grains of
white arsenic. In the meantime, Lt.
Newell had proceeded to Europe on Medical
Certificate and no further proceedings
could be taken.
3 His Excellency the Governor in
Council is constrained to express the
opinion that Surgeon Major VanGeyzel was
~~very much~~ to blame for the course follow-
ed by him and for the great delay which
in consequence occurred. It was, under
the circumstances, obviously his duty not
to have wasted time in corresponding
with regard to what was a mere technical
objection and a rule which he ~~might~~ ^{ought to} have
known could not apply to a Native State,
but to have at once examined the article
forwarded to him by Surgeon Major
Pemberton and intimated the result to
that officer, reporting at the same time,
if he thought fit, to the proper authority
the irregularity which he considered had
been committed. Had he done this the
detection of the person who ~~undoubtedly~~ ^{undoubtedly}
attempted to poison Lt. Newell would prob-
ably have ensued.

First copy sent to Press. 10/9

Returned for signature. 17/9

Despatched in print.

READ AGAIN G.O., No. 189

DATED

CURRENT No.

ENCLOSURE TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PATENT NOT FILED UP. BEING MEANT FOR DISPATCH IN ORIGINAL

10 Copies

N.B. —

A = Print in full.
B = Not to be printed
C = Print abstract only
not heading only.

NUMBER OF COPIES REQUIRED. { Order complete. Letter only. Order complete with letter.

4. Surgeon Major Pemberton would have exercised a wiser discretion had he on learning the difficulty raised by the Chemical Examiner at once reported the matter to the Resident and requested him to deal with it.

5. Surgeon Major VanGeysel is distinctly not entitled to any fee for the examination made by him in this instance. The suspected matter was forwarded to him for examination by a British Commissioned Medical officer and the person suspected to have been poisoned was a Commissioned Military officer who was on duty as such in a Native State and under the medical charge of Surgeon Major Pemberton.

6. The question as to the procedure which should be adopted in future in similar cases will be considered in the Political Department.

C.S. Draft

18/9/96

To the Surgn. Genl. 4
Chemical Dept. 1
Surgeon Major J. L. Van Geysel.

The Resident in S. & C. 1
(through the Pol. Dept.,
Political Dept 1
(with the f.d. in origl.)

Draft
18/9/96