

Madras Record Office

Government of Madras.

Revenue Department

G.O. No. 602

Dated 30th April to 3rd May 1859.

*Proceedings of the Madras Government, Revenue Department,
from 30th April to 3d May 1859.*

No. 23. Read the following Extract from the Minutes of Consultation in the Military Department; dated 4th January 1859, No. 40.

Communicating certain documents relative to persons convicted of charges connected with spirituous liquor and requesting that the documents may be returned when no longer required. (Vide Military Cons. 4th January 1859, Nos. 78-79.)

No. 24. ORDER THEREON, 3rd May 1859, No. 602.

1. In compliance with the requisition made for the third time in Extract Minutes Consultation in this Department dated 18th November 1858, No. 1547, for the original record of all Abkarry cases disposed of in the office of the Superintendent of Police at Saint Thomas' Mount in the months of September and October 1857, and his orders for the *individual* distribution of the fines imposed in them, the First Assistant Adjutant General's letter communicated with the Military Extract recorded above, lays before Government depositions chiefly in Tamil, Statements of cases, and a Memorandum by Lieutenant Colonel Crewe, Superintendent of Police at the Saint Thomas' Mount Cantonment.

2. The Statements now furnished contain thirty-two cases of two kinds, viz. fourteen of offences against the Abkarry rules, and eighteen of crimes against the Law or Public Peace, such as Burglary, Larceny, reception of stolen property, or receiving valuables under false pretences, &c. In one Police and ten Abkarry cases between August and November 1857, fines to the amount of 170 Rupees were imposed, of which 85 Rupees, or one half, was divided between the Cutwall and informing Peon; while in the remaining twenty-one cases, during the same period, being seventeen Police and four Abkarry, wherein no fines were imposed but the accused were otherwise punished, the sum of Rupees 147-8 was disbursed in rewards to the Cutwall and his subordinate peons, of which amount the Cutwall himself took no less than 120½ Rupees, or 82 per cent., and left only 27 Rupees, or 18 per cent., to his subordinates. The Cutwall's share of the 85 Rupees disbursed as above noticed, is not shewn; but it appears from a foot note attached to a table prefixed to the Memorandum of the Superintendent of Police, that according to his own admission the Cutwall took 10 Rupees to the Peon's one. Colonel Crewe appears to have put a stop to these practices from the time of his assuming charge of the Cantonment Police in June 1858.

3. It is thus established that half the amount of Abkarry fines, as already noticed by Government in their orders of the 18th November 1858, has been usually paid to the Cutwall and informers; and that the other half though nominally credited to Government, has been subsequently expended in rewards to that official and his subordinates for the detection of crime, and also, that the Cutwall's share in both cases has amounted to 80 or 90 per cent. of the whole. Thus Mr. Cunliffe's statement in his letter of 6th November 1857, that the Cutwall largely participated in the fines, is fully sustained; and Brigadier
* Letter December 22d 1857, para. 4. Shirreff's denial* is proved to be opposed to fact; he having no doubt been deceived by the Cutwall himself.

4. The appropriation of the moiety of the Abkarry fines credited to Government, in rewards to the Police, is illegal. Disbursements from fines in Abkarry cases, can only be made under Section 9 of Act XVIII. of
* Para 34, Ex. Mins. Con. April 19th 1858, No. 493. 1853, which has been declared* to See also Ex. Mins. Cons. July 27th 1858, No. 1043. give all the authority that the officers at the Mount can now legally exercise, in supersession of all other Regulations or by-laws connected with the Abkarry. All such disbursements shall be made by the Superintendent himself to the informer or seizer as the case may be; and no part whatever of the amount shall in any case go to the Cutwall.

5. The conduct of the Cutwall (Ramstoy Ponday) comes before Government, in these papers, in an extremely unfavourable light. But as it is understood that he has already been dismissed from employment, no order respecting him is necessary in this place.

*Proceedings of the Madras Government, Revenue Department,
from 30th April to 3d May 1859.*

6. G. O. G. of March 30th 1847 leaves the amount of Police fines levied in Military Bazar stations to be expended on certain local objects. Having had the subject under reconsideration, the Governor in Council is of opinion that the practice is objectionable. It is a breach of the general rule that all receipts should be brought to account and all charges clearly debited, and it is apt to lead, as in the present case, to great abuses. It affects the equal administration of justice; zealous officers being disposed to levy heavy fines for the sake of local improvements; and opens the door, under lax supervision, to misappropriation of the fines. The Governor in Council resolves to communicate this order to the Military Department in view to the rescission of the G. O. in question. For the future all fines levied in Military Police as in others generally, shall be brought to account except where disbursed, wholly or in part, under the provisions of Regulation or Act of Government. In such cases the disposal of the money shall be clearly shewn in the Register of the case, with citation of the Act or Regulation. Where it shall be shewn to be necessary the Government will be prepared to grant annual allowances for the local objects heretofore met out of the Police fines. But some of those charges, as for example those for killing dogs, are properly debitable as contingencies under the ordinary rules.

7. Various points which have come to light in the course of the present enquiry, call for further notice in the Judicial Department.

The first is the anomalous position apparently held by the officer styled Cutwall in the Mount Cantonment. The proper duties of such an officer are those of the head of the executive Police; but the Cutwall at the Mount appears to have exercised judicial powers, either actually, or virtually as the adviser and head ministerial servant of the officer in charge of the Police. This mixture of functions is very objectionable. The true position of the Cutwall at the Mount should now be defined, and that officer should be prohibited from interfering beyond that. It appears to Government also that the salary is much higher than is proper for an officer of this class, and than is paid in other quarters.

8. The very unbusiness-like and confused way in which the records of the Police office are kept is another point needing to be corrected. It is such as to make it matter of difficulty to understand the records. Systematic and clear Forms of Registers should be supplied to the Cantonment Authorities, and their use enforced.

The Proceedings of the Military Police in ordinary cases are subject to the revision and control of the Session Judge of the Zillah; and though no appeal lies from sentences passed under Act 18 of 1853, yet the general proceedings of the Police under that Act are liable to the same control, and particularly as respects the due disposal of the fines levied. The attention of the Session Judge of Chingleput and of the Court of Foujdary Adaulut will be called to the necessity of exercising this power with respect to the Cantonment of Saint Thomas' Mount.

9. The Court of Foujdary Adaulut will also be requested to cause the controlling powers of Session Judges to be exercised in respect of other Cantonments within the Provinces where there is a Military Police.

Ordered that a copy of this Minute be sent, through the Judicial Department, to the Court of Foujdary Adaulut in order to their acting on the orders contained in paras. 8 and 9.

(Signed) J. D. BOURDILLON,
Secretary to Government.

MILITARY DEPARTMENT.

No. 40.

Extract from the Minutes of Consultation, 4th January 1859.

Read letter from the First Assistant Adjutant General of the Army, 24th December 1858, No. 720; to the Secretary to Government, Military Department, Fort Saint George.

With reference to Paras. 2 and 4 of Minutes of Consultation, dated 18th ultimo No. 1547, I have the honor by order of the Commander-in-Chief, to forward the documents noted in the margin for submission to His Lordship in Council.

Four Lists of persons convicted of charges connected with spirituous liquors in August September and October 1857.
Four Distribution of $\frac{1}{2}$ fine Lists for the same months.
Seven Extracts from Diary of all the above cases.
Twelve Depositions.

2. It is requested that the documents now forwarded, may be returned when no longer required.

Communicated to the Revenue Department with reference to Extract Minutes of Consultation, No. 1547, in that Department dated 18th November 1858.

(True Extract and Copy.)

H. Marshall
Acting Secretary to Government.

To the Revenue Department, with 17 original enclosures (to be returned.) *+ 20 spare Copies.*

Exd. J. Davis.

Revenue 1859 Sept.
Cons. 3^d May.

No. 41

Extract from the Minutes
of Consultation in the
Military Department.

Dated 4th January 1859
Recd. 11th Jan. 1859

Communicating certain
Documents relative to persons
convicted of charges connected
with Spirituous Liquors for
Submission to His Lordship
in Council, & requesting that
the Documents may be re-
turned when no longer
required.

S.P. No. 602. 3^d May 1859.

No. 23.

ci. April 13th 1830

Para 1. My permission being a ^{supplication} ~~supplication~~
tending only to lengthen this long
Minute.

Para 2. This goes into a former discussion
which having been already disposed
of it appears inexpedient to reopen.

Para 3. The objection to the system which
4- existed in regard to these Courts
5- at the time I had leave to be
changed having been brought forward
spontaneously by that Office with the
concurrence of the Chief Com^r the
Mount - the wish to correct an ob-
jectionable system is evident - &
it would seem sufficient after re-
marking on the insufficiency of the
Court having any authority in the
matter of distribution of Courts to re-
quest the Chief Com^r the Mount to
enforce strict adherence to the plan
suggested that all Courts, as a general
rule

Small Case - such being only referred
in special cases - brought forward by the
Supt of Police: but the Control in no
way to be considered for the acts of the
Police Subordinate Officers -

The appropriation of Police fines Para 6
is clearly provided for by the Act.

C.L.: 1847 - These rules must
be carefully followed - The ^{from} ~~subject~~
^{of prosecuting} ~~cases~~ in Attorney Cases has been
clearly prescribed ^{in: 6} and under such
control it is to be hoped that Police
Matters at the Mount ^{will} ~~need~~ not again
require the attention of Govt: as of
late -

The Control's Conduct has been Para 7
no doubt reprehensible, but his mis-
conduct throws back a light which
exhibits much fault of the Superin-
tendence

And a ^{by} performance of duties on
the part of his Superiors for some time
past. The Control having however been
discharged - it is unnecessary ^{to} ~~make~~
^{propose} orders on the subject -

Para 8 —

— 9 — as in original

— 10 — " — " —

— 11 — " — " —

Mr Bourdillon

As the delinquencies
of this Protocol
were brought to
notice by Col
Crewe at whose
instance he has
been dismissed,
and as Brigadier
^{who supported the Protocol}
Sheriffe has
ceased to hold
the command,
I requested Col
Crewe to assist
me with his
suggestions on
the Draft which
I had previously
read —

This Paper
contains not
but Crewe has
to remark —

W
7 April 59

inward 10 Oct 59 Rev Dept

No 602

Extract from the Minutes of Consultation
Under date the 3rd ~~April~~ ^{May} 1859.

Note - This draft is received
- dated, obtained in part from
- some with Col. Crewe's sug-
- gestions - It seems only
fair to Mr. Campbell's money
- straight forward statement
- of a more accurate
- view practice, in the face
- of strong opposition &
- demand by those who ought
- to have known & understood
- it, to go into the facts
- to the extent now done by
- this Committee -

W
Lg
W
6

Read the following
Extract from the Minutes
of Cons: in the Mil. Dept.
Where entered 4 Jan'y/59, No 40

In compliance with
the requisition made for the third
time in Ex. Min. Cons: in this
Dept dated 18 Nov/58, No 1547,
for the original record of all No.
Carry cases disposed of in the Office
of the Sup't of Police at St. Thomas
Mount in the months of Sept &
October/57, and his orders for the
individual distribution of the
fines imposed in them, the Ex.
Spt Adjutant General's letter
communicated with the Militia,
Extract recorded above, lays before
Sub depositions chiefly in Annual
Statements of Cases, and a Memo-
randum by Lieut Col Crewe,

Suph of Police at the St. Thomas
Mount Cantonment.

2. In his letter of the 5th
Nov/57, No 20, Mr Cunliffe,
the Cbr of Madras, reported to
Govt that heavy fines had been
imposed by the Mount Police
on certain renters, or liquor shop-
keepers, for alleged breach of the
Abkarny rules, and that it was
the practice to hand over such
fines to the Custwall who dis-
tributed a portion to his inform-
ing persons. Mr Cunliffe repre-
sented that altho' clause 35 of
the Abkarny Act, III of 1852,
allowed one half of fines realized
to be given to the parties appreh-
ending offenders, and the other
half to the informer, the Suph
of Police had no jurisdiction
under the Act, neither could
the Custwall, an officer on 70th

* Para 4

a month, be considered either as
the captor or ^{the} informer, when in
reality the persons had brought the
case to light, and that such
participation in these fines
accounted for the Custwall's harsh
proceedings towards the renters,
and the heavy fines imposed.
In his letter of the 22nd Dec/57,
No 121, Brigadier Shirreff, Command-
ing the Mount, denied Mr Cunliffe's
statements regarding the distribution
of the fines, affirming that the
whole amount of the fines was
duly credited in the Accounts,
and only a moiety, and not the
whole as asserted by the Cbr of
Madras, distributed in rewards
to the informers. From papers
~~however~~ subsequently placed before
Govt, and recorded in Ex. Mins.
Cms. in this Sept dated 18th
Nov/58, it appeared that of the
fines levied in "Abkarny & Fraud

Cases, one half was paid to the
seizer or informer, and the other
half at first ~~only nominally~~
credited to Govt, was subsequently
expended under Cantonment
orders in "rewards for the appre-
hension of criminals, repairs
of bazaar roads, and killing dogs."

and the only authority for this
latter appropriation, of the fines
being

~~a~~ a memorandum signed by
the Brigadiers ^{now} Montgomery and
Couran in 1850. Altho' the in-

dividual distribution of these
fines and rewards was not then

shown, the transcript statements
furnished established the fact

that the Cutwall did partici-
pate in the seizer or informer,

tho' it did not appear to what
extent. ^{Again, therefore, the Govt called for}

~~the original records relating to the levy and
distribution of the fines, and this call led to the
production of the present papers, which place
the matter beyond all doubt.~~
the facts of the case beyond doubt.

2.2 The statements now
furnished contain thirty two cases
in all of two kinds, ^{fourteen of} viz offences
against the Akhary rules, &
eighteen of crimes against the Law or Public

Peace, such as Burglary, larceny,
reception of stolen property, or
receiving valuables under false
pretences, &c. In ^{on Police Station Akhary} ~~seven~~ cases

between August and Nov^r 1857,
fines to the amount of 170 Rs

were imposed, of which 85 Rs, or
one half, was divided between the

Cutwall and informing peon; &
while in the remaining twenty one cases

<sup>During the same period, while in the remaining twenty one cases
being sent to the Police Station Akhary, wherein no fines were imposed
but the accused were otherwise punished, the sum of Rs. 147-8 was disbursed in rewards to the</sup>

Cutwall and his subordinate
peons, of which ^{amount} the Cutwall

himself took no less than 120 1/2
Rs, or 82 per cent, and left only

27 Rs, or 18 per cent, to his sub-
ordinates. Altho' the Cutwall's

share of the ^{85 Rs} ~~rewards~~ ^{was} ~~of the~~
was as above noticed,

discussed is not shown; ^{but} it appears
from a foot note ~~with~~ attached
to a table prefixed to the Memo-
randum of the Supt of Police,
that according to his own admis-
sion the Cutwall took 10 Rs to
the pen's one. The impropriety
of this ^{proceedings} is now felt and recognized
by the Police Authorities themselves.
~~from his Memo and so on~~
Crewe states that he took charge
of the Police on the 7th June/58,
and on the 30th of the month
the Cutwall placed before him
for his signature and that of the
Brigadier, a paper for the payment
of 18 Rs from the fines of that
month, 16 Rs of which was for
the Cutwall, and 2 Rs for the
pen's, ^{and} that he objected to any
recompense being given to the
Cutwall, as he had done no
more than his duty. ^{Col Crewe further states} that having
looked over the payments

Col Crewe appears to have
put a stop to these
practices from the
time of his assuming
charge of the Cantonment
Police in June/58.

* He does not say whether he ultimately
signed the paper or not, but the
tenor of his memo seems to in-
dicate that he did not, and
that the practice of allowing
these rewards has been discon-
tinued.

made in rewards to the Police
from May/57 to 1st April/58,
we found that out of a total
distributed in rewards for the detection of offenders
of 357 Rs, 301 Rs had gone to the
Cutwall, and ^{only} the remaining
56 Rs to his subordinates; that
in addition to this, the Cutwall
had received ^{various sums} almost every month
under the head "Half Amount
of Fines in Akhary Cases."
He adds ^{the opinion} that this custom of rewards
in the Police, ^{though it} might have done
in former days when the estab-
lishment was limited and paid,
was improper when both strength
and salaries were increased, the
Cutwall's pay alone, ^{having} been raised
from 35 to 70 Rs a month; that
this system of reward had given
rise to inferences on the part
of the inhabitants very prej-
udicial to the character and
reputation of the Police; ~~that~~
~~there may be cases of punishment~~
and

fact and activity in detecting
crime and apprehending offend-
ers, but they would be special
instances to be brought to notice
by the Supd, and that therefore
he properly recommends the aboli-
tion of the old system of ~~inva-~~
~~riably~~ rewarding the Cutwall &
leaves, ^{except in special cases.} leaving it to the Supd to
~~being found necessary~~
~~rejoice, but he does not~~
~~deem deserving of recompense.~~

#3. It is thus established
that half the amount of Ab.
Kavy fines, as already, noticed
by Govt in their orders of the
18 Nov/58, ^{has been usually} paid to the Cut-
wall & informers, and that
the other half ^{though} nominally credited
to Govt, ^{has been} subsequently expended
in rewards to that official &
his subordinates for the ^{detection of} crime,
& also that ~~as was shown~~ the
Cutwall's share in both cases

* Letter Decr 22/57 Para 4 -

been deceived by the
Cutwall himself? But
his staff officers, or not
have been ignorant of
the fact, I do not
suppose the Government
all informants
have been culpable
ignorance or some
thing worse

has amounted to 80 or 90 per
cent of the ~~whole~~. Thus Mr.
Cunliffe's statement, ^{in his letter of 6 Oct. 57} that the
Cutwall largely participated
in the fines, and that such
participation would account
for his harsh proceedings against
the ~~revenue~~, is fully sustained;
and Brigadier Shirreff's denial
of the fact is proved to be op-
posed to fact; ^{he} having no doubt

5. The cases brought to notice
contain three instances of
excessive fining, to the extent
of 25 and 50 Rs, viz. twice in the
case of Chellappa Gannay, ~~once~~ in 25
Rs for permitting an unregistered
servant to sell toddy in his
shop, and again in 50 Rs for
keeping false and unstamped
measures; and once in ^{the case of} Soobray
Gannay, in 25 Rs on ^{a similar} the latter
charge. These ^{cases} instances however

that is observed, were noticed in
Ex. Min. Cons. 19th April 58
No. 493, wherein Govt directed
that the fine of 25 Rs on Chella-
pattam Gammay should be abso-
lutely remitted, as the charge
of allowing an unregistered per-
son to serve in his shop was
not ^{a legal} offence, constituted by
law, and that the other two
fines should be reduced to
10 Rs each, because it did not
appear that the measures were
false, altho they were unstamp-
ed contrary to local regulations.

These three instances support Mr Cantliffe's opinion as to the effect
of the existing practice in
leading to fines. In fact the
Centwall was so enabled
under colour of law simply
to transfer money from other
people's pocket to his own.

14 The appropriation of
the moiety of the ^{abkarry} fines credited
to Govt, in rewards to the Police,
is altogether illegal. and the
Memorandum signed by
Brigadiers Montgomery and
Conran in 1850 is contrary to
law and of no validity. The
practice of ^{that} rewarding the Police
will

Para 34, Ex. Min. Cons. 19th April 58. No 493.
see also Ex. Min. Cons. 27th July 58. No 1043

will immediately
cease, if it has not
been put a stop to
already. Disbursements
from fines in Abkarry
cases, can only be made
under Section 7 of Act
XVIII of 1853, which has
been declared to give
all the authority
that the officers at the
Mount can now le-
gally exercise, in su-
persession of all
other Regulations
or Bylaws connected
with the Abkarry.
All such disbursements
shall be made by the
Superintendent him-
self to the informer
seizer

seizer as the case
may be, and no ^{part} what-
ever of the amount
shall in any case
go to the Cusivall.

5 The conduct
of the Cusivall (Ramstoy
Ponday) comes before
Govt., in these papers
in ^{an} extremely unfavour-
able light. It is e-

vident that he has
been using his offi-
cial authority as a
means of ^{protection of} enriching
himself. His opera-
tions were carried on,
indeed, under the
form of law or quasi
law, but they were
not the less illegal
and dishonest; and
he

But as it is understood
that he has already
been dismissed from
employment, no order
respecting him is re-
ceivable in this place.

6. G.O. of March 30/47
leaves the amount of Police
fines levied in Military
Bazar Stations to be expended
on certain local objects.
Having had the subject
under reconsideration,
the Governor in Council
is of opinion that the
practice is

he cannot be relieved
from responsibility
for them, merely
because he had the
art to obtain
the support of his
superiors. The Go-
vernor in Council
considers Ramstoy Ponday
be unworthy of con-
fidence, and he di-
rects his immediate
dismissal from office.

It is understood
to be still the prac-
tice in some mili-
ary cantonments to
expend the amount
levied in fines on lo-
cal objects. This is
not only objection-
able but a breach of
the

the general ^{rule} that all receipts should be brought to account and all charges clearly debited, and it is apt to lead, as in the present case, to great abuses. It affects the equal administration of justice; zealous officers being disposed to levy heavy fines for the sake of ^{local} improvements; & opens the door, under lax supervision, to misappropriation of the ^{finer} funds. The Governor in Council ^{resolves to Com-} ~~now~~ ^{municate this order to the M. L. Dept in} ~~that this~~ ^{view to the rescission of the G. O. in} ~~shall be~~ ^{question. For the future} ~~shall be~~ ^{cease, and that all} fines levied shall be ^{in M. L. Police as in others} brought to account generally, except

Where it shall be shown to be necessary the Govt will be prepared to grant annual allowances for the local objects heretofore met out of the Police fines. But ^{some} of these charges, as for example those for killing dogs, are properly debitable as contingencies under the ordinary rules.

except where disturbed wholly or in part, under the provisions of the Regulations or Act of Government. In such cases the disposal of the money shall be clearly shown in the Register of the cases with citation of the Act or Regulation.

Various points which have come to light in the course of the present enquiry call for further notice in the Judicial Department. The first is the anomalous position apparently held

held by the officer
styled Cutwall in
the Mount Canton-
ment. The proper du-
ties of such an officer
are those of the head
of the executive Police;
but the Cutwall at the
Mount appears to
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cial powers, either ac-
tually or virtually as
the adviser and
^{head} ministerial servant
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of the Police. This mix-
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very objectionable.
The true position of
the Cutwall at the
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The Proceedings of the Military Police in ordinary cases are subject to the revision and control of the Session Judge of the Zillah, and though no appeal lies from sentences passed under Act 18 of 1853, yet the general proceedings of the Police under that act are liable to the same control, and particularly

as respects the due disposal of the fines levied. The attention of the Session Judge of Chingleput and of the Court of Foujdary Adaulat will be called to the necessity of exercising this power with respect to the Cantonment of St. Thomas Mount.

#9 The Court of Foujdary ^{Adaulat} will also be requested to cause the controlling powers of Session Judges to be exercised in respect of other Cantonments within the Provinces where there is a Military Police.

Ordered that a copy of this minute

Minute be sent through
the Judicial Depart-
ment to the court of Houj-
dary. Addulut in order
to their acting on the
orders contained in
Paras 8 and 9

[Signature]

3 Copies to the Secy of War & Disps 4th
7 — " — Military Dep^y w/ 17 Encl^y
5 — " — Jud^y — D. L. R.

Revenue 1859 Dept.
Cons 3^d May.

No 602.

Pro. of the Madras Government
D^d 3^d May 1859.

Taping orders on
documents relating to persons
connected in Police
and Abkari cases at
the Mount.

No 23 + 24.