M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1471 Press Mis.—

90-91

Dated 7-7- 1862.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 7th July 1862.

No. 90. Read the following Proceedings of the Madras Government in the Public Works Department, dated 19th June 1862, No. 1,393 :—

Passing orders on letter from Deputy Chief Engineer, Southern Circle, on the subject of Lieutenant Smalley's liability for the amount of money abstracted from the Wainád Treasury by means of a forged cheque, and referring for consideration Colonel Ouchterlony's remarks on the responsibility of Tahsíldárs as Cashiers of the public funds and the suggestions offered by him for a more circumspect discharge of their duties in this respect.

(Vide Public Works Proceedings, 19th June 1862, Nos. 359, 360.)

No. 91. ORDER THEREON, 7th July 1862, No. 1,471.

The Governor in Council approves of the suggestion made by Colonel Ouchterlony in paragraph 7 of his letter of the 20th May last, that Tahsíldárs should be prohibited from paying any cheque issued by an officer of the Department of Public Works "until they have received from "the drawer a regular letter of advice specifying the number, amount and date of a cheque drawn, "and the name of the party to whom it has been, or is to be made payable," and requests that the Board of Revenue and the Chief Engineer in the Department of Public Works will issue the necessary instructions on the subject. All paying officers should at the same time be warned that they will be held personally responsible for payments made by them on forged cheques.

(Signed) A. J. ARBUTHNOT,
Acting Chief Secretary.

PUBLIC WORKS DEPARTMENT.

Public.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from the Deputy Chief Engineer, in charge Southern Circle :—

Submits with observations further correspondence on the subject of Lieutenant Smalley's liability for the amount of money abstracted from the Wainád Treasury by means of a forged cheque. } (Here enter 20th May 1862, No. 796.)

ORDER THEREON, 19th June 1862, No. 1,393.

1. In their Order of the 22nd March last, No. 531, Government decided that Lieutenant Smalley should be made to pay the difference between the 500 Rupees fraudulently obtained by his Accountant and the amount that may be eventually recovered from the property of that individual under attachment. With the letter recorded at the head of these Proceedings, the Deputy Chief Engineer, Northern Circle, submits one from Lieutenant Smalley wherein he asks to be relieved from responsibility on the following grounds :—

(1st.) Because it cannot be proved that the forged cheque was stolen while he was in charge of the Wainád Range.

(2nd.) Because the forgery was committed by his Accountant, who, from his position, was necessarily a person in whom confidence was to be placed.

(3rd.) Because he had no proper cheque book, but merely a file of loose cheques which afforded facilities for abstraction.

(4th.) Because the Numbers are not printed on the cheques which renders it difficult to detect any abstraction.

(5th.) Because neither furniture nor a cash chest had been supplied to the Wainád Range Office.

2. With regard to the first of these grounds on which Lieutenant Smalley claims exemption from responsibility, it is clear that as the forged cheque was dated 8th December 1861, and Lieutenant Smalley had delivered over charge of the Wainád Range to Captain Syme on the 10th of the same month the robbery of the cheque must have taken place during Lieutenant Smalley's tenure of office. Lieutenant Smalley himself admits that the cheques were not always kept under lock and key, and although he states that he every night locked up his Office in which his cheques were lying about, he nevertheless* deposited the key with one of his own servants. These admissions afford evidence of the fact that Lieutenant Smalley had, by his neglect, afforded facilities for the perpetration of fraud. The other grounds on which Lieutenant Smalley begs to be relieved from pecuniary responsibility are, however, deserving of consideration, and the Government will not therefore insist on his making good the loss entailed by the late case of forgery.

* Paragraph 6 of letter, dated 1st April 1862, No. 117.

3. Colonel Ouchterlony's remarks on the responsibility of Tahsíldárs as Cashiers of the public funds, and the suggestions offered by him in paragraph 7 for a more circumspect discharge of their duties in this respect will be considered in the Revenue Department. In the instance now under the notice of Government it is evident that had the Tahsíldár exercised even ordinary care, he would have been able to detect the forgery, which, as the District Engineer reports†, "appears to have been most clumsily effected." The case under review fully warrants a caution to all paying Officers that they will be held personally responsible for payments made by them on forged cheques.

† Paragraph 3 of his letter, dated 4th January 1862, No. 262.

4. The revised rules for drawing funds approved in Proceedings dated 14th June 1861, No. 1,096, provide for drafts being printed in a cheque book form, and numbered consecutively, the numbers running on in monthly series. The Chief Engineer will report whether those provisions of the Rules have been carried into effect.

(True Extract.)

E. B. Powley Lieut.-Colonel,
Secretary to Government.

To the Deputy Chief Engineer, Southern Circle.
" Revenue Department.
Exd. T. McMoorty.
Chief Engineer.

No. 359. Read the following letter from Lieutenant-Colonel J. OUCHTERLONY, Deputy in charge Chief Engineer, Southern Circle, to Lieutenant-Colonel W. H. HORSLEY, Secretary to Government, Public Works Department, dated Chepauk, 20th May 1862, No. 796:—

SIR,

1. With reference to Order of Government No. 531, dated 22nd March 1862, I have the honor to submit for their consideration some further correspondence on the subject of Lieutenant Smalley's liability for the amount of money abstracted from the Wainád Treasury by means of a forged cheque.

1 Letter, Lieutenant Smalley.
1 Do. Captain Syme.
1 Do. " Bean.

2. I must confess if this Officer is made to refund the sum misappropriated, his case will be a very hard one. It is of course unnecessary for me to state that by law the liability rests solely and entirely with the Treasury Officer who cashed the false cheque; and that it could not by any form of legal process be fastened upon the individual whose name was forged. Setting aside the grave inexpediency of releasing the Tahsíldárs from the responsibility which in all reason and prudence should devolve upon them as Cashiers of the public funds, I think Government would scarcely desire to adopt a course of proceeding towards one of their servants which, even if borne out in equity, could not be recognized as strictly legal.

3. To take a very extreme view of the case I believe I am not exaggerating it when I say that if Lieutenant Smalley is mulcted in the amount of the forged cheque, and he were to die within the period barred by the Statute of Limitation, his heirs would be in a position to recover the sum levied, with interest, by a simple process of law. And the more readily that it does not appear, at least not by any document in this Office, to have been proved that the cheque employed on the occasion in point, was stolen from Lieutenant Smalley's file; and that it was not obtained from some other source: as from a Printing Press, or even from this Office, whence all the cheques after passing through many hands, and are finally consigned to the uncertain protection of the Danghy Post.

4. I think also that the allegation of "sheer carelesssness" adopted by Colonel Birdwood is not altogether sustained. Thirty years experience of this country has satisfied me that no human precaution, even to the extreme measure of placing keys beneath the owner's pillow at night, can preserve property or papers from the scrutiny or grasp of a Native servant bent upon their possession. No man can be constantly on his guard; his keys must at some time or other be out of his possession for a brief space; and if at that moment while literally unable to retain them as when in the bath or otherwise, a watchful servant seizes upon the cheque book and abstracts a blank valueless piece of paper, which he then renders worth 500 Rupees by forging thereto his master's name, and addressing it to a Treasurer with whom that individual has credit; and he then (to put a very extreme case) sells the document to an *employé* of the Treasurer, by whom at a fitting and easily discovered season the money is embezzled; surely under such circumstances Government would never for a moment contemplate recovering the amount from the pillaged Officer. A decision to the contrary would spread alarm throughout the Public Works Department.

5. I quite admit that Lieutenant Smalley might have exercised greater precaution than he appears to have adopted. But in the same spirit in which his superior Officer Captain Bean states that he "cannot justify Mr. Smalley's carelessness in not keeping his cheque book under lock and key," I must remark that I, to use Captain Bean's own words, "cannot exonerate him (self) from responsibility on this account," since in the course of his doubtless frequent visits to the Wainád Range Office, and consequent inspections of cash balances and accounts, he should surely have ascertained and satisfied himself that so important an instrument as the Government cheque book was kept in safe custody; especially as the Range Officer was a young man.

6. I beg leave therefore to recommend that Lieutenant Smalley be allowed to escape with an admonition; but I would take advantage of the occasion to warn all concerned, both Tahsíldárs and Range Officers, of the responsibilities which Government consider them involved in in regard to transactions similar to that which has had so unfortunate an issue in Malabar.

7. If no inconvenience is to be apprehended by such a course, I would suggest that all Tahsíldárs be enjoined by a Circular Order not to cash a Department Public Works cheque, until they have received from the drawer a regular letter of advice specifying the number, amount, and date of a cheque drawn and the name of the party to whom it has been, or is to be made payable, and it would be a further precaution against loss through this unhappily prevalent crime of forgery if cheques were invariably drawn in favor of the drawing Officer, and endorsed by him to the individual to whom he wishes the amount to be paid; as it would then be very difficult for the most accomplished forger to imitate a name twice over on the same document without betraying evidence of the fabrication to eyes not wilfully blind.

From Lieut. Colonel Goldfinch
Engineer in Chief for Irrigation
Cuddapah 18th Feb 1862

Received 19th June 1862

No 1471-

Revenue Department

Proceedings of the Madras Government under date the 7th July 1862—

Read the following Proceedings of the Madras Govt in the Public Works Department—

Passing orders on letter from Sy Chief Engr Southern Circle, on the subject of Lt Smalley's liability for the amount of money abstracted from the Wynaad Treasury by means of a forged cheque and referring for consideration Col. Ouchterlony's remarks on the responsibility of Tahsildars as Cashiers of the public funds, and the suggestions offered by him for more circumspect discharge of their duties in this respect—

The Governor in Council approves of the suggestion made by Colonel Ouchterlony, in para 7 of his letter of the 20th May last that Tahsildars should be prohibited

=bited from paying
any cheque issued by an
officer of the Department
of Public Works" until
they have received from
the drawer a regular letter
of advice specifying the
number, amount and
date of a cheque drawn
and the name of the party
to whom it has been, or
is to be made payable"-
and requests that the Bd
of Revenue and the Chief
Engineer in the Depart-
=ment of Public Works
will issue the necessary
instructions on the sub-
=ject. All ~~Collectors~~ paying Officers
should at the same
time be warned that
they will be held person=
=ally responsible for
payments made by them
on forged cheques.—

4. Copies. Pro. P.W.D. No. 1393 and.
2. The Bd of Rev with ~~Copy~~ Original Correspondence
21. S.E.R. Dept. letter. Dept.

Revenue 1862 Dec.ber
Pro: of Govt for July.

No. 1471.

Pro: of the Madras Govt
Dy. July 1862.

Pro of P.W.D. dy
3 Septr 62 c no. 2536.
Pros. 13th 2:3 3/4.

Approving Col. Cuthbertson's suggestion that Tahsildars should be prohibited from paying any Cheque issued by an officer of the D. P. W. until the receive's full advice from the drawer.

No. 90 & 91.

Should Tahsildars be liable for the money abstracted by a forged cheque?