M.R.O. 14—13,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3031 Press ~~Mis.~~

181.182

Dated 7 — 11 — 1866.

Not to be folded or roughly handled

No. 181. Read the following Proceedings of the Board of Revenue, dated 24th October 1866, No. 7,694:—

Read the following letter from the Acting Collector of Madras, to the Secretary to the Board of Revenue, dated Sydapett, 4th October 1866, No. 307.

1. On the 26th of July, the boat of one Lutchmanen received its clearance at the Canal Basin in Black Town. Lutchmanen did not take away the boat, and on the 28th, the Superintendent caused its removal from the Basin, under the latter part of Clause 2nd, Section 7 of the rules sanctioned by Government in Proceedings, Revenue Department, No. 400, February 21st, 1865, for the management of business in that locality.

2. The expenses amounted to one anna, and for this sum the rudder of the boat was sequestrated. The boat of a Mr. Jackman, who resides in the Nellore District, was at the Basin. During Mr. Jackman's absence on shore, his servant gave the rudder of his master's boat to Lutchmanen. When on the morning of the 29th, at about midday, Mr. Jackman came down to the Basin, and wanted to embark, his servant told him his boat's rudder had been sequestrated, and was in the Superintendent's office.

3. Hereupon Mr. Jackman proceeded to the office, and he took away the sequestrated rudder, and went off with it. He took it, notwithstanding the remonstrances of the Peon in charge. The day was a Sunday, and the Superintendent was not at his office. The next morning the Peon reported to him what had occurred, and he wrote to the Deputy Collector of Madras for instructions, asking how he was to proceed in the matter.

4. Rungasawmy Iyengar told him to take out a summons against Mr. Jackman. The Superintendent applied to Mr. Campbell, the Town Magistrate. Mr. Campbell at first refused the summons, stating that the Basin rules were not law, and that, therefore, he was powerless to assist the Superintendent. The latter, however, pointed out that the rudder which had been distrained upon, was *not the rudder of Mr. Jackman's boat, but the rudder of another boat.*

5. Upon this explanation Mr. Campbell issued a summons. It was served upon Mr. Jackman in the Nellore District. The case came on for hearing on the 12th September 1866. Mr. Jackman employed Counsel to defend him. This circumstance, the Superintendent came to know shortly before the hearing.

6. Up to that time he had not supposed the defence would be conducted by a professional man, and he had not accordingly taken steps to preserve the interests of Government, by securing the assistance of the Government Solicitor. On seeing the steps taken by Mr. Jackman, it was too late for him to obtain the aid of advice in the regular way; but deeming it necessary that the defence should be encountered by professional experience, he took upon himself to employ a pleader on the spot.

7. Mr. Campbell threw out the case with costs. The Superintendent had to pay costs as per margin, in all Rupees 41. He prays the Board will be pleased to cause the money to be returned to him out of the public treasury. He wrote to the Deputy Collector on the subject, and that officer supported him. I venture to

	Rs.
Mr. Jackman's Counsel	20
Superintendent's do.	20
Summon's...	1
	41

recommend that he may be re-imbursed the expenses he has incurred. The sequestration was made in the regular way; and as far as I can learn, the collusion related above, between Lutchmanen and Mr. Jackman's servant happened.

8. I addressed Mr. Campbell, requesting him to be so kind as to let me have a copy of his Proceedings in the case. I have the honor to annex copy of his reply. Writing from recollection, as he had kept no record, he says he threw out the case; first, because Mr. Jackman had been brought down from Nellore; second, because the complaint had been preferred at the instance of the Peon in charge of the rudder without proper investigation being made as to its truth.

9. With regard to the first point, I am not called upon to make any remark. The Magistrate apparently considered the charge hinged partly upon the distance the accused had to travel; but the second ground for dismissing the complaint conveys an imputation on the Superintendent, which it is incumbent on me in addressing the Board to meet. Mr. Campbell considers that before making the charge, the Superintendent had not exercised due diligence to ascertain whether it was true.

10. I think the Superintendent enquired in every way that was possible. It may be imputed that the Peon voluntarily surrendered the rudder, and then to cover his breach of duty, told the Superintendent it had been taken out of his charge by force. But in the circumstance, such an imputation would be overstrained. The rudder was sequestrated but for one anna; and if the Peon had chosen to give it back to the owner, he might easily have done so, and excused himself to the Superintendent by saying it had been surreptitiously carried off. Of course, as the rudder was in pawn for one anna only, no bribe could have been forthcoming to induce its surrender.

11. In conclusion, I trust that the Act to enforce the rules at the Basin, spoken of at paragraph 2 of the Proceedings of the Board, on which are founded the Proceedings of Government, promulgating the rules, may shortly receive consideration. It is an anomalous state of things that any public department should not be able to recover its dues by a summary legal process. The rules cannot now legally be enforced with respect to liabilities incurred by boat-owners within the High Court limits, though it is possible that the revenue enactments would enable us to distrain for the Tolls imposed at the Lock, and not paid until the boats arrive at the Basin.

From the Magistrate of Police, to the Acting Collector of Madras, dated 1st October 1866, No. 47.

1. I have the honor to acknowledge the receipt of your letter of the 25th September 1866, No. 156, applying for a copy of the Magistrate's Proceedings, in order to enable you to decide whether you ought to apply to the Board of Revenue to pay the expenses incurred by the Toll Superintendent at the Canal Basin, in the case brought by him against Mr. Jackman, which was dismissed with costs, on the 12th instant.

2. In reply, I beg to state that, in complying with your request, it will form a most unusual and inconvenient precedent for others to call upon Magistrates to furnish copies of their Proceedings. If I were to do so in the case in question, I do not consider it would help you in arriving at the decision you wish.

3. The case was dismissed upon its merits, and I have not kept a record of the pleas on which the Attorney for the defendant applied for costs, but I can state from recollection that they

Proceedings of the Madras Government, Revenue Department, 7th November 1866.

were, first, that Mr. Jackman had been brought down all the way from Nellore, to answer to the charge; second, that prosecutor had admitted to the Magistrate that the prosecutor had made no enquiry into the complaint of the Peon, but taken for granted all that the Peon had alleged, and had written at the instance of the Peon to the Deputy Collector, Rungasawmy Iyengar, who at once authorized him to apply to the Magistrate for a summons, which was then granted.

(True Copy.)

(Signed) J. R. COCKERELL,
Acting Collector.

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1. Under the circumstances stated by the Acting Collector, the Board authorize him to charge to Government the expenses incurred, amounting to Rupees 41; but they observe that he has somewhat misunderstood the Magistrate's letter, which states that the charge was dismissed *on its merits*, and that *costs were awarded* for the reasons quoted by the Acting Collector, as those for the dismissal of the charge.

2. The Draft Act for legalizing the enforcement of rules for the management of navigable canals was submitted to Government with Board's letter, dated 18th September 1865, No. 5,778, and its introduction into the Legislative Council was directed in Government Order, dated 4th November 1865, No. 411, Legislative Department.

No. 182. ORDER THEREON, 7th November 1866, No. 3,031.

Miscellaneous.

Ordered to be recorded..

(True Extract.)

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

To the Board of Revenue.

Exd. S. T. Augustin.

Pro 21st July 65 No 400-1
15th Nov —— 229-230
18 October —— 328-9.

Rev. 1866. Department.
Pro. of Govt for Navt.

No. 3846.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 24th October 1866.
Desp 29—
Rec. 30—

No. 7,694.

3031

A. 1814182

Authorizing Acting Collector of Madras to charge to Government expenses amounting to Rupees 41, incurred by Toll Superintendent at Canal Basin in case brought against him a Mr Jackman for taking away a sequestrated rudder from Superintendent's office.

3031

RECORDED.

C 23 Nov 1866