M.R.O. 1—20,002—12-8-65.

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue. DEPARTMENT

G.O. No.	1337.	Press
B.P. No.		Mis.

Dated 16-10-1874 196 . .

Not to be folded or roughly handled

No. 198. Read the following Proceedings of the Board of Revenue, dated 23rd September 1874, No. 2,738:—

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 28th August 1874, No. 435:—

IT is my disagreeable duty to bring to the special notice of the Board the conduct of Mr. Dique, Tahsildar of Tindevanum.

2. The Acting Head Assistant Collector has reported this officer to me for impertinence to Mr. Norfor while in charge of the 2nd Range. I enclose copies of Mr. Norfor's letter to Mr. Cox, and of the latter officer's letter to me marginally noted.

Mr. Norfor's to Mr. Cox, dated 25th July 1874, No. 204 A.
Mr. Cox to Collector, 3rd August 1874, No. 284 B.

3. It seems that a peon of the Tindevanum Taluq was dismissed for imputing disgraceful conduct to Mr. Thomas, the Assistant Superintendent of Police, and was then taken by Mr. Dique into his private employ. This man while in Mr. Dique's employ presented a durkhast to the village officers of Giddangal (a village adjoining Tindevanum and forming part of it) for a piece of waste land which Mr. Norfor had previously taken possession of for a gravel quarry under the rules* bearing on the point, without reference to the revenue authorities, as he was justified in doing. Before the durkhast was disposed of, Mr. Dique's servant began to build on the land. On learning this, Mr. Norfor wrote to Mr. Dique and requested him to preserve the land as he wanted it for a quarry. Mr. Dique took no notice of the letter, though the progress of the hut stopped. Shortly after, the land was occupied as a bandystand with the permission of the Tahsildar Mr. Dique, a fact Mr. Norfor says he learnt from inquiries among the bandymen. He wrote to ask Mr. Dique if such was the case, and complains to Mr. Cox of the disrespectful tone of Mr. Dique's reply.* He says he has always had to complain of Mr. Dique's disrespectful conduct to him, and considers his whole proceedings in this matter little short of deliberate impertinence.

* *Vide* Board's Standing Order, No. 9 of 1872, 132-2.

*C. Translation enclosed.

4. Mr. Cox says that Mr. Norfor told him that the man who was building on the quarry-land distinctly informed him that he was acting under Mr. Dique's directions, and that the building he was erecting was destined to be occupied by Mr. Dique till he had built a new house. I may here mention that Mr. Dique occupied a house rent-free at Tindevanum on condition of keeping it in repairs, and that as the railway is destined to pass right through the buildings, it was necessary to eject him and pull the buildings down; and that the only instance in this district in which it has been necessary to put the Act in force in order to eject a person in possession has been in the case of Mr. Dique, of whose obstructive behavior the Railway Deputy-Collector has complained to me bitterly. I mention this to show why Mr. Dique should be under the necessity of building a new house.

Since the above was written, I have received a complaint from the Railway Deputy-Collector, complaining that after the buildings and land had been acquired

by Government under Act X. of 1870, Mr. Dique, to whom no award was made, but who was distinctly declared not to be entitled to any compensation, had carried off the materials of the buildings without any permission.

5. Both Mr. Dique and the man building the hut deny before Mr. Cox that it was being built under the orders of Mr. Dique. Mr. Cox does not seem to credit this however, and is much inclined to believe that that officer gave permission to occupy the land as a bandystand in order to annoy Mr. Norfor, and, though Mr. Dique in his letter to Mr. Norfor denies having given any such permission, it seems evident that from his living close to the spot and passing it every day, he must have been aware that the land Mr. Norfor had officially requested him to reserve for a quarry for the Department of Public Works was being used as a cart-stand, and he was, therefore, most certainly both disrespectful to Mr. Norfor and neglectful of his duty in not at once putting a stop to such a proceeding, and securing the undisturbed possession of the quarry for Mr. Norfor.

6. I should not have troubled the Board with a special report about such a matter if it had stood alone, but the records of this office show such repeated acts of insubordination and impertinence on Mr. Dique's part, that any powers of punishment I possess are quite insufficient to deal appropriately with him. Moreover, there are other matters to which the Board, and probably Government, will attach much more importance, which I deem it right to bring to the Board's notice in connection with Mr. Dique.

7. On the 18th of last month, the arrears of Fasli 1283 outstanding in the Tindevanum Taluq were Rupees [illegible],343. A very severe order was sent to Mr. Dique, warning him that he would be reported to the Board if he did not do better in the discharge of his important duty of collecting the revenue, and he was ordered to submit a list of villages visited by him since the 1st June, together with a full explanation of his conduct with the collection report for the ensuing week ending the 25th July. Of this order, he has not up to this date taken the slightest notice.

8. The remission Deputy-Collector wrote to me officially on the 6th June last,* complaining of Mr. Dique's insubordination and disobedience to his orders, and of his determined neglect to assist him in any way in disposing of the punjah remissions in his taluq. I reprimanded Mr. Dique, and fined him Rupees 10.

* D.—Copy of letter, No. 87, enclosed.

9. Mr. Sullivan found it necessary to fine Mr. Dique 10 Rupees for impertinence and insubordination for commenting, in a very unbecoming tone, on his proceedings in an appeal against a sale for arrears conducted by Mr. Dique. I enclose copies of Mr. Sullivan's proceedings* disposing of the appeal, of Mr. Dique's "report†," and of Mr. Sullivan's order‡ fining him. The Board will see from another proceedings§ of Mr. Sullivan's, dated the 14th August 1872, how by Mr. Dique's most reprehensible disobedience to a distinct order of the Collector to register the transfer of a piece of land sold by an appellant to another man, the former although actually a creditor of Government, and having more than Rupees 7 due to him lying in the taluq cash-chest, had his land, worth about 50 Rupees, sold for an arrear of about Rupees 3. It is true that in the sale of the land the Tahsildar was justified in selling a whole field and not part of one; but the sale was altogether unnecessary, and was aggravated by the fact that if the order to transfer the registry of ownership had been obeyed, the land could not have been sold.

* E.—Dated 5th August 1872, No. 18.

† F.—Dated 15th August 1872.

‡ G.—Dated 20th August 1872.

§ H.

10. In their order of the 8th July 1874, No. 845, the Government declare that they will visit with severe displeasure any irregularity or illegality which enhances the severity of the law respecting coercive measures for the realization of the revenue; they will therefore, if the conduct of Mr. Dique is brought to their notice, as I trust it will be, be inclined, I think, to be severe with him for having issued summonses under Act III. of 1869 to twenty-five revenue defaulters to appear before him and explain why they did not pay their kists, and on the summonses not being obeyed, for having prosecuted all the parties and had them fined by the Taluq Sheristadar. The High Court quashed the whole of the convictions as illegal, on a reference being made to them. These proceedings were in effect a very gross abuse of his authority on the part of Mr. Dique. Copies of my letter‖ to the High Court and of the Court's Proceedings¶ are forwarded for reference.

‖ I.

¶ J.

11. No district officer with whom Mr. Dique has come in contact seems to entertain a good opinion of him. On this point, I beg to refer the Board to paragraphs 10 and 11 of Mr. Sullivan's letter of the 17th November 1873, No. 469, recorded in Board's Proceedings of the 12th December 1873, No. 2,589, where the opinions of Mr. Reade, Mr. Sullivan, Mr. Lister, Mr. Kough, Captain Young and Mr. Thomas are quoted or alluded to.

12. There is, I consider, ample evidence to show that Mr. Dique is habitually impertinent and disrespectful in his official correspondence, that he has lately shown himself disobedient to orders and indifferent to the careful discharge of his primary duty, and that he has exhibited an inclination to abuse his magisterial powers in order to save himself trouble as a Revenue Officer; and as official censure is entirely thrown away on him, while the trifling fine I am able to inflict is not in my opinion at all an adequate punishment for his conduct, I submit his case for such orders as the Board may choose to pass on it.

Enclosures A. to J.—Copies of Correspondence.

In their Proceedings of the 17th April 1874, No. 910, the Board warned Mr. Dique to be more careful in future, and informed him that the way in which he was reported on by the officers of the district, especially with regard to his insubordinate conduct and impertinence, satisfied the Board that if any further irregularities of a serious character occurred, he would have to be removed from the post of Tahsildar.

2. In their Proceedings disposed of in G. O., dated 4th September 1874, No. 1,140, the Board remarked that Mr. Dique had given Mr. Banbury and Mr. Garstin an exaggerated account of the distress in his taluq, and that his denial that he had stated what he certainly did state to Mr. Banbury and Mr. Garstin was discreditable. Government noticed with great displeasure the conduct of Mr. Dique "whose inattention to his duties and careless action led in the first instance to an exaggerated estimate of the scarcity believed to be impending."

3. In their order of the 8th July 1874, No. 845, Government observed that the conduct of Mr. Dique in a certain case of sale for arrears had been open to serious reflection, and expressed an intention of visiting with "severe displeasure any irregularity or illegality which enhances the severity of the law."

4. From the papers now submitted, it appears that Mr. Dique has laid himself open to punishment in all these respects.

5. In June and July last, he was guilty of delay, obstruction and great impertinence with reference to certain land required for quarrying by the Executive Engineer. Mr. Garstin shows that it is impossible for him to deal with the case because of the manner in which Mr. Dique has been fined and warned on previous occasions. On the 15th August 1872, the Collector (Mr. Sullivan) severely censured him for the action he had taken in a certain case where coercive processes had been used, and warned him that if another instance of neglect and disobedience of orders occurred, it would be noticed in a different manner. On the 30th idem, the Collector disposed of a *reply* which Mr. Dique had chosen to make to certain proceedings of his on an appeal, in which reply Mr. Dique had "desired to know" how his discretion in selling land for arrears was to be limited, had talked of "the pleasurable satisfaction of seeing his order cancelled," had demanded to know "in the case now under consideration, where is the wrong and where is the fault," had said with regard to a complaint which the Collector had allowed "there is no reason at all in his complaint and it has all the appearance of being vexatious and litigious," and remarked, in conclusion, that if the means employed in making collections were canvassed and censured, as the Collector had canvassed and censured them, "it becomes embarrassing to the taluq officials, and the duty of collection must necessarily be impeded." Mr. Sullivan said: "In this paper Mr. Dique has taken upon himself to comment in a very unbecoming tone on the Proceedings of the Collector * * . He has taken the unusual course of addressing the Division Officer in English instead of by a Vernacular Arzi, and has omitted the ordinary respectful heading prescribed by the Board of Revenue in their Standing Order No. 414. Mr. Dique has in addition penned a series of remarks which are partly unintelligible and wholly impertinent. Insubordination of this description the Collector cannot allow to pass unnoticed. Mr. Dique is fined Rupees 10, and should he again offend in a similar manner, he will be at once suspended and his conduct reported to the Board of Revenue." When these facts are considered with those reported in paragraph 10 of Mr. Sullivan's letter recorded in Board's Proceedings, dated 12th December 1873, No. 2,589, and with the opinion of Mr. Dique's discourtesy which the Board have ample evidence is held by all the superior officers of the Revenue, Police and Public Works Departments in the district, it is quite clear that the case is not one which Mr. Garstin

could dispose of himself. Mr. Dique is evidently incorrigible. It would be useless to fine or suspend him, for these forms of punishment would leave him with the position of a Tahsildar, and the position of Tahsildar is enough to inspire him with views regarding himself and others which his clerical ability enables him to embody in offensively discourteous letters, and which tempt him, with a temptation which he is unable to resist, to meet orders he does not like with cavilling and obstructiveness. The only remedy in the Board's opinion is to remove Mr. Dique from the position of Tahsildar.

6. Next, with regard to the course Mr. Dique has chosen to pursue in the matter of the revenue of his taluq as affected by the scarcity which was felt at the beginning of the calendar year. Mr. Dique represented the scarcity as far greater than it really was, and proposed far greater remissions than were really necessary, and subsequently denied having done so. For this he has been severely censured. Subsequently, Mr. Banbury's tour in South Arcot allayed the alarm which had been partly excited by Mr. Dique; the extent to which remission should be given was roughly determined, and a Special Deputy Collector was appointed to conduct the settlement. If Mr. Dique had been governed by the motives which must actuate an honest and efficient public servant, he would have retrieved his initial error by careful attention to collections, and by zealously assisting the Deputy-Collector. Instead of that, he has left large balances outstanding, has ignored orders from the Collector regarding them and from the Deputy-Collector regarding remission statements, and has been generally most obstructive. The Board have little doubt that he has done this with his usual obstinate insubordination in order to prove that he was right in the beginning and Mr. Banbury and the rest wrong. For this cause alone the Board think it would be necessary to move Mr. Dique from Tindevanum.

7. Lastly, with regard to the manner in which Mr. Dique has worked the law for collecting revenue by means of coercive processes. The case already referred to, which was disposed of by Mr. Sullivan in his order of the 15th August 1872, is a very bad one. For an arrear of Rupees 3-7-4, Mr. Dique sold land which did not belong to the defaulter, and which he had been ordered to transfer to the real owner in May 1871, though all the while there was a sum of Rupees 7-7-0 deposited in the taluq treasury which belonged to the defaulter. Rs. 47 or Rs. 43-8-8 more than was wanted was realized by the sale. The case disposed of in Board's Proceedings, dated 17th April 1874, No. 910, is another instance of irregularities by which Mr. Dique made a severe law harsher than it need be. The case now reported by Mr. Garstin in which Mr. Dique had twenty-five revenue defaulters summoned under Act III. of 1869 (Madras), to appear before him and explain why they did not pay their kists, and then had them punished for not appearing under Section 174 of the Penal Code, falls under the same category. The Board are strongly of opinion that it is a sound and necessary policy, in the words of Government, to "visit with severe displeasure any irregularity or illegality which enhances the severity of the law" for the recovery of arrears, and they think the case of Mr. Dique, in which a perversely-minded man with a thorough knowledge of the law and considerable ability has used that knowledge and ability to "enhance the severity of the law" is one in which the policy should be exercised.

8. Three successive Collectors, one of whom was the Collector who made Mr. Dique a Tahsildar, have successively urged that Mr. Dique should be dismissed from the public service. The Board have stood between him and punishment on previous occasions, believing that the faults committed were not the result of bad faith, and hoping that a man with such abilities, as Mr. Dique possesses, would take warning and reform. This hope has been disappointed, and the Board now resolve to recommend Government to reduce Mr. Dique from the post of Tahsildar to that of Deputy-Tahsildar and Sub-Magistrate.

Mr. Reade, Board's Proceedings, 30th September 1868, No. 6,937.
Mr. Sullivan, Board's Proceedings, 12th December 1873, No. 2,589.
Mr. Garstin, Board's Proceedings, 3rd June 1874, Miscellaneous No. 3,697.

No. 199. ORDER THEREON, 16th October 1874, No. 1,337.

Miscellaneous.

HIS EXCELLENCY the Governor in Council is pleased to direct that Mr. Dique, Tahsildar of Tindevanum, be reduced to the post of Deputy-Tahsildar and Sub-Magistrate as recommended by the Board.

(True Extract.)
(Signed) C. G. MASTER,
Acting Secretary to Government.

To the Board of Revenue.
„ the Accountant-General.

Exd. W. H. French.

Govt. of India Madras.

REVENUE.

To

The Board of Revenue,

&c, &c, &c.

Dated October 16th.

Recd.

Encl.

G.O., No. dated 1874, No.

Mr. Dique, Tahsildar of Tindivanum, South Arcot District. — Directing that — be returned to the post of Deputy-Tahsildar and Sub-Magistrate.

OCTOBER.

Nos. 198—199.

5/1337

No. 6,937.

Proceedings of the Board of Revenue, dated 30th September 1868.

Read the following letter from C. W. READE, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated Cuddalore, 4th September 1868, No. 225:—

I have the honour to report on the case of Mr. Dique, Tahsildar of Cuddalore, whose suspension I reported to the Board under date the 21st December 1867, No. 335.

2. For several months previous to his suspension I had received petitions by post, charging Mr. Dique with corruption and bribery in the matter of the new License-tax; and in one of the petitions I was pressed to come out at once to the locality where he then was, (Kurinjipady,) or to send my Assistant Mr. Rice. Having a high opinion of Dique's honesty, I was very unwilling to credit the information that had reached me, and consequently I took no action on the petitions. But some weeks afterwards Dique called at my house at Cuddalore on other matters, when I told him of the petitions and the rumours which were then so rife affecting his character; he seemed somewhat startled but did not reply, a silence which struck me at the time as strange. I then warned him and repeated how great, as he knew, was the confidence I reposed in him, and how painful it was to me to receive complaints of the kind; but my remarks elicited not a word from Mr. Dique.

3. I think it was in the following July that I went to Punrooty and found Dique engaged in fixing the License-tax. I returned to Cuddalore the same evening, and on quitting Punrooty my carriage was stopped and crowds thronged me exclaiming against the Tahsildar's injustice and oppression, but I construed the demonstration as directed merely against the License-tax itself, though I afterwards discovered that in reality it was against the Tahsildar's proceedings in regard to it.

4. After this I received one or more petitions numerously signed, but of which I still took no notice except in the case of one on which I endorsed that no complaints of the kind by post would have attention, but only if personally made in open Cutcherry. Shortly afterwards, two individuals appeared before me, whose statements I took down, but they proved to be only informants, and therefore I declined further action unless those they professed to represent themselves came forward. The informants then stated that except by summons from me no one would appear through fear; I then issued a summons which was served on certain parties, but they repudiated the correctness of the information given by the informants as regarded themselves, though I ought to mention that in the interval between the issue of the summons and the appearance of the individuals, the informants had openly avowed that my summonses had been anticipated by Mr. Dique's friends, that my proceedings had been watched, and that the parties had all been tampered with, and had been repaid or been promised repayment of all they had given to the Tahsildar. The denial by the individuals in question determined me, however, to move no further in the matter, and I intimated this, when it was urged by the informants that all they had stated was strictly the truth, and that my refusal to further investigate their information laid them open to the charge of lying, and they, therefore, pressed on me at all events to take up the charge of tampering with the persons already examined, and which they declared they were ready and able to prove by witnesses whom they simultaneously named. I declined to do this, and added that I would hold no further inquiry unless the parties actually interested personally appeared and laid their complaint; and persisting in this resolve, the informants went away. Two or three days after, while engaged with other matters in my office, some people presented themselves and stated that they wished to complain against the Tahsildar Mr. Dique; on questioning them verbally I found their complaints related to bribery in connection with the License-tax. I thereupon sent for the Tahsildar, who was in his Cutcherry, and on his appearing I told him the cause of my verbal summons, and I pointed out the persons in Court who had then only just come to complain against him, adding that I had refused to hear any actual charges against him except in open Cutcherry and before himself. I then proceeded to the examination of the parties in the Tahsildar's presence, and thus began the first case against him, the inquiry

into which was continued by me and eventuated in the committal to the Sessions Court of Dique and two other prisoners, the Revenue Inspector and a Gumastah who had been employed and were charged as the instruments or go-betweens and the aiders and abetters of their principal, the Tahsildar.

5. The Register of Preliminary inquiry of this case marked A accompanies this letter, and also the remarks of the Sessions Court extracted from the Calendar marked B, from which the Board will gather all needful information as to the character of the preliminary inquiry before me and the final acquittal of the accuseds by the Sessions Court.

6. I am tolerably conversant with the nature of evidence in this country, and I fancy I am equally able, from my long experience, to appraise its value; and entering, as I did, on the investigation, quite impartially, but with a bias, if any, in favour of Mr. Dique, the Tahsildar, I do not hesitate to declare that stronger and more conclusive proof of an offence was never recorded before any Tribunal, and I never took down depositions so damnatory and so irresistibly conclusive of guilt, as those which it was my painful duty to record in this case against the Tahsildar.

7. The Record is available to the Board should they desire it, and therefore it would needlessly occupy time to add more to the opinion I have just given, but I will merely follow the case for a moment to the Court. The Board will be aware that the disposal of the case was within my own jurisdiction as Magistrate, but from the first I decided that, if proved, I would send it to the Sessions Court, as a provision in the Criminal Law gave me that option, while this course relieved me from the painful duty of convicting and sentencing to punishment a public servant whom I had myself placed in the position he then held, and who for one or two years had occupied the post of Head English Clerk in my office; and thus a natural dislike to passing sentence on any one was peculiarly strengthened in this instance, for I cannot imagine a position more painful than that of having to convict, and send to Jail, a man who had long been a sort of confidential subordinate, and whom I had been accustomed to treat with every courtesy and consideration. I, therefore, felt a peculiar delicacy in dealing with the case, and I was very thankful that the Law admitted of my committing it to the Court.

8. The grounds of final acquittal will be found in the Court's remarks B. already quoted, but it is, I submit, a very imperfect and incorrect summary of the trial, and the remarks of the prisoner's Counsel, Mr. Miller, a Madras Barrister, are wholly unnoticed, and they received none whatever at the hands of the Judge when addressing the Assessors. Those remarks indicated Mr. Miller's real opinion of the case against the prisoners (his clients) and were in reality declaratory of the weakness of the defence, and of the damnatory character of the evidence for the prosecution; and if I were rightly informed, the aim of the Counsel's pleading was rather for mitigation of punishment than with the hope of an acquittal. But the Court in the exercise of its undoubted discretion disbelieved the evidence, because too good and congruous, and discharged the accused.

9. At the time this first case was pending trial, another charge had been preferred before me in open Court against the Tahsildar and the Village Monegar of Kurinjipady, but I had deferred the inquiry until the final disposal of the previous commitment. I then formally entered upon this second case, notifying to the accused that my inquiry would be as before under Chapter XII of the Procedure Code, and that I had no intention, in the event of proof, to pass sentence myself, but, as in the previous instance, the case would be sent for trial to the Sessions Court.

10. This second charge was very much the same as the first, but the circumstances attending it were very different, and the scene of the occurrence constituting the offence was also quite distinct.

11. The Calendar of the preliminary inquiry held before me, and the remarks of the Sessions Court, are enclosed for the Board's information. From the former it will be seen that the second prisoner in this second case was admitted by me as an approver, on the grounds which will be found detailed in the paper marked E., and to which I solicit the Board's close attention.

Marked respectively C. and D.

12. In the exercise of its discretion, the Court threw out this second case on the grounds of disbelief of the evidence and alleged inconsistencies and discrepancies, and the accused was acquitted: and of course it is not my province here to analyse the grounds for this verdict, however I may differ from it, and however prepared I may be to disprove the arguments set forth in the Calendar in its support.

13. Immediately connected with this case, and very soon after the charge was laid, but before the inquiry had commenced, the prosecutor Veerasawmy Reddy, in company with one Mootoo Sadasiva Reddy, produced before me Rupees 250, which he stated on oath, in the presence of some hundreds of people, had been offered to him by a third party, a merchant of Kurinjipady, in satisfaction of the sum paid to Mr. Dique by himself (the prisoner and others) if he would withdraw or back out of the prosecution; but there was nothing to bring home conviction to the parties actually interested in this overture of hush money, and consequently there was no case for formal trial. But the fact may reasonably be accepted as tolerably conclusive, at all events of the truth of the substantive charge of bribery made by the prosecutor, for it is clear that no third or disinterested person would have incurred the certain loss of so large a sum for an uncertain issue, and when if there had been any corrupt or improper by-play, a far less amount would equally have sufficed for the object. Besides, the way this money was brought forward, and the absence of all attempt by false evidence to support the payment as from those interested in paying it, affords *primâ facie* inference of the truthfulness of the story, and of course since Mr. Dique's name was not introduced in connection with it, there was nothing tangible by which to connect the affair with the direct charge for which the Tahsildar and his accomplice, the Monegar, were about to stand their trial.

14. There was still a third charge of a like kind brought against the Tahsildar of Cuddalore, and I had wished to avoid inquiry into this, but the individual who preferred it more than once pressed for an investigation, and when at Trikalore I resolved to refer the complaint for preliminary inquiry by the Acting Superintendent of Police, first, because of the distance I then was from where all the parties resided, and, secondly, that the investigation might be wholly impartial. Satisfactory evidence was not forthcoming, and the Police failed to elicit anything in proof of the charge, and the complaint was therefore dismissed on the report* of the Superintendent.

* 25th June 1868.

15. Intermediately there had been a separate complaint against a Village Moonsiff and others for collecting sums on account of the License-tax at Kurinjipady, in the course of which accounts were put in, containing entries of payment on account of the Tahsildar mentioning the name of Mr. Dique as the officer. But Dique was not an accused party in the case, as those complaining stated that they paid the money to the Moonsiff and others, and, therefore, looked to them for redress, although one and all allege their belief at the time that the money was for the Tahsildar, and some of them state it as a fact. But I think it as well to forward to the Board a copy of all the examinations taken in this case as illustrating the general mode adopted where Talook officers have stooped to acts of the kind for their own pecuniary aggrandizement, and the examination of the Moonsiff Appavoo Padiachy, of Velliancoopum, is deserving of attention, and however it is to be received with mistrust from the clever evasion of his own part in the matter, I believe it is a true picture of the *modus operandi* ordinarily resorted to.

16. After the result in the two trials before the Court I could not feel justified in convicting the Moonsiff, whose guilt, if any, was in my belief very subordinate to that of the Talook officers, under whose instigation and influence he had acted, and though I at first suspended the Moonsiff, I have dismissed the charge as not proven.

17. In reviewing all that has passed affecting the Tahsildar, Mr. Dique, I am unable to divest my mind of a very clear conviction of his guilt. In fact, it is hardly necessary to say this, since had I considered him otherwise than guilty in the charges on which I committed him to the Court, such committal would not have taken place, and had I myself finally disposed of those cases it is unnecessary to add that his conviction and punishment would inevitably have followed, so satisfied was I, and am I still, of the perfect truth of the evidence. The improbabilities suggested by the Court as surrounding the evidence in the first of the two cases (see paper B) on the contrary favour a belief in its credibility, since if the story given by the witnesses was concocted it was quite as easy and more rational to have concocted one free from those improbabilities which have been regarded

as fatal to its acceptance and the night time and all those attendant circumstances so carefully to be thought of in such transactions might have been as readily worked up and proved as the actual facts now standing on the record; and it may be argued, that where a story is got up, improbabilities are carefully avoided, and there is usually some defect or some break down in untruthful and collusive evidence which exposes its character; but in the first case under notice it is the wonderful consistency and astonishing powers of memory exhibited by all the witnesses that is the objection and the grounds of disbelief in their testimony; and this after the witnesses had been subjected by the Counsel (a Madras Barrister) to the strictest and most searching cross-examination. Had their evidence broken down under such severe testing, then it would have been rightly that the evidence did not stand cross-examination, and that there were consequent discrepancies, etc., which precluded its acceptance, but it is its congruity and consistency, despite all the attempts made to break it down and confute it, that are alone stated to be the obstacles to its reception; and because in the Judge's opinion it was improbable that the Tahsildar would have acted as described, the evidence and all the corroborative facts so conclusively sustained are discarded, and the witnesses virtually adjudged to be the perjurers. I am not calling in question the perfect freedom and liberty of the Court, but I am compelled into these remarks in my own justification, and as the Committing officer, because I firmly maintain that there never was a case submitted for trial more clearly and satisfactorily proved and established on every point.

18. As regards the second case, I am equally of opinion that the proof was ample, and though part of the evidence may have been open to exception, its substantial truth and accuracy was corroborated by the testimony of the approver and other undoubted features. But I do believe that the approver did not tell all the truth or all that he knew, but what he did tell was the truth so far as it went, and this was quite enough for the purposes of this particular trial; so that the charge against the Tahsildar was, I consider, satisfactorily established. In this case, the arguments for discrediting the evidence are precisely the opposite of those on which disbelief in it was founded in the first case. Here it is not the congruity and consistency, but the want of these qualities which is urged in objection to its acceptance, and the discrepancies in the statements of the witnesses precluded the admissibility of their testimony. The Court further expresses the opinion that the case was concocted probably by the approver and the sixth witness, though the grounds for this are not stated, and lastly, the improbability that the accused (Tahsildar) would have acted as described is again advanced as a potent objection to a belief in the charge.

19. All I have to say is, that the sixth witness is a very large landed proprietor, and as far as my knowledge goes, a man of respectability and position, and beyond mere assumption, there is nothing on record to bear out the Court's remarks reflecting on this man, and the delay noticed by the Court in the production by him of certain documents was quite accounted for to my satisfaction. Moreover, I never heard before of the rejection of an approver's evidence without further notice, and it seems to me that if his statement were concocted and false as imagined, the Court was bound to have committed the man agreeably to Section 211 of the Code of Criminal Procedure, but nothing of the kind was done.

20. I repeat, that I am not questioning the Court's perfect liberty to throw out the case, but the exercise of that liberty does not impose on me the necessity of acquiescing in its decision, and as the Committing Officer, my own judgment is called into question as well as my ability to appreciate evidence of which I have had no little experience, and as an acquittal by a Court does not necessarily carry with it a declaration of innocence, but merely that in the Court's belief the charge was not legally proved, so it is incumbent on me to dissent from the Court's verdict and to uphold that view of the facts and evidence which I took as the Committing Officer at the original trial.

21. It may not be strictly to the purpose to refer to the surprise of the public and of the Counsel employed at the result in both cases, but it is not unimportant to mention the fact, because from the position held by the accused a more than ordinary interest was excited in the issue, and that in both cases that issue was contrary to the evidence and to truth was the prevailing opinion.

22. As the question of Dique's re-employment still remains to be decided, and his acquittal by the Court does not in itself necessarily determine that question, but indirectly it rests with myself

Enclosure No. 7.—Memorandum.

Enclosure No. 8.—Copies of letters read in open Court.

The Collector will submit duly certified copies of the evidence taken both before the Magistrate and the Sessions Court.

(True Copies and Extract.)

(Signed) F. BRANDT,
Acting Sub-Secretary.

To the Collector of South Arcot.

Exd. T. Cartledge.

1868 Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 30th September 1868.

Received

No. 6,927.

Mr. Dique, suspended Tahsildar of Cuddalore taluck, in South Arcot district.—Certified copies of evidence before Magistrate and Sessions Court in case of corruption and bribery against —, called for.

No. 2,589.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 12th December 1873.

Read the following letter from H. E. SULLIVAN, Esq., Acting Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 17th November 1873, No. 469:—

I HAVE the honour to submit, for the consideration and orders of the Board of Revenue, a report,* dated 27th ultimo, No. 631, from the Sub-Collector, with thirty-six enclosures, bringing to notice grave irregularities in connection with the distraint and sale of produce for an arrear of revenue in the Alamelamangapuram Village, of the Chellumbrum Taluq, in March last, whilst Mr. Dique, who is now Tahsildar of Tindevanum, was in charge, and, after a careful consideration of the circumstances of the case, I regret that I am obliged to come to the same conclusion as Mr. Lister, viz., that "the hasty attachment and irregular sale were collusively arranged by Latchmana Reddy and the taluq officials, the Tahsildar himself passively conniving, even if he did not actually aid."

* Enclosure No. 36.

2. The facts of the case appear to be as follow: On the 16th March† an arrear of Rupees 182-14-0 accrued against the putta lands of one M. Soobarayer, for which, on the 18th, the notice of demand (Enclosure No. 12) was issued against the Puttadar, and on the 19th twenty-eight heaps of paddy were attached in eight lots. From the Batta Amin's report, dated 26th April 1873, No. 16, it does not appear that any attempt was made to serve the defaulter (Soobarayer) with a copy of the notice, as required by law, although his name was entered therein; in fact, no demand for payment was made on any one, but on the 24th and 25th April twenty-eight or twenty-nine heaps of paddy, which had never been measured, were put up to auction and sold for Rs. 659-4-0 notwithstanding that payment of the arrear had been tendered a month previously, on the 26th March, by Veeraragava Rajah, who claimed an interest in the land and produce. After deducting from this amount, not only the arrear for which the produce had been attached, but also the April and May kists, for which no demand had been made (the latter was not even due), the balance, Rs. 204-14-0, was paid over by the Amin, under instructions previously given to him by the Tahsildar, to one Latchmana Reddy. The sale, it appears, was advertised to take place on the 21st April, but the Tahsildar admits that no locality was specified (*vide* paragraph 5-A of Enclosure No. 4).‡ The Tahsildar says: "I am unable to state if the sale was really advertised to take place at the cusbah The goomastah who prepared the notice says that he did not mention any special place." Further on he says: "Originally I intended the sale at cusbah, as I always prefer selling moveable property in my presence and under my control; but it was represented to me that carts were not procurable and that the cost of carriage would be heavy, and I changed my mind." The sale actually took place at Alamelamangapuram on the 24th and 25th. When directed by the Sub-Collector to state if the sale was held on a different date or at a different place to that named in the notice, what publicity was given to the change, the Tahsildar merely replies: "Due publicity was given." The circumstances, however, that the whole of the produce was purchased by Dorasawmy Reddy, a relation of Latchmana Reddy, and by Ponnusawmy Pillay, his partner in the toddy-farm; that only eleven bids were made by three bidders; that the whole of the grain was sold for Rupees 659-4-0 when the arrear for which attachment was made was only Rs. 182-14-0; that produce which was distrained in eight lots was sold off in three: that the demand notice was never served on the Puttadar; and that the tender of payment made by Veeraragava Rajah, who, by the Tahsildar's own showing (*vide* paragraph 4 of his explanation, Enclosure No. 24), had actually a Civil Court attachment on the produce at the time, point but to one conclusion, viz., that the Tahsildar had determined, for reasons best known to himself, to strengthen Latchmana Reddy's hands against the other claimant (Veeraragava Rajah), and that the irregular action in the matter

† *Vide* Enclosure No. 12.

‡ Tahsildar's explanation.

of this pretended sale for arrears of revenue was taken in collusion and by preconcerted arrangement with the first-named individual.

3. The Tahsildar gives as his reasons for persisting in selling the grain although payment of the arrears had been tendered by Veeraragava Rajah, who claimed the land and stated that he had himself raised the grain which had been attached, that he knew it was Latchmana Reddy who had cultivated the land and that he held a transfer Razeenamah and sale-deed for the land from the Puttadar; that he had previously paid arrears of revenue due on the land; and that the Collector's order, dated 14th December 1871, stated that "Latchmana Reddy had paid up the balance due from Faslis 1277 to 1280 and to collect from him any further balance that may be due and to release the attached property." This order, to suit his own purposes, the Tahsildar construes as an authority to consider Latchmana Reddy the owner of the land, or, as he expresses it, "in loco Puttadar," whereas a reference to Mr. Garstin's takeed will show that it merely conveyed instructions to collect any balance that might then be due on the land prior to releasing it from attachment. He says he declined to receive payment of the arrears from Veeraragava Rajah because he did not consider him but Latchmana Reddy to be the defaulter, and that he had *always* been regarded as such. But here, as pointed out by the Sub-Collector, Mr. Dique has impaled himself on the horns of a dilemma. In October 1872, an arrear of Rupees 51-4-0 having accrued on these identical lands, Latchmana Reddy's cattle were attached in satisfaction. Against this he apparently appealed to the Tahsildar, for on the demand notice (Enclosure No. 10) appears the following endorsement in Mr. Dique's handwriting:—

"Latchmana Reddy appears and objects to the attachment of his cattle *for the arrears of Soobarayer*. He admits to have purchased the land, but states that the sale is not complete and that there is a misunderstanding about it and therefore his property cannot be made liable.

"Under the circumstances release the attachment and look to the Puttadar."

4. This looks very much as if Latchmana Reddy was able to make the Tahsildar do what he liked. When it comes to the attachment of grain, which possibly had been raised by somebody else, the Tahsildar religiously regards him as the defaulter "in loco Puttadar," insists on selling the crop although payment of the arrears is tendered by the person who claims to have raised it, and hands over the balance of the purchase-money to Latchmana Reddy. But when it comes to attaching personal property of Latchmana Reddy which no one else claims, then he says he is not liable, that the purchase of the land is not complete—his friend the Tahsildar admits the plea, releases the property from attachment, and directs that the "Puttadar" be looked to.

5. In paragraph 1 of his explanation submitted to the Sub-Collector Mr. Dique states that he took no notice of the Monegar's report* remonstrating on the irregularity of the attachment as he considered it to be "puerile." I am compelled to say that this statement is untrue. Mr. Dique carefully abstained from passing any *written* order on so delicate a subject, but on the report (q. v.) is entered in his handwriting, "Summons." From another note on the Arzee written in Tamil (by a Clerk, it is presumed), it appears that the Monegar attended in obedience to the summons on the 21st March, and a further note reads as follows: "The party appearing orders were given to him in person and he was sent away." If the Board will have the goodness to refer to this report of the Monegar I think they will have no difficulty in forming an idea of the nature of the orders "given in person." These "personal orders" seem to have been made liberal use of by Mr. Dique in this transaction. From the Monegar's report above quoted it appears that the Amin (Ramier), who came to superintend the attachment, showed Takeed No. 103 from the Tahsildar, in which it was directed that the grain should be *measured* and attached. But the Amin said that the Tahsildar had given "personal instructions" that the quantity of the grain should be approximately estimated and attached. The Monegar states that he hesitated, in the face of the Tahsildar's written order, to affix his signature to the list of property attached in such an irregular manner, but that on being threatened by the Amin and Dorasawmy Reddy, one of the subsequent purchasers of the grain, with the Tahsildar's displeasure he affixed his

* Enclosure No. 17.

signature and immediately reported the matter to the Tahsildar. The result of this was, as above shown, that he was sent for by the Tahsildar and also received "orders in person." In paragraph 3 of Enclosure No. 4 Mr. Dique admits that he did personally authorize the produce being attached without measurement because he did not think that "the grain would ultimately be brought to sale;" but when it *was* brought to sale no orders were issued to supply this defect, and it was sold, without the contents of the heaps being known, to a relation and partner of Latchmana Reddy, to whom (*vide* paragraph 9 of the same enclosure) the Tahsildar had authorized the Amin to pay the surplus.

6. The further I go into this case the more iniquities disclose themselves. I think I have said sufficient to prove that the Tahsildar has most grievously abused his official influence, and, by selling in a most irregular manner the produce of the land when payment of the arrears was tendered in due time, and paying the surplus proceeds of the sale to a man who was not the defaulter, has laid the Government open to a civil action which it would be very difficult to defend. I will, therefore, only in conclusion ask the Board's attention to Enclosure No. 18. This is a report from the Amin deputed by the Tahsildar to attach the grain formally complaining that the Monegar, who alone seems to have done his duty as far as the Tahsildar would let him, had not given him proper assistance in making the attachment until the Amin threatened to report him to the Tahsildar. Now, if all had been aboveboard, it was clearly the Tahsildar's duty to have brought the Monegar's conduct to the notice of the Division Officer; but Mr. Dique dared not do this, and the manner in which he disposed of the Amin's complaint is found in a Tamil note on the report itself: "The Monegar, who appeared on summons, was asked in person and warned." Warned—because he objected to lend himself to the irregular action ordered to be taken by the Tahsildar.

7. Mr. Dique's argument that he could not receive payment of the arrears from Veeraragava Rajah because he (Mr. Dique) considered that they ought to be realized from Latchmana Reddy cannot be sustained for a moment. It did not form part of his duty to decide which of these two claimants had the best right to the land. His business was simply to realize the revenue and to release the crops from attachment directly payment was tendered. It was no part of Mr. Dique's duty to look after the interests of Latchmana Reddy, and if any one offered to release the crops from attachment by paying the Government demand, Mr. Dique was bound to take off the attachment and to give the person making payment an acknowledgment that the arrears due by the Puttadar had been discharged. A person so making payment would do it at his own risk, and the fact of his having done so could not *per se* give him any right or title which he did not previously possess.

8. I consider the following charges to have been fully established against Mr. Dique in this case:—

(1.) That previous to attaching the produce he failed to serve the defaulter (Soobarayer) with a notice of demand for payment of arrears as he was by law required to do.

(2.) That the provisions of the law requiring that an inventory of the property distrained should be delivered to the defaulter were wilfully violated by him, he having ordered that no such inventory should be made.

(3.) That he violated the law in bringing to sale produce distrained for arrears of revenue notwithstanding that payment of such arrears in full had been duly tendered.

(4.) That the sale of the grain without being measured, so that intending purchasers could not know what they were bidding for, could only have been made with a fraudulent and collusive intent.

(5.) That he violated the law in authorizing an excessive distress. The arrear due was Rupees 182-14-0, for which grain was attached, which, unmeasured as it was, fetched Rupees 659-4-0 at auction. Out of this amount, with the Tahsildar's sanction but without the defaulter being consulted, credit was taken in the public accounts for two more kists, one of which was not even due at the time of sale, and for the other no demand had been made.

(6.) That he violated the law in paying the surplus sale-proceeds to a person not the defaulter.

(7.) That he falsely stated to the Sub-Collector that he had taken no notice of the Monegar's remonstrance regarding the irregular attachment of the grain, the fact being that he summoned the Monegar on the receipt of the report and gave him personal orders on the subject.

(8.) That with fraudulent intent he gave to the Amin sent to distrain the produce a written takeed directing the measurement of the grain, at the same time giving him personal instructions not to have it measured.

(9.) That he certainly connived at, and probably personally assisted at, the intimidation of the Monegar to obtain his signature to the uninventoried statement of the produce distrained.

(10.) That he falsely stated to the Sub-Collector that he had always considered Latchmana Reddy as the person liable for payment of the revenue, it being in evidence in his own handwriting that on a previous occasion he had released Latchmana Reddy's cattle from attachment on the ground that he was *not* liable and ordered the *Puttadar* to be looked to for payment.

(11.) That with his connivance the place where the salas to we take place was not specified, and that also with his knowledge and connivance the sale was held on a different date to that entered in the notice.

9. If the Board concur in the view that I and the Sub-Collector take of the case, viz., that the Tahsildar took the irregular action he did in forcing this sale in order to secure to Latchmana Reddy the produce for which there was another claimant; if they think with me that Mr. Dique has entirely failed to show that he acted *bonâ fide* throughout the transaction, then I submit he should not be allowed to remain another day in the public service. In their Proceedings, dated 28th August last, No. 5,481, the Board directed the dismissal of a Revenue Inspector in the Virdachellum Taluq for selling lands out of the order of their attachment in view to favour the defaulter, and, if a summary check is not put upon Tahsildars abusing their official powers in matters of this sort, Act II. of 1864 will in the hands of unscrupulous men become an engine of grievous oppression. It is to the Tahsildars that Collectors and their covenanted officers must look to check the slightest irregularities in these revenue sales and to prevent any abuse of the considerable powers conferred by the law. If, therefore, an example is not made when the head of a taluq not only connives at, but actively abets, such abuse, the subordinate crew will, as a matter of course, run riot.

10. I have again gone carefully through the papers connected with this case and can find no extenuation for the Tahsildar's action in the matter. One very strong point against him is that he passed no orders whatever on the Monegar's report, dated 26th March (Enclosure No. 9), representing, one month nearly previous to the sale, that Veeraragava Rajah, who was in *enjoyment of the land*, had threatened to hold him (the Monegar) responsible for any damage done to the produce which had been attached but not secured, and had tendered payment of the arrears to release the grain from attachment. The Monegar asked for instructions as to whether he might receive the money. *The Tahsildar issued no orders.* I have since been advised that it is well known in the village that the crops attached were raised by Veeraragava Rajah, and, as he offered to discharge the liability on them, he has grounds for an action which could not be defended. Neither can I find anything recorded in regard to Mr. Dique's past services to warrant my making a special recommendation in his favour. All that can be urged for him is that in 1868 he was acquitted by the Session Court on two charges of bribery and extortion. He received the full benefit of the acquittal and was restored to office with all arrears of back pay although the Collector at the time recorded that he had lost all confidence in him. He bears a very indifferent reputation, and I do not think that any officer in the district would say that he considered him to be trustworthy. The Head Assistant Magistrate, in whose division he is, says: "As a Magistrate I have no confidence in him at all as his main object seems to be to shuffle off everything without inquiry." In support of this I beg to enclose copy of the Head Assistant Magistrate's proceedings, dated 3rd instant, No. 211, commenting on five cases thrown out by Mr. Dique without inquiry. In my capacity as Magistrate of the district I have had to order cases thus thrown out to be taken on his file again. Captain Young, the Superintendent of Police, says. "My knowledge of that officer (the Tahsildar of Tindevanum), extending over a period of ten years, leads me to form a very indifferent opinion of him. I consider Mr. Dique an official of doubtful veracity, wanting in ordinary courtesy towards officers of Police including the Assistant Superintendent and myself, with whom he necessarily often comes in contact, and overbearing in his manner to an extent which involves loss of dignity and self-respect towards petty officers of Police who appear before him in criminal cases." In support of this I beg to ask the Board's attention to Mr. Thomas' letters to the Head Assistant Magistrate, dated 11th November 1871, No. 32, and 10th November 1873, No. 86. On a reference to paragraph 15 of the Sub-Collector's letter, dated 27th October last, No. 631, it will be seen that Mr. Lister had been obliged in April last to direct Mr. Dique not to address him in English "on account of the disrespectful language he uses." Mr. Dique gives proof of his subordination by replying to the Sub-Collector's proceedings in English. In August of last year I had to fine Mr. Dique Rupees 10 for commenting in a most impertinent manner on my proceedings in a case of revenue sale.

11. I will add no more. I think sufficient has been adduced to show that Mr. Dique is quite unfit to remain in the public service.

ENCLOSURE No. 1.

From A. L. LISTER, Esq., Acting Sub-Collector, to H. E. SULLIVAN, Esq., Acting Collector of South Arcot, dated Virdachellum, 27th October 1873, No. 631.

I HAVE the honour to report the following circumstances for any notice you may deem fit as Mr. Dique has left my division.

2. On the 19th March last there was an arrear of Rupees 182-14-0 of four days' standing against the putta lands of M. Soobarayer, a brother of Sambamoorthi Iyer, late Tahsildar of Cuddalore, about which there has been a good deal of trouble; the produce of the land was attached on the 19th March; there were twenty-eight heaps of paddy attached in eight lots.

3. On the same day the Village Monegar, Ramasamy Naick, wrote a report (Enclosure B) to the Tahsildar pointing out that the grain had not been measured and alleging that he had been frightened into signing the attachment list. The Tahsildar considered this statement puerile, disbelieved it off hand, and took no notice of it.

4. On the 26th March the Monegar wrote another report (Enclosure A) saying that Veeraragava Rajah, who enjoyed the land by right of purchase, had tendered the arrear and wished him to receive it. The Monegar requested the Tahsildar's orders as to whether he was to receive it. the Tahsildar sent no orders on the point, for he did not think it right to receive the money from Veeraragava Rajah as Latchmana Reddy had paid the previous kists.

5. On this point I will only observe that when the Puttadar is not the owner of the land, and when litigation is going on between different parties, as seems to have been the case in this instance from the concluding remark in paragraph 4 of the Tahsildar's explanation, a Tahsildar should, in my humble opinion, receive the kist when tendered by either of the litigants. Section 10, however, of Act II. of 1864 only makes it incumbent upon the distrainer to receive it when *the defaulter* tenders it, but Section 7 of Board's Standing Order, No. 274, directs that the property must be released if payment of the arrear with costs, etc., is made at any time prior to the day fixed for sale, no matter by whom the payment is made.

6. I think the Tahsildar erred in not receiving the arrear when it was tendered by Veeraragava Rajah. He seems to have been puzzled by a confused notion that Veeraragava Rajah would have acquired some sort of title to the property by paying one month's kist, and, influenced by considerations of justice and equity, the Tahsildar determined not to give him the imaginary status.

7. The sale was then advertised to take place on the 21st April. It is averred in the petition of complaint that it was advertised to take place at Cusbah Chellumbrum. The Tahsildar evidently

does not think that the place of sale is a matter of much moment, for in the office register there is not even a column opened for entering the place of sale. He is unable to state where the sale was advertised to take place. He originally intended to have the sale at the cusbah; the goomastah who prepared the notice says that he did not mention any *special place !!* As far as the truth can be reached, I consider it to be established that the sale was advertised to take place at the cusbah on the 21st April.

8. The sale was not conducted at the cusbah nor on the 21st April. I must ask you to notice with disapproval the Tahsildar's reply to my question as to what publicity was given to the change of date and place of sale; the reply merely is "due publicity." I cannot at all accept this as conclusive.

9. When the auction took place is doubtful, for the Amin reported that he sold the grain on the 26th April,* but it was discovered in this office that Latchmana Reddy's receipt† for the surplus money was dated 25th April. The Amin said he went to the village on the 21st April. As the whole produce was sold in three lots the sale would probably not have occupied half an hour as there were only eleven (!) bids altogether.

* See Enclosure E.

† Enclosure F.

10. Now, the Tahsildar's excuse for the irregular distraint is that he "did not then think the grain would be ultimately brought to sale." This excuse, lame enough at first, is no justification at all for selling it unmeasured, when no one but the friends of the defaulter could know what they were bidding for.

11. The grain was all bought by two persons. Dorasawmy Reddy, a relative of the defaulter, bought 2½ cullums for Rupees 2-4-0; Ponnusawmy Pillay, joint contractor in the toddy-farm with the defaulter, bought 532½ cullums for 657 Rupees. After satisfying the arrear and the subsequent kists on the land there was an excess of Rupees 204-14-0, which was at once paid by the Amin to Latchmana Reddy under orders previously received from the Tahsildar, who would appear to have anticipated a surplus.

12. As the paddy was distrained in twenty-eight or twenty-nine heaps the large excess of Rupees 204-14-0 attracted my attention and I called for an explanation. The Tahsildar's statement is that "the sale of the *last heap* made up the excess." Now, there is a very important error here; instead of "the last heap" the Tahsildar should have written "the last lot of heaps;" but he seems carefully to have avoided seeing any irregularity connected with this sale. Why were thirteen heaps sold in a lot when the sale of half of them would have satisfied the arrear? Why was produce sold in three lots which was distrained in eight?

13. I must ask your attention to the bids for the last lot of heaps. Ponnusawmy Pillay bid 286 Rupees, which would within 3 or 4 Rupees have just satisfied the arrear. This tends to show that the sale was collusive. Chinnasawmy Rajah, nephew of Veeraragava Rajah, made a noble attempt to get the grain he claims by a rise of no less than 200 Rupees, whereupon Ponnusawmy Pillay bid 1 Rupee more and the sale was over, so it was entirely owing to Chinnasawmy Rajah's bid that the surplus arose.

14. The Tahsildar's Arzee, which is dated the 17th July, had not reached this office when I went away on leave, and hence the delay in submitting this report.

15. I directed Mr. Dique not to address me in English on account of the disrespectful language he uses on the 24th April 1873. Copy of the order is enclosed.

16. I think a perusal of these papers leaves no room for doubt that Latchmana Reddy has been unduly favoured in this matter.

17. The kists up to February were collected in the Cuddalore Taluq; in March no notice seems to have been sent to Cuddalore, but the crops were attached *four days* (!) after the kist fell due. I cannot avoid the painful conclusion that the hasty attachment and irregular sale were collusively arranged by Latchmana Reddy and the taluq officials, the Tahsildar himself passively conniving, even if he did not actively aid.

11/1337

18. Since the last paragraph was written Mr. Dique's handwriting on one of the enclosures* attracted observation, and to this I must ask your earnest attention. It seems that Latchmana Reddy's cattle were attached for the October kist; he appeared before the Tahsildar, who wrote on the 28th October last that Latchmana Reddy, admitting that he had purchased the lands, urged that the sale was not complete and that his cattle could not, therefore, be attached for the arrears of Soobarayer, whereupon Mr. Dique released the attachment, and, as regards the arrear, wrote, "Look to the Puttadar."

* See Enclosures 12 and 31.

19. Now, this entirely sweeps away the groundwork on which the considerations of equity and justice were based. It was not on account of something which had happened recently, but from some knowledge the Tahsildar acquired four or five years ago in the Cuddalore Taluq and from Mr. Garstin's takeed of the 14th December 1871, that the Tahsildar in March last knew Latchmana Reddy to be *the defaulter*, the only person entitled to receive the surplus sale-money.

20. Now, apart from all the other suspicious circumstances with which this attachment and sale are surrounded, I must put the Tahsildar before you on the horns of a very ugly dilemma. When Latchmana Reddy did not wish to be regarded as the defaulter liable for Soobarayer's kist money in October, the Tahsildar, with all his Cuddalore knowledge and intimate acquaintance with the case, and with Mr. Garstin's takeed before him, held that he was not the defaulter and ordered his cattle to be released from attachment. This was in October. Six months afterwards Latchmana Reddy claimed the exclusive privilege of paying Soobarayer's kist; the Tahsildar held that he had such exclusive privilege, treated him as the defaulter, and paid over the surplus sale-money to him.

(True Copy.)

(Signed) H. E. SULLIVAN,
Acting Collector.

ENCLOSURES Nos. 2 to 36.—Papers connected with the Case.

ENCLOSURE No. 37.—List of Papers.

BEFORE passing orders on the complaint against Mr. Dique the Board wish to have any explanation or defence that he may wish to offer before them. With a view to this the Collector will be directed to furnish Mr. Dique with a full statement of all the charges against him and of the evidence by which the Collector considers these charges are proved. He will also furnish Mr. Dique with copies of any purely official and public documents which he may consider necessary to enable Mr. Dique to frame his defence.

2. Mr. Dique will be informed that he cannot be furnished with copies of the Collector's letter to the Board or of the Sub-Collector's letter to the Collector regarding his conduct.

3. The Board desire that no unnecessary delay may be allowed to occur in furnishing the Tahsildar with the necessary papers or in the submission of the latter's defence.

(True Copies and Extract.)

(Signed) J. GROSE,
Secretary.

To the Acting Collector of South Arcot.

Exd. A. S. Rodgers.

Board of Revenue,
MADRAS.

PROCEEDINGS, 12TH DECEMBER 1873, No. 2,589.

Encl.

Received

DECEMBER.
No. 2,589.

Mr. Dique, Tahsildar of Tindevanum—in South Arcot District.—Collector to furnish this officer with a full statement of charges made against him in connection with sale of produce of certain land for arrears of revenue in Alamelmangapuram Village while he acted as Tahsildar of Chellumbrum, and with copies of any purely official documents which he may require, and to forward such explanation as Mr. Dique may wish to offer.

1337

No. 910. April

PROCEEDINGS OF THE BOARD OF REVENUE, dated 17th ~~March~~ 1874.

Read again Board's Proceedings, dated 12th December 1873, No. 2,589.

Read also the following letters:—

From J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 17th February 1874, No. 75.

WITH reference to the Board's Miscellaneous Proceedings, dated 21st ultimo, I have the honour to inform you that the fortnight allowed to Mr. Dique to put in his defence expired on the 12th instant, and that no defence has been submitted by him to me.

From the same officer, dated Porto Novo, 22nd February 1874, No. 93.

WITH reference to the Board's Proceedings, dated 21st January 1874, No. 399, and my letter, No. 75, of the 17th instant, I have the honour to forward, in original, the explanation received from Mr. Dique on the 19th instant, with the original testimonials submitted by him.

2. He states, in explanation of the delay in the submission of his defence, that he was engaged in the Jamabandi work.

3. I was on the point of starting for this place when I got his defence. I was only able to read it on the 20th, and sent off to Chedambaram for a copy of my order, which he quotes in justification of his action. The messenger returned to-day with a report from the Tahsildar to the effect that the order cannot be found on the records, Mr. Dique possibly having forwarded it to the Sub-Collector, or having omitted to return it; so I lose no more time in despatching the papers.

ENCLOSURE No. 1.—Explanation of Mr. Dique.

ENCLOSURE No. 2.—Original Testimonials.

IT is proved that Mr. Dique is responsible for many serious irregularities. The grain should have been measured when it was attached, and a smaller amount would have been sufficient. It should have been measured and collected in the same spot before it was sold. The notice of the sale should have specified the spot where the sale was to take place, the time of the sale, and the quantity of grain to be sold in each lot; and, if it became necessary to alter the locality or the dates or the lots, public notice should have been given in the cusbah as well as the village a sufficient time before hand. The grain sold should have been divided into convenient lots, and the sale should have been stopped directly the arrears due up to the date of sale were satisfied.

2. These irregularities might have caused loss to Government or to the defaulter, and, if this had been the case, Mr. Dique would have been severely punished. They gave the Collector and the Sub-Collector reasonable ground for suspecting that they were prompted by improper motives on the part of Mr. Dique, and, if the suspicion had been corroborated by the facts of the case, it would have been necessary to dismiss him.

3. After a most careful consideration of all the papers, which have been laid before them, the Board have come to the conclusion that neither of these aggravations of the irregularity has been made out. All they can do, therefore, is to warn Mr. Dique to be more careful in future, and to inform him that the way in which he is reported on by the officers of the district, especially with regard to his insubordinate conduct and impertinence, satisfies the Board that, if any further irregularities of a similarly serious character occur, he will have to be removed from the post of Tahsildar.

4. It seems to the Board clear from the facts stated in the explanation submitted to the Sub-Collector by Mr. Dique (which are not contradicted) that he was justified in considering Latchmana Reddi to be the owner of the land. The dilemma in which the Sub-Collector places him in this part of the case is not so formidable as it appears at first sight. It is quite possible that Latchmana Reddi's purchase of the land was not complete on the 28th October 1872, and that it was unsafe to sell his bullocks for arrears on that date, but that it had been completed, and that it was safe to attach his paddy on the 11th March 1873. The large payments made on account of arrears due on the land on several previous occasions, while no objection was made by Viraragava Rajah, and the possession of a sale-deed and razinama,—asserted by Mr. Dique and mentioned, but not contradicted, by Mr. Sullivan,—create a strong presumption in Latchmana Reddi's favour. It is true that there was some law suit regarding the land and its produce pending at the time of the sale; but Mr. Dique informed the Sub-Collector, in his explanation, that the suit had been decided for Latchmana Reddi and against Viraragava Rajah, and this assertion has not been contradicted.

5. The charges set out by the Acting Collector, in par agraph 8 of his letter of the 17th November 1873, No. 469, will be noticed in order:—

(1.) Under Section 8, Act II. of 1864, no notice of demand need be issued beforehand, but the distrainer must produce such a notice. It would have been useless, under the circumstances, to make out the notice in the name of Subbarayar, and, whether the distrainer had such a notice or not, Latchmana Reddi makes no complaint, and it is to be presumed that he suffered no injury. Latchmana Reddi was entered as the responsible party in the notice of demand (Enclosure 12).

(2.) The grain ought to have been measured, and an inventory of it given to Latchmana Reddi; but he makes no complaint.

(3.) The law was not *violated*, because the grain was sold notwithstanding that payment had been proffered by Viraragava Rajah. Act II. of 1864 makes an important difference in the procedure for selling moveable and the procedure for selling immoveable property. In the case of land, under Section 35, any person claiming an interest in the land has the right to obtain its release; in the case of moveable property, persons claiming an interest (other than the defaulter himself or a tenant of the defaulter) have no such right, though they can seek their remedy in any Civil Court. If the Tahsildar had a doubt whether the land belonged to Latchmana Reddi or Viraragava Rajah he should have accepted payment from the latter, but if he had no doubt, and he says he had none, he was right in refusing it. Of course, he will be responsible if any suit is brought against him by Viraragava Rajah.

(4.) The sale was irregular, but the Board cannot see that any fraudulent or collusive intent is proved.

(5.) The distress was excessive, but it did not violate the law. The Collector is apparently thinking of Section 44, which makes the sale of an unnecessarily large portion of land illegal.

(6.) The law was not violated when the sale-proceeds were paid to a person whom the Tahsildar had good reason to believe to be the owner of the grain sold and the defaulter.

(7.) The Board do not understand Mr. Dique to mean that he did nothing when he says he "took no notice" of the Monigar's letter. No doubt he meant that he attached no importance to it, and did not alter his procedure in consequence.

(8.) The fraudulent intent is not evident. A change of mind often takes place honestly in such matters.

(9.) The proof that the Monigar was intimidated rests on the assertion of the Monigar, which is very vague as to what the intimidation consisted in. There is no proof that Mr. Dique had any share in it.

(10.) This point has already been noticed. Taking the worst possible view of the case, it is straining matters to say that the Tahsildar was guilty of falsehood.

(11.) The irregularities with regard to the notice of the sale were very serious, but they have been already noticed.

6. This case, as well as others, which have been before the Board, shows that there is improper laxity in South Arcot in administering the coercive portion of Act II. of 1864. Amongst other things, Mr. Lister mentions that, in the Tahsildar's Register of Sale Notices, "there is not even a column opened for entering the place of sale." The Collector will be requested to issue stringent instructions for the observance of the Board's rules, and for the keeping of satisfactory registers.

(True Copies and Extract.)

(Signed) J. GROSE,
Secretary.

To the Collector of South Arcot, with 2 original Enclosures and records connected with the case, returned.

Exd. F. R. Bantleman.

1874.
Board of Revenue,
MADRAS.

PROCEEDINGS, 17TH APRIL 1874, No. 910.

Rec'd 3 Encl.

Received.

APRIL.
No. 910.

Mr. Dique, Tahsildar of Tindivanum—in South Arcot District, censured for serious irregularities committed by him in connection with sale of produce of certain land for arrears of revenue in Alamelumangapuram village which he was acting as Tahsildar of Cholambaram. Collector to issue stringent instructions for observance of Board's rules regarding administration of coercive portion of Act II. of 1864.

Rec'd 13 Oct 1874

No. 2,738.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd September 1874.

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 28th August 1874, No. 435:—

IT is my disagreeable duty to bring to the special notice of the Board the conduct of Mr. Dique, Tahsildar of Tindevanum.

2. The Acting Head Assistant Collector has reported this officer to me for impertinence to Mr. Norfor while in charge of the 2nd Range. I enclose copies of Mr. Norfor's letter to Mr. Cox and of the latter officer's letter to me marginally noted.

Mr. Norfor's to Mr. Cox, dated 25th July 1874, No. 204 A.
Mr. Cox to Collector, 3rd August 1874, No. 284 B.

3. It seems that a peon of the Tindevanum Taluq was dismissed for imputing disgraceful conduct to Mr. Thomas, the Assistant Superintendent of Police, and was then taken by Mr. Dique into his private employ. This man while in Mr. Dique's employ presented a darkhast to the village officers of Giddangal (a village adjoining Tindevanum and forming part of it) for a piece of waste land which Mr. Norfor had previously taken possession of for a gravel quarry under the rules* bearing on the point, without reference to the revenue authorities, as he was justified in doing. Before the darkhast was disposed of, Mr. Dique's servant began to build on the land. On learning this, Mr. Norfor wrote to Mr. Dique and requested him to reserve the land as he wanted it for a quarry. Mr. Dique took no notice of this letter, though the progress of the hut stopped. Shortly after, the land was occupied as a bandystand with the permission of the Tahsildar Mr. Dique, a fact Mr. Norfor says he learnt from inquiries among the bandymen. He wrote to ask Mr. Dique if such was the case, and complains to Mr. Cox of the disrespectful tone of Mr. Dique's reply.* He says he has always had to complain of Mr. Dique's disrespectful conduct to him, and considers his whole proceedings in this matter little short of deliberate impertinence.

* *Vide* Board's Standing Order, No. 9 of 1872, 132-2.

*C. Translation enclosed.

4. Mr. Cox says that Mr. Norfor told him that the man who was building on the quarry-land distinctly informed him that he was acting under Mr. Dique's directions, and that the building he was erecting was destined to be occupied by Mr. Dique till he had built a new house. I may here mention that Mr. Dique occupied a house rent-free at Tindevanum on condition of keeping it in repairs, and that as the railway is destined to pass right through the buildings, it was necessary to eject him and pull the buildings down; and that the only instance in this district in which it has been necessary to put the Act in force in order to eject a person in possession has been in the case of Mr. Dique, of whose obstructive behavior the Railway Deputy-Collector has complained to me bitterly. I mention this to show why Mr. Dique should be under the necessity of building a new house.

Since the above was written, I have received a complaint from the Railway Deputy-Collector complaining that after the buildings and land had been acquired by Government under Act X. of 1870, Mr. Dique, to whom no award was made, but who was distinctly declared not to be entitled to any compensation, had carried off the materials of the buildings without any permission.

5. Both Mr. Dique and the man building the hut deny before Mr. Cox that it was being built under the orders of Mr. Dique. Mr. Cox does not seem to credit this however, and is much inclined to believe that that officer gave permission to occupy the land as a bandystand in order to annoy Mr. Norfor, and, though Mr. Dique in his letter to Mr. Norfor denies having given any such permission, it seems evident that from his living close to the spot and passing it every day, he must have been aware that the land Mr. Norfor had officially requested him to reserve for a quarry for the Department of Public Works was being used as a cart-stand, and he was, therefore, most certainly both disrespectful to Mr. Norfor and neglectful of his duty in not at once putting a stop to such a proceeding, and securing the undisturbed possession of the quarry for Mr. Norfor.

6. I should not have troubled the Board with a special report about such a matter if it had stood alone, but the records of this office show such repeated acts of insubordination and impertinence on Mr. Dique's part, that any powers of punishment I possess are quite insufficient to deal appropriately with him. Moreover, there are other matters to which the Board, and probably Government, will attach much more importance, which I deem it right to bring to the Board's notice in connection with Mr. Dique.

7. On the 18th of last month, the arrears of Fasli 1283 outstanding in the Tindevanum Taluq were Rupees 2,09,343. A very severe order was sent to Mr. Dique warning him that he would be reported to the Board if he did not do better in the discharge of his important duty of collecting the revenue, and he was ordered to submit a list of villages visited by him since the 1st June, together with a full explanation of his conduct with the collection report for the ensuing week ending the 25th July. Of this order, he has not up to this date taken the slightest notice.

8. The remission Deputy-Collector wrote to me officially on the 6th June last,* complaining of Mr. Dique's insubordination and disobedience to his orders, and of his determined neglect to assist him in any way in disposing of the punjah remissions in his taluq. I reprimanded Mr. Dique, and fined him Rupees 10.

* D.—Copy of letter, No. 87, enclosed.

9. Mr. Sullivan found it necessary to fine Mr. Dique 10 Rupees for impertinence and insubordination for commenting in a very unbecoming tone on his proceedings in an appeal against a sale for arrears conducted by Mr. Dique. I enclose copies of Mr. Sullivan's Proceedings* disposing of the appeal, of Mr. Dique's "report†," and of Mr. Sullivan's order‡ fining him. The Board will see from another Proceedings§ of Mr. Sullivan's, dated the 15th

* E.—Dated 5th August 1872, No. 18.

† F.—Dated 15th August 1872.

‡ G.—Dated 30th August 1872.

§ H.

15/1337

August 1872, how by Mr. Dique's most reprehensible disobedience to a distinct order of the Collector to register the transfer of a piece of land sold by an appellant to another man, the former although actually a creditor of Government and having more than Rupees 7 due to him lying in the taluq cash chest had his land, worth about 50 Rupees, sold for an arrear of about Rupees 3. It is true, that in the sale of the land the Tahsildar was justified in selling a whole field and not part of one, but the sale was altogether unnecessary and was aggravated by the fact that if the order to transfer the registry of ownership had been obeyed, the land could not have been sold.

10. In their order of the 8th July 1874, No. 845, the Government declare that they will visit with severe displeasure any irregularity or illegality which enhances the severity of the law respecting coercive measures for the realization of the revenue; they will therefore, if the conduct of Mr. Dique is brought to their notice, as I trust it will be, be inclined, I think, to be severe with him for having issued summonses under Act III. of 1869 to twenty-five revenue defaulters to appear before him and explain why they did not pay their kists, and on the summonses not being obeyed, for having prosecuted all the parties and had them fined by the Taluq Sheristadar. The High Court quashed the whole of the convictions as illegal on a reference being made to them. These proceedings were in effect a very gross abuse of his authority on the part of Mr. Dique. Copies of my letter‖ to the High Court and of the Court's Proceedings¶ are forwarded for reference.

‖ I.

¶ J.

11. No district officer with whom Mr. Dique has come in contact seems to entertain a good opinion of him. On this point I beg to refer the Board to paragraphs 10 and 11 of Mr. Sullivan's letter of the 17th November 1873, No. 469, recorded in Board's Proceedings of the 12th December 1873, No. 2,589, where the opinions of Mr. Reade, Mr. Sullivan, Mr. Lister, Mr. Kough, Captain Young and Mr. Thomas are quoted or alluded to.

12. There is I consider ample evidence to show that Mr. Dique is habitually impertinent and disrespectful in his official correspondence, that he has lately shown himself disobedient to orders and indifferent to the careful discharge of his primary duty, and that he has exhibited an inclination to abuse his magisterial powers in order to save himself trouble as a Revenue Officer; and as official censure is entirely thrown away on him, while the trifling fine I am able to inflict is not in my opinion at all an adequate punishment for his conduct, I submit his case for such orders as the Board may choose to pass on it.

Enclosures A. to J.—Copies of Correspondence.

In their Proceedings of the 17th April 1874, No. 910, the Board warned Mr. Dique to be more careful in future and informed him that the way in which he was reported on by the officers of the district, especially with regard to his insubordinate conduct and impertinence, satisfied the Board that if any further irregularities of a serious character occurred he would have to be removed from the post of Tahsildar.

2. In their Proceedings disposed of in G. O., dated 4th September 1874, No. 1,140, the Board remarked that Mr. Dique had given Mr. Banbury and Mr. Garstin an exaggerated account of the distress in his taluq, and that his denial that he had stated what he certainly did state to Mr. Banbury and Mr. Garstin was discreditable. Government noticed with great displeasure the conduct of Mr. Dique "whose inattention to his duties and careless action led in the first instance to an exaggerated estimate of the scarcity believed to be impending."

3. In their order of the 8th July 1874, No. 845, Government observed that the conduct of Mr. Dique in a certain case of sale for arrears had been open to serious reflection, and expressed an intention of visiting with "severe displeasure any irregularity or illegality which enhances the severity of the law."

4. From the papers now submitted, it appears that Mr. Dique has laid himself open to punishment in all these respects.

5. In June and July last, he was guilty of delay, obstruction and great impertinence with reference to certain land required for quarrying by the Executive Engineer. Mr. Garstin shows that it is impossible for him to deal with the case because of the manner in which Mr. Dique has been fined and warned on previous occasions. On the 15th August 1872, the Collector (Mr. Sullivan) severely censured him for the action he had taken in a certain case where coercive processes had been used, and warned him that if another instance of neglect and disobedience of orders occurred, it would be noticed in a different manner. On the 30th idem, the Collector disposed of a *reply* which Mr. Dique had chosen to make to certain Proceedings of his on an appeal, in which reply Mr. Dique had "desired to know" how his discretion in selling land for arrears was to be limited, had talked of "the pleasurable satisfaction of seeing his order cancelled," had demanded to know "in the case now under consideration, where is the wrong and where is the fault," had said with regard to a complaint which the Collector had allowed "there is no reason at all in his complaint and it has all the appearance of being vexatious and litigious," and remarked in conclusion that if the means employed in making collections were canvassed and censured, as the Collector had canvassed and censured them, "it becomes embarrassing to the taluq officials, and the duty of collection must necessarily be impeded." Mr. Sullivan said: "In this paper Mr. Dique has taken upon himself to comment in a very unbecoming tone on the Proceedings of the Collector * * . He has taken the unusual course of addressing the division officer in English instead of by a Vernacular Arzi, and has omitted the ordinary respectful heading prescribed by the Board of Revenue in their Standing Order No. 414. Mr. Dique has in addition penned a series of remarks which are partly unintelligible and wholly impertinent. Insubordination of this description the Collector cannot allow to pass unnoticed. Mr. Dique is fined Rupees 10 and should he again offend in a similar manner, he will be at once suspended and his conduct reported to the Board of Revenue." When these facts are considered with those reported in paragraph 10 of Mr. Sullivan's letter recorded in Board's Proceedings, dated 12th December 1873, No. 2,589, and with the opinion of Mr. Dique's discourtesy which the Board have ample evidence is held by all the superior officers of the Revenue, Police and Public Works Departments in the district, it is quite clear that the case is not one which Mr. Garstin could dispose of himself. Mr. Dique is evidently incorrigible. It would be useless to fine or suspend him, for these forms of punishment would leave him with the position of a Tahsildar, and the position of Tahsildar is enough to inspire him with views regarding himself and others which his clerical ability enables him to embody in offensively discourteous letters, and which tempt him, with a temptation which he is unable to resist, to meet orders he does not like with cavilling and obstructiveness. The only remedy in the Board's opinion is to remove Mr. Dique from the position of Tahsildar.

6. Next with regard to the course Mr. Dique has chosen to pursue in the matter of the revenue of his taluq as affected by the scarcity which was felt at the beginning of the calendar year. Mr. Dique represented the scarcity as far greater than it really was, and proposed far greater remissions than were really necessary, and subsequently denied having done so. For this he has been severely censured. Subsequently, Mr. Banbury's tour in South Arcot allayed the alarm which had been partly excited by Mr. Dique; the extent to which remission should be given was roughly determined, and a Special Deputy-Collector was appointed to conduct the settlement. If Mr. Dique had been governed by the motives which must actuate an honest and efficient public servant, he would have retrieved his initial error by careful attention to collections, and by zealously assisting the Deputy-Collector. Instead of that, he has left large balances outstanding, has ignored orders from the Collector regarding them and from the Deputy-Collector regarding remission statements, and has been generally most obstructive. The Board have little doubt that he has done this with his usual obstinate insubordination in order to prove that he was right in the beginning and Mr. Banbury and the rest wrong. For this cause alone the Board think it would be necessary to move Mr. Dique from Tindevanum.

7. Lastly, with regard to the manner in which Mr. Dique has worked the law for collecting revenue by means of coercive processes. The case already referred to, which was disposed of by Mr. Sullivan in his order of the 15th August 1872, is a very bad one. For an arrear of Rupees 3-7-4, Mr. Dique sold land which did not belong to the defaulter, and which he had been ordered to transfer to the real owner in May 1871, though all the while there was a sum of Rupees 7-7-0 deposited in the taluq treasury which belonged to the defaulter. Rs. 47 or Rs. 43-8-8 more than was wanted was realized by the sale. The case disposed of in Board's Proceedings, dated 17th April 1874, No. 910, is another instance of irregularities by which Mr. Dique made a severe law harsher than it need be. The case now reported by Mr. Garstin in which Mr. Dique had twenty-five revenue defaulters summoned under Act III. of 1869 (Madras), to appear before him and explain why they did not pay their kists, and then had them punished for not appearing under Section 174 of the Penal Code, falls under the same category. The Board are strongly of opinion that it is a sound and necessary policy, in the words of Government, to "visit with severe displeasure any irregularity or illegality which enhances the severity of the law" for the recovery of arrears, and they think the case of Mr. Dique, in which a perversely-minded man with a thorough knowledge of the law and considerable ability has used that knowledge and ability to "enhance the severity of the law" is one in which the policy should be exercised.

8. Three successive Collectors, one of whom was the Collector who made Mr. Dique a Tahsildar, have successively urged that Mr. Dique should be dismissed from the public service. The Board have stood between him and punishment on previous occasions, believing that the faults committed were not the result of bad faith and hoping that a man with such abilities as Mr. Dique possesses would take warning and reform. This hope has been disappointed, and the Board now resolve to recommend Government to reduce Mr. Dique from the post of Tahsildar to that of Deputy-Tahsildar and Sub-Magistrate.

Mr. Reade, Board's Proceedings, 30th September 1868, No. 6,937.
Mr. Sullivan, Board's Proceedings, 12th December 1873, No. 2,589.
Mr. Garstin, Board's Proceedings, 3rd June 1874, Miscellaneous No. 3,697.

(A true Copy and Extract.)

J Grote

Secretary.

To the Acting Secretary to Government, Revenue Department,
with nine original enclosures, to be returned. Copy of enclosure G.,
and copies of Board's Proceedings, 30th September 1868, No. 6,937,
12th December 1873, No. 2,589, 17th April 1874, No. 910, and 3rd June 1874, Miscellaneous No. 3,697.

To the Collector of South Arcot.

Exd. W. H. French.

No. 3,470
Rev. 1874.
Dept.
BOARD OF REVENUE,
MADRAS.

PROCEEDINGS, 23RD SEPTEMBER 1874, No. 2,738.

Dept 30 Sept 1874
Encl. 14
Govt
Rev

Rec'd 1937 1874

Received 2 Oct 1874

SEPTEMBER.
No. 2,738.

Dique, Mr.—*Tahsildar of Tinderanum.*—Government recommended to reduce — from that post to post of Deputy-Tahsildar and Sub-Magistrate on account of certain irregularities committed by him.

Extract from the Proceedings of the Collector of South Arcot dated 30th August 1872

Read Memo from the Acting Head Assistant Collector submitting a paper in English written by Mr. Dique late Tahsildar of Tinderanam with remarks thereon.

Read also the paper referred to.

In this paper Mr. Dique has taken upon himself to comment in a very unbecoming tone on the Proceedings of the Collector under date the 5th instant in Revenue Appeal No. 25/1872. He has taken the unusual course of addressing the Division Officer in English instead of by a Vernacular Arzi and has omitted the ordinary respectful heading prescribed by the Board of Revenue in their Standing Order No. 44. Mr. Dique has in addition penned a series of

of remarks on the Collector's Proceedings above referred to which are partly unintelligible, and wholly impertinent. Insubordination of this description the Collector cannot allow to pass unnoticed. Mr. Digue is fined Rupees 10 and should he again offend in a similar manner he will be at once suspended from office and his conduct reported to the Board of Revenue.

(Sd.) H. E. Sullivan
Collector

To
The Sub Collector for communication to Mr. Digue who has since been transferred to the Sub Division.

/True copy/
(Sd.) J. H. Agaratin
Collector

/True copy/
J Grole
Secretary
Board of Revenue

C. W. Mayhew
Asst. Secretary

Enclosures in Proceedings
of the Board of Revenue
to the Asst Secretary to Govt
Revl Dept dated 23rd Sept
1874 No 2738.

Rec: 2
31/10/74

Copy of Enclosure G.

Revenue Department.

Miscellaneous No 3697

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 3rd June 1874:

Read the following

No 247

From,

A. L. Lister Esquire
Acting Sub Collector
of South Arcot

To,

J. H. Garstin Esquire
Collector of South Arcot

Sir,

"Lutchmana Reddi makes no complaint."

2. It was rather disheartening to read this in clause 1 Para 5 of Board's Proceedings No 910 of the 17th April which have only just reached me for the charges I preferred against the Tahsildar was that to favor Lutchmana Reddi to transfer legally to Lutchmana Reddi's keeping grain which

which was not clearly his. Mr. Digue ordered and carried out an unnecessary and sham revenue sale - in collusion with Lutchmana Reddi - and that Lutchmana Reddi had been "unduly favored" in the matter.

3. Then how could Lutchmana Reddi be expected to complain? how can it be a point in the Tahsildar's favor that Lutchmana Reddi makes no complaint?

4. It need not be presumed that he suffered no injury" for it is as clear as the sunlight that Lutch-mana Reddi suffered not the semblance of an injury at the hands of Mr. Digue; if the grain was to be transferred to Lutchmana Reddi on his paying the Years Kist - which I contend was the unholy bargain between him and the

Vide para 13 of my letter recorded in Board's Proceedings of 12th December No. 2589.

20/1337

the Tahsildar - it was essential for the complete success of the scheme that no inventory should be given, for this would have involved the measure-ment of the grain and there might have been a real auction instead of a sham one and it might have been impossible to transfer the grain en masse to Lutchmana Reddi.

5. So Lutchmana Reddi naturally enough made no complaint, but Veera-raghava Rajah did; the Board assume on I know not what evidence but the statement of Mr. Digue, that Veera-raghava Rajah is not a tenant of the defaulter Subbarayar, and was not entitled to pay the arrear; on the 28th April last - two days after the sale - Veeraraghava Rajah filed a suit in the District Moonsiff's Court of

Chellandrama against Subbarayar, Lutchmana Reddi and Ramalinga Reddi to prevent them from interfering with 22 Kanies of land valued at 1935 Rupees in Alamchimangapuram; it would be presumptuous to anticipate the decision of the Civil Court, but until that decision is pronounced, it is impossible for any body to know to have no doubt - that Veeraraghava Rajah is not entitled to pay the kist on some of the lands entered in Subbarayer's pattah; and the issues in this suit are not yet settled.

6. "The distress was excessive but it did not violate the law."

7. The Board observe that the Collector was apparently thinking of Section 44, but it would seem that he was obviously thinking of section XIV which says in the plainest and most unambiguous language that could possibly be employed that "The distress levied shall not be excessive".

8. I therefore submit with great deference that Mr Digne in making an excessive distress, did violate the law, and on this ground I claim a reconsideration of the case, for the violation of the law by a Tahsildar not in ignorance, he can't possibly plead that, - is a grave and serious matter and his motives for knowingly violating the law demand the most attentive scrutiny.

9. I say that he can't plead ignorance for this violation of the law, but if he is allowed to submit another defence I don't doubt that he would plead it, and urge, with specious plausibility that the Board could not fairly punish the Tahsildar

Tahsildar for forgetting a provision of law which they themselves overlooked; but the case is very different; it is a law which a Tahsildar is daily administering - which he necessarily has at his fingers' ends - while on the other hand sales of moveable property rarely come to the notice of the Board.

10. I request a reconsideration of the Board's finding on the charge that with fraudulent intent he gave the Ameen sent to distrain the produce a written Takeed directing the measurement of the grain, at the same time giving him personal instructions not to have it measured." The words "at the same time" seem to have escaped notice; there was no time for a change of mind - and how could a Tahsildar honestly order a sham auction, for the sale of unmeasured grain must be a farce?

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When oral instructions to do the wrong thing are given simultaneously with written orders to do the right thing, what proof of fraud is needed? the action itself is inconsistent with honesty.

11. Surely the Monigar's complaint can hardly be called vague; he reported to the Tahsildar that he had been threatened by the Ameen with dismissal unless he signed an irregularly framed attachment list. I would respectfully submit for consideration that the Tahsildar was bound to enquire into the complaint or report it to me, and that his failure to do so - his neglect of duty in this matter - must be due to an improper motive; and that he was not justified in persevering with the sale while a formal remonstrance of gross irregularity in the attachment made by a subordinate official was undisposed of.

12. It

12. "It is quite possible that Lutchmana Reddi's purchase of the land was not complete on the 28th October 1872 but that it had been completed on the 11th March 1873."

"Quite possible" - Of course something might have happened, but not only it did not happen but the Tahsildar, in the explanation which Mr. Sullivan and I saw, did not even assert that it had happened; I am the more astonished that Mr. Digue should have been rescued from a formidable looking dilemma by a purely hypothetical suggestion, for in Para 19 of my original letter I wrote that "It was not on account of something which had happened recently" but in consequence of some knowledge which the Tahsildar possessed prior to the 28th October that he claimed to know Lutchmana

Lutchmana Reddi was the defaulter on the 19th March, having decided on the same facts that he was not the defaulter on the 28th October

13. I now assert that nothing did happen between the 28th October and 19th March; I don't know what Mr. Digue may have written in the explanation which he was determined should not pass through Mr. Sullivan's hands; but surely the Onus probandi lies on him; if any thing did happen, let him say what it was, and prove the truth of his statement - my charge is -

(1) That on the 28th October the Tahsildar to serve Lutchmana Reddi and in accordance with his request decided that he was not responsible for the payment of kist on Subbarayi's land.

(2) That nothing happened to affect the

the question of ownership between October and March.

(3) That in March the Tahsildar on the same knowledge of facts that he possessed on the 28th October, to serve Lutchmana Reddi and in accordance with the request decided that he was responsible for the payment of Kist on Subbaraya's land, and entered his name as the responsible party in the notice of demand, knowing that he was not responsible, and that his moveable property if distrained would again have to be released on objection as it had been in October.

14. I contend that the Tahsildar cannot possibly have acted honestly; and as the imaginary possibility on which the Board released him from the dilemma had no existence in fact,

I

I submit he is again placed in the dilemma, and unless he can extricate himself, he must be punished.

15. This dilemma, the Board say is formidable, and when the real facts instead of imaginary possibilities are weighed I submit that the formidability is increased tenfold, for in April when the Tahsildar evidently intending to sell more grain than was necessary, instructed the Ameen to avoid the usual course of bringing the whole of the sale proceeds to the Taluq Treasury, and to pay the surplus on the spot to Lutchmana Reddi, at that very time the crop was under attachment by the Civil Court as belonging to Veeraraghava Rajah, and the Monegar of the village had reported that he was in the enjoyment of

of the land.

16. Now the facts are:- One Shadaya Pillai filed a suit for five hundred and odd rupees in the Chellambram Moonsiff's Court against Veeraraghava Rajah, and these Alamelumangapuram crops were attached before judgment on the 19th April - two days before the date originally fixed for the sale of the grains at Cusbah Chellambram. On the 25th April 1873, Lutchmana Reddi put in an objection petition and on the 17th June, the District Moonsiff decided in favor of Lutchmana Reddi and released the crop.

17. Now the reason for all the irregularities about the sale is obvious; it is quite clear why Lutchmana Reddi's Coadjutor, the Tahsildar, did not sell the grain

grain in the Cusbah on the 21st, a hole and corner sale of grain attached* two days before by the Civil Court would have been impossible under the very nose of the District Moonsiff. It would have been impossible to have sold the grain without measuring it and when it was measured it must have been put up in convenient lots in the broad daylight, and no large surplus could possibly have been secured; had there been any appreciable surplus an injunction would immediately have come from the Moonsiff's Court directing it to be held in deposit until the question of ownership was decided.

18. So the sale was transferred to the village, and no notice was given of the change; the arrangement succeeded;

Lutchmana

*The Tahsildar knew of the attachment

Lutchmana Reddi got all the grain and paid the yearkist.

19. On the 17th June the District Moonsiff decided that the grain should be released, but for all practical purposes this functionary might have saved himself the trouble of adjudicating on the objection petition, for Mr. Digue had taken very good care that whether the Moonsiff decided in favor of Veeraraghava Rajah or of Lutchmana Reddi, the latter should have the crop.

20. The Board say it is true that there was some law suit regarding the land and its produce pending at the time of the sale; but Mr. Digue informed the Sub Collector in his explanation that the suit had been decided for Lutchmana Reddi and against Veeraraghava Rajah, and this assertion has

has not been contradicted.

21. I now contradict this statement of the Tahsildar's in toto; no law suit was pending regarding the land or its produce at the time of sale, and no suit had been decided for Lutchmana Reddi and against Veeraraghava Rajah; so far from the suit between these persons which was filed two days after the sale and which was therefore not pending at the time having been decided, the issues have not even now been settled; no other suits but these two mentioned have been filed in the District Moonsiff's Court about this land; Lutchmana Reddi's objection petition cannot be called a "law suit pending" but even if the Tahsildar means this, it only damages his case; for this objection petition was not filed until the 25th April - four days after the Tahsildar

despatched the Ameen to the village with instructions to sell more grain than was necessary and to pay over the surplus proceeds to Lutchmana Reddi.

22. This objection petition however is probably the pending law suit on which the Tahsildar now relies to justify his action on the 21st April, but in the first place it was not a law suit, and in the second place it was not pending for it was not filed until the 25th April, four days afterwards.

23. So I submit that the dilemma looks ten times more formidable, the grain prima facie belonged to Veerarayhana Rajah, for the Monigar said he grew it and the District Moonsiff attached it as his, and no body had raised any objections to the attachment; was this then a time for

for the Tahsildar to say that he knew it was Lutchmana Reddi's land? was this the time to sell more grain than was necessary and with indecent haste contrary to the usual routine, and the Tahsildar's custom in similar cases to pay over the surplus money, to one of the disputant on the spot, thereby nullifying the District Moonsiff's attachment?

The practice is to take the wholesale proceeds to the Taluq Treasury to credit the amount of the arrears to Land Revenue and the surplus to deposit.

I do not think a perusal of the papers with this letter can leave any doubt in any body's mind that the Tahsildar collusively, fraudulently and dishonestly contrived this illegal distress and illegal sale to serve Lutchmana Reddi's interests; the illegalities caused no loss to Government; I never contend they did; my contention is that Lutchmana Reddi unjustly gained by them, and when

when a Tahsildar knowingly violates the laws and thereby furthers the interests of an individual he must be taken to have intended the natural consequences of his illegal acts, and must suffer the due punishment

25. The Board say no fraudulent or collusive intent is proved, what is collusion but a secret agreement and co-operative for a fraudulent purpose, and is not a secret agreement nearly always proved by inference from established connivance? and it is I submit, clearly and incontestably proved that the Tahsildar intentionally overlooked several grave irregularities and illegalities in the conduct of the sale and expressly ordered others, and from this connivance I infer collusion.

26. The Revenue Inspector whose

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case is named by Mr. Sullivan for one single irregularity in a land sale case - which did not violate the law - was dismissed by the Board of Revenue from the public service although the District Officers thought suspension and degradation sufficient punishment; no fraudulent or collusive intent was proved; it was only inferred from the one act - Then is nothing to be inferred from the Tahsildar's numerous irregularities in the present case which each and every one of them are inconsistent with honest purpose

27. I ask you to make a respectful appeal to the Board of Revenue for a reconsideration of this case on the following grounds.

(1) That nothing occurred between the

28th October and 11th March to complete the sale, and that therefore the imaginary possibility by which the Board release Mr Digue from the dilemma in which I placed him had no existence in fact.

(2) That the dilemma is more formidable looking than ever, when the real facts and not imaginary possibilities, are considered.

(3) That no lawsuit regarding the land and its produce was pending at the time the Tahsildar ordered the sale, and directed the surplus money to be paid to Lutchmana Reddi.

(4) That so far from the suit between Lutchmana Reddi and Veeraraghava Rajah having been decided, the issues have not yet been settled;

(5) That Lutchmana Reddi's name should not have been entered as the responsible

responsible person in the notice of demand, in as much as he had proved to the Tahsildar's satisfaction in October that he was not responsible for it, and that as nothing had occurred in the meantime to alter his relations with regard to the land, his moveable property, even if it had been destrained, would again have had to be released on objection, as it had been in October.

(6.) That for the same reason Lutchmana Reddi had no right to receive the inventory.

(7) That as the omission to measure the grain was done to serve Lutchmana Reddi and to enable all the grain to be conveyed to him at a sham auction, the fact that he does not complain about an irregularity committed in his interest, is no justification for the Tahsildar's violation of the law.

(8) That

(8) That collusion is fairly and unavoidably inferrible from the numerous irregularities and illegalities which it is proved the Tahsildar connived at and even ordered.

(9) That the law was violated by the excessive distress, and that intentional violation of the law by a Tahsildar to serve the interests of an individual demands punishment.

(10) That the Tahsildar having decided Lutchmanna Reddi was not responsible for the arrear, and nothing having occurred since the date of that decision to make him responsible, not only had the Tahsildar not good reason, but he had no reason at all to believe him to be, and good reason to know him not to be, the owner of the grain sold and the defaulter, and that the payment of surplus money to him was therefore a flagrant act of injustice.

(11) That as the written order to do the right thing viz to measure the grain was given simultaneously with oral orders to do the wrong thing viz to sell the grain unmeasured, there was no time for an honest change of mind even if it were possible for a Tahsildar honestly to order a mock auction.

I have &c
(Sd) A L Lister
Acting Sub Collector

Sub Collector's Office
Porto Novo 4th May 1874

No 214

Forwarded to the Board of Revenue with a respectful request that they will reconsider their decision in the case of Mr Digue recorded in their Proceedings of the 17th Ultimo No 910 as the Collector concurs with Mr Sullivan and Mr Lister in the view taken by them of Mr Digue's conduct.

I have &c
(Sd) J H Garstin
Collector

Collector's Office
Cuddalore
6th May 1874

No

To,

The Secretary to the
Board of Revenue
Fort St. George

with 36 enclosures returned

The Board decline to allow the case to be re-opened.

/True copies & Extract/

(Signed) J. Grose
Secretary

To,

The Collector of South Arcot

with 36 enclosures returned.

/True copy/

J Grose
Secretary

Rev: No. 3697

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 5th June 1874.

Despatched

Rev. 3477/74

Conclusion in Proceedings of the Board of Revenue of the 5th Instant.

Rev. Dept. 23rd Sept. 1874.

No. 2738.

Copy to Collector, Nellore.

By Order,

W. Mills.

Revenue Department.

23/1337

C No. 3476

From Pro. Bd. of Revenue.

Dated 23rd Sept. 1874.

FOR ORDERS.

I would like Mr. Byrne on the Kandiri list, if has served long enough - if not, I would like Brown on the 4th Assistant. Should any know Mr. Lord as a person of doubtful

J. 10.

33
1337

FOR ORDERS.

Revenue Department

F. 1337 34/1337

Proceedings of the Madras Government
No. dated the 16th October 1874
Read the following
Pro. of the Bd of Rev.

Recommending to
Mr. Digue Tahsildar of
Tindivanum from that post to
post of Dy. Tahr and Sub-
Magistrate on account of
certain irregularities committed
by him

HC. 23rd Sept. 1874 No. 2736

His Excellency
the Governor in Council
pleased to direct that
Mr. Digue, Tahsildar
of Tindivanum, be
reduced
~~degraded~~ to the post
of Deputy Tahsildar
and Sub Magistrate
as recommended by
the Board.

Note
Mr. Digue could
only get a pension on
production

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production of a Medical
Certificate. It does not
therefore seem practicable
to place him on the Pension
List. His age is under
& and his service
under 30 years but as
service for pension could
only from 22 years of
age he has not 26 years
to credit. Is it the
intention of Govt that
he should be directed
to appear before a Medical
Officer and in default
of being pronounced
unfit to be degraded?