

## MADRAS RECORD OFFICE.

Government of Madras.

*Revenue* DEPARTMENT.

|                |                     |       |
|----------------|---------------------|-------|
| G.O. No.       | 1259                | Press |
|                |                     | Mis.  |
| <u>148-149</u> |                     |       |
| Dated          | 7 <sup>th</sup> May | 1869. |

Not to be folded or roughly handled

191-5

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*Proceedings of the Madras Government, Revenue Department,  
7th May 1869.*

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No. 148. Read the following letter from H. G. PRICHARD, Esq., Acting Government Solicitor, Madras, to the Acting Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 5th May 1869, No. 222:—

WITH reference to my letter to the Under-Secretary to Government, Revenue Department, of the 4th May 1869, No. 218, I have now the honor to forward you, herewith, a copy of Mr. Advocate-General's opinion on the evidence required by the Secretary of State in connection with Mr. Turnbull's defalcation in the Forest Department.

—  
OPINION.

I HAVE perused the papers submitted herewith with a view to advising on the evidence which ought to be sent to England in compliance with the Secretary of State's Telegram of 24th April 1869.

2. As the case at present stands no successful action could be taken in England under the Statutes referred to. In fact, the information taken appears to me not sufficient to have justified the issue of the various Warrants which have already been signed by the Magistrate.

3. But it appears to me that a very clear and conclusive case *may* be proved against Mr. Turnbull under Sections 408 and 409 of the Indian Penal Code.

4. To establish this a fresh investigation should be held. The points to which attention should be directed are the following:—

*First*,—The production and proof of the contracts made with the Native contractors, from whom and under which the money was received by Mr. Turnbull;

*Secondly*,—The fact of such payments by the contractors;

*Thirdly*,—The careful tracing of the Notes from the contractors to Mr. Turnbull, and from him to his account at the Bank, and their further identification, till Mr. Turnbull converted them into Sovereigns;

*Fourthly*,—The public capacity of Mr. Turnbull; his course of duty and authority;

*Fifthly*,—His absconding without accounting for the moneys received. The absence of entries in his books will here be essential.

5. If these points are carefully established, I think such a case will have been made out as will justify his being arrested under 6 and 7 Vic. Cap. 34, and sent out to this country for trial.

6. The distinction between felonies and misdemeanours has been abolished by the Indian Penal Code in this country, nor is there the term "embezzlement" to be found in it. But I am of opinion that Mr. Turnbull's offence, if committed in England, would have been embezzlement, if indeed it did not, from his *animus furandi* from the outset, amount to larceny. But embezzlement is felony, and therefore the Statute 6 and 7 Vic. Cap. 34, which is confined to treasons and felonies, is large enough to cover it.

7. It will be necessary that I should see the evidence before it is transmitted, in order that nothing may be omitted which can render it complete.

*per me Deputy Magistrate*

*Proceedings of the Madras Government, Revenue Department,  
7th May 1869.*

8. It will also be necessary, or at least advisable, that an affidavit should be made to satisfy Section 9 of the Act.

4th May 1869.

(Signed) JOHN BRUCE NORTON,  
*Advocate-General.*

(True Copy.)

(Signed) H. G. PRICHARD,  
*Acting Government Solicitor.*

No. 149.

ORDER THEREON, 7th May 1869, No. 1,259.

Miscellaneous.

THE Government regret to learn that the case against Overseer Turnbull has been so seriously mismanaged by the Acting Conservator of Forests and the Deputy Magistrate at Manantoddy. It was clearly the duty of the Acting Conservator to obtain the advice of the Government Solicitor, if he was ignorant of the proper course to pursue in getting up the case, especially as his Assistant in charge of the Central Office had been directed to place himself in communication with the Acting Government Solicitor, Mr. Prichard, when the matter of the defalcation and breach of trust was first brought to the notice of Government.

2. Major Beddome is now directed at once to proceed to Manantoddy to re-open the case, and it is desired that he remain there, or in the vicinity, until the Advocate-General has had an opportunity of considering the new evidence which is now to be taken. The Government Solicitor will be good enough to furnish Major Beddome with detailed instructions as to the framing of the charge before the Deputy Magistrate, and the evidence to be produced in support of it, and with any other suggestions that the facts brought to light may appear to require.

3. It occurs to Government that it may be found somewhat difficult to obtain evidence regarding the withdrawal of the money from the Bank by Mr. Turnbull and his conversion of it into Sovereigns. Probably, it would be sufficient if the payment of the Notes to his private credit at the Bank be proved; but on this point the Government Solicitor should again confer with the Advocate-General before communicating with Major Beddome.

(True Extract.)

(Signed) R. A. DALYELL,  
*Acting Secretary to Government.*

To the Government Solicitor.  
„ the Officiating Conservator of Forests.  
„ the Commissioner of Police.  
„ the Deputy Magistrate of Wynaad.

[illegible]

defalcation in the  
Forest Dept<sup>l</sup>

of the defalcation check & trust  
was first brought to the  
notice of Govt.

Major Beddome <sup>is</sup> ~~with~~ <sup>presently</sup> ~~and~~ <sup>broken</sup> directed at once to present the case against the Fort Saliente will be good enough to furnish <sup>him</sup> one with detailed instructions as to the framing of the charge before the Deputy Magistrate

Deposition of Engineer  
11<sup>th</sup> May 1898 6241

Oct. of 1869; *Quadr.*

REVENUE.

THE GOVERNMENT SOLD HERE

1800, 1801, 1802

David H. Hill.

100

6571 N. 69th Ave. #1270 B

## MAY.

Nos. 148-149.

*Mr. Turnbull's explanations in the Forest Department.* Advocate-General's opinion on the evidence found in connection with it, communicated to the Conservator of Forests with orders

12:25 April 1859 N: 544-575  
 542 543  
 5:14 25 of 1859  
 7 March 1859 N: 164-5  
 24 " " 640-641

Revenue 1869 West  
 7: 11:50  
 From  
 Acting Govt. Solicitor  
 Madras.

Voted 5<sup>th</sup> 3 May/69  
 Received 25<sup>th</sup> 7  
 6-1. ✓ W. 222

S.O. No 1259 of 1859  
 Forwarding Ad-  
 vocate General's opinion  
 in the evidence required  
 in connection with  
 with Mr. Turnbull's  
 deposition in the  
 first 1859

148.

some separation must exist  
 was first brought to the  
 notice of Govt.

Major Reddome is  
 directed at once to forward  
 to immediately ~~and~~ <sup>presented</sup>  
 to reopen the case ~~respecting~~ <sup>the</sup> Govt. Solicitor  
 will be good enough to furnish  
 Reddome with detailed instructions as to  
 the framing of the charge  
 before the Deputy Magistrate

and the Deputy Magistrate  
at Muzartoddy.

of the Deputy Collector

W.D.

the Deputy Collector

and it is desired that he  
should be directed to  
have had an opportunity of considering  
the case before taking  
any action.

Major Reddome with detailed instructions as to  
the framing of the charge  
before the Deputy Magistrate

5  
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that the case against  
Tumbull has been so seriously  
mismanaged by the Deputy  
Magistrate of Forests. It was clearly  
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of the Govt. Solicitor if he was  
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to pursue in getting up the  
case, and his assistant in  
charge of the Central Office  
had been directed to place himself  
in communication with Mr.  
Pritchard when the matter  
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was first brought to the  
notice of Govt.

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[It occurs to me that it may  
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 on this point the Joint Solicitor  
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 Advocate General before com-  
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It is possible that the  
 Joint Solicitor may be

I would omit this.  
 I don't find that Turnbull  
 withdrew money from any  
 Bank. He himself paid  
 Sovereigns for both to the  
 Chartered Mercantile Bank  
 at Colombo a full & direct  
 deal. — Whether or not the  
 Joint Solicitor will now, by  
 clear evidence to Major  
 Beddoe, prevent that Officer  
 from making a further use  
 of the business. — W.D.H.

To the Joint Solicitor 10/11/11  
 13 Off to Court of Forests  
 14 Off to Court of Police  
 15 Off to Magistrate of Wynad

16 Off to Court of Forests  
 17 Off to Court of Police  
 18 Off to Magistrate of Wynad  
 19 Off to Court of Forests  
 20 Off to Court of Police  
 21 Off to Magistrate of Wynad

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