

Government of Madras.

EDUCATIONAL DEPARTMENT.

Recd.

Regd.

} 1913.

Enclosures

Spare copies

G.O. No. 728, 9th August 1913.

University of Madras.

Informing His Excellency the Governor of Pondicherry that the Syndicate of the — is prepared to treat the Settlement of Pondicherry as being within the territorial limits of that University.

Government of Madras.

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2

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GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following papers :—

I

Letter—from the Governor of the French Settlements in India.
To—His Excellency the Governor of the Madras Presidency.
Dated—the 1st March 1913.
No.—8.

Since the 17th of May 1877, an English University education on the same lines as that given in the schools in the Madras Presidency which are under the control of the Director of Public Instruction and are recognized by the Madras University has been organized in Pondicherry by my administration.

The English section of the Calvé College, where this education is given, was recognized as a High school by the Madras University in 1892. From that date, it has shared all the privileges belonging to recognized High schools and its name has always appeared in the University Calendar amongst schools of this denomination.

As the Calendar for 1910 omitted the name of the Calvé College from the list of recognized High schools, the attention of the Registrar of the Madras University was drawn to this fact by the head of the Educational Department in the French Settlements in India.

In reply to this communication, the Registrar intimated that the omission in question was due to the fact that Pondicherry lies outside the territorial jurisdiction of the Madras University as defined in the notification No. 717 of the Government of India, dated 20th August 1904.

As the course which the Madras University has found itself obliged to take is calculated to prejudice the successful working of the English section of the Calvé College which has long been in existence and is also opposed to the interests of the numerous pupils who attend this establishment, I have the honour to request your Excellency to move the Government of India to extend to the Calvé College in Pondicherry the benefits of the territorial jurisdiction of the Madras University so that Pondicherry may be, in terms of the Indian Universities Act of 1904, a foreign establishment comprised within the territorial limits of the University of Madras.

II

Memorandum No. 740-2, Educational, dated 13th June 1913.

The above letter from the French Government will be referred to the Syndicate of the University of Madras for remarks.

2. Paragraph 27 of the report of the Indian Universities Commission, 1902, shows that the Commission contemplated no change in the existing local limits of the Madras University except the addition to it from the Calcutta University of colleges in Ceylon. This position was accepted by the local Government and the Government of India. The notification of the Government of India No. 717, dated 20th August 1904, issued under section 27 of the Indian Universities Act, 1904,

could not therefore have been intended to curtail the limits over which the Madras University had formerly been exercising jurisdiction. In these circumstances it is apparently within the competence of the University to continue to recognize for purposes of affiliation educational institutions situated in Pondicherry.

W. FRANCIS,
Ag. Secretary to Government.

To the Registrar, University of Madras.

III

Letter—from J. HENSMAN, Esq., Manager in charge, Office of the Registrar of the University of Madras.
To—the Secretary to Government, Educational Department.
Dated—Senate House, the 28th July 1913.
No.—8479.

In returning herewith the papers forwarded with your memorandum No. 740-2, dated 13th June last, I have the honour, by direction, to inform the Government that the Syndicate is prepared to accept Pondicherry as coming within the territorial limits of the Madras University, and that it will propose at the next Senate meeting an amendment to regulation 172 which at present stands in the way of the recognition of the Calvé College.

Order—No. 728, Educational, dated 9th August 1913.

The following letter will be despatched to His Excellency the Governor of the French Settlements in India, Pondicherry.

(True Extract.)

W. FRANCIS,
Ag. Secretary to Government.

4
GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

No. 729.

To

HIS EXCELLENCY THE GOVERNOR OF THE FRENCH
SETTLEMENTS IN INDIA, PONDICHERRY.

Dated Ootacamund, the 9th August 1913.

YOUR EXCELLENCY,

In reply to Your Excellency's letter No. 8, dated 1st March 1913, on the subject of extending the territorial jurisdiction of the Madras University so as to include educational institutions in Pondicherry, I have the honour to inform Your Excellency that the Syndicate of the Madras University is prepared to treat the Settlement of Pondicherry as being within the territorial limits of that University and at the earliest opportunity to amend regulation 172 of the University regulations to regularize this step.

Be pleased to accept the assurance of the high consideration with which

I have the honour to be,
Your Excellency's most obedient servant,

PENTLAND.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.Os. Nos. 728-29, EDUCATIONAL,
DATED 9TH AUGUST 1913.

[SUBJECT.—*Extension of the territorial limits of the Madras University so as to include Pondicherry.*]

From the Governor of French Settlements in India, No. 8, dated 1st March 1913.

POLITICAL DEPARTMENT.

Submitted for favour of translation.

A.N.—3-3-13.

V. SEKHARA MENON—3-3-13.

Translated.

S. H. SLATER—4-3-13.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

Please see the translation of the letter from the Governor of French Settlements in India or page 1 of the current file. The Governor of French Settlements requests that the Government of India may be moved "to extend to the Calvé College in Pondicherry the benefits of the territorial jurisdiction of the Madras University so that Pondicherry may be, in terms of the Indian Universities Act of 1904, a foreign establishment comprised within the territorial limits of Madras."

2. The territorial limits of the Indian Universities have been defined by the Government of India in Home Department Notification No. 717, Educational, dated 20th August 1904, which is printed on page 2 of G.O. No. 593, Educational, dated 26th September 1904. According to this notification, the University of Madras can exercise the powers conferred by or under the Act of incorporation or the Indian Universities Act in the provinces of Madras and Coorg (including any Native State under their political control and any foreign possession included within their boundaries) and in Hyderabad, Mysore, and Ceylon. Pondicherry appears to be a foreign possession included within "the boundaries of the Madras Presidency" and as such comes within the territorial limits of the University of Madras as defined by the Government of India. In these circumstances there appears to be no necessity to move the Government of India to extend the territorial limits of the Madras University so as to include Pondicherry. If this view is accepted, the University of Madras may be informed that Pondicherry lies within its territorial jurisdiction and if there is no objection on other grounds, it may recognise the Calvé College in Pondicherry.

T.K.—3-4-13.

Submitted that the Public Department may be first consulted on this point.

C. RAMANUJACHARI—6-4-13.

I do not see what concern Public has with the case: but I should be obliged if Political would say whether or not it acquiesces in the view that Pondicherry already comes within the territorial limits of the University for the reasons given in this note. I am very doubtful. The decision probably depends on the wording of political treaties. If the point is not made clear by reference thereto, I would consult the Advocate-General and let him advise. Pondicherry has a sea frontier and I should not offhand describe it as within the boundary of the Madras Presidency.

L. DAVIDSON—7-4-13.

To the Political Department.

POLITICAL DEPARTMENT.

The question which the Political Department is called upon to answer is whether Pondicherry comes within the territorial limits of the Madras University by virtue of Government of India, Home Department, Notification No. 717, dated the 20th August 1904, on page 2 of G.O. No. 593, Educational, dated 26th September 1904. That notification was issued under section 27 of the Indian Universities Act, 1904 (Act No. VIII of 1904), which empowers the Governor-General in Council to define, by general or special order, the territorial limits within which any powers conferred by or under the Act of Incorporation or the Universities Act shall be exercised. In the notification "Madras and Coorg" is shown as a "province (including any Native State under its political control and any foreign possession within its boundaries)" within or in relation to which the powers conferred upon the Madras University shall be exercised. The question is whether Pondicherry can be regarded as a foreign possession within the boundaries of the province or presidency of Madras.

2. By article VIII of the Treaty of Paris, dated 30th May 1814, the British Government restored to the French the "colonies, fisheries, factories and establishments of every kind" which were possessed by France on the 1st January 1792 in the seas and on the continents of America, Africa and Asia, with the exception of certain islands, etc. By article XIII of the same treaty the British Government guaranteed "to the subjects of His Most Christian Majesty (the King of France) the same facilities, privileges and protection, with respect to commerce, and the security of their persons and property within the limits of the British Sovereignty on the continent of India, as are now or shall be granted to the most favoured nations." By the same article the King of France, on his part, engaged "not to erect any fortifications in the establishments which are to be restored to him within the limits of the British Sovereignty upon the continent of India, and only to place in those establishments the number of troops necessary for the maintenance of the Police."

3. The Secret Committee of the Court of Directors issued certain instructions in their letter to the Government of India, dated the 7th November 1814, with reference to the above treaty, and in the course of their remarks they said that the British Sovereignty in India was acknowledged by the King of France, that the subjects of the French Government could not be considered as entitled to any special right of exemption from the authority of the established British Courts of Judicature and that with the exception of the precincts of their own factories, they were, equally with other Europeans resident in India, amenable to the jurisdiction exercised under the authority of the British Government. The term "Factories" here seems to have been used in a general sense meaning the French territorial possessions and not commercial factories, and that this was the interpretation given to it by the Government of India will be obvious from paragraph 15 of their letter to the Government of Bombay, dated the 6th April 1821, in which they observed that a distinction had been observed between factories and commercial houses such as those at Surat and territorial possessions such as Pondicherry, Chandarnagore, etc., where the French exercised a degree of sovereignty. This difference was also

acted on in Bengal as will be seen from paragraph 3 of a letter addressed by the Bengal Government (?) to the French Governor of Chandarnagore on the 21st May 1819.

4. Thus there are two kinds of possessions owned by the French in India, viz., territorial possessions such as Pondicherry, Karaikkal, etc., and factories or loges such as those at Calicut and Masulipatam. In the former the French exercise sovereign jurisdiction, but their right to exercise such jurisdiction in the latter has all along been *denied by the British Government.

5. The above statement of facts paves the way for the settlement of the question which of the French possessions in Southern India are within the boundaries of the Madras Presidency and which are not. The term "Presidency of Madras" means territories within British India for the time being under the administration of the Governor of Fort St. George in Council and "British India" means all territories and places within His Majesty's dominions which are, for the time being, governed by His Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India. Further, "India" means British India, together with any territories of any native prince or chief under the suzerainty of His Majesty exercised through the Governor-General of India, or through any Governor or other officer subordinate to the Governor-General. Thus Pondicherry is not only not part of British India but is even outside the limits of India in its wider sense. That settlement cannot therefore be said to be a foreign possession within the boundaries of the Madras Presidency. The only "possessions" of the French in Southern India to which the Home Department Notification No. 717 of the 20th August 1904 may be said to be applicable appear to be the "loges" at

Section 3 (7) of the General Clauses Act, 1897 (Act X of 1897).

Section 3 (27) *ibid.*

Page 2 of G.O. No. 593, Educational, dated 26th September 1904.

This note has ignored the question whether the Governor-General has any power to legislate for Pondicherry.

T. J. TASKER—26-4-13.

V. SEKHEARA MENON—24-4-13.

There is no need for us to labour an interpretation of the notification published by the Government of India. What-

The Under Secretary, I think, has perhaps not noticed that the notification really gives no powers over Pondicherry or any one there. It merely permits and enables a College in Pondicherry, of its accord to apply for affiliation to the Madras University. It is merely an enabling provision.

A. G. CARDEW—10-5-13.

T. J. TASKER—26-4-13.

Please look up the debates on the Act before it was passed into law and see whether the point was considered. The notification, dated 20th August 1904, certainly purports to define territorial limits beyond British India.

A. G. CARDEW—29-4-13.

The debates on the Act have been looked up. The point does not seem to have been referred to in any of the speeches.

In July 1904, the Government of India proposed to define the local limits of the Madras University as "the Madras Presidency, with Coorg, the Hyderabad and Mysore States and Ceylon", and remarked.—The term "Presidency or Province as used above includes the "Native States under the political control of the local Government, and "any foreign possessions which may be included within the boundaries of the "province." The Madras Government accepted * the territorial limits proposed and the Government of India in issuing a notification defining the territorial limits of the Universities described a province as including any foreign possession within its boundaries. Neither the Government of India nor the Government of Madras went into the question whether French possessions such as Pondicherry, Karaikkal, Yanam and Mahé could be considered to be included within the boundaries of the Madras Presidency. Perhaps they meant to extend the benefits of the Madras University to such settlements and the expression "included within its boundaries" was used in a loose sense. But strictly speaking these foreign possessions cannot be said to be included within the boundaries of the Madras Presidency. It may, however, be noted that in regard to the local limits of the universities the recommendation of the Universities Commission was that in the case of Madras no change in existing arrangements be made and the definition suggested by the Government of India and accepted by this Government was based on this recommendation.

Ibid.

This means "in the future".

T. J. TASKER—9-4-13.

* Telegram No. 68, dated 18th August 1904, on page 6 of G.Os. Nos. 549-50, Educational, dated 7th September 1904.

See heading of the first column in the statement in notification of the Home Department, No. 717, dated 20th August 1904, on page 2 of G.O. No. 503, Educational, dated 26th September 1904.

Sub-paragraph to paragraph 27 on page 7 of the report of the Indian Universities Commission, 1902.

See paragraph 2 of Home Department letter on page 2 of G.O. Nos. 549-50, Educational, dated 7th September 1904.

to have permitted the recognition by the Madras University of the Calvé College in 1892 and the French Government desire only a continuance of those arrangements. Although the Government of India have no civil or criminal jurisdiction over Pondicherry and other similar French settlements, they seem to have

From whom?

T. J. TASKER—9-5-13.

connection the fact that although the Government of India have no jurisdiction over Ceylon they have included that Colony within the local limits of the Madras University seems to be relevant.

Scarcely.

T. J. TASKER—9-5-13.

V. SEKHARA MENON—8-5-13.

The word "included" in the final notification is a loose alternative for the "which may be included" of Mr. Risley's letter.

T. J. TASKER—9-5-13.

I don't think great stress need be laid on the legal point. The Act merely gives power to define the limits within which and the colleges in respect of which the powers conferred by the Act of Incorporation or the Act of 1904 may be exercised. The former powers are contained in Act XXVII of 1857 and do not go beyond the power to hold property and charge fees. The latter powers are merely to give and cancel degrees, affiliate and disaffiliate colleges and inspect. There are no powers of compulsion, and no penalties except disaffiliation, *i.e.*, withdrawal of the University's control, and the whole thing is really on a voluntary basis. If a college in French territory likes to be affiliated, it can submit to the University's rules and prescriptions, and it becomes an affiliated college of the University

within whose "sphere of influence" it lies. If the college in French territory objects to the University's control, it need not apply for affiliation or can withdraw from affiliation whenever it likes. I have no doubt at all that the notification A of 1904 was intended to enable colleges in French possessions bordered by the Madras Presidency to be affiliated to the Madras University. Of course the Advocate-General can be consulted if Educational see fit, but personally I don't think his advice is necessary.

A. G. CARDEW—10-5-13.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

It is for consideration whether the opinion of the Political Department at A above may be accepted. The intention of the notification seems to be as expressed above, as evidenced by the report of the University Commission and paragraph 2 of the letter from the Government of India, No. 558, dated 5th July 1904.

Page 2 of G.O. No. 549, Educational, dated 7th September 1904. Though the Government may accept this view, it will not be sufficient unless the University also accept it. The Registrar of the University is reported to have replied to the French Government that Pondicherry lies outside the territorial jurisdiction of the University. It is for consideration whether the matter may be explained to that body and its remarks obtained. Prior to the introduction of the Universities Act of 1904 which provided for the issue of notification for declaring the local limits, there was no definite provision to this effect. Apparently the preamble to the Act of Incorporation (Act No. XXVII of 1857) was relied upon. It empowered the University to provide for the education "within the Presidency of Port St. George and other parts of India." The rules of affiliation did not also specify the localities from which alone institutions should be affiliated. This apparently enabled the Calvé College at Pondicherry to be recognized by the University.

Paragraph 6 of volume II of the calendar for 1901-1902—List of high schools.

Subject to approval, a draft memorandum is submitted for approval.

C. RAMANUJACHARI—10-6-13.

Memorandum passed. This is a typical instance of Secretariat fuss-over-nothing and delay. Three and a half months have already elapsed since the receipt of the current.

W. FRANCIS—13-8-13.

[Memorandum No. 740-2, Educational, dated 13th June 1913.]

From the University of Madras, dated 28th July 1913, No. 3479.

Approved.

W. FRANCIS—8-8-13.

A draft letter to the Governor of Pondicherry is submitted for approval. It should issue under the signature of His Excellency the Governor.

P.R.—6-8-13.

C. RAMANUJACHARI—7-8-13.

Submitted that the fair copy of the letter to the Governor of Pondicherry placed below may be circulated to His Excellency for favour of signature.

C. RAMANUJACHARI—9-8-13.

His Excellency the Governor—

W. FRANCIS—9-8-13.

P[ENTLAND].

Despatch it.

W. FRANCIS—13-8-13.

[G.Os. Nos. 728-29, Educational, dated 9th August 1913.]

[$\frac{F. \& L.}{74.}$]
4,800 7-1-13.

EX DEPARTMENT

READ AGAIN G.O. No. _____, dated _____ 191

[illegible]

C. No. 740, From the ^{H.B.} goods of the French Settlers No. 8, dated 1-3-1913
in India

" " 2347 " " Madras University " 3479 " " 28. 7. 1913.

ORDER

No. 728-01, dated 9-8-1913.

12

The following letter will be despatched
to H. E. the Governor of the French
Settlements in India, Pondicherry.

$$\begin{array}{r} \text{PA} \\ 6.8.13 \\ \hline \text{a} \\ 7.8.13 \end{array}$$

Letter - to, No 729 ~~Vol~~ dated 9-8-13
His Excellency the Gov^r of the French
Settlements in India,
Pondicherry.

Your Excellency

In reply to Your Excellency's
letter No. 8 d^y 1st March 1913 on the
subject of extending the ~~benefit of~~
~~the~~ territorial jurisdiction of the Madras
University

(For the four letter
please compare
letter. 158. Dring.
158. 11 (11)

Rec'd of
13-8-13

NOTES.

Page 4

NOTES. ⁹ include ² educational
so as to ^{include} the ^{University}
University ^{of Pondicherry}
cherry, I have the honor to inform
Your Excellency that the Syndicate of
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treat the settlement of being
accept Pondicherry as coming within
the territorial limits of that Uni-
versity and to amend regulation
172 of the University regulations
at the earliest opportunity ^{it is possible} to do so.
to replace this step.

to ^{rephrase} ^{his} ^{step}
be pleased to accept the
assurance of the high consideration
with which

I have the honour to be,
Your Excellency's most obedient
servant,

178/8

PA
6-8-13
CA
7-8V

ETABLISSEMENTS FRANÇAIS
DANS L'INDE

GOVERNEMENT

2^e BUREAU

ADMINISTRATION GÉNÉRALE

ET
CONTENTIEUX ADMINISTRATIF

N^o. 8

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CURRENT NO.
0504
POLITICAL

Reg. 3-3-13.

Pondichéry, le 1^{er} Mars 1913

Le Gouverneur des Etablissements français dans l'Inde
A SON EXCELLENCE LE GOUVERNEUR DE LA PRÉSIDENTIE DE MADRAS

Excellence,

Depuis le 17 Mai 1877, un enseignement universitaire anglais, semblable à celui qui est distribué dans les écoles de la Présidence de Madras placées sous le contrôle du Directeur du service de l'Enseignement et reconnues par l'Université de Madras, a été organisé à Pondichéry par mon Administration.

La Section anglaise du Collège Calvé où cet enseignement est donné a été reconnue comme "High School" par l'Université de Madras en 1892; depuis cette date, elle a bénéficié de toutes les prérogatives attachées aux "High Schools" reconnues et son nom a toujours figuré dans le Calendrier de l'Université au nombre de ces dernières écoles.

Le calendrier de 1910 ayant omis le nom du Collège Calvé dans la liste des "High Schools" reconnues, l'attention de M. le Registrar de l'Université de Madras a été attirée sur ce fait par le Chef du service de l'Instruction publique dans les Etablissements français de l'Inde.

En réponse à cette communication, M. le Registrar fait savoir que l'omission signalée est due à ce fait que Pondichéry est en dehors de la juridiction territoriale de l'Université de Madras telle qu'elle est définie par la dépêche 717 du Gouvernement de l'Inde datée de Simla le 20 Août 1904.

Comme la mesure que l'Université de Madras se voit obligée d'adopter est de nature à porter préjudice au bon fonctionnement de la section anglaise du Collège Calvé qui compte une longue existence ainsi qu'aux intérêts des nombreux élèves qui fréquentent cet établissement, j'ai l'honneur de prier votre Excellence d'intervenir auprès du Gouvernement de l'Inde pour qu'il veuille bien étendre au Collège Calvé de Pondichéry, le bénéfice de la juridiction territoriale de l'Université de Madras, Pondichéry étant, aux termes de l'"Indian University's act" du 20 Août 1904, un établissement étranger pouvant être compris dans les limites territoriales universitaires de Madras.

Veuillez agréer l'assurance de la haute considération avec laquelle j'ai l'honneur d'être,

De Votre Excellence

Le très obéissant serviteur,

Acquies

STAMP & COPY

• C
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P. 10. 10

INSTRUCTIONS FOR THE
SECRETARIAT.

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(b¹) For rules regarding printing of notes, see the rules in G.O., No. 1220, Public dated 30th November 1900.

(c) The number of copies and the details of distribution should be filled in by the Superintendent or Referencer concerned.

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Current No. dated 19

G.O. No. 729 dated 9-8 1912

Number of MS. pages sent { Correspondence including order or orders
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University of Madras
Docket
Governor of Pondicherry that the
the settlement of Pondicherry and
the University of Madras

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