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ORIGINAL

[Despatch Abstract.]

Prehistoric antiquities

Addressing the Government of India, Revenue and agricultural department, on the Subject of the appointment of an arbitrator under the agreement of the 14th November 18[illegible] entered into between the Secretary of State and Mr R. Bruce regarding the Valuation of his collection of —— preliminary to their purchase ~~of~~ by Government.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

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G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1904} of Madras.

EDUCATIONAL.

Read. } 1904. *Enclosures*

Regd. } *Spare copies*

ORIGINAL

G.O., &c., Nos. 344, 345, 6th June 1904.

JUNE.

Prehistoric Antiquities.

Addressing the Government of India, Revenue and Agricultural Department, on the subject of the appointment of an arbitrator under the agreement of the 14th November 1898 entered into between the Secretary of State and Mr. R. Bruce-Foote regarding the valuation of his collection of — preliminary to their purchase by Government.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

Read—the following papers:—

From J. H. MARSHALL, Esq., Director-General of Archæology in India, to the Secretary to the Government of Madras, Educational Department, dated Simla, 18th May 1904, No. 542.

With reference to your telegram No. 47 of 24th April 1904 concerning the purchase of Mr. Bruce-Foote's collection of prehistoric antiquities, I have the honour to request that I may be informed more precisely of the wishes of the Madras Government, and particularly as to whether they desire me to make a personal inspection of Mr. Bruce-Foote's collection, and, if so, whether it will be early enough for me to visit Madras during the ensuing cold weather.

2. For my own part, I am of opinion that, if Mr. Bruce-Foote possesses a complete catalogue and a fairly representative collection of photographs, a very just estimate of the value of the collection may be formed from them. But on the other hand it would be more satisfactory to see the antiquities and explain verbally to the umpire my reasons for assessing this or that value for each.

From R. BRUCE-FOOTE, Esq., F.G.S., F.M.U., to the Secretary to Government, Educational department, dated Ootacamund, 23rd May 1904.

In reply to your letter of the 21st instant, Mis. No. 311, offering me Rs. 15,000 for my collection of prehistoric and protohistoric Indian antiquities, I have the honour to inform you that I cannot accept that offer as I consider it far below the real value of my specimens. I am prepared therefore to submit the question of the value to arbitration and beg to nominate Mr. E. S. Stevenson, Deputy Inspector-General, Madras Police, as my arbitrator. Mr. Stevenson is resident at Yercaud and can thus easily meet the arbitrator chosen by Government.

I am leaving this to-day on my return to Yercaud.

Order—No. 344, Educational, dated 6th June 1904.

The following letter will be despatched to the Government of India.

(True Extract.)

H. D. TAYLOR,
Ag. Secretary to Government.

Letter—No. 345, Educational, dated Ootacamund, 6th June 1904, to the Secretary to the Government of India, Revenue and Agricultural Department.

I am directed to address you on the subject of the appointment of an arbitrator under the agreement of the 14th November 1898 entered into between the Secretary of State and Mr. R. Bruce-Foote lately of the Geological Survey of India regarding the valuation of his collection of prehistoric antiquities preliminary to their purchase by the Government.

A copy of the agreement is enclosed for the information of the Government of India.

2. Under this agreement Mr. Bruce-Foote engaged to compile and publish a catalogue raisonné of his collection, which thereafter he was to offer for sale to the Secretary of State through the Government of Madras at a fair and reasonable price. In the event of any difference or dispute as to the price to be paid, the same was to be referred in writing for decision to two "indifferent persons" as arbitrators, one to be appointed by each of the parties to the agreement; and it was provided that before entering upon the question referred to them, the arbitrators should appoint an umpire to give a final decision in case of their differing.

The agreement further provides that the arbitrators are to be appointed by either side within three months of the date on which the difference between the contracting parties shall arise.

3. It will be observed that under the agreement it was contemplated that the publication of the catalogue raisonné should be completed within two years, whereupon the purchase would fall to be made. Owing, however, chiefly to Mr. Bruce-Foote's ill-health, infirmity, and absence from India, and partly to his endeavour before parting with his collection to bring out an elaborate work of a highly scientific character based upon the specimens contained in the collection, the catalogue raisonné had not been delivered up till last year and no progress made towards the completion of the transaction. The Government accordingly addressed Mr. Bruce-Foote regarding the great delay that had occurred and in the end waived the condition as to the *publication* of the catalogue, and required him to send in a catalogue or check list giving merely such concise details as would enable a valuator to identify the specimens; and a catalogue of this character has been prepared by him. While correspondence on the subject was passing, it came to the knowledge of the Government that Mr. H. W. Seton-Karr, who has claims to be considered an authority on the subject of prehistorics, was travelling in India, and at their request that gentleman was good enough to visit Yercaud where the collection is housed and to examine its contents. His services were solicited not as an arbitrator under the agreement, but in order that the Government might have the advice and opinion of an expert as to the approximate value of the collection and so furnish data upon which they might base an offer.

4. Mr. Seton-Karr after a careful examination lasting over four days reported that in his opinion the collection was worth to the Madras Museum not more than £620 sterling, £475 being estimated as the value of stone implements, and £145 as the value of pottery and other objects. In giving that sum he thought that the Government would be acting in fair, not to say generous, manner. An offer of Rs. 9,300 based on this valuation was accordingly made to Mr. Bruce-Foote on 12th April, and rejected by him on 14th idem. Mr. Bruce-Foote has especially taken exception to the low estimate placed by Mr. Seton-Karr on the articles of ancient pottery and to his omission to appraise at their proper value certain specimens which he declares to be quite unique.

5. Subsequently in view of the admitted difficulty of fixing a price upon articles of the kind in question, and of the special value of the collection to the Madras Museum, the Government, in order to bring the matter to an immediate settlement, made a further "final" offer to Mr. Bruce-Foote of Rs. 15,000, independent of the arbitration clause; but this again has been rejected. It is understood that Mr. Bruce-Foote believes that his collection is worth £4,000 sterling.

6. The offer being rejected, it is necessary to proceed to arbitration under the terms of the original agreement. Mr. Bruce-Foote has already submitted the name of Mr. Stevenson of Yercaud as arbitrator on his behalf; and it is now incumbent on this Government to appoint an arbitrator on their part and to communicate his name to Mr. Bruce-Foote. There being, so far as this Government are aware, no one in this Presidency who can claim to possess the necessary qualifications, Mr. Marshall, the Director-General of Archæology, was asked whether he would kindly consent to act; and he has replied in the letter of the 18th May (a copy of which is enclosed).

7. It is with reference to his nomination to this duty that I am now directed to address the Government of India instead of Mr. Marshall direct inasmuch as his deputation may possibly interfere with other work in connection with which the Government of India may require his services. I am therefore to request that the Government of India may be pleased temporarily to spare Mr. Marshall for the duty in question at a very early date. Under the agreement it is essential that the examination of the collection and its valuation by the two arbitrators should be completed before the 14th July next; and it is also essential that the arbitrators should personally inspect it at Yercaud.

8. Should it prove altogether impracticable, which His Excellency the Governor in Council sincerely trusts may not be the case, to comply with this request, I am to ask if the Government of India can suggest the name of some other person able and qualified to act as arbitrator in the matter on behalf of the Government, within the period specified. I am also to inquire whether the Government of India can suggest the name of any one qualified to be umpire in the matter in the event of the disagreement of the arbitrators.

9. A copy of the correspondence with Mr. Bruce-Foote regarding the value of the collection together with a copy of other material papers is under preparation and will be communicated to the arbitrator who may be appointed on behalf of the Government.

10. I am to request that the orders of the Governor-General in Council on this reference may be communicated to this Government by telegram.

H. D. TAYLOR,
Ag. Secretary to Government.

Enclosure I.

Agreement made the fourteenth day of November One thousand eight hundred and ninety-eight between Robert Bruce Foote of Ivy Cottage Yercaud of the one part and the Right Honourable the Secretary of State for India in Council (hereinafter called the Secretary of State) of the other part;

Whereas the said Robert Bruce-Foote has a collection of Indian prehistoric implements and other things and is about to compile and publish an illustrated catalogue raisonné thereof;

And whereas the said Robert Bruce-Foote has applied to the Secretary of State through the Government of Madras for the grant of a sum of six hundred rupees to assist the said Robert Bruce Foote in compiling and publishing such catalogue raisonné which grant the Secretary of State has agreed and consented to make to the said Robert Bruce-Foote on condition of his entering into such an agreement as is hereinafter contained.

Now these presents witness that in consideration of the sum of six hundred rupees by the Secretary of State paid to the said Robert Bruce-Foote on or before the execution of these presents (the receipt whereof the said Robert Bruce-Foote doth hereby admit and acknowledge) he the said Robert Bruce-Foote doth hereby for himself his executors and administrators agree with the Secretary of State his successors and assigns in manner following that is to say:—

(1) That he the said Robert Bruce-Foote will within two years from the date of these presents compile and publish at his own expense a catalogue raisonné of his said collection of Indian prehistoric implements and other things.

(2) That he the said Robert Bruce-Foote will forthwith after the publication of such catalogue raisonné offer for sale to the Secretary of State through the Government of Madras at a fair and reasonable price the said collection of the said Robert Bruce-Foote of Indian prehistoric implements and other things such offer to be accepted or refused by the Government of Madras on behalf of the Secretary of State within three calendar months after such offer shall have been made and that during such period of three calendar months the said Robert Bruce-Foote shall not sell or offer to sell his said collection or any part thereof to any person or persons other than the Secretary of State.

(3) In case any difference or dispute shall arise between the said Robert Bruce-Foote and the Secretary of State as to the price to be paid by the Secretary of State to the said Robert Bruce-Foote for his said collection of Indian prehistoric implements and other things such difference or dispute shall be referred in writing for decision to two indifferent persons as arbitrators one to be appointed by each of the parties in difference and who shall before entering upon the question referred to them appoint an umpire to decide the difference or question in dispute referred to such arbitrators in case of their disagreeing thereon and the decision in writing of such arbitrators or as the case may be of such umpire shall be final and conclusive and altogether binding upon the parties hereto and shall not be open or subject to question or dispute upon any ground whatsoever.

(4) In case either of the said parties hereto shall refuse or neglect for three calendar months after such difference or dispute shall have arisen to appoint an arbitrator as hereinbefore provided then and in that case it shall be lawful for the other party hereto to appoint an arbitrator on behalf of the party so refusing or neglecting and the arbitrator so appointed shall in all respects have the like powers as if he had been appointed by the party hereto so refusing or neglecting to appoint an arbitrator.

(5) That the said Robert Bruce-Foote will at the expense of the Secretary of State compile a catalogue of the prehistoric antiquities in the Madras Government Museum and in case such sale as is mentioned in clause (3) hereof shall be effected but not otherwise such last-mentioned catalogue shall be compiled and published by him as a supplement to the catalogue raisonné hereinbefore mentioned.

(6) That in case such sale as aforesaid shall be effected the said Robert-Bruce Foote shall be at liberty from time to time and at any time during the making and pending the completion of the illustrated volume of notes which is to follow the publication of the said catalogue raisonné of his said collection of Indian implements and other things to see consult and refer to the said collection of Indian prehistoric implements and other things which shall have been so purchased by the Secretary of State and to figure any specimen in such collection that he may require to illustrate in the said volume of notes.

In witness whereof the said Robert Bruce-Foote has hereunto set his hand the day and year first above written.

Signed by the above-named ROBERT BRUCE FOOTE in the presence of } R. BRUCE-FOOTE.

(Signed) EDGAR THURSTON,
(„) H. J. FANNELL, Capt. R.A.

Enclosure II.

Letter from J. H. MARSHALL, Esq., Director-General of Archæology in India, to the Secretary to the Government of Madras, Educational Department, dated Simla, the 18th May 1904, No. 542.

[Here enter letter on page 2 *supra*.]

Exd. A. F. Eccleston.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

Statement of difference or dispute between Robert Bruce Foote and the Secretary of State for India as to the price to be paid under the agreement, dated the 14th November 1898, by the Secretary of State to Robert Bruce Foote for his collection of Indian prehistoric implements and other things included in the said agreement between the said parties.

1. The Government of Madras acting for the Secretary of State on the 12th April 1904 offered the said Mr. Robert Bruce Foote the sum of Rs. 9,300 in full payment for the collection and a copy of the telegram conveying the said offer is appended: but Mr. Bruce Foote by his letter of the 14th April 1904 (a copy of which is also appended) rejected the said offer. On this the Government in view of a speedy and final settlement of the matter and to avoid the delay of an arbitration wrote Mr. Bruce Foote the letter, dated 21st May 1904 (copy appended), in which they offered Mr. Bruce Foote Rs. 15,000 for the said collection. But Mr. Bruce Foote declined this modified offer in his letter, dated Mount Pleasant, Ootacamund, the 23rd May of 1904 (copy appended), on the ground that "he considered the offer far below the value of his specimens", and stated that he was "prepared to submit the question of the value to arbitration".

2. The question referred to the arbitrators appointed under the agreement hereinbefore recited is what is a "fair and reasonable price" for the said collection.

OOTACAMUND,
24*th June* 1904.

H. D. TAYLOR,
Ag. Secretary to Government.

ENCLOSURES.

AGREEMENT made the fourteenth day of November One thousand eight hundred and ninety-eight BETWEEN ROBERT BRUCE FOOTE of Ivy Cottage Yercaud of the one part and THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called the Secretary of State) of the other part;

WHEREAS the said Robert Bruce Foote has a collection of Indian prehistoric implements and other things and is about to compile and publish an illustrated catalogue raisonné thereof;

AND WHEREAS the said Robert Bruce Foote has applied to the Secretary of State through the Government of Madras for the grant of a sum of six hundred rupees to assist the said Robert Bruce Foote in compiling and publishing such catalogue raisonné which grant the Secretary of State has agreed and consented to make to the said Robert Bruce Foote on condition of his entering into such an agreement as is hereinafter contained.

NOW THESE PRESENTS WITNESS that in consideration of the sum of six hundred rupees by the Secretary of State paid to the said Robert Bruce Foote on or before the execution of these presents (the receipt whereof the said Robert Bruce Foote doth hereby admit and acknowledge) he the said Robert Bruce Foote doth hereby for himself his executors and administrators agree with the Secretary of State his successors and assigns in manner following that is to say:—

(1) THAT he the said Robert Bruce Foote will within two years from the date of these presents compile and publish at his own expense a catalogue raisonné of his said collection of Indian prehistoric implements and other things.

(2) THAT he, the said Robert Bruce Foote will forthwith after the publication of such catalogue raisonné offer for sale to the Secretary of State through the Government of Madras at a fair and reasonable price the said collection of the said Robert Bruce Foote of Indian prehistoric implements and other things such offer to be accepted or refused by the Government of Madras on behalf of the Secretary of State within three calendar months after such offer shall have been made and that during such period of three calendar months the said Robert Bruce Foote shall not sell or offer to sell his said collection or any part thereof to any person or persons other than the Secretary of State.

(3) IN case any difference or dispute shall arise between the said Robert Bruce Foote and the Secretary of State as to the price to be paid by the Secretary of State to the said Robert Bruce Foote for his said collection of Indian prehistoric implements and other things such difference or dispute shall be referred in writing for decision to two indifferent persons as arbitrators one to be appointed by each of the parties in difference and who shall before entering upon the question referred to them appoint an umpire to decide the difference or question in dispute referred to such arbitrators in case of their disagreeing thereon and the decision in writing of such arbitrators or as the case may be of such umpire shall be final and conclusive and altogether binding upon the parties hereto and shall not be open or subject to question or dispute upon any ground whatsoever.

(4) IN case either of the said parties hereto shall refuse or neglect for three calendar months after such difference or dispute shall have arisen to appoint an arbitrator as hereinbefore provided then and in that case it shall be lawful for the other party hereto to appoint an arbitrator on behalf of the party so refusing or neglecting and the arbitrator so appointed shall in all respects have the like powers as if he had been appointed by the party hereto so refusing or neglecting to appoint an arbitrator.

(5) THAT the said Robert Bruce Foote will at the expense of the Secretary of State compile a catalogue of the prehistoric antiquities in the Madras Government Museum and in case such sale as is mentioned in clause (3) hereof shall be effected but not otherwise such last-mentioned catalogue shall be compiled and published by him as a supplement to the catalogue raisonné hereinbefore mentioned.

(6) THAT in case such sale as aforesaid shall be effected the said Robert Bruce Foote shall be at liberty from time to time and at any time during the making and pending the completion of the illustrated volume of notes which is to follow the publication of the said catalogue raisonné of his said collection of Indian implements and other things to see consult and refer to the said collection of Indian prehistoric implements and other things which shall have been so purchased by the Secretary of State and to figure any specimen in such collection that he may require to illustrate in the said volume of notes.

IN WITNESS whereof the said Robert Bruce Foote has hereunto set his hand the day and year first above written.

SIGNED by the above-named ROBERT BRUCE FOOTE in the presence of
(Signed) EDGAR THURSTON.
(„) H. J. FANNELL, Captain, R.A.

R. BRUCE FOOTE.

Telegram from A. G. CARDEW, Esq., Acting Secretary to Government, Educational Department, to R. BRUCE FOOTE, Esq., dated 12th April 1904, No. 38.

Your letter twenty-fifth ultimo. Government is prepared to give rupees nine thousand three hundred for your collection, being Seton-Karr's valuation. Please wire whether you accept offer.

From R. BRUCE FOOTE, Esq., F.G.S., F.M.U., to the Secretary to Government, Educational Department, dated Madras Club, Madras, 14th April 1904.

I have the honour to acknowledge your telegram of the 12th instant which followed me here from Yercaud. In reply I beg to decline your offer of Rs. 9,300 made on the strength of Mr. Seton-Karr's valuation of my collection of prehistoric and proto-historic antiquities.

My own valuation of the collection is four thousand pounds sterling (£4,000). It is the work of forty one years and contains many hundreds of specimens of many classes which are absolutely unique and therefore of very high value. Many are also of high value geologically as well archæologically.

LETTER—Mis. No. 311, Educational, dated 21st May 1904, to R. Bruce-Foote, Esq., F.G.S., F.M.U., care of Colonel Teversham, Mount Pleasant, Ootacamund.

I am directed by His Excellency the Governor in Council to inform you that, after further careful consideration of the various arguments advanced by you in reference to the value of your collection of prehistoric antiquities, the Government are prepared in modification of the proposal made to you in the telegram of the 12th April last to offer you a sum of Rs. 15,000 (Rupees fifteen thousand only) in full and final settlement of your claim without proceeding to arbitration. His Excellency trusts that this offer may be satisfactory to you.

2. I am also directed to state that, should you be unwilling to accept the present offer, the stipulations in the agreement with the Secretary of State as to arbitration will take effect; and I am accordingly to request that you will be good enough to intimate to Government your decision in the matter within seven days from the receipt by you of this letter so that this long-pending matter may be brought to a settlement without further delay.

H. D. TAYLOR,
Ag. Secretary to Government.

From R. BRUCE-FOOTE, Esq., F.G.S., F.M.U., to the Secretary to Government, Educational department, dated Ootacamund, 23rd May 1904.

In reply to your letter of the 21st instant, Mis. No. 311, offering me Rs. 15,000 for my collection of prehistoric and proto-historic Indian antiquities, I have the honour to inform you that I cannot accept that offer as I consider it far below the real value of my specimens. I am prepared therefore to submit the question of the value to arbitration and beg to nominate Mr. E. S. Stevenson, Deputy Inspector-General, Madras Police, as my arbitrator. Mr. Stevenson is resident at Yercaud and can thus easily meet the arbitrator chosen by Government.

I am leaving this to-day on my return to Yercaud.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 344, 345, EDUCATIONAL, DATED 6TH JUNE 1904.

[SUBJECT.—*Purchase by Government of Mr. Bruce Foote's Collection of Prehistoric Antiquities.*]

From Mr. R. Bruce-Foote, dated 23rd May 1904.

Mr. Bruce-Foote declines the offer of Rs. 15,000 made by Government in letter No. 311, Educational, dated 21st May 1904, for his collection of prehistoric antiquities and nominates Mr. E. S. Stevenson as his arbitrator.

2. In his letter, dated 22nd April 1904, in G.O., No. 311, dated 21st May 1904, paragraph 5, Mr. Bruce-Foote said :

"I assume that each party is bound to appoint as an arbitrator a person who is qualified to give an opinion on the subject matter in dispute."

3. There is nothing in the agreement about this but it is submitted that there can be no doubt that this was the intention. It is not however clear what qualification Mr. Stevenson has to act as arbitrator in this case.

4. Under article 4 of the agreement if the Government do not appoint their arbitrator within three months of the date of the occurrence of difference or dispute between them and Mr. Bruce-Foote as to the value of the collection, Mr. Bruce-Foote can appoint an arbitrator for Government. For the purpose of this article the date of the occurrence of the difference or dispute should apparently be fixed as the 21st instant the date of the letter to Mr. Bruce-Foote to which he has now replied. Under the agreement he had to make the offer and it was for Government to accept or refuse. The letter of the 21st should apparently be taken as this refusal.

5. It is submitted that Mr. Bruce-Foote may now be informed that Government have appointed Mr. Marshall as their arbitrator and that he will act as such during the next cold weather. Mr. Marshall may, at the same time, be informed that Mr. Stevenson is Mr. Bruce-Foote's arbitrator and that he should therefore have a competent person to act as umpire. He may perhaps be also asked whether any such can be had in India.

P. T. THARYAN—24-5-04.

Mr. Marshall's letter has just arrived, and is added to the current.

2. The arbitrators have to be *appointed* within three months ; the agreement does not fix the time at which they should enter into their duties.

H. D. TAYLOR.

3. The Government cannot, under the agreement, object to Mr. Foote's selection of Mr. Stevenson as arbitrator on any ground except that he is not an "indifferent person."

4. The parties have nothing to do with the appointment of the umpire ; that is a matter for the arbitrators. But if the Government have any one in their view, the name may be suggested to Mr. Marshall ? There is no necessity for the umpire to see the collection ? He will have the reports of the arbitrators ; and photos can be sent him. The umpire should be a competent person ? The Curator of the Pitt-Rivers collections at Oxford ? Mr. Foote would not object as he is a friend of his (page 8 of the notes connected with G.O., No. 311, Educational, dated 21st May 1904.

A. GALLETTI—24-5-04.

I consider that 23rd May, being the date of receipt of Mr. Bruce Foote's letter declining the offer made, may be taken as the period from which the three months specified in the agreement should run, though the matter is not free from doubt, the original offer being made on April 12th. It is to be questioned whether Mr. Stevenson is an "indifferent" person. His home is Yercaud where Mr. Bruce-Foote resides, and presumably he has obtained what little knowledge of "prehistorics" he may possess by sitting as a disciple at Mr. Bruce-Foote's feet. He can have had but little opportunity of judging of the value of Mr. Bruce-Foote's collection by reference to other collections of a similar nature, and can have no idea of the standard of valuation which would be placed upon the collection in Europe. Still I do not think that objection need be raised on these grounds by Government. Any difference will be adjusted by the "umpire" if there is need of reference to him.

2. Mr. Marshall's letter is indefinite. He does not say definitely if he accepts or refuses—he suggests that he cannot come before next cold weather—and does not, as asked by this Government, give the name of any other person qualified to act. He half suggests that a valuation should be made from an illustrated catalogue. This does not exist. Mr. Marshall—if nominated—must, it is submitted, himself visit Yercaud, value the collections and exchange views, with Mr. Stevenson. It is very desirable that the matter should be proceeded with at once, and that if Mr. Marshall's services cannot be secured to visit Yercaud within a reasonable time, some other arbitrator should be appointed by Government. Should Mr. Marshall be again addressed, by wire or otherwise, and asked if he can visit Yercaud in the course of the next three months?

H. D. Taylor—24-5-04.

It is not easy to guess what Mr. Bruce-Foote's object is in nominating Mr. Stevenson, who obviously can have no expert knowledge of the value of such a collection.

The danger in objecting is that it may end in indefinitely postponing the appointment of the arbitrators, which may possibly be his purpose.

2. I would, therefore, accept Mr. Stevenson with the remark borrowed from Mr. Foote's letter of 22nd April 1904 (in Government Order, dated 21st May 1904) that "the Government presume that, to use the words of his letter of 22nd April last, Mr. Foote is satisfied that Mr. Stevenson "is qualified to give an opinion on the subject-matter in dispute."

3. Mr. Marshall will be our arbitrator: but I think we should ask the Government of India whether Mr. Marshall cannot be sent down earlier, say, in the middle of June, when the moonsoon has broken.

4. Mr. Marshall must come to Yercaud, and there he and Mr. Stevenson (if he acts) will have to choose an umpire.

Let His Excellency see.

G. S. F[orbes]—25-5-04.

Submitted to His Excellency the Governor.

H.D.T.—26-5-04.

Mr. Marshall must be asked definitely to accept or refuse office: saying we wish him (1) to accept, (2) to come, inspect and value and give his award by July 11th: and if he cannot, then to find and send some who can.

J. T[homson]—26-5-04.

A draft letter to Mr. Marshall is submitted for approval. It has been prepared on the lines of His Excellency's note, and provides for the actual valuation within three months of the original offer (12th April). Paragraph 4 of the agreement, however, only lays down that the arbitrators should be *nominated* by either side within that period. It is, however, desirable to settle the matter at once.

2. Paragraph 3 of the agreement provides that the difference or dispute between the Government and Mr. Bruce-Foote "shall be *referred in writing* to the decision of two indifferent persons". Apparently a statement of the questions at issue should be now

drawn up and signed by both parties. It may, I think, be drawn up merely as a question of price for the entire collection without details. The dispute is the value of the entire collection. The Government offer Rs. 15,000, and Mr. Bruce Foote £4,000.

Page 3 of G.O., No. 311, dated 21st May 1904.

Mr. Seton-Karr *values* the collection at £620 (implements £475, pottery £145), and opines that if sold at Christie's it would not fetch more than £170. May the "difference" be stated as £620 versus £4,000? The offer of Rs. 15,000 was independent of arbitration.

H. D. Taylor—27-5-04.

I should state the facts more in detail as to Mr. Seton-Karr's valuation, etc, in the statement which will have to be drawn up. Meantime the letter about Mr. Marshall should go to the Government of India. We can't correspond with him in this matter direct. Please revise the draft.

G. S. F[orbes]—27-5-04.

A revised draft to India is put up below for approval. I have thought it desirable to state the facts and history of the case in some detail. The statement of difference will be prepared and sent to Mr. Bruce Foote for acceptance shortly.

G.S.F.

2. Instructions will have to be issued separately to the arbitrator when finally appointed. Should any suggestion be made as to the name of the person to be appointed umpire? If no qualified person is available in India perhaps the name of Mr. Thurston might be suggested, on his return from India. Questions, if any, for the umpire's decision can wait till then. Mr. Bruce Foote has asked for a full copy of Mr. Seton-Karr's report. This might be given to the arbitrator appointed on behalf of Government for reference, if necessary.

Yes. Mr. Bruce Foote would probably accept him.

G.S.F.

H.D.T.—30-5-04.

I have rewritten the draft. It is desirable to explain why we write to India instead of continuing the correspondence with Mr. Marshall.

2. There seems great confusion about the catalogue raisonné which Mr. Bruce Foote was to furnish *before* the valuation. It was not to be an illustrated catalogue but a mere guide to the specimens; and what he was let off doing was the *publication* of it, not the issue of an illustrated book such as he desired to bring out.

3. Please type the draft and let me have it in type.

Meantime please have a copy made of the agreement to go as an enclosure.

G.S.F.—30-5-04.

Please type the draft copy of agreement. The agreement should also be printed as noted by the Honourable Member.

2. Will Assistant Secretary please draw up for approval, as soon as the draft has been finally approved, a statement of "difference" to be decided by the arbitrators, for approval, and for final acceptance by Mr. Bruce Foote.

Z

H.D.T.—31-5-04.

A fair copy of the draft with copy of agreement is submitted. Another copy of the agreement is going to the press to be printed.

P. T. Tharyan—31-5-04.

H.D.T.—1-6-04.

I have made a few other slight verbal alterations on the typed copy of my rough draft: and I have modified paragraph 7. I do not see that we are to draw up a statement of "difference"—such a statement would be prepared by the arbitrators for the "umpire." What we should get ready are copies of Mr. Bruce Foote's correspondence about the *value* of his collection and Mr. Seton—Karr's report.

A

2. It is a pity that the file was not printed up, so far as it went, a month ago. The value of printing up is lost if, as so often in the Local and Municipal, it is deferred till the file is out of date.

G. S. F[ORBES]—1-6-04.

With reference to the Honourable Member's remarks at **A** on page 3, a reference is solicited to paragraph (3) of the agreement, marked in blue pencil.

"In case any difference or dispute shall arise . . . . such difference or dispute shall be referred *in writing* for decision to two indifferent persons or arbitrators."

Presumably the "difference" to be decided by the arbitrators should be in the form of a written statement signed or accepted by both parties to the agreement.

2. Copies of correspondence can be separately sent by *way of instruction* to the arbitrator appointed by Government, but the statement, it is submitted, should be placed jointly before both arbitrators.

H. D. TAYLOR—2-6-04.

The Secretary is right on this point. But I suppose the only "difference" to be formally referred is that we have offered Rs. 9,300 (or Rs. 15,000 ?) and that he has refused it, the refusal being contained in the letter embodying the specific refusal. It is not necessary, however, to mention this in the letter to the Government of India. This is for us to arrange. It is assumed that we are taking all formal steps. Better issue at once.

G.S.F.—2-6-04.

The draft is submitted to His Excellency the Governor prior to issue.

H.D.T.—2-6-04.

Draft initialled.

J. T[HOMSON]—3-6-04.

Please print sharp.

H.D.T.—3-6-04.

Printed and issued.

[G.O., Nos. 344, 345, Educational, dated 6th June 1904.]

[E. 1]

1,000—23-12-01.

Educational (1904) Department.

9

CURRENT No. 932

From

[*Name*] R. Bruce Foote Esq, F.G.S. F.M.U.

[*Designation*] _____

[*Station*] Ootacamund

No. _____ *Received* 23 - 5 - 1904.

Dated 23 - 5 - 1904.

Enclosures _____ *Registered* 24 - 5 - 1904

SUBJECT.

Declining to accept the offer of Rs. 15000 made to his Collect of prehistoric antiquities and nominating Mr. E. S. B. Stevenson as his arbitrator.

BACK PAPERS.

FURTHER PAPERS.

2

[E. / 1]

1,000—23-12-01.

5 2

Educational (1904) Department.

10

CURRENT No. 933,

From

[*Name*] J. H. Marshall Esq.,

[*Designation*] Director General of Archaeology in India

[*Station*] Simla

No. 542 *Received* 24 - 5 — 1904

Dated 18 - 5 — 1904.

Enclosures *Registered* 24 - 5 — 1904

SUBJECT.

Requesting to be informed as to whether the Madras Govt. desire him to make a personal inspection of Mr. Bruce Foote's Collection of prehistoric antiquities and if so, whether it will be early enough for him to visit Madras during the ensuing cold weather.

BACK PAPERS.

FURTHER PAPERS.

6

1214

3 Educational Department.

11

ORDER:-- no. 344 dl 6-6-04.

The following letter will be despatched to the Government of India.

LETTER.-- 3459 6-6-04 from H.O. Saylor Esq. acting secretary to govt. Educational Depart.

To

The Secretary to the Government of India,

Revenue and Agricultural Department.

Sir,

I am directed to address you on the subject of the appointment of an arbitrator under the agreement of the 14th November 1898 entered into between the Secretary of State and Mr. R. Bruce Foote lately of the Geological Survey of India regarding the valuation of his collection of prehistoric antiquities preliminary to their purchase by the Government.

A copy of the agreement is enclosed for the information of the Government of India.

2.

2. Under the agreement, ~~[illegible]~~ Mr. Bruce Foote, ~~the latter~~ engaged to compile and publish a catalogue raisonné of his collection, which ~~and~~ thereafter he was to offer ~~the same~~ for sale to the Secretary of State through the Government of Madras at a fair and reasonable price. In the event of any difference or dispute as to the price to be paid, the same was to be referred in writing for decision to two "indifferent persons" as arbitrators, one to be appointed by each of the parties to the agreement; and it was provided that before entering upon the question referred to them, the arbitrators should appoint an umpire to ~~decide any point~~ give a final decision in case of ~~disagreement between themselves~~ their differing.

The agreement further provides that the arbitrators are to be appointed by either side within three months of the date on which the difference between the contracting parties shall arise.

3. It will be observed that under the agreement it was contemplated that the publication of the ~~Cat.~~ Catalogue raisonné should be completed within 2 years, whereupon the purchase would fall to be made. Owing however chiefly to Mr. Bruce Foote's ill-health, infirmity, and absence from India, and partly to his endeavour before parting with his collection to bring out an elaborate work of a highly scientific character based upon the specimens

specimens contained in the collection, the catalogue raisonné had not been delivered up till last year and no progress made towards the completion of the transaction. The Government accordingly addressed Mr. Bruce Foote regarding the great delay that had occurred and in the end waived the condition as to the publication ~~with~~ of the catalogue, ~~raisonné~~ and required him to send in a catalogue or check list giving merely such concise details as would enable a valuator to identify the specimens; and a catalogue of this character has been prepared by him. While correspondence on the subject was passing, it came to the knowledge of the Government that Mr. H.W. Setonkarr, who has claims to be considered an authority on the subject of prehistorics, was travelling in India, and at their request that gentleman was good enough to visit Yercaud where the collection is housed and to examine its contents. His services were solicited not as an arbitrator under the agreement but in order that the Government might have the advice and opinion of an expert as to the approximate value of the collection and so furnish ~~them with some~~ they might data upon which ~~to~~ base an offer.

4. Mr. Setonkarr after a careful examination lasting over four days reported that in his opinion the collection was

was worth to the Madras Museum not more than £620 sterling, £475 being estimated as the value of stone implements, and £145 as the value of pottery and other objects. In giving that sum he thought that the Government would be acting in a fair, not to say generous, manner. An offer of Rs.9,300 based on this valuation was accordingly made to Mr. Bruce Foote on 12th April, and rejected by him on 14th idem. Mr. Bruce Foote has especially taken exception to the low estimate placed by Mr. Setonkarr on the articles of ancient pottery and to his omission to appraise at their proper value certain specimens which he declares to be quite unique.

5. Subsequently in view of the admitted difficulty of fixing a price upon articles of the kind in question, of the special value of the collection to the Madras Museum, the Govt, in order to bring the matter to an immediate settlement, made a further final offer to Mr. Bruce Foote of Rs.15,000, independent of the arbitration clause; but this again has been rejected. It is understood that Mr. Bruce Foote believes that his collection is worth ~~Rs5,000 or~~ £4,000 sterling. The offer being rejected, it is necessary to proceed to arbitration under the terms of the original agreement, and Mr. Bruce Foote has already submitted the name of Mr. Stevenson of Yercaud as arbitrator on his behalf; and it is now incumbent on this Government to appoint an arbitrator on their part.

part and to communicate his name to Mr. Bruce Foote. There being, so far as this Government are aware, no one in this Presidency who can claim to possess the necessary qualifications, Mr. Marshall the Director General of Archaeology, was asked whether he would kindly consent to act; and he has replied in the letter of the 18th May (a copy of which is enclosed). It is with reference to his nomination to this duty that I am now directed to address the Government of India instead of Mr. Marshall direct inasmuch as his deputation may possibly interfere with other work in connection with which the Government of India may require his services. I am therefore to request that the Government of India may be pleased temporarily to spare Mr. Marshall for the duty in question at a very early date. Under the agreement it is essential that the examination of the Collection and its valuation by the two arbitrators should be completed before the 14th July next; and it is also essential that the arbitrators should personally inspect it at Yercaud.

6. Should it prove altogether impracticable, which His Excellency the Governor in Council sincerely trusts may not be the case, to comply with this request, I am to ask if the Government of India can suggest the name of

some

some other person able and qualified to act as arbitrator in the matter on behalf of the Government, within the period specified. I am also to inquire whether the Government of India can suggest the name of any one qualified to be umpire in the matter in the event of the disagreement of the arbitrators.

2. ~~A statement of "differences" is~~ copy of the correspondence with regard to the value of this collection now under preparation and will be sent to Mr. Bruce Foote for acceptance and together with a copy of other material papers is under preparation will be communicated ~~other necessary instructions~~ to the arbitrator who may be appointed on behalf of the Government.

19 3. I am to request that the orders of the ~~Government of India~~ Govt. Gen. in C. on this reference may be communicated to this Government by telegram.

1.6.04

79

A G R E E M E N T made the fourteenth day of November One thousand Eight hundred and Ninety eight B E T W E E N ROBERT BRUCE FOOTE of Ivy Cottage Yercaud of the one part and THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called the Secretary of State) of the other part.

W H E R E A S the said Robert Bruce Foote has a collection of Indian prehistoric implements and other things and is about to compile and publish an illustrated catalogue raisonné thereof

A N D W H E R E A S the said Robert Bruce Foote has applied to the Secretary of State through the Government of Madras for the grant of a sum of Six hundred Rupees to assist the said Robert Bruce Foote in compiling and publishing such catalogue raisonné which grant the Secretary of State has agreed and consented to make to the said Robert Bruce Foote on condition of his entering into such an agreement as is hereinafter contained

N O W T H E S E P R E S E N T S W I T N E S S that in consideration of the sum of Six hundred Rupees by the Secretary of State paid to the said Robert Bruce Foote on or before the execution of these presents (the receipt whereof the said Robert Bruce Foote doth hereby admit and acknowledge) he the said Robert Bruce Foote doth hereby for himself his executors and administrators agree with the Secretary of State his successors and assigns in manner following that is to say:--

1. T H A T he the said Robert Bruce Foote will within two

two years from the date of these presents compile and publish at his own expense a catalogue raisonné of his said collection of Indian prehistoric implements and other things.

2. T H A T he the said Robert Bruce Foote will forthwith after the publication of such catalogue raisonné offer for sale to the Secretary of State through the Government of Madras at a fair and reasonable price the said collection of the said Robert Bruce Foote of Indian prehistoric implements and other things such offer to be accepted or refused by the Government of Madras on behalf of the Secretary of State within three calendar months after such offer shall have been made and that during such period of three calendar months the said Robert Bruce Foote shall not sell or offer to sell his said collection or any part thereof to any person or persons other than the Secretary of State

3. I N case any difference or dispute shall arise between the said Robert Bruce Foote and the Secretary of State as to the price to be paid by the Secretary of State to the said Robert Bruce Foote for his said Collection of Indian prehistoric implements and other things such difference or dispute shall be referred in writing for decision to two indifferent persons as arbitrators one to be appointed by each of the parties indifference and who shall before entering upon the question referred to them appoint an Umpire to decide the difference or question in dispute referred to such arbitrators in case of their disagreeing thereon and the decision in writing of such arbitrators or as the case may be of such Umpire shall be final and conclusive and altogether binding upon the parties hereto and shall not be open or subject to question or dispute upon any ground whatsoever

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4. I N case either of the said parties hereto shall refuse or neglect for three calendar months after such difference or dispute shall have arisen to appoint an arbitrator as hereinbefore provided then and in that case it shall be lawful for the other party hereto to appoint an arbitrator on behalf of the party so refusing or neglecting and the arbitrator so appointed shall in all respects have the like powers as if he had been appointed by the party hereto so refusing or neglecting to appoint an arbitrator.

5. T H A T the said Robert Bruce Foote will at the expense of the Secretary of State compile a catalogue of the prehistoric antiquities in the Madras Government Museum and in case such sale as is mentioned in clause 3 hereof shall be effected but not otherwise such last mentioned catalogue shall be compiled and published by him as a supplement to the catalogue raisonné hereinbefore mentioned.

6. T H A T in case such sale as aforesaid shall be effected the said Robert Bruce Foote shall be at liberty from time to time and at any time during the making and pending the completion of the illustrated volume of notes which is to follow the publication of the said catalogue raisonné of his said collection of Indian implements and other things to see consult and refer to the said collection of Indian prehistoric implements and other things which shall have been so purchased by the Secretary of State and to figure any specimen in such collection that he may require to illustrate in the said volume of notes.

R 7.
8 Pn
Pierce
7-45

I N W I T N E S S whereof the said Robert Bruce Foote has hereunto set his hand the day and year first above written.

7-8-20

S I G N E D by the above-named ROBERT BRUCE FOOTE in the presence of ---------- } (Signed) R. Bruce Foote.

(Signed) Edgar Thurston.
(") ~~Signature Illegible.~~
H. J. Farell Capt R.A.

PTJ

First copy sent to Press.

Returned for signature.

Despatched in print.

NUMBER OF COPIES REQUIRED. { Order complete. / Letter only. / Order complete with Letter.

1

READ AGAIN G.O., No. , DATED
190 .

6/

CURRENT NO.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.