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(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 1426 Press —Mis.—

196-197.

Dated 21-10- 1872.

10/11

196-197

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
21st October 1872.

No. 196. Read the following letter from the Secretary Political and Secret Department, to the Chief Secretary to Government, Fort St. George, dated India Office, London, 20th September 1872, No. 2 (Political):—

I am directed by the Duke of Argyll to transmit, for the information of His Excellency the Governor in Council, a copy of a confidential report* received from the Foreign Office in answer to a reference addressed to that Department, at the instance of the Government of Bombay, inquiring whether the Consular Officers in India of Foreign Powers are liable to the payment of Municipal rates and taxes.

* Dated 23rd August 1872.

2. A copy of the document in question has been furnished to the Governments of India and Bombay.

From G. HAMMOND, Esq., to the Under Secretary of State, India Office, dated Foreign Office, 23rd August 1872 (Confidential).

I have laid before Earl Granville your letter of the 29th ultimo enclosing copy of a Despatch* from the Government of Bombay with correspondence respecting the levy of Municipal rates and taxes from the Consular Agents of Foreign Powers resident in Bombay, and stating the wish of the Duke of Argyll to be made acquainted with Lord Granville's views as to the instructions which should be given in reply.

* No. 30, dated 14th June 1872.

2. Lord Granville desires me to say that a Consul, being simply a Commercial Agent, is not, according to the Law of Nations, entitled, in the absence of any special arrangements to the contrary, to those privileges as to exemption from the jurisdiction of the country and from taxation which are accorded to Diplomatic Agents; nor does even diplomatic privilege entitle a Diplomatic Agent, as a matter of right, to import articles free of duty for his own use. That is a matter of courtesy only, and the practice on the subject, though generally very liberal, is not alike in all countries.

3. The only exemption which is enjoyed by Foreign Consuls in this country is from income-tax on their official incomes, and this rests merely on a decision of the Treasury and not on any right attaching to their office. It is possible that in foreign countries some amount of privilege may be allowed to Foreign Consuls either by the courtesy of the Government and local authorities, or in consequence of Treaty stipulations for the treatment of Consuls of the most favoured nation. The effect of such a stipulation, however, would only be to place the Consul on the same footing as the most favoured Consul in the country where he resides, and not to give him a claim to every privilege that may be allowed to the most favoured Consul in the country from which he is sent.

4. These are the rules which are acted upon in this country and elsewhere with regard to Consuls. But in the Treaty between Great Britain and Turkey of January 5th, 1809, there is an Act (VIII.) which stipulates that "Consuls," *i. e.*, Turkish, "may be appointed at Malta and in the dominions of Her Britannic Majesty where it shall be necessary to manage and superintend the affairs and interests of merchants of the Sublime Porte, and similar privileges and immunities to those granted to English Consuls resident in the Ottoman Dominions shall be duly afforded to the Consuls *(Shahbenders)* of the Sublime Porte."

5. The effect of this stipulation would be to give to Turkish Consuls in the British dominions not merely such privileges as are accorded to any other Consul, but such as the Porte accords to a British Consul in Turkey. It is difficult to suppose that such a result could have been in the mind of the British Negociator of the Treaty, because, apart from the obvious inconvenience and uncertainty of an arrangement of the kind, it was not in the power of the Crown to extend to Turkish Consuls in Great Britain the privileges of jurisdiction enjoyed by British Consuls in Turkey.

6. The chief embarrassments that might have been expected to arise from the Article in question are claims on the part of Consuls of other nations to whom Great Britain has

promised the treatment of Consuls of the most favoured nation. Lord Granville, however, is not aware that such claims have been advanced, and he would be sorry to raise the question. At the same time the existence of the Article renders it necessary to be careful in dealing with claims to exemption from taxation advanced by Turkish Consuls in the British dominions, and Lord Granville would be disposed to recommend that any tax imposed by the Government of Bombay on the Turkish Consuls should, if objected to, not be enforced, and that the reason given if the matter attracted notice should be that a similar favour is granted to a British Consul in Turkey.

No. 197. ORDER THEREON, 21st October 1872, No. 1426.

To be recorded.

(True Extract.)

R. S. ELLIS,
Chief Secretary.

Exd. A. S. Rodgers.

Foreign Office
India Office.

Govt. of India.

FINANCIAL.

Dated October, 21st.

Recd. Encl.

G. O., 21st October 1872, No. 1426.

OCTOBER.
Nos. 196-197.

Recording Despatch from the Home Government forwarding copy of a report received from the Foreign Office on the subject of the liability of Foreign Consuls in India to Municipal rates and taxes.

(1) Copy

5A

Foreign Office
23 August 1872

Confidential.

Sir,

I have laid before Earl Granville your Letter of the 29 Ultº, enclosing copy of a Despatch* from the Govt of Bombay, with correspondence, reporting the levy of Municipal rates and taxes from the Consular Agents of Foreign powers resident in Bombay, and stating the wish of the Duke of Argyll to be made acquainted with Lord Granville's views as to the Instructions which should be given in reply.

*No. 30 dy 14 June 72.

Lord Granville desires me to say that as Consul, being simply a Commercial Agent, is not, according to the Law of Nations, entitled, in the absence of any special arrangements to the contrary, to those privileges as to exemption from the Jurisdiction

The Under Secretary of State
India Office.

jurisdiction of the Country and from taxation, which are accorded to Diplomatic Agents. Nor does even Diplomatic privilege entitle a Diplomatic Agent, as a matter of right, to import articles free of duty for his own use. That is a matter of courtesy only, and the practice on the subject, though generally very liberal, is not alike in all Countries.

The only exemption which is enjoyed by Foreign Consuls in this Country is from Income tax on their Official Incomes, and this rests merely on a decision of the Treasury, and not on any right attaching to their Office. It is possible that in Foreign Countries some amount of privilege may be allowed to Foreign Consuls either by the courtesy of the Govt. and local Authorities or in consequence of Treaty Stipulations for the treatment of Consuls of the most favored nation. The effect of such a Stipulation, however, would only be to place the Consul on the

same footing as the most favored Consul in the Country where he resides, and not to give him a claim to every privilege that may be allowed to the most favored Consul in the Country from which he is sent.

These are the rules which are acted upon in this Country and elsewhere, with regard to Consuls. But in the Treaty between Great Britain and Turkey of Janry: 5. 1809, there is an Art: (VIII) which stipulates that "Consuls" - i.e. Turkish - "may be appointed "at Malta and in the Dominions of H.B. "M. when it shall be necessary, to manage "and superintend the affairs and interests "of Merchants of the Sublime Porte, and "similar privileges and immunities to those "granted to English Consuls resident in the "Ottoman Dominions shall be duly afforded to "the Consuls (Khatbenders) of the Sublime Porte."

The effect of this stipulation would be to give to Turkish Consuls in the British Dominions not merely such privileges as are accorded to any other Consul, but such as the Porte accords to a British Consul in Turkey - It is difficult to suppose that such

a result could have been in the mind of the British Negociator of the Treaty, because apart from the obvious inconvenience and uncertainty of an arrangement of the kind, it was not in the power of the Crown to extend to Turkish Consuls in Gt. Britain the privileges & Jurisdiction enjoyed by British Consuls in Turkey.

The chief embarassments that might have been expected to arise from the article in question, are claims on the part of Consuls of other nations to whom Gt. Britain has promised the treatment of Consuls of the most favored nation. Lord Granville, however, is not aware that such claims have been advanced, and he would be sorry to raise the question. At the same time, the existence of the Article renders it necessary to be careful in dealing with claims to exemption from taxation advanced by Turkish Consuls in the British Dominions, and Lord Granville would be disposed to recommend that any tax imposed by the Govt. of Bombay on the Turkish

Turkish Consul should, if objected to, not be enforced, and that the reason given, if the matter attracted notice, should be, that a similar favor is granted to a British Consul in Turkey.

I am, &c

(Signed) S. Hammond.

No 2282/72

Ry 0 21st October/72 Recd 25th Oct 1872

India Office
London, 20th September, 1872.

Political
Secretary's
No. 2

Sir,

I am directed by the Duke of Argyll to transmit, for the information of His Excellency the Governor in Council, a copy of a Confidential Report, received from the Foreign Office, in answer to a reference addressed to that Department, at the instance of the Government

of

The Secretary to the
Government of Madras
Political Department
Madras.

x Dated 23rd August 1872

of Bombay, enquiring whether the Consular Officers in India of Foreign Powers are liable to the payment of municipal rates and taxes.

2 A copy of the document in question has been furnished to the Governments of India and Bombay.

I have the honor to be,

Sir,

Your obedient Servant

E. Wm Kaye

Secretary, Political and Secret Department.

Inv.d 1872 Dept 1426

From
The Secy in the Poll & Dep.ts - India Office
2

R/20 Sep
R/18 Oct

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Inwards copy of a paper
recd from the India Office
in the subject of the liab=
=ility of Foreign Consuls
in India to municipal
rates and taxes -

Acknd 21 Oct /72 No 1426.

Recorded.

nf {1872} Madras.
Financial.

14.2.

to 21st

Encl.

21 October, 1872, No 1426.

Nos. 196-197.

Recording despatch to the Home Govt. forwarding copy of a report received from the Foreign office on subject of the liability of European Consuls in India to municipal rates & taxes.