MRL. 6. 1—80,000—16-10-91.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 594–595 Press ~~Mis.~~

3–4

Dated 26 — 8 — ~~19~~1887

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 26th May 1857.

Read again letter from the Magistrate of Coimbatore.

Requesting orders for the disposal of certain Prisoners charged with a theft in Ceylon. } (Here enter 27th April 1857, No. 15.)

No. 3. Read also the following letter from CLEMENT DALE, Esq., Government Pleader, Sudr Udalut; to EDWARD MALTBY, Esq., Acting Chief Secretary to Government, dated 12th May 1857, No. 48.

Sir,

Order of Government 8th May 1857, No. 538, on letter from Magistrate of Coimbatore 27th April 1857, No. 15.

Para 1. I have the honor to acknowledge receipt of the order of Government noted in the margin.

2. Regulation II of 1829, provides for the trial of offences committed by Native subjects of the British Government in Foreign Territories.

3. Mr. Thomas does not state of what country the Prisoners are Natives, but I assume they are Natives of Ceylon.

4. The language of that Regulation is open to much doubt, I however am of opinion that by the term "Native subject of the British Government" must have been meant, a Native of the Madras Presidency, and was used merely to designate the class of persons who were to be amenable, and to distinguish them from those usually denominated "British subjects" or Foreigners. It can scarcely be contended, that the Regulation was intended to apply to a Native of Ceylon or any other Colony, regarding whom the Government of Madras had no power to legislate. Again the term "British Provinces," I think, must have been intended to mean the Presidency of Fort Saint George as contradistinguished from the States of Foreign Princes, by which that Presidency is surrounded; but whatever was meant, I am of opinion that if the Prisoners be Natives of Ceylon, they cannot be tried under that Regulation, and I am not aware of any law, which gives jurisdiction to the Courts within this Presidency, for the trial of offences (less than murder or manslaughter) committed in another country, by Natives of that country.

5. Mr. Thomas does not state whether he had pursued any steps as a Magistrate, and if so, on what his proceedings have been founded; whether consequent on any Warrant from the Ceylon Authorities.

6. I may however observe that if a person having committed a felony in a foreign country, proceeds to England, he may be arrested there, and conveyed and given up to the Magistrates of the country, against the laws of which the offence was committed.

7. And I should advise that course being pursued in the present case.

8. I return Mr. Thomas' letter and the *original* Enclosure forwarded to me.

(Signed) CLEMENT DALE,
Government Pleader.

No. 4. Order thereon, No. 594; dated 20th May 1857.

Resolved that these papers be forwarded to the Government of Ceylon for the purpose of ascertaining if it is the wish of the authorities that the Prisoners should be sent there for trial, and meanwhile they are to be kept in safe custody by the Magistrate of Coimbatore.

2. The Government observe that Mr. Thomas has failed to show the number of the Prisoners in his charge, their names, the country to which they belong, and the description and value of the stolen property which has been recovered. Neither has he forwarded the depositions of the Witnesses and the statements made by the Prisoners, some of whom are said to have confessed the theft. Mr. Thomas is now to supply this information in accordance with Act VII. of 1854, and is instructed not to leave Government in ignorance of such particulars hereafter when reporting similar cases for their orders.

(Signed) E. MALTBY,
Acting Chief Secretary.

Fort St. George, Judicial Consultation, 26th May 1857.

Ordered that the following letter be despached.

No. 5. From E. MALTBY, Esq., Acting Chief Secretary to the Government of Fort Saint George; to the Colonial Secretary, Colombo, dated 20th May 1857, No. 595.

SIR,

From Magistrate of Coimbatore, 27th April 1857, No. 15.
" Government Pleader, 12th May 1857, No. 48

I am directed to forward for the information of His Excellency the Governor of Ceylon, copies of the papers noted in the margin, regarding some parties charged with a robbery at Colombo, and arrested by the Magistrate of Coimbatore on a Warrant issued by D. E. Saram, Esq., Justice of the Peace and Police Magistrate, and request to be informed if the Ceylon Government wishes these Prisoners to be delivered up for trial.

2. It will be observed from the Magistrate Mr. Thomas' letter, that a portion of the stolen property has been discovered, and that some of the accused acknowledge their guilt. The Right Honorable the Governor in Council has therefore directed me to make this reference at once with a view to avoid delay, although from an error of the Magistrate's part in not furnishing full information, the names and number of the Prisoners, and the depositions taken by him, cannot at present be communicated.

(Signed) E. MALTBY,
Acting Chief Secretary.

Judicial Depart^t. 29

No. 594

Extract from the Minutes of Consultation
Dated 20th May 1857

Read a letter from Magistrate of Coimbatore dated 27 April 1857. No. 15 requesting orders for the disposal of certain prisoners charged with a theft in Ceylon. -

Read also letter from the Govt Pleader dated 12 May giving his opinion on the case. -

- Resolved that these papers be forwarded to the Govt of Ceylon for the purpose of ascertaining if it is the wish of the authorities that the prisoners should be sent there for trial. - and meanwhile they are to be kept in safe custody by the Magistrate of Coimbatore -

2 - The Govt observe that Mr Thomas has failed to show the number of

[illegible]

the prisoners in his charge & their names the country to which they belong, and the description & value of the stolen property which has been recovered. — Neither has he forwarded the depositions of the Witnesses & the Statements made by the prisoners ~~although~~ some of whom are said to have confessed the theft. — Mr. Thomas is now to supply this information in accordance with Act VII of 1854 and is instructed not to leave Govt in ignorance hereafter of such particulars when reporting similar cases for their orders.

Copy to Magistrate of Coimbatore. Dispd 25th [illegible] 27

Judicial Depart. 4a

No. 595

To

The Colonial Secretary [illegible]
Colombo Colombo.

Sir,

I am directed to forward for the information of His Excy the Governor of Ceylon copies of the papers noted in the margin regarding some parties charged with a robbery at Colombo & arrested by the Magistrate of Coimbatore on a warrant issued by D. J. Saram Esqre Justice of the Peace & Police Magistrate. — and request to be informed if the Ceylon Govt wishes these prisoners to be delivered up for trial. —

[illegible] Despatch 27th Apl 1857 No. 51
of Magistrate 12 May 57 No. 48

2 It will be observed from the Magistrate Mr. Thomas' letter that a portion of the stolen property has been discovered & that

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Fr Ld Govr: 25 May
Judicial 1857 Depart.

No. 594

Extract Minutes of Council

D/20th May 1857
Sec No 977

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1857-66

c 15 May
R 16.

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knowledge their guilt –
The Rt. Honble the G. in C. has
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at once with a view
to avoid delay, although
from an error of the
in not furnishing full information
Magistrate's part, & the
~~prisoners~~ names & number
of the Prisoners, and
the depositions taken
by him cannot at
present be communi-
-cated. –

Fort St. George
20th May 1857

Forwd. Mr. Dale's letter [illegible]
& Copies

Judy & Cons No. 33 - 34
12-5-57

In Dy - Demi: 26 May
Judicial. 1857 Depart.t

No. 595

To
The Colonial Secy
Colombo

D. 20 May/57.

C.S. No. 11496.

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