M.R.O. 1—80,000—16-10-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 98 Press ~~Mis.~~

148-149

Dated 22.1.1862 ~~10~~

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Not to be folded or roughly handled

1916

Proceedings of the Madras Government, Judicial Department, 22nd January 1862.

No. 148. Read the following Proceedings of Government in the Revenue Department, dated 6th January 1862, No. 11.

Communicating the Order passed on a letter from the Government of India, stating that the arguments urged by the Madras Government against the proposed transfer of North Canara to the Bombay Presidency cannot be considered as of sufficient weight to justify that Government in advising the abandonment of the measure.

(Vide Proceedings Revenue Department, dated 6th January 1862, Nos. 20—23.)

No. 149. ORDER THEREON, 22nd January 1862, No. 98.

Communicated to the Controlling Authorities and Heads of Departments, named in the margin, for report to Government as to the arrangements, which will be necessary in their several Departments, on the transfer of the District of North Canara to the Bombay Government taking place. They are also requested to report direct to the Accountant General, as well as to Government, the deductions which will have to be made from their Budgets for 1862-63, in consequence of the transfer.

Sudder Court.
Inspector General of Police.
Inspector General of Jails.
Superintendent of Marine.
Principal Inspector General, Medical Department.
Director of Public Instruction.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Letter from W. GREY, Esq., Secretary to the Government of India (Home Department, Revenue), to J. D. SIM, Esq., Secretary to the Government of Fort Saint George, dated Fort William, 24th December 1861, No. 2,519.

SIR,

1. I am directed to acknowledge the receipt of your letter No. 2,252, dated the 4th instant, with its enclosures, relative to the transfer of North Canara to the Bombay Presidency, and in reply to state that the Governor General in Council after giving the fullest attention to the arguments urged by the Madras Government against the proposed measure, is unable to regard them as of sufficient weight to justify him in advising the abandonment of a measure which has been ordered by the Secretary of State in Council on the grounds adverted to in his Despatch of the 4th of February last.

2. The Governor General in Council would remind the Madras Government that the main reasons which have been advanced for the transfer of North Canara to Bombay are, that it is a narrow strip of territory interposed between Cotton Districts of great importance to the Bombay Cotton trade, and a sea coast, the commercial emporium of which, at least as regards the Cotton trade, is Bombay, and that while the Cotton cultivation and trade above the Ghauts, and the coasting trade below, look to Bombay as their commercial capital, the Public Works and other Departments of administration in Canara look to Madras as the seat of their Government with which there is little commercial connection, and that, as a consequence, the wants of the Commercial Community, in the way of roads, ghâts, and harbours of shipment, have not been adequately and with sufficient promptness considered and provided for by the Government under which the District was placed.

It has not been alleged that this state of things has resulted from any specific neglect or maladministration, but simply from the fact that the District is remote and isolated, and that nearer Districts whose interests and commercial connections centre at Madras, or which are connected on all sides with Madras Territory, must naturally claim and inevitably obtain precedence in having their wants provided for.

The obvious and only effectual remedy for this is to transfer the District to the Government of Bombay, which already possesses the Districts above the ghâts, and by which the District of North Canara will be regarded with special interest, as interposed between one of its most important Districts and the sea.

I am to observe that in coming to this conclusion the partial and temporary inconveniences inseparable from every transfer of Territory from one jurisdiction to another have not been overlooked, but it has not been supposed that they can materially or permanently affect the welfare of the people or the suitableness of the Administration.

3. The transfer is objected to by the Madras Government on the following grounds:—

(i).—It is urged that the Madras Government is now doing all that the Bombay Government could do for the roads, ghâts, and harbours of the District; and more, comparatively, than Bombay has done for its own portion of the lines of road required.

Paragraphs 3 to 5 of your letter under acknowledgment.

But this, even if it were admitted as being the case now, would not meet the reason for the transfer, which is founded on the fact that while the knowledge of what commerce requires is necessarily to be sought in the Cotton Districts of Dharwar, or the Counting Houses at Bombay, the power to sanction all expenditure on public works must, under present arrangements, come from Madras, so that misunderstanding, arising from want of information on both sides, and delay must inevitably result. Even supposing the Government and its Officers in each case to be equally zealous and willing to act, the Governor General in Council is satisfied that action must necessarily be much more prompt and founded on fuller and more recent information of what is wanted, at Bombay, than it can be at Madras.

4. (ii).—It is objected that the change will be distasteful to the people of North Canara.

Paragraphs 6 to 8.

On this point I am to remark that probably every such transfer when made from any other cause than the convenience of the people must be at first somewhat distasteful to them. But, in

the opinion of His Excellency in Council, no cause is shown why in the present instance this should be more than a very superficial and temporary feeling. The people of North Canara are too far off from Madras to have any special predilection for Madras as the seat of Government. They may indeed reasonably prefer being left under Officers whom they personally know and under a system to which they are accustomed, and on this ground it has been expressly directed by the Secretary of State that when the transfer is effected the present Collector as well as the subordinate establishments shall continue in charge of the District as long as may be advisable. Under this arrangement and with a uniform Civil and Criminal Code in operation the difference in system can hardly, the Governor General in Council thinks, be greater or more really perceptible than between two Collectorates under the same Government.

5. The Madras Government will recollect that in the parallel case, on a much larger scale about thirty years ago, when the South Marhatta Country was transferred from Madras to Bombay, the Officers of all grades, European and Native, were left in the posts in which they were officiating, till removed in the ordinary course of promotion, or otherwise. The Civil and Criminal Codes of Madras and Bombay were not then, as they will be now, uniform, but widely differed from each other. Nevertheless no serious inconvenience was experienced, or even complained of, and the people of the transferred Districts, under the direct control of Government, in Dharwar and Belgaum, are represented as among the most rapidly improving, prosperous, and contented populations of the Bombay Presidency.

6. There is no apparent reason, I am to state, why the people of North Canara should be required to go more above the Ghauts after the transfer than at present. It is a mistake likewise to suppose that the Bombay Officers who are likely to come in contact with the Natives of North Canara are ignorant of Canarese, as the list of Bombay Civil Servants shows that 17 at least of the Covenanted Service in Bombay have passed in that language. The misconception of the Madras Government on this point is probably consequent on the language having only within the last twenty-five years been required as a qualification for employment in the South Marhatta Country under the Government of Bombay, and the means of instruction having been originally sought for from Madras.

7. As regards land tenures peculiar to the District, the Governor General in Council presumes they can be learnt as easily by a stranger from the Bombay service as by a stranger from that of Madras; and as already mentioned, there is no intention to disturb at first the Officers who are now employed in North Canara. They may be gradually replaced by Officers of the Bombay Government, as the latter, by filling subordinate posts in the first instance, acquire a practical acquaintance with the circumstances and usages of the District.

8. (iii).—Further objections are urged in the peculiarity of the Madras Salt and Police systems.

On this head I am directed to state that orders have been issued which will probably have the effect of raising the Bombay Salt Excise to at least an equality with the rate of taxation in Madras; and that there is not the least necessity for disturbing the recent Police arrangements, which are more likely to be copied and extended than injuriously altered.

9. The Governor General in Council does not deem it necessary to discuss the criticism of the Madras Government in paragraphs 12 to 24 of your letter, on many of the opinions and facts urged by Mr. Dunlop in 1836. These are possibly not applicable to the present state of things, and they do not affect the present reasons for the proposed transfer.

10. With every reliance on the assurance conveyed in the 25th paragraph of your letter, that no efforts shall be spared by the Madras Government to push on the public works required, the Governor General in Council cannot feel satisfied that even the full knowledge now possessed by the Government of Madras in consequence of the presence in Council of an Officer who has served in North Canara with distinguished success for many years, joined to the utmost desire to do all that is required, in any way alters the essential reasons for the proposed transfer, which are that the commercial interests involved are, and must from geographical

position ever be, matters of close and immediate interest and importance to Bombay; while they are and must for the same reason ever remain remote and in a commercial point of view of no direct interest whatever to Madras. In these respects, no new facts or arguments are brought forward which were not previously known to Her Majesty's Government, nor is any thing to be found in the present papers to throw a doubt on the soundness of the reasoning which induced the Secretary of State in Council to order the transfer. As the order is precise and unconditional, the Governor General in Council considers that it should be obeyed.

11. As regards the extent of the transfer, the Governor General in Council is now of opinion that the original intimation of the Secretary of State should be carried into effect, the whole of the North Canara, not excluding the Cundapore Talooka, being transferred to Bombay. It is clear from the facts stated in the Memorandum of the Honorable Mr. Frere, dated the 23rd of October, and concurred in by Sir George Clerk; as well as from the 6th paragraph of the letter from Mr. Fisher, the Collector of North Canara, to the Secretary to the Board of Revenue at Madras, dated the 20th of July last, that such an arrangement will best fulfil the conditions laid down by the Secretary of State in his letter of the 4th February, and repeated in his Despatch of the 2nd of August, that existing arrangements shall be as little interfered with and the convenience of the people be as much consulted as is possible:

12. With reference to the 29th paragraph of your letter, I am desired to observe that a Proclamation under the Indian Councils Act, previously sanctioned by Her Majesty, is not necessary to the transfer of North Canara for executive purposes affecting only the administration and not the legislation of the Province. The Proclamation referred to in the 47th Section of the Indian Councils Act is a Proclamation of a New Division for the purposes of the Act, and those purposes have no connection with the mere internal administration of any Province or Presidency. I am also to point out that the Act 17 and 18 Vic., C. 77, referred to by the Honorable Mr. Morehead in his Minute of the 28th September, does not apply to the present case, as it has reference only to the power of the Governor General in Council to take under his own immediate authority and management—and thus to disannex from *any* Presidency—any part of India. If the Act did apply, however, it would not bear the interpretation put upon it by Mr. Morehead,—for under the Act it is undoubtedly competent for the Governor General in Council, with the sanction of the Home Authorities, to "change the administration" of any part of British India, though he cannot "alter the regulations (laws) in force" without passing an Act in his legislative capacity.

13. The Law applicable to the present case is the 16 and 17 Vic., C. 95, S. 18, under which the Court of Directors with the sanction of the Board of Control had, and the Secretary of State in Council now has, the power of appointing what part or parts of the Territories of British India shall be or continue subject to each of the Presidencies and Lieutenant-Governorships, and to make such distribution and arrangement of such Territories as shall seem expedient.

14. It may perhaps be a question whether the Secretary of State's Despatch of February the 4th (on which, as above stated, the Governor General in Council now proposes to proceed) amounts to such a declaration or appointment as the Act intends. It conveys certainly a clear intimation of the views of the Secretary of State in Council, and contains in fact a direction that the necessary steps shall be adopted for effecting the transfer, if no *insuperable* objections should be made to the scheme. And in his further Despatch of August the 2nd, the Secretary of State in Council again presses for the early accomplishment of the measure, and again signifies his opinion in favor of the transfer of the whole District.

15. There is, therefore, no room for doubt that it is desired and intended by the Secretary of State in Council that the transfer shall take place with the least possible delay, and as there is no reason for apprehending that any serious inconveniences would arise from placing North Canara under the administration of the Bombay Government for two or three months, while it still remained under Madras for Legislative purposes, the Governor General in Council would have been inclined to think that no practical difficulty stood in the way of the immediate transfer, had the question of the legal course to be followed not been raised by the Madras Government.

requested

16. But this having been done, and it being perhaps doubtful whether a further specific order by the Secretary of State in Council is not necessary in order to effect a strictly legal transfer, the Governor General in Council does not think it desirable to urge the Madras Government to give effect at once to the whole measure, and will at present, therefore, only request that steps may be taken with as little delay as possible for transferring to the Bombay Government the control of all public works which are now in progress in North Canara. In effecting this it will doubtless be necessary, as directed by the Secretary of State in respect of the Civil administration, to leave in the District for a time the Officers of the Madras Government, directing them to proceed with their works under the directions of the Bombay Government, until arrangements can be made for their relief by Officers of that Government, and for giving complete effect to the transfer of the works to those Officers.

17. I am desired to express the confident assurance of the Governor General in Council, that such instructions will be given by the Madras Government to its Officers of all Departments now serving in North Canara, as shall secure their ready and cordial co-operation with the Officers of the Bombay Government, in giving effect to this first instalment of a measure which has been determined on by Her Majesty's Government after full and mature consideration of all the circumstances attending the change.

18. It will be suggested to the Bombay Government that the arrangements necessary for effecting the transfer of the Public Works Department in North Canara should be at once organized, so that they may be brought into immediate operation, as soon as a copy of the instructions issued by the Madras Government to the District Engineer is in possession of the Bombay Government. The Bombay Government will be requested to depute the Superintending Engineer of their Southern Circle to the District, to arrange the details of the Departmental transfer with the Officers of the Madras Government.

19. A specific order under the Act 16 and 17 Vic., C. 95, S. 18, authorizing the transfer of North Canara to Bombay for administrative purposes, will be obtained from England as speedily as possible; and a Proclamation will be sent Home for Her Majesty's sanction annexing North Canara to the Presidency of Bombay for the purposes of the Indian Councils Act.

Memorandum by the Hon'ble W. E. Frere, dated 23rd October 1861.

1. On Wednesday morning the 9th instant, as agreed upon with His Excellency the President, I left Bombay, in company with Commodore Wellesley, in Her Majesty's Steamer *Feroze*, to meet His Excellency the Governor of Madras at Sedasheghur, with the view, as was originally intended, of deciding upon the transfer of Sedasheghur and adjacent territory to this Presidency.

2. We arrived at Sedasheghur on the evening of the 10th, but it was not until the morning of the 12th that His Excellency Sir William Denison arrived there in Her Majesty's Steamer *Victoria*. I waited upon His Excellency at the landing place, and accompanied him to his tents, when, after having conversed upon other subjects* of public interest, His Excellency enquired what in our opinion in Bombay should be the boundary, if it was ultimately determined to make over Sedasheghur to Bombay?

* Legislative Council, &c.

3. His Excellency had a Map on which the line of boundary proposed by the Revenue Board at Madras was marked out; that, as His Excellency the President is aware, was up the Gungavully River, sometimes called the Baidly Nulla, to the Naganoor Nulla and from Naganoor, by an imaginary line, to the boundary of the Hangul Talooka of the Dharwar Zillah.

4. I mentioned that this line would divide both of the Táluqs of Ankola and Soonda into two parts each, and would be in direct opposition to the orders of the Government of India (letter No. 1,004, of the 22nd May last) against any larger disturbance of the existing relations of the people of Canara than was necessary. There were other arguments against this line, such

as the clashing of jurisdiction which would arise from the Baidly Nulla being common to both Presidencies, the Gungavully being the River down which most of the Teak Timber for the Bombay Dock-yard is floated (Lieutenant Taylor, Indian Navy, report to the Secretary to Government Madras, 27th July 1857, paragraph 32), and which, if common to both, would give rise to constant disputes between the Forest authorities on either side the river.

5. And the objection that a road from Bankapoor to Yellapoor, which must be made when the road from Yellapoor to Sedasheghur is completed, would still run through part of the Madras Presidency, also occurred to me, but there was no occasion to urge any of these arguments, as Sir William Denison at once declared that this boundary was absurd.

6. His Excellency then suggested that the Northern boundary of Honawur, by which the Táluqs of Ankola, Soonda, and Bilgy, would be transferred to Bombay, would be a good boundary. I pointed out to His Excellency that the Government of Bombay had proposed the Gairsoppa River, or the southern boundary of Honawur, but that I did not see any objection to the line he proposed, except that, since I came to Sedasheghur, I found that Coondapoor, the small Táluq south of Honawur, was the only Táluq upon this coast, except those he proposed to make over, and Honawur, in which the Canarese language was spoken; and as to the south of Coondapoor, they spoke a different language, and the people were in every respect different, their inheritance being in the female, and not, as among the Canarese, and most other people, in the male line, it appeared to me in every respect preferable that the whole five Táluqs of North Canara should be transferred to Bombay.

7. The transfer of the whole North Canara would involve the necessity of the Bombay Government taking over all the Establishments, but that is only what was done when the Southern Marhatta Country was transferred from Madras to Bombay, and would cause the least possible disturbance of the existing relations of the people of Canara in judicial and fiscal matters, the object we have been directed to hold in view.

8. The transfer to Bombay of the three northern Táluqs only would give the Collector, whose Kacheri is at Sircy in the Soonda Táluq, to Bombay, while the Judge, whose Court is at Honore, would remain with Madras; and the question then arises, would the Bombay Government, receiving only three Táluqs, be obliged to maintain the Collector and his Establishment for them alone? and, much more, would the Madras Government, retaining only two Táluqs be obliged to retain a Judge for them, or would they be added to the Southern Collectorate of Mangalore, aliens as those people are in language, manners and customs?

9. The boundary suggested by the Government of India was between the 14° and 14° 30 degrees of latitude; the South of Coondapoor is 13° 33, but it so exactly answers the great object of preventing any disturbance of existing relations, it relieves the Madras Government of all districts in which Canarese is the vernacular, except those in Bellary, which must always be separated from Canara until Mysore is annexed to British India, a measure, I imagine, not now to be contemplated, and it gives to the Bombay Presidency that part of the Coast whose dealings are almost entirely either with or through Bombay, that I trust I have not done wrong in suggesting that the whole of North Canara, with its Establishments complete, rather than the four Tálookas before proposed, should be made over to the Presidency of Bombay. At the close of the conversation His Excellency Sir William Denison, though aware of the letter from the Government of India to the Government of Madras, No. 1,899 of the 20th ultimo, enclosing copy of Sir C. Wood's letter of the 2nd August, informed me that he could do nothing with regard to the transfer until the Government of Madras had received an answer to their remonstrance. I was, therefore, unable to give Captain Baker any instructions with regard to the road to Yellapoor, and desired him to join Captain Playfair, and there await further orders from Government.

10. I thought it advisable under the circumstances to take no part in the discussions between Sir William Denison, Commodore Wellesley, and Captain Frazer, Indian Navy, in regard to the Harbour. Sir William, however, informed me that he would build a Pier on

the west side of Beitcool Cove, and that it would remain either for the Madras or the Bombay Government hereafter to build Wharfs on the coast to the west of that Pier, and from this I was satisfied that His Excellency was in some measure satisfied with the harbour, though he did not appear to think so highly of it as Lieutenant Taylor had done.

11. For similar reasons, I did not join in the conversations His Excellency held with Mr. Haywood and Dr. Forbes on the part of the Cotton Association, but I informed Mr. Haywood, in answer to his application, before I left, that the Bombay Government had at present no power to grant him, or any one else, any land in Sedasheghur.

12. His Excellency Sir William Denison left Sedasheghur in H. M.'s Steamer *Feroze* at about 11 o'clock in the forenoon of the 14th, and Commodore Wellesley and I returned to Bombay in H. M.'s Steamer *Victoria* that same evening. There is nothing left for me to add but my best thanks to His Excellency the President for the arrangements made for my accommodation, and to His Excellency's Secretaries, Mr. Hope and Major Coley, for their unvaryingly kind assistance and attention.

MAHABLESHWUR, *23rd October* 1861.

W. E. FRERE.

Memorandum by His Excellency the Governor, dated 24th October 1861.

1. Since visiting our Southern Districts and Sedasheghur last year, I have never doubted that the transfer of all North Canarese territory within a line drawn, nearly direct, from about the foot of our Dharwar Zillah to the sea at the mouth of the Gairsoppa River, would be a very beneficial measure. It would tend to the rapid improvement of the country and the people by imparting much vitality to the principal Cotton traffic on the Malabar Coast, and by soon providing the most convenient port for it, besides affording, by the same means, considerable facilities to the general export and import trade of its Districts.

2. I now consider that the small addition of the Coondapoor Táluq to the transfer would be advisable, for the several reasons stated in the 8th and 9th paragraphs of the accompanying Memorandum, with which the Honorable Mr. Frere has favored this Government on his return from Sedasheghur.

24th October 1861.

GEORGE CLERK.

P. S.—I annex a Sketch Map, which should accompany our Despatches to Her Majesty's Secretary of State for India in Council, and the Government of India.

(True Copy.)

Deputy Secretary to Government.

Exd. S. T. Augustin.

Revenue Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from the Secretary to the Government of India.

States that the arguments urged by the Madras Government against the proposed transfer of North Canara to the Bombay Presidency, cannot be regarded as of sufficient weight to justify the Government of India, in advising the abandonment of the measure. } (Here enter 24th December 1861, No. 2,519.)

Order thereon, 6th January 1862, No. 11.

1. The above despatch will be communicated to the Chief Engineer, the Board of Revenue and the Conservator of Forests, for their information and guidance.

2. The Chief Engineer will instruct Captain Walker to place himself and his Subordinates at once under the orders of the Government of Bombay. Pending instructions from that Government, Captain Walker will proceed with his works according to the orders he has received from this Government. Captain Walker should forward as soon as possible to the Bombay Government, a Memorandum of the works in progress and of the balances of the sanctioned grants and request orders for his future guidance. Any further departmental instructions that may be necessary will be issued by the Chief Engineer, who will also forward direct to the Secretary to Government in the Public Works Department at Bombay a copy of Captain Walker's Budget Lists for 1862-63, as provision for that year will have to be made by that Government.

3. The Board of Revenue will desire the Collector to make all necessary preparations for the transfer of the District whenever orders to that effect are received from Her Majesty's Secretary of State. The Conservator of Forests will issue similar instructions to his Subordinates. Any information which the Government of Bombay may require, will be promptly furnished by the local Heads of Departments.

4. The Budget Estimates of receipts and charges in all Departments for North Canara, will be immediately communicated by the Accountant General to the Government of Bombay, for entry in their Budget for 1862-63.

5. The despatch of the Government of India above recorded, will be communicated to the other Departments of the Secretariat for information, and the issue of such orders as may be necessary.

Ordered that the following Telegram and letters be despatched respectively to the Government of Bombay, Her Majesty's Secretary of State and the Supreme Government.

(Here enter 6th January 1862, Nos. 12, 13.)

(True Extract.)

Secretary to Government.

To the Board of Revenue.
" Chief Engineer.
" Conservator of Forests.
" Accountant General.
" Civil Paymaster.
" Public, &c., Departments.
" Judicial Department.
" Military Department.

Exd. S. T. Augustin.

Judicial

Proceedings of the Madras Govt.

Read Pros: 5 Jany. 62 N 11 Rev. Dept.

Order — 22 Jany 1862. No 98.

Sudder Court. Inspector Genl. of Police. Inspector Genl. of Jails. Suptdt. of Marine. Principal Inspector Genl. Medl. Dept. Director of Public Instruction.	Communicated to the Controlling Authorities & Heads of Depts, named in the margin, for report to Govt. as to the arrangements, which will be necessary in their several Depts. on the transfer of the Dist. of North Canara to the Bombay Govt. taking place. They are also requested

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requested to report direct to the Asst. Genl., as well as to Govt., the deductions which will have to be made from their Budgets for '62-'63, in consequence of the transfer.

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The Sudder Court.
" Inspector Genl. of Police.
" Inspector Genl. of Jails.
" Supdtt. of Marine.
" Principal Inspector Genl., Medl. Dept.
" Director of Public Instruction.

With S.O. No. 11 Rev. Dy

Proc. of Secy.

Judicial 1862 Depart.

No. 98.

Proceedings of Govt

Feb. 453.

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~~Fdtos 26 Feb 1862 pp 221-222~~

Dy 22 January 1862

Communicating to the several authorities the Order passed on a letter from the Govt of India respecting the transfer of the District of North Canara to the Bombay Govt requesting them to report direct to the Accountant General as well as to Govt the deductions which will have to be made from their Budgets for 1862/63 in Consequence of the transfer.

Feb 3 B.

Secretary's Office
North Canara

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