Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No 1952-53

Dated 17th Sept. 1895

INDEXED.

[Despatch Abstract.]

BILLS----LEGISLATIVE.

Directing that the Government of India be addressed in connection with the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.

BACK PAPERS.

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

FURTHER PAPERS.

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

1895.

JUDICIAL DEPARTMENT.

From the Government of Fort St. George.

Issued

Recd. *Encl.*

Letter, 17th Sept. 1895, No. 1953.

SEPTEMBER.

Bills—Legislative.

Transmitting copies of the opinions of the Hon'ble the Judges of the High Court, &c, on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, with an expression of the concurrence of this Government therein.

JUDICIAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA,
Legislative Department.

Sir,

I am directed to acknowledge the receipt of Mr. Macpherson's letter, No. 1277, dated 13th July 1895, forwarding copies of a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, and requesting to be furnished with an expression of opinion thereon.

2. In reply I am to transmit copies of the opinions of—

(i) The Hon'ble the Judges of the High Court.
(ii) The Advocate-General.
(iii) The Resident in Travancore and Cochin.
(iv) The Political Agents of the States of Banganapalle, Sanduru and Pudukkóttai.

3. I am to add that His Excellency the Governor in Council concurs with the officers consulted in considering the proposed amendments to be desirable, and to draw special attention to the Advocate-General's suggestion that advantage should be taken of the opportunity to make it clear whether the provisions of sections 87 to 89 of the Code of Criminal Procedure can be enforced against a person absconding in order to evade arrest under a warrant issued under section 12 of the Extradition Act. With reference to Mr. Justice Best's minute, I am to state that, in the opinion of His Excellency the Governor in Council, it is expedient to invest First-class Magistrates with discretionary power to release on bail persons charged with bailable offences and brought before them on warrants issued by Political Agents which contain no direction as to the grant of bail.

4. The Bill together with the Statement of Objects and Reasons was published in English in the *Fort St. George Gazette*, dated 23rd July 1895.

I have the honour to be,
Sir,
Your most obedient servant,

Ootacamund,
17*th September* 1895.

Chief Secretary.

APPENDIX.

From J. H. A. TREMENHEERE, Esq., District Magistrate of Bellary, to the Chief Secretary to Government, dated Bellary, 8th August 1895, No. 128.

With reference to G.O., No. 1545, dated 23rd July 1895, Judicial, I have the honour to state that in my opinion the Bill seems very proper.

From C. M. MULLALY, Esq., Collector and Political Agen t of Kurnool, to the Chief Secretary to Government, dated Kurnool, 8th August 1895, C. No. 90-P.

In reply to G.O., dated 23rd July 1895, No. 1545, Judicial, forwarded with endorsement, dated 3rd instant, Political, giving cover to a Bill to Amend the Foreign Jurisdiction and Extradition Act, 1879, I have the honour to state that the proposed amendments are, in my opinion, judicious.

From J. ANDREW, Esq., Political Agent for Pudukkóttai, to the Chief Secretary to Government, dated Trichinopoly, 9th August 1895, Ref. on C. No. 286-O.

In reply to G.O., dated 23rd July 1895, No. 1545, Political, I have the honour to inform you that I approve of the Bill to amend the Foreign Jurisdiction and Extradition Act of 1879.

From D. W. G. COWIE, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated Madras, 14th August 1895, No. 2186.

With reference to G.O., dated the 23rd ultimo, No. 1545, Judicial, communicating, for opinion, a Bill to Amend the Foreign Jurisdiction and Extradition Act, 1879, I am directed to forward a transcript of the minute recorded by the Honourable Mr. Justice Best and to state that the Honourable the Chief Justice sees nothing to object to in the proposed amendment of the Act and that the Honourable Justices Parker, Shephard and Subramania Aiyar have no remarks to make.

ENCLOSURE.

Minute.

Mr. Justice Best.—In the Bill, as drafted, a person arrested can only be released on bail if so directed by the Political Agent issuing the warrant. Should not the Magistrate before whom the arrested person is brought be given discretion to release on bail in case of bailable offence? *Cf.* section 86 of the Code of Criminal Procedure.

From J. THOMSON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Cochin, 17th August 1895, Ref. on C. No. 2440.

In accordance with the instructions contained in the papers recorded in G.O., dated 18th October 1890, No. 480, Political, I have the honour to forward herewith copy of a communication I have addressed to the Diwans of Travancore and Cochin with reference to G.O., dated 23rd July 1895, No. 1545, Judicial. On receipt of the remarks now called for from the Diwans I shall, if considered advisable, embody them in my reply.

ENCLOSURE.

From J. THOMSON, Esq, Resident, to the Diwan of $\frac{\text{Travancore}}{\text{Cochin}}$, dated Cochin, 17th August 1895, Ref. on C. No. 2440.

I have the honour to forward herewith, for the favour of your remarks, a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, with statement of Objects and Reasons. I shall be much obliged if you will kindly let me have the reply within a week of the receipt of this letter.

From the Government Solicitor, dated 24th August 1895, No. 460.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 23rd August 1895 :—

[*Re* Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.]

OPINION.

The amendment is desirable, I think. I have no suggestions to make to the Bill as drawn, but I think this opportunity should be taken advantage of to make the meaning of section 12 of the Extradition Act, 1879, rather clearer than it is at present.

2. Section 12 declares that the warrant therein mentioned "shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants." A question has been raised as to whether sections 87 to 89 of the Code of Criminal Procedure can be put into force when the person against whom a warrant under section 12 of the Extradition Act has been issued evades arrest.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

From the Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Cochin, 6th September 1895, Ref. on C. No. 2620 of 1895.

I have the honour, in reply to G.O., Judicial, No. 1545, of 23rd July last, to state that I see no objection to the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, becoming law.

2. The Government of Travancore considers the provisions of it to be unobjectionable from its point of view, and the Government of Cochin has no remarks to offer.

(Signed) J. THOMSON,
Resident.

Exd. A. Raitt.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From J. M. MACPHERSON, Esq., Officiating Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, the 13th July 1895, No. 1277.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Hon'ble the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

A Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, with Statement of Objects and Reasons.

2. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 15th September next.

ORDER—dated 23rd July 1895, No. 1545, Judicial.

Communicated to the Honourable the Judges of the High Court, the Advocate-General, the Resident in Travancore and Cochin and the Political Agents of Banganapalle, Sanduru and Pudukkóttai, for favour of an early expression of opinion.

2. The Bill and Statement of Objects and Reasons will be published in the *Fort St. George Gazette* in English. The Superintendent of the Government Press will report the date of publication.

(True Extract.)

Chief Secretary.

To the Honourable the Chief Justice, with C.L.
„ the Government Solicitor.
„ all Political Agents, through the Political Department.
„ the Superintendent, Government Press.
Gazette.

Exd. A. Raitt.

Govt. of {1895} Madras

JUDICIAL.

Issued

Read. *Encl.*

G.O., 23rd July 1895, No. 1545.

JULY.

Abstract

Bills Legislative.

Communicating to the Honourable the Judges of the High Court, the Advocate-General, &c., for early opinion, Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, and directing its publication, with Statement of Objects and Reasons, in the *Fort St. George Gazette* in English.

CURRENT NO. 3816

BELLARY DT. MAGISTRATE'S OFFICE,

No. 128 Dated 8th August 1895.

10

FROM A. Tremenheere Esqr
DISTRICT MAGISTRATE OF
BELLARY.

CHIEF SECRETARY'S GOVERNMENT OFFICE
12 AUG 95

To

THE Chief Secretary to Government
Judicial Department
Madras

SIR,

With reference to Government order No 1545 23.7.95 Jud: I have the honor to state that in my opinion the Bill seems very proper.

I have the honorable
Sir
Your most obedient Servant
A Tremenheere
Dist Magistrate

Judicial Dept

CURRENT NO. 3816.

MAGISTERIAL DEPARTMENT.

FROM

THE DISTRICT MAGISTRATE OF
BELLARY.

To

THE Chief Secretary to
Government
Judicial Department
Madras

In Index No. 128

Dated 8th
Despatched 8th } August 1895.
Received 12th

Enclosures. "

Abstract.

Stating the bill referred to in Govt order 1545 23-7-95 seems to me proper.

To await the replies.

Printed and issued with previous papers 23/8/95

Political Agent's

No.

Kurnool Collector's Office.

ENCLOSURES. "

KURNOOL, DATED 8th August 1895.

CURRENT NO. 3840.

From

C. M. Mullaly Esq
and Political Agent,
COLLECTOR OF KURNOOL.

To

THE Chief SECRETARY TO Government,
Political Department.

Sir,

In reply to G. O. dated 23rd July 1895. No. 1545 Judicial, forwarded with endorsement dated 3d instant, Political, giving copies of a Bill to amend the Foreign Jurisdiction and Extradition Act 1879, I have the honor to state that the proposed amendments are, in my opinion, judicious.

I have the honor to be
Sir,
Your most obed.t Servant

Pol: Agent

CURRENT NO. 3840.

Judicial 1895 Deptt

8015 45/95 Sec.

Correspondence Department.

FROM C. McMullaghy

COLLECTOR & Pall: Agent

KURNOOL.

TO Chief

THE SECRETARY TO Government

Political Deptt

DATED 8 } August 1895.
RECEIVED 13 }

No. 201.

ENCLOSURES. 4.

Subject.

Submitting opinion called for by Government, on the Bill to amend the Foreign Jurisdiction & Extradition Act of 1879.

CHIEF SECRETARY GOVERNMENT 13 AUG 95 MADRAS

K. C. P. Reg. No. 1—dated 17-4-95- -Copies 1000.

CURRENT NO. 3903.

OFFICE OF THE

POLITICAL AGENT FOR PUDUKOTA,

Trichinopoly, 9th August 1895

Despo. 14.855.

3P

Ref on cur. No. 2880.

FROM

James Adam. Esquire,

POLITICAL AGENT FOR PUDUKOTA,

TRICHINOPOLY.

TO

THE CHIEF SECRETARY TO GOVERNMENT,

POLITICAL DEPARTMENT,

MADRAS.

SIR,

In reply to Government order dated 23d July 95 No: 1545 Political, I have the honor to inform you that I approve of the Bill to amend the Foreign Jurisdiction & Extradition Act of 1879.

I have the honor to be,

Sir,

Your most obedient servant,

Illegible.

Political Agent.

Mad 13-8-95

Judicial Dept

CURRENT NO. 3903.

1895.

Political Department,

FROM

The Political Agent

for Pudukota,

Trichinopoly.

To

The Chief Secretary to Government,

Political Department,

~~MADRAS~~.

Dated 9th
Despd 14th } August 1895.
Recd 16th

Refmem. No 286—0.

Enclosures. Nil.

Subject

CHIEF SECRETARY'S OFFICE
16 AUG 95
GOVERNMENT OF MADRAS

Bills Legislative.

Approving the Bill to amend the Foreign Jurisdiction & Extradition Act, 1879.

CURRENT NO. 3924.

Judicial {1895} Department.

No.

FROM

The Registrar of the High Court
of Judicature, Appellate Side,
Madras.

Dated 14th August } 1895.
Received 17th } do
Regd 19th

CHIEF SECRETARY'S OFFICE
17 AUG. 1895
GOVERNMENT OF MADRAS

No. 2186.
Enc 4

Forwarding transcript of a minute recorded by the Honorable Mr. Justice Best on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.

To be put in type.
3 Mss. papers are also to be sent with the record.

6

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back; * * * * * and the abstract should state clearly the purport of the letter and not merely its title subject. * * * * * *

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O. 8th April 1893, No. 289, Public.)

500—13-7-95.

High Court of Judicature,
Madras, 14th August 1895.

No. 2186.

CURRENT NO. 3924

From

D. W. G. Cowie Esquire,
Ag. Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To

The Honorable J. F. Price, C. S. I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

With reference to G. O. dated the 23rd ultimo, No. 1545, Judicial, communicating, for opinion, a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, I am directed to forward a transcript of the minute recorded by the Honorable Mr. Justice Best and to state that the Honorable the Chief Justice sees nothing to object to in the proposed amendment of the Act and that the Honorable Justices Parker, Shephard and Subrahmania Ayar

Aiyar have no remarks to make.

I have the honor to be,
Honorable Sir,
Your most obedient servant,

D.W.E. Comie

Ag. Registrar.

Minute.

Minute.

58

Hon. Justice Best:- In the Bill, as drafted, a person arrested can only be released on bail if so directed by the Political Agent issuing the warrant. Should not the magistrate before whom the arrested person is brought be given discretion to release on bail in case of bailable offences? Cf. Section 86 of the Code of Criminal Procedure.

(True Copy.)

D.W.E. Comie

Ag. Registrar,
Appellate Side.

CURRENT NO. 3976

Ref: once no. 2440

78

Residents office on circuit
Cochin, 17th August 1845

From

J. Thomson Esquire
Resident in Travancore and Cochin

To

The Chief Secretary to Government
@ Fort St. George

Sir,

In accordance with the instructions contained in the papers recorded in G.O. dated 18th October 1844 no. 480 Political, I have the honor to forward herewith copy of a communication I have addressed to the Dewans of Travancore and Cochin with reference to G.O. dated 23rd July 1845 no. 1545 Judicial. On receipt of the remarks now called for from the Dewans I shall if considered advisable embody them in my reply.

I have the honor to be
Sir
Your most obedt. servant

J. Thomson
188
Resident

78

CURRENT NO. 3976.

1945
Judicial
~~Political~~ Department

From

The Resident in Travancore
and Cochin

To

The Chief Secretary to Government
of Madras

Dated 17th August 1945.
Received 20th do.
Repd 21st do.

Ref: one No. 2460

Enclosure 1

CHIEF SECRETARIAT
20. AUG. 1945
GOVERNMENT OF MADRAS

Forwarding copy of a communication addressed to the Dewans of Travancore and Cochin with reference to G.O. dated 23rd July 1945. No. 15-45 Judicial.

K
This is G.S. despatch
for the
We/m
pl. put up his file +
send to Dc DR
To be put in type in
Contn of previous currents.
DR 21/8

Urgent

Ref: one No. 2460

Resident's office on circuit
Cochin, 17th August 1945

To

The Dewan of Travancore
Cochin

Sir,

I have the honor to forward herewith for the favour of your remarks a Bill to amend the Foreign Jurisdiction and Extradition Act 1879 with statement of objects and reasons. I shall be much obliged if you will kindly let me have the reply within a week of the receipt of this letter.

I have &c.
(Sgd.) J. Thomson
Resident

(True copy)

Thomson 188
Resident.

5
Jud Dept
Anch. 1
C. No 3976.

CURRENT NO. 4089.

Judicial (1895) Department

From

Ernest Barclay
Government Solicitor
Madras

To

The Chief Secretary
to Government
Ootacamund

No 460.

Dated 24th August 1895
Recd 27th "
Regd 28th "
Encs: 4

GOVERNMENT OF MADRAS CHIEF SECRETARY 27 AUG. 1895

Forwarded with reference to the Order of Government dated 23rd July 1895. No 1545 Judicial

Ernest Barclay

for H.E.M. Government Solicitor

To be printed in contn of previous current Nos 3924, 3840 etc.

From the Govt Solicitor, Madras, dated 24th August 1895 No 460

Abstract.- Forwarding the following opinion of the Advocate General 822-2-95

CURRENT NO. 4089.

Enclosure

Re Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.

38/N

OPINION.

1. The amendment is desirable I think. I have no suggestions to make to the Bill as drawn, but I think this opportunity should be taken advantage of to make the meaning of Section 12 of the Extradition Act. 1879 rather clearer than it is at present.

2. Section 12 declares that the warrant therein mentioned "shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants". A question has been raised as to whether Sections 87 to 89 of the Code of Criminal Procedure can be put into force when the person against whom a warrant under Section 12 of the Extradition Act has been issued evades arrest.

Madras.
23rd August 1895.

J.H.Spring Branson.
Advocate General.

(True Copy)
Ernest Bardsley
Government Solicitor.

17th September

TH AUGUST 1895, No. , JUDICIAL. 1952

printed

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Please print the abstract of G.O. of 23 July 95, no. 1575 Judl sec. also

READ—the following papers :—

From J. H. A. TREMENHEERE, Esq., District Magistrate of Bellary, to the Chief Secretary to Government, dated Bellary, 8th August 1895, No. 128.

With reference to G.O., No. 1545, dated 23rd July 1895, Judicial, I have the honour to state that in my opinion the Bill seems very proper.

From C. M. MULLALY, Esq., Collector and Political Agent of Kurnool, to the Chief Secretary to Government, dated Kurnool, 8th August 1895, C. No. 90-P.

In reply to G.O., dated 23rd July 1895, No. 1545, Judicial, forwarded with endorsement, dated 3rd instant, Political, giving cover to a Bill to Amend the Foreign Jurisdiction and Extradition Act, 1879, I have the honour to state that the proposed amendments are, in my opinion, judicious.

From J. ANDREW, Esq., Political Agent for Pudukkóttai, to the Chief Secretary to Government, dated Trichinopoly, 9th August 1895, Ref. on C. No. 1286-O.

In reply to G.O., dated 23rd July 1895, No. 1545, Political, I have the honour to inform you that I approve of the Bill to amend the Foreign Jurisdiction and Extradition Act of 1879.

From D. W. G. COWIE, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated Madras, 14th August 1895, No. 2186.

With reference to G.O., dated the 23rd ultimo, No. 1545, Judicial, communicating, for opinion, a Bill to Amend the Foreign Jurisdiction and Extradition Act, 1879, I am directed to forward a transcript of the minute recorded by the Honourable Mr. Justice Best and to state that the Honourable the Chief Justice sees nothing to object to in the proposed amendment of the Act and that the Honourable Justices Parker, Shephard and Subramania Aiyar have no remarks to make.

ENCOLSURE.

Minute.

Mr. Justice Best.—In the Bill, as drafted, a person arrested can only be released on bail if so directed by the Political Agent issuing the warrant. Should not the Magistrate before whom the arrested person is brought be given discretion to release on bail in case of bailable offence? *Cf.* section 86 of the Code of Criminal Procedure.

17 Sept 1895 N°. 1957 Travancore 82

From J. THOMSON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Cochin, 17th August 1895, Ref. on C. No. 2440.

In accordance with the instructions contained in the papers recorded in G.O., dated 18th October 1890, No. 480, Political, I have the honour to forward herewith copy of a communication I have addressed to the Diwans of Travancore and Cochin with reference to G.O., dated 23rd July 1895, No. 1545, Judicial. On receipt of the remarks now called for from the Diwans I shall, if considered advisable, embody them in my reply.

ENCLOSURE.

From J. THOMSON, Esq., Resident, to the Diwan of $\frac{\text{Travancore}}{\text{Cochin}}$, dated Cochin, 17th August 1895, Ref. on C. No. 2440.

I have the honour to forward herewith, for the favour of your remarks, a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, with statement of Objects and Reasons. I shall be much obliged if you will kindly let me have the reply within a week of the receipt of this letter.

From the Government Solicitor, dated 24th August 1895, No. 460.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 23rd August 1895 :—

[*Re* Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.]

OPINION.

The amendment is desirable, I think. I have no suggestions to make to the Bill as drawn, but I think this opportunity should be taken advantage of to make the meaning of section 12 of the Extradition Act, 1879, rather clearer than it is at present.

2. Section 12 declares that the warrant therein mentioned "shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants." A question has been raised as to whether sections 87 to 89 of the Code of Criminal Procedure can be put into force when the person against whom a warrant under section 12 of the Extradition Act has been issued evades arrest.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

{ H. & C. N° 4416 }

CURRENT No. 4416

Proof Read

Resident's office on circuit
Cochin, 6th September 1895

From

J. Thomson Esquire
Resident in Travancore and Cochin

To

The Chief secretary to Government
Ootacamund

Sir,

I have the honor in reply to G.O. a judicial No 1545 of 23rd July last to state that I see no objection to the Bill to amend the foreign Jurisdiction and extradition Act 1879 becoming Law.

2. The Government of Travancore considers the provisions of it to be unobjectionable from its point of view, and the Government of Cochin has no remarks to offer.

I have the honor to be
Sir
Your most obedt. servant

Thomson
68
Resident.

Report No 2620
1895

1895

CURRENT No. 4416

Judl Dept

From

The Resident in Travancore
and Cochin

To

The Chief secretary to
Government
Ootacamund

Ref: our endt 2620
1895

Dated 6th Septr 1895

Despatched 10th Do. Do.

Received 14

Regd 17.

CHIEF SECRETARY
14 SEP 1895
GOVERNMENT OF MADRAS

On Enclosure

Stating that the Resident sees no objection to the Bill to amend the foreign jurisdiction and Extradition act 1879 becoming law.

CURRENT No. 4415

Code Class. } L. INDIAN TELEGRAPHS Monthly Number. }

To (Office) Ootacamund | From (Office) Simla

[G/9]
2,000—2-4-35.

Current No. 4415

Judl DEPARTMENT.

Telegram

From Govt of India
Legislative Deptt

Telegram (1) despatched (2) 17/9

To

The G. I. Legislative Deptt

No.

Dated

Received 17/9/95
Regd —

Enclosures

SUBJECT.

Asking for opinions on foreign Jurisdiction and Extradition Bill.

No opinions on Foreign Jurisdiction Extradition Bill will be posted in a week"

D
17. 9. 95

Date filled in this draft of was inserted in the fair copy of the telegram.
JAB 19/9/95

(3) The Advt. Genl for Madras approves

(4) The Registrar of the High Court states that the

1565—

Code } S.
Class. }

INDIAN TELEGRAPHS

Monthly Number. } 4415

To (Office) Ootacamund | From (Office) Simla

Words.	Day.	Hour.	Minute.	Official Instructions.
20/4	17	15	25	

To (Person) Madras. | From (Person) Legislative.

CHIEF SECRETARY'S 17 SEP. 1895 GOVERNMENT OF MADRAS

My number 1277 of Thirteenth July please send opinions on Foreigns Jurisdiction and extradition Bill

82 Word Form. F. C 1.

Recd. from LN. At Hrs. Mts. by

Sent to LN. At Hrs. Mts. by

Telegraph Master.

C. G. P.—No. 28 T—26-6-94—10,000.

OOTACAMUND 17-9-95

CURRENT

[G. 25.]
500—21-2-95.

Judl. Department.

Read again G.O. of 23 July '95, No. 1545 Judl. & G.O. No. replies thereto.

FOR ORDERS.

In its letter printed in the G.O. read above, the Govt. of India invited opinions on the draft Bill to amend the Foreign Jurisdiction and Extradition Act, 1879. The object of the Bill is, it is submitted, (1) by means of an amendment of sec. 11 of the Act making each desertion from the Imperial Service Corps an offence in respect of which warrants for arrest may be issued, to give Political Agents the necessary power to obtain extradition in these cases; (2) to embody in that Act the provisions of the Code of Criminal Procedure which admit of the release of a person arrested under a warrant on his furnishing security, to the satisfaction of a magistrate, for his due appearance.

The opinions of the officers consulted are as follows:-

(1) The Political Agent of Sandur states that in his opinion the Bill seems very proper.

(2) The Pol. Agent of Banganapalle states that in his opinion, the proposed amendments are judicious;

(3) The Pol. Agent for Pudukkottai approves of the Bill.

(4) The Registrar of the High Court states that the

Amendment of the Forest Act

FOR ORDERS.

HON'BLE MEMBER.

Horible the Chief Justice has nothing to object to in the proposed amendment of the Act + that the Hon'ble Justices Parker, Shepherd, and Subramania Aiyar have no remarks to make.

Mr. J. Best records that in the Bill, as drafted, a person arrested can only be released on bail if so directed by the Political Agent issuing a warrant; and queries comparing with sec. 86 of the Code of Criminal Procedure, whether the Magistrate before whom the arrested person is brought should not be given discretion to release on bail in case of bailable offence?

The Advocate General thinks the amendment desirable and has no suggestions to make. He considers that this opportunity should be taken to make the meaning of sec. 12 of the Extrad.n Act, 1879, "rather clearer" than it is at present. That section declares that the warrant therein mentioned "shall be executed in the manner "provided by the law for the time being in force with "reference to the execution of warrants." The question as to whether secs. 87 & 89 of the Code of Criminal Procedure can be put into force when the person against whom a warrant under sec. 12 of the Extradition Act has been issued evades arrest was recently raised by the Resident in Travancore & Cochin in a letter in G.O. of 3rd Sept. 95, v. No. 1831 Just.

(6) The Resident in Travancore & Cochin has not yet given his opinion in the matter. On receipt of the remarks from the Diwans of T. & C. he promises to embody them, if considered advisable, in his reply.

As the Govt. of India desires a reply by the 15th inst., it is con-

G. I. waits the reply by the 15th Inst.

82 Word Form.

[G 25] 600—23-7-95.

DEPARTMENT.

C. No.

FOR ORDERS.

Considered inadvisable to hold the papers back any longer.

Orders are solicited as to whether the opinions furnished may be transmitted to the Govt. of India both as expression of concurrence of the Advocate-General & Mr. Justice Best's suggestions appear to be good ones; though as regards the latter it is questionable whether discretion as to bail should not be left in the hands of the Political Agent by whom the warrant is issued. I think Rule 4 should.

12.9.95

12/9/95

1st cl. Magistrates only might be empowered to allow bail

13/9/95

Amendment of the Foreign Jurisdiction & Extradition Act.

FOR ORDERS.

E

G.I wants the reply by the 15th inst.

Htm

In Rec'd 17/9/95
No. 1952-3
Judl.

[G. 24.]
500—23-7-95.

Judl DEPARTMENT.

Papers to be read in proceedings:—

48

Again G.O., dated 189 , No.
Again G.O., dated 23 — 7 — 1895, No. 1575 Judl.
Current No. of 189 , dated , from and replies thereto.
" " " 189 , " , "
" " " 189 , " , "

2 numbers

ORDER. 17th September 1895, No. 1952.

The Govt of India will be addressed
Judl.
16.9.95

No. 1953. 17/9
Letter to the Secy to the Govt of India. Legre Hon Draft
signed Copy sent
from Ootacamund in 23/9
100 SC despd
25/9

Sir

I am directed to acknowledge the receipt of Mr Macpherson's letter No. 1277 J. 13 July 1895 forwarding copies of a Bill to amend the Foreign Jurisdiction and Extradition Act. 1879 and requesting to be favoured with an expression of opinion thereon.

2. In reply I am to transmit copies of the opinions of

(i) The Hon'ble the Judges of the High Court
(ii) The Advocate General
(iii) The Resident in Travancore & Cochin
(iv) The Political Agents of the States of Banganapalle, Sandur & Pudukottai.

and to state that the Resident in Travancore & Cochin has not yet replied to the reference which was made to him on the subject. 17.9

3. I am to add that H.E. the G. in C. concurs with the officers consulted in considering the proposed amendments to be desirable, and to draw special attention to the Advocate General's suggestion that advantage should be taken of the opportunity to make it clear whether the provisions of ~~53 & 54~~ 89 of the C.C.P. can be enforced against a person absconding in order to evade arrest under a warrant issued under sec. 12 of the Extradition Act. — With reference to Mr Justice Best's minute, I am to state that in the opinion of H.E. the Gov in C. it is expedient to invest first class Magistrates with discretionary power to release on bail persons charged with bailable offences & brought before them on warrants issued by Political Agents which contain no direction as to the grant of bail.

I have &c.

D
11.9.95

4. The Bill together with the Statement of Objects & Reasons was published in English in the Fort St George Gazette dated 23rd July 1895. 18.9.95

Foreign jurisdiction & Extradition act.

VE

Cs.

(from orders)

Set to Press. NUMBER OF COPIES { Order complete. / Letter only.

17TH SEPTEMBER 1895, No. 1953, JUDICIAL.

JUDICIAL DEPARTMENT.

LETTER—from
THE CHIEF SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE,

To
THE SECRETARY TO THE GOVERNMENT OF INDIA, LEGISLATIVE DEPARTMENT.

SIR,

I am directed to acknowledge the receipt of Mr. Macpherson's letter, No. 1277, dated 13th July 1895, forwarding copies of a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, and requesting to be furnished with an expression of opinion thereon.

2. In reply I am to transmit copies of the opinions of—

(i) The Hon'ble the Judges of the High Court.
(ii) The Advocate-General.
(iii) The Resident in Travancore and Cochin.
(iv) The Political Agents of the States of Banganapalle, Sanduru and Pudukkóttai.

3. I am to add that His Excellency the Governor in Council concurs with the officers consulted in considering the proposed amendments to be desirable, and to draw special attention to the Advocate-General's suggestion that advantage should be taken of the opportunity to make it clear whether the provisions of sections 87 to 89 of the Code of Criminal Procedure can be enforced against a person absconding in order to evade arrest under a warrant issued under section 12 of the Extradition Act. With reference to Mr. Justice Best's minute, I am to state that, in the opinion of His Excellency the Governor in Council, it is expedient to invest First-class Magistrates with discretionary power to release on bail persons charged with bailable offences and brought before them on warrants issued by Political Agents which contain no direction as to the grant of bail.

4. The Bill together with the Statement of Objects and Reasons was published in English in the *Fort St. George Gazette*, dated 23rd July 1895.

I have the honour to be,
Sir,
Your most obedient servant,

OOTACAMUND,
17*th September* 1895.

Chief Secretary.

[Appendix.

82 Word Form.

APPENDIX.

From J. H. A. TREMENHEERE, Esq., District Magistrate of Bellary, to the Chief Secretary to Government, dated Bellary, 8th August 1895, No. 128.

With reference to G.O., No. 1545, dated 23rd July 1895, Judicial, I have the honour to state that in my opinion the Bill seems very proper.

From C. M. MULLALY, Esq., Collector and Political Agen t of Kurnool, to the Chief Secretary to Government, dated Kurnool, 8th August 1895, C. No. 90-P.

In reply to G.O., dated 23rd July 1895, No. 1545, Judicial, forwarded with endorsement, dated 3rd instant, Political, giving cover to a Bill to Amend the Foreign Jurisdiction and Extradition Act, 1879, I have the honour to state that the proposed amendments are, in my opinion, judicious.

From J. ANDREW, Esq., Political Agent for Pudukkóttai, to the Chief Secretary to Government, dated Trichinopoly, 9th August 1895, Ref. on C. No. 286-O.

In reply to G.O., dated 23rd July 1895, No. 1545, Political, I have the honour to inform you that I approve of the Bill to amend the Foreign Jurisdiction and Extradition Act of 1879.

From D. W. G. COWIE, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated Madras, 14th August 1895, No. 2186.

With reference to G.O., dated the 23rd ultimo, No. 1545, Judicial, communicating, for opinion, a Bill to Amend the Foreign Jurisdiction and Extradition Act, 1879, I am directed to forward a transcript of the minute recorded by the Honourable Mr. Justice Best and to state that the Honourable the Chief Justice sees nothing to object to in the proposed amendment of the Act and that the Honourable Justices Parker, Shephard and Subramania Aiyar have no remarks to make.

ENCLOSURE.

Minute.

Mr. Justice Best.—In the Bill, as d- ted, a person arrested can only be released on bail if so directed by the Political Agent issuing the warrant. Should not the Magistrate before whom the arrested person is brought be given discretion to release on bail in case of bailable offence? *Cf.* section 86 of the Code of Criminal Procedure.

From J. THOMSON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Cochin, 17th August 1895, Ref. on C. No. 2440.

In accordance with the instructions contained in the papers recorded in G.O., dated 18th October 1890, No. 480, Political, I have the honour to forward herewith copy of a communication I have addressed to the Diwans of Travancore and Cochin with reference to G.O., dated 23rd July 1895, No. 1545, Judicial. On receipt of the remarks now called for from the Diwans I shall, if considered advisable, embody them in my reply.

ENCLOSURE.

From J. THOMSON, Esq., Resident, to the Diwan of $\frac{\text{Travancore}}{\text{Cochin}}$, dated Cochin, 17th August 1895, Ref. on C. No. 2440.

I have the honour to forward herewith, for the favour of your remarks, a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, with statement of Objects and Reasons. I shall be much obliged if you will kindly let me have the reply within a week of the receipt of this letter.

From the Government Solicitor, dated 24th August 1895, No. 460.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 23rd August 1895 :—

[*Re* Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.]

OPINION.

The amendment is desirable, I think. I have no suggestions to make to the Bill as drawn, but I think this opportunity should be taken advantage of to make the meaning of section 12 of the Extradition Act, 1879, rather clearer than it is at present.

2. Section 12 declares that the warrant therein mentioned "shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants." A question has been raised as to whether sections 87 to 89 of the Code of Criminal Procedure can be put into force when the person against whom a warrant under section 12 of the Extradition Act has been issued evades arrest.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

From the Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Cochin, 6th September 1895, Ref. on C. No. 2620 of 1895.

I have the honour, in reply to G.O., Judicial, No. 1545, of 23rd July last, to state that I see no objection to the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, becoming law.

2. The Government of Travancore considers the provisions of it to be unobjectionable from its point of view, and the Government of Cochin has no remarks to offer.

(Signed) J. THOMSON, C.S.,
Resident.

Ed. A. Raitt.

1895.

JUDICIAL DEPARTMENT.

From the Government of
Fort St. George.

Issued

Recd. *Encl.*

Letter, 17th Sept. 1895, No. 1953.

SEPTEMBER.

Bills—Legislative.

Transmitting copies of the opinions of the Hon'ble the Judges of the High Court, &c, on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, with an expression of the concurrence of this Government therein.

for signature.

ched in print.

DATED

AGAIN G.O., No.
189

NT No.

ENCLOSURES TO C. 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.

Foreign Jurisdiction Extradition

1. Chief Justice 3924 ✓
2. Govt Solicitor (adv: genl) 4089 sent to M/C 28/8
3. Supt Govt Press. ✓
4. Pol: Asst — Bhupmapalle 3840 ✓
Sandur 3826 ✓
Pudukkottai 3903 ✓
Res't Travc: Cochin 3976.

Ack sent to M/C for being put in type — DH 20/8

Dis[illegible] 15/4 SR/2

NOTE FOR THE Head Clerk

VE

ep. 1952/3 gwl
17/9/15

This reply is long overdue with India which sent us a telegraphic reminder today — vide C.N. 4415 stated separately. Therefore, please have this printed with C.N. 4416 added to the proof and despatch at a very early date the usual number of spare copies to Simla. The signed copy will be sent from here. We have told India in our telegram that replies would be posted within a week.

W.C. Daly

Desp today
18/9/15 HW

Rec'd signed & despatched from Secy: The '66' opened in 23/9

These papers need not be sent to press.

PAB
17/9/21