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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	885	Press
		Mis.
Dated	5-8-	1822.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper:—

From J. C. HANNYNGTON, Esq., British Resident in Travancore and Cochin,
to the Chief Secretary to Government, dated Trivandrum, 19th July 1882,
No. 62.

In May last the Dewan of Travancore applied to me for warrants for the apprehension of two persons suspected of being concerned in a theft which took place in South Travancore, and who had escaped to Colombo in Ceylon.

2. I pointed out to the Dewan that the procedure requisite was somewhat involved; that the warrants, together with true copies and translations of the depositions, should be placed in the hands of a person who could swear; that the copies of depositions and translations are true copies and translations of the original depositions and that the warrants bear my seal and signature; and that this person should take the warrants, &c., to the Chief Police Magistrate of Colombo to be endorsed.

3. The Dewan considers this procedure beyond the requirements of the British Indian Procedure Codes, and desires that the Ceylon Government may be communicated with in view to ascertaining the proper procedure.

4. I have no doubt that, according to the British Indian Procedure and Evidence Acts, all that would be necessary would be to place the warrants in the hands of a constable or person capable of identifying the accused, the warrants, &c., being certified by me as being certified in the manner commonly in use in Travancore, but I have grounds to doubt whether this procedure is sufficient to satisfy the Ceylon authorities.

5. In a similar case, on the 25th November 1880, the Inspector-General of Police, Colombo, graphed to the Police, Tinnevely, that he was unable to apprehend certain persons who had escaped from Travancore "without warrant and copy of depositions, and an officer who can depose to their being genuine," and I am strengthened in my view by the papers contained in Proceedings of the Madras Government, No. 222, of 27th May 1864.

6. I need hardly point out that the procedure demanded by the Ceylon authorities, involves great trouble and expense, and is likely to facilitate the escape of criminals involving, as it does, the deputation of a person able to swear to the correctness of the copies and translations of the original depositions, and also to the seal and signature of the British Resident.

7. I have the honor to request that if Government think good, a reference be made to the Ceylon Government in view to ascertain the correct procedure to be adopted, and, if necessary, to facilitate future proceedings.

ORDER—dated 5th August 1882, No. 885, Judicial.

The Government observe that the law, in its existing form, does not require the elaborate requirements stated by the Resident. They were no doubt essential under

the Statute 6 and 7 of the Queen, Cap. 34, but that enactment has been repealed by the Fugitive Offenders Act, 1881, which, moreover, has effect as its predecessor had, in cases of extradition only as between different portions of Her Majesty's dominions, and not where an offender escapes from foreign territory into a British possession.

2. The law which provides for the surrender of criminals escaping into the Queen's dominions from a foreign State is contained in 33 and 34 Vic., Cap. 52, and 36 and 37 Vic., Cap. 60. To bring these statutes into operation there must, however, be a previous order of the Queen in Council, directing their application to the State in question. As no such order has been issued in the case of Travancore, the Ceylon Government *may* raise the difficulty that the conditions precedent have not been fulfilled. As, however, it is possible that it may be disposed to accept a demand, if the procedure prescribed by these statutes be followed, so far as may be—the Resident will, without adverting to the Acts cited *suprà*, make a requisition on the Colonial Government under his official seal and signature, forwarding warrants of apprehension under the hand of a Travancore Magistrate, together with the depositions, or copies thereof, in the case, duly authenticated, and, at the same time, sending over a constable able to swear to the identity of the person whose surrender is sought.

3. If objections be raised by the Ceylon Government, Mr. Hannington will make a further representation to this Government.

(True Extract.)

Chief Secretary.

To the Resident in Travancore and Cochin.

Gobt. of (1882) Madras.
JUDICIAL.

Issued

Recd.

Encl.

G.O., 5th August 1882, No. 885.

AUGUST.

Extradition.

Passing orders on letter from the Resident in Travancore and Cochin requesting to be informed of the procedure to be adopted for the apprehension of two persons suspected of being concerned in a theft which took place in South Travancore, and who have escaped to Colombo in Ceylon.

No. 62. Residents' Office.
Memorandum, 19th July 1882
From

J. C. Hammington Esquire
British Resident in
Travancore & Cochin

To, The Honble C. G. Meester
Chief Secretary to Government
Fort Saint George

Sir,

In May last the Dewan of Travancore applied to me for warrants for the apprehension of two persons suspected of being concerned in a theft which took place in South Travancore, and who had escaped to Colombo in Ceylon.

2 I pointed out to the Dewan that the procedure requisite was somewhat involved - that the warrants together with true copies and translations of the depositions should be placed in the hands of a person who could swear that the copies of depositions and translations are true
copies

copies and translations of the original depositions and that the Warrants bear my seal and signature, and that this person should take the warrants see to the Chief Police Magistrate of Colombo to be endorsed.

3. The Dewan considers this procedure beyond the requirements of the British Indian procedure codes and desires that the Ceylon Government may be communicated with in view to ascertaining the proper procedure.

4. I have no doubt that according to the British Indian procedure and Evidence Act all that would be necessary would be to place the warrants in the hands of a Constable or person capable of identifying the accused, the warrants be being certified by me as being certified in the manner commonly in use in Travancore - but I have grounds to doubt whether this procedure is sufficient to satisfy the

Vide Sec 79 & 82
Indian Evidence Act.

the Ceylon authorities.

5. In a similar case on the 25th November 1880 the Inspector General of Police Colombe telegraphed to the Police Commissioner that he was unable to apprehend certain persons who had escaped from Travancore without warrant and copy of "depositions and an Officer who can depose to their being genuine" and I am strengthened in my view by the papers contained in Proceedings of the Madras Government No 222 of 27th May 1864.

6. I need hardly point out that the procedure demanded by the Ceylon authorities involves great trouble & expense and is likely to facilitate the escape of criminals involving as it does the deputation of a person able to swear to the correctness of the copies and translations of the original depositions and also to the seal & signature of the British Resident.

7. I have the honor to request that

that if Government think good
a reference be made to the Ceylon
Government in view to ascertain
the correct procedure to be adopt-
ed and if necessary to facilitate
future proceedings.

I have the honor to be,
Sir,
Yours most obedient servant.

Wm. J. P.
President

Enclosed

J. P.

10 (1882) Defunct
Trunk

The Resident in
Travancore & Cochin

To

The Chief Secretary
to Government
Fort Saint George

No. 62

Dated 19 July 1882
Recd 22

Res.

C. J. M. S. S. S. S.

Madras office
Papers

Criminals escaped
to Ceylon — Requesting
to be informed of the
procedure to be adopted
in securing the ap-
prehension of the-
same

11 Jul Sept

Enclature

From Resident, Travancore, d. 19th July
No 62

Order

This is the case of the extra-
dition of a Travancore subject
escaping into the British
Colony of Ceylon.

The cases to which Mr.
Hamington refers are
evidently cases of escape
from British India to
Ceylon. Such cases, till
recently, were regulated
by 6 & 7 Vic. c 34, which is
now superseded by the
Fugitive Offenders Act 1881
44 & 45 of the Queen c. 69

these two statutes, however,
apply solely to "persons ac-
cused of having committed an
offence in or part of H.M.'s
dominions who have left that
part have formed in another
part of H.M.'s dominions,"
+ do not govern the case
in question.

The elaborate procedure
mentioned by the Resident
was not provided by
the earlier instrument, but
since that, as far as it
regarded direct proof of
signature, &c., seems to
have been abrogated by a
few years later. For 14 & 15
Vic. c. 99 (one of the Evidence
statutes) provides that all
judgments in a civil or criminal
cause of any court of justice
in any foreign state or, with
the assent of the Privy Council,
in any British possession

to hear, receive & examine
evidence,

in any such court of justice or
before any person having by law authority
either by examined copies, or by
authenticated copies, purporting
to be sealed with the seal of the
Court to which the original belongs
... it shall not be necessary
to prove the seal or signature

so that, if a demand can
be made under the seal
& signature of the Resident,
the depositions or which ac-
company, if they purport to
bear the seal of the Travancore
Courts & be signed by their
Magrs. will, provid here, be
received by the Colonial Authorities

Now the law which
provides for the extradition of
criminals escaping into a
~~British~~ British Possession is
contained in 33 & 34 Vic. c. 52
and 36 & 37 Vic. cap. 60.

The only difficulty is that these
do not take effect via any foreign
post: only by virtue of an
Act of the House of Commons

15
the additional authentication
of the Deewan.

Having regard however to
our relation to Travancore,
even if the ~~act~~ statutes have
not been made applicable in
the regular way, they sh^d
be followed analogically.
Sec. 17 provides the procedure.

4 in the case under consideration
the requisition sh^d be made
by the Resident (as representing
Travancore) to the govt. of
Ceylon [S. 7 & 17(1)]

The Resident must send
certified copies of the depositions
with a constable able to
identify the accused - for
the Govt. Magistrate must have
such evidence as w^d warrant
justifying his issuing a warrant
in ordinary cases: in Ceylon
or the Ceylon Magistrate may
not on the Travancore Warrant
(S. 10) if the evidence in support
of it be sufficient.

At 14 & 15 import the
law of evidence already in force
as enacted by 14 & 15 No. C. 99
but the copies must have
been made by the

17✓

Entrada

10. 11. 15 of 17

10. 11. 15 of 17
- on committee - inform the first
about the law and customs - to take
him to apply. They are in the
of the committee - administration
of the territory.

I think the first thing
to ascertain is whether Ceylon
will agree that Travancore
is part of the Queen's dominions.
- one. I don't see how it can
do so.

If however Ceylon takes that
view - how are we to insist
that Travancore shall apply to us.
The law being that the warrant
of the King empowered to issue
such process is enough?

It is to be very strong, myself, to
have no check over even Travancore
- even the last adm. of Native State
we have - Raney a Warrant from
Bangalore for the Native State.

Put the case to Ceylon - ask them
whether they will accept a Travancore Warrant
sent with letters from the H. H. S. as a
guarantee of fair dealing. - 2/2/87.

Dec. 31/7

16/3/8

38 19th

just

Again G.O., dated

188 , No.

Current No.

of 188 , dated

from

Current No. 2316 of 1882, dated 19th July from the Resident in
Travancore & Cochin

Order 5th Augt/82, No 885.

The Govt observe
that the Law, in its spirit-
ing form, does not require
the elaborate requirements
stated by the Resident.

They were no doubt reason-
able under the statute of 1847

of the Queen's, but that
enactment has been re-
pealed by the ³⁴ ~~Queen's~~ ¹⁸⁸¹ ~~Act~~ ^{Act} 1881 which, more-
over, ^{has effect} ~~as~~ its prede-
cessor had, in

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only

only as between different portions of Her Majesty's dominions, and not where an offender escapes from foreign territory into a British possession.

2. The law which provides for the surrender of criminals escaping into the Queen's dominions from a foreign state is contained in 33 & 34 Vic. c. 52, and 36 and 37 Vic. c. 60. To bring these statutes into

4P 21
into operation there must, however, be a previous order of the ^{Queen} ~~Government~~ in Council, directing their application to the State in question. No such order has been issued in the case of France, the Ceylon Government may raise the difficulty that the conditions precedent have not been fulfilled. It may, nevertheless, be disposed to accept a demand, if the procedure

As to the matter of the
1st of the 2nd

procedure prescribed
by these statutes be
followed, so far as may
be. The Resident
will accordingly make
a requisition on the
Colonial Government
under his official seal
& signature, forward-
ing warrants of appre-
hension under the hand
of a Spawncore Magis-
trate, together with
the depositions, or
copies thereof, in the
case, duly authenticated,
and, at the same
time

5P 234
time, sending over a
Constable able to swear
to the identity of the
person whose surrender
is sought.

3. In making the
requisition the Resident
will, of course, refrain
from suggesting any
legal difficulty. If
objections be raised
by the Ceylon Govern-
ment, Mr. Hainington
will make a further
representation to His
Govt.

By the Resd. Spawncore & others
bel acup
19/8
L. A. P. 19/8

P. H.
19/8

*Special Agent
Thompson
C. I.*

*From order
Re H. H. Thompson*

*Print the for
1/4.*

[Despatch]

READ AGAIN Order of Government, dated
188 , No. Miscellaneous.

ENCLOSURES.

CURRENT No.

2316. A

STATEMENT WITH DITTO.

ORDER, &c. OF GOVERNMENT—A.

PAPERS KEPT OUT OF FILE FOR DESPATCH IN ORIGINAL.

Order *30*
Letter
Collection

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.
R = Print, but not for monthly volume.

star

2525
PAPER, No.

of 1892

FURTHER PAPER, No.

of 1882.

13
A. E.
PRESS.

Jud^e DEPARTMENT.
G.O. DATED 5th August/82
No. 885

First copy sent to Press.

Returned for signature.

Despatched in print. 19/8



[Despatch Abstract.]

Extradition. Passing orders
on letter from the Resident
in Trav. Hochim requesting to
be informed of the procedure
to be adopted in connection with the
apprehension of two persons
suspected of being concerned
in a theft which took place
in South Trav. and who ^{have} ~~had~~
escaped to Colombo in Ceylon