

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No.

269

Press

~~Misc.~~

Dated

13 7 1858

Not to be folded or roughly handled

Fort Saint George, Marine Consultation, 13th July 1858.

No. 11. From Messrs. ARBUTHNOT and Co.; to the Chief Secretary to Government, Fort Saint George, dated Madras, 28th June 1858.

SIR,

1. We have the honor to acknowledge receipt of "Extract from the Minutes of Consultation, No. 237, under date 19th June 1858."

2. We learn thereby that the 2nd para: of the Extract from the Minutes of Consultation of the 25th Ultimo was not intended to be communicated to us. We cannot but feel thankful for the accident which has made known to us the reflection cast upon our character by the Government, the more so that the communication which we have now been favored with, reveals the mistaken impression of Government under which that reflection was cast.

3. The Government are pleased to observe that they are fully informed of all the circumstances of the case. But they are greatly in error as to the very point on which they condemn us. They state that the offer made by our Mr. W. Arbuthnot to Mr. Franklin of the 18th November was understood by both parties at the time to be a conditional offer.

4. So far were both parties from this understanding that we on our part on the very same day, the 18th November, wrote to the Manager of our Sugar Works at Chittivalsah, and to our Shipping Agent at Bimlipatam, informing both of the sale of the Coals, and instructing the former to deliver, and the latter, as arranged with Mr. Franklin, to receive the coals, which were accordingly delivered, received, weighed, bagged, stored, and have been ever since at the disposal of the Marine Board.

5. So much for our understanding of the offer, now for Mr. Franklin's. That gentleman after the raising of this discussion, distinctly told our Mr. W. Arbuthnot, that he would have considered it a breach of faith on either side had we availed ourselves of a rise in market or any other circumstance to evade the *official ratification* and due fulfilment of the agreement, or had he on receipt of our tender declined to accept it on the exact conditions specified in his note. How can that be called a conditional offer, from which neither party could drawback without a breach of faith.

6. The last sentence of the Extract with which we have been favored, reads as if Government thought that it was inconsequence of the omission of our formal tender that they have been obliged to pay the full price of our Coals. But it must be evident that had the tender been sent in Mr. Franklin would have accepted it, as he owns he would have felt himself bound to do, and there would then have been no possible ground for disputing our claim.

7. The Government have therefore not suffered at all by this regrettable omission. We have suffered by the delay in settling our claim and the imputation undeservedly thrown upon our fair dealing.

8. Having then shewn, as we think satisfactorily, that the letter of Government to the Marine Board, of which we have complained, was written under a misapprehension of the facts, we consider ourselves entitled to claim from Government a retraction of the 2nd para: of that communication, conveying as it does a charge that we resent as quite unwarranted and which is based on circumstances which we would willingly leave to the appreciation of any impartial judges.

No. 12. ORDER THEREON, No. 269; dated 13th July 1858.

The Government must adhere to their opinion that the sending in of a formal Official Tender constituted an essential part of the negotiation between Mr. Franklin and Mr. W. Arbuthnot, regarding the Coals at Bimlipatam, and that the consequences of the omission on the part of the latter Gentleman to make such a tender should have been borne by his firm.

2. The Government do not by any means intend to impute to Messrs Arbuthnot and Co. any want of good faith in the transaction, but viewing it as they do, they see no cause to withdraw the instructions which they have given to the Marine Board on the subject, in Extract Minutes of Consultation, 25th May last, and the purport of which was further explained in the latter part of para: 2 of Extract Minutes of Consultation, 19th Ultimo.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

I hope that I have expressed
what Mr. Goddard said Marine Department
to say in reply to
Messrs. (C) N^o 269

Extract from the Minutes of Consultation
Dated the 13th July 1858

Read the following
letter from Messrs. Arbutnot
and Co.

Here enter 28th June 58-

W
negotiations

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that the sending in of a
formal Official tender
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Mr. W. Arbutnot regarding
the goods at Binlipatam,
and that the consequences
of the omission on the part
of the latter Gentleman to
make such a tender should
have been borne by his firm
and not by Government
The

+ Please say if these were the
words of the 13th July 1858.

viewing it as
they do.

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but they see no cause to
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which they have given to
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subject, in Extract Minutes
of Consultation, 25th May
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which was further explained
in the latter part of Part 2
of Extract Minutes of Con-
sultation, 19th Ultimo.

Y^{rs}

To Messrs. Arbuthnot & Co. Messrs. Disps. 11th

~~London~~

110-110

10th June

P.S.

House Letter to Congress July 26th July 26th 1858

Page 13

Replied to from the
Secy of State for India
of 26th July 1859

9-4-7
/65

Quoted

11-4-72

Case 13 Aug
Morris 1858 Depn. &c

copy

Extract from 1st of Cont

21st July 1858
13th July 1858

Further from Messrs. Arbuthnot &c of 21st July 1858 &c 26th

Council