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MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No. 547 Press Mis.

Dated 18-7— ~~19~~1887

Not to be folded or roughly handled

No. 1. From H. D. PHILLIPS, Esq., Commissioner of Tanjore; to E. MALTBY, Esq., Acting Chief Secretary to Government, Fort Saint George, dated Tanjore, 9th June 1857, No. 182.

SIR,

1. I have the honor to reply to the requisitions contained in Extract from the Minutes of Consultation, dated the 6th Ultimo, No. 359, relative to a Draft Bill, submitted by the Government Pleader, for the extension of the Combaconum Court's Jurisdiction over the portion of the Tanjore District hitherto exempt from it and under the authority of the late Rajah's own Courts.

2. In the Minutes of Consultation above quoted, I am directed to supply full information on the various points on which it is required by the Government Pleader. Of the points adverted to, one is contained in para: 18 of the Government Pleader's communication to the Government; but I regret that I have not been able to satisfy myself that I rightly comprehend what it is desired to know.

28th April 1857, *No.* 40.

3. The Government Pleader supposes that "a difficulty may arise where decisions" passed apparently by the third or highest of the Rajah's Courts "have been executed partially or entirely" but "on this point further information is requisite to enable" the Government Pleader to frame a Section to meet the case, and it is assumed that I can "readily furnish information how "the cases which would come within the provisions of Section XVI are circumstanced in that "respect."

4. If the Government will permit me to communicate direct with the Government Pleader, as to the deficient information, I will gladly endeavour to obtain it. At present, as above submitted, I feel at a loss to know how to reply to the application of the Government Pleader.

5. The blanks for the several names of the Rajah's Courts are filled up in the Draft Bill* as required in the letter of the Government Pleader para: 21.

* *Returned herewith.*

6. Respecting para: 22 of the same communication, I would mention that of the two prisoners formerly stated by me to be undergoing sentences of imprisonment, one was sentenced before, the other after the demise of the late Rajah.

7. In regard to para: 24 it appears from the enquiries which I have made, that the only change in regard to the use of stampt papers in the Rajah's Courts sanctioned since the demise of His Highness, was consequent on an order issued by the Sirkele that *Motions* presented to the several Courts should be prepared on paper of the value of one anna. Without now entering on the question whether it was or was not competent to the Sirkele to frame a rule of the kind, I would observe that in the Company's Courts, when a refund of stamp duty is made, such refund has reference, I believe, only to the sum disbursed as the Institution Fee and therefore no embarrassment would seem likely to arise from the rule in question having been of recent introduction in the Courts of the Rajah. If costs are to be paid, they may be made to include the anna stamps; and of what amount these are, can be ascertained from the record itself.

28th December 1855.

8. As directed by the Minutes of Consultation under reply, I have consulted Mr. Beauchamp, the Civil and Session Judge of Combaconum, on the points to which my attention was drawn:—and we agree that as it has not been usual on the demise of a Rajah of Tanjore, formally to re-appoint the Judges of the Courts, all that has reference in the Preamble of the Draft Bill, to doubts on this point, may be struck out; that is, the whole of the 3rd, 4th and 5th and a part of the 6th Clause; for, in the absence of the practice of re-appointing the Rajah's Judges, we do not find that there is room for questioning the legality of the Courts which now exist in the exempted limits.

9. Judging only from what has appeared in the Public Prints, the custom that is said to have prevailed in the late Nawaub's Palace at Chepauk, does not appear to us to have any just bearing on the question of the legality of the Tanjore Rajah's Courts.

10. We observe that no provision has been made in the Draft Bill for judicially disposing

of prisoners who, when the proposed Act comes into operation, may be awaiting trial under commitment by the Police Ameen of the Raj limits.

11. We think that Section X is not necessary and we take the same view of Section XI: for in reference to the latter it seems to us not to be requisite to make special provision for the establishment of a District Moonsiff's Court at Tanjore. The Government, it is admitted, have the power to establish an additional Court of that Class. When therefore, the area of the exempted limits has passed under the jurisdiction of the Zillah Court at Combaconum, nothing more seems requisite than for the Government to establish an additional District Moonsiff's Court and for the Sudder Udalut to make such modifications in existing jurisdiction, as they may consider desirable.

12. Mr. Beauchamp has suggested that Section XII and XIII be incorporated with Section V, and he would omit all that in Section V follows the words "or have not been finally disposed of;" substituting for it "shall, unless under the existing laws they would have fallen "under the special jurisdiction of the Zillah Court had they been instituted prior to the passing "of this Act, in which case they will be retained on the File of the Zillah Court, be transferred by "the said Zillah Court to such of the Courts within its jurisdiction as according to the existing "laws would have had cognizance of them had they been instituted after the passing of this Act."

13. As regards Section XV it seems to us that in cases in which the Special Respondent has appeared in the third Court and has not demurred to its jurisdiction, there can be no just reason for giving a further Appeal under any circumstances. Supposing however that there should be reasonable ground for doubting the legality of the now existing Courts, which we do not admit, a further Appeal might properly be granted in cases in which the Respondent has not appeared or, having appeared, had demurred to the jurisdiction; and we would put a party thus situated on a par with the parties referred to in Sections XIV and XVI, *viz.*, who had not appealed within the term prescribed in Section XIV, but could show cause for not having done so.

14. The blank in Section XVII should be filled up by "Assistant."

15. Section XVIII,—the term in our opinion should be that now allowed for all summary Appeals to the Court of Sudder Udalut, *viz.*, three months.

16. Section XIX,—the Clause having reference to the District Moonsiff's Courts should, we consider, be omitted.

17. Section XX,—the first Clause of this Section is we should suppose included in Section XIX. In regard to the *proviso* we do not see sufficient reason for giving a right of Appeal to the Sudder Udalut in cases in which an original Decree of the Rajah's Courts may be reversed by a Company's Court.

18. Section XXI,—it is of course intended that no Institution Fee (paid by stamps) should be levied on an Appeal admitted under Section XVI. This we are of opinion should be specified, we conclude that it is also intended that no stamps shall be required in any Suit which comes into the Company's Courts under the provisions of this Act. If so the terms might, we think, with advantage, be more general than they are, or the summary and regular and special Appeals, referred to in Sections XVIII and XX will have to be on stamps. It seems desirable also that Petitions of Appeal from decisions of the third Court, if any are allowed, should be retained by the Civil Judge.

19. Section XXII,—it is desirable that the principle recognized in Section XIII should be applied to decrees, &c., and that the Courts which would have been competent to entertain the Suit in which the decree to be executed was passed, had it been instituted subsequently to the passing of the Act, should be empowered to execute the decree. It would, we think, be a hardship to parties to force them to go to Combaconum, to get an Order for execution when that Order might be passed at Tanjore.

20. *Civil* Judge should be substituted throughout for the *Zillah* Judge, and "His Highness" the Rajah of Tanjore for "His Excellency."

(Signed) H. D. PHILLIPS,
Commissioner.

Fort Saint George, Political Consultation, 21st July 1857.

No. 2. ORDER THEREON, No. 547; dated 15th July 1857.

1. In this letter Mr. Phillips gives his own observations and those of Mr. Beauchamp, the Civil Judge of Combaconum, on the Sketch of a Bill prepared by Mr. Dale, the GovernmentPleader, for abolishing the Durbar Courts at Tanjore and establishing a District Moonsiff's Court. He also returns the Sketch Bill with some blanks in it filled up.

2. The Right Honorable the Governor in Council resolves to forward these papers to Mr. Dale, with the following remarks, in order that the Sketch Bill may be put into a finished shape.

Para: 8. 3. Messrs. Phillips and Beauchamp consider the 3 last clauses of the Preamble and Section III unnecessary, because it has never been usual to re-appoint the Judges of the Courts on a new Rajah succeeding to the throne. But the Government still deem it advisable to secure validity for the Judicial Acts done by the Judges since the late Rajah Sivajee's decease, in order to anticipate any question as to whether the authority of these Courts did not cease with the Raj. Section III of the Draft can therefore stand, but the wording of the Preamble should be altered so as to notify that it is considered expedient on general grounds, instead of on the one ground now specified, *viz.*, the non re-appointment of the Judges, to remove doubts as to the legality of the acts of the Judges since the late Rajah's death.

4. It is pointed out in para: 10 of the Commissioner's letter, that no provision has been made for the trial of prisoners who may be under commitment by the Police Ameen of the Rajah's limits for offences committed by them, at the time when the new Act comes into operation, Mr. Dale is requested to add a Section to supply this deficiency.

Para: 11. 5. Mr. Phillips, with the concurrence of Mr. Beauchamp, proposes to omit Sections X and XI of the Sketch Act on the ground that Government already possess the power of establishing new Moonsiff's Courts in any part of its Territory. The same view was expressed in Extract Minutes of Consultation, 9th March 1857, No. 205, and although Mr. Dale, in his letter of 8th April last, doubts the construction put on Section 5, Regulation VI of 1816, Government have hitherto exercised this power unquestioned, and deem it unadvisable to seek special Legislative sanction now for establishing a new Court of this description. The two Sections are therefore to be omitted.

6. In continuation of this subject, Government request Mr. Dale to re-arrange Sections XII, XIII and XIX of the Sketch Act, in the manner suggested by Mr. Beauchamp and detailed in para: 12 and 16 of the Commissioner's letter.

Para: 13. 7. In accordance with the recommendation of Messrs. Phillips and Beauchamp, Government wish Section XV to be modified so as not to allow a fresh appeal to the Company's Courts in those cases which have passed through the Rajah's *three* Courts previous to the promulgation of the Act.

8. Government wish the time allowed for an appeal to the Sudder Udalut to be extended from 1 month to 3 months for the reason given in para: 15 of Mr. Phillips' letter.

Para: 17. 9. Government do not concur in the objection expressed by Messrs. Phillips and Beauchamp to Section XX and consider that the Appeal allowed by it ought to be given.

10. Mr. Dale is requested to give his attention to the remarks in para: 18 and 19 of Mr. Phillips' letter in order that the re-wording of Sections XXI and XXII may be considered.

11. Government approve the suggestions in para: 20 of Mr. Phillips' letter that the term 'Civil Judge' should be used instead of 'Zillah Judge' in those parts of the Act which relate to Civil Judicial business, and that the title of "Highness" be applied to the deceased Rajah in the place of "Excellency."

12. If Mr. Dale should require any further information for completing the Sketch Act from the Commissioner, he and Mr. Phillips are authorised to communicate with each other on the subject *direct*.

Exd. J. A. Wilson.

Memo

If Govt. approve their views re
the points in this paper
the Act can be sent to the
Duke for final arrangement.

— The important question
is whether it is advisable
to put the Regulations
at once under the Com-
-bermere Court — Govt
has authority to do this,
& the adjustment of pend-
-ing suits could be made
after words
as the Act being passed —
But though Mr Phillips has
applied for sanction to
introduce his own Police
into the Fort I find to

Mr Phillips letter d. 9th June re Mr Dale's draft Act about Rajpore Case

– Points for Consideration

1st Point Mr Dale's draft Act says that the Officers of the Rajshi Court were re-appointed on the accession of a new Rajah – & as no new Commds of appt were given them by the Company, his draft provides an indemnity to them for their judicial acts since the Rajahs death. –

– Mr Phillips & Mr Beauchamp (the Judge of Combaconum) say that no such re-appointment took place & that therefore – caution is unnecessary – They propose therefore (P8) to omit the 3 last clauses of Preamble & Sect. III

Is this to be done?

2d – Mr Phillips & Beauchamp point out (P10) that the draft Act makes no provision for trying prisoners who may be under committal for offences sent by the Police Officers of the Rajahs Courts

— Mr Dale can be requested to add a Section to remedy this deficiency. –

expression of his opinion on this measure. – I have therefore written him officially to ascertain his views, and he can be called on for them officially if Govt see fit. –

Ellis

3rd Point.- In P11- Messrs P & B. propose to omit Sections X & XI of the Draft Act. These authorise the Govt to appoint a Munsiffs Court at Tangail for its limits - but it is urged (& I think correctly) that Govt can establish a Munsiffs Court without such special sanction after the Rajahi limits have been formally annexed. -

Are Sections X & XI to remain or not

4th Point - Sect XII of Draft orders that all pending suits under Rs 1000 are to be transferred for disposal to the Munsiff, where appl is alluded to in Sections X & XI. -

Sect XIII of Draft gives authority to the Combaconum Judge to distribute these suits to his subordinate Courts for disposal.

Mr Beauchamp proposes (P12) to omit about the Munsiff, and add the final portion of these 2 Sections (empowering the Judge to distribute suits among his subordinates) to Sect V. This seems advisable. Is it to be done

5 Point — Sect XV of the Draft gives an appeal (within one month) to the Judge of Combaconum against all orders & decrees of the Rajahi Courts which have been passed within 6 months before the Act comes into operation -

In P13 - Messrs P & B. consider that in those cases which have passed through the Rajahi 3 Courts, no further appeal should be allowed -

- Is the Draft to be altered to this effect?

6 Point - Sect XVIII - allows one month for an appeal to the Judge -

In P15 - Messrs P & B. propose 3 months the time allowed for all summary appeals to Judge -

This alteration might be made

7 Point - In P16 Messrs P & B. propose that the part of Sect XIX which alludes to the Munsiffs Court shall be omitted -

- This will be necessary, if previous Sections for establishing a Munsiffs Court are left out -

Political Depart.

(No. 547

(Extracts Mins. of Cons. Dated 15th July 1857.

Read a letter from the Commr. of Tanjore dated 9 June

- In this letter Mr. Phillips ~~returns~~ gives his own observations & those of Mr. Branchcamp the Civil & Sessions Judge of Combaconum on the Sketch of a bill prepared by Mr. Dale the Govt. Pleader for abolishing the Durbar Court at Tanjore & establishing a District Munsiffs Court - He also returns the Sketch Bill with some Remarks in it's favor

2 - Ordered that the Govt. Pleader do forward these papers to Mr. Dale with the following remarks in order that the Sketch Bill may be put into a finished shape. -

3 ~~With reference to the 3 last clauses of the Preamble & Section III~~ Messrs Phillips & Branchcamp consider the 3 last clauses of the Preamble & Section III unnecessary, because it has never been usual to re-appoint the Judges of the Courts on a new Rajah succeeding to the throne - But the Govt. still deem it advisable to have secure

Para 2

Para 3

Sent to the Govt. on appeal to the Sadr then an original decree of a Rajah's Court is reversed by a Company's Court. -

Messrs P. & B. dispute (Pg) to this as unnecessary. - What is the opinion of Govt?

9th - In Obs Messrs P. & B. propose a clause wording of Sect XXI. which exempts from Stamps suits brought from the Rajahs to the Company's Courts by this Act. -

Mr. Dale's attention might be called to this point. -

10th - The remarks of Messrs P. & B. (in Pg) on Sect XXII for the purpose of improving it might also be referred to Mr. Dale.

11th - Messrs P. & B. propose (in P 20) that "Civil Judge" should be used in the Act instead of "Sudder Judge" - & the title of Highness be applied to deceased Rajah in place of Excellency -

- This alteration appears advisable.

9 July
R 10th

liability for the judicial acts done by the Judges since the late Rajah Tivajee's decease, in order to anticipate any question as to whether the authority of these Courts & whether the authority of these Courts did not cease with the Raj - Sect III of the draft can therefore stand, but the wording of the Preamble should be altered so as to satisfy that it is enacted expedient on general grounds, instead of on the one ground now specified viz the non re-appointment of the Judges - to remove doubts as to the legality of the acts of the Judges since the late Rajah's death. -

4 - It is pointed out in P10 of the Commissioner's letter that no provision has been made for the trial of prisoners who may be under commitment by the Police Courts of the Rajahs limits for offences committed by them, at the time when the new Act comes into operation Mr Dale is requested to add a Section to supply this deficiency. -

5 - Mr Phillips, with the concurrence of Mr Beauchamp proposes to omit Para 11 - Sections X & XI of the Sketch Act in the ground that Govt already have the power of establishing new Mamuliffs Courts in any part of its Territory. - ~~But~~ The same view was expressed in 2 Mk of C 9 March 57 No 205, & although Mr Dale in his letter of 20 April last doubts the construction put on 35 Reg VII of 1816, Govt have hitherto exercised this power unquestioned, & deem it undesirable to seek special Legislative sanction now for establishing a new Court of this description. The two Sections are therefore to be omitted. -

6 - In continuation of this subject Govt request Mr Dale to ~~alter~~ & XIX re-arrange Sections XII - XIII of the Sketch Act in the manner suggested by Mr Beauchamp & detailed in Para 16 P12 of the Commissioner's letter. —

7 - In accordance with the ~~suggestion~~ recommendation of Messrs Phillips & Beauchamp Para 13 Govt wish Sect XV to be modified so as to allow a fresh appeal to the Company's Courts in those cases which have passed through the Rajahs three Courts previous to the promulgation of the Act

8. Govt wish the time allowed for an appeal to the Sudr Dewanee Adawlut be extended from 1 month to 3 months for the reasons given in P15 of Mr Phillips letter.

9. - Govt do not concur in the objection expressed by Messrs Phillips & Blanchard to Sect XX, & consider that the appeal allowed by it ought to be given. -

P.17. -

10 - Mr Dale is requested to give his attention to the remarks in P18 & 19 of Mr Phillips letter in order that the rewording of Sections XXI and XXII may be considered.

11 - Govt approve the suggestions in P20 of Mr Phillips letter that the term Civil Judge should be used instead of Zillah Judge in those parts of the Act which relate to Civil Judicial business & that the title of "Highness" be applied in the place to the deceased Rajah instead of "Excellency."

12. - If Mr Dale should require any further information for completing the Sketch act from the Commissioner, he & Mr Phillips are authorised to communicate with each other on the subject thereof.

Political Letter to England
22 April No 25 of 1858
Paras 8 & 9

In by Dumas: 21st July
Political 1857 Depart.

No. 547

Extract. Mins: of Consl

21/15th July

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