MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT

G.O. No. 229 Press ~~Mis.~~

Dated 31-3- 1858

Not to be folded or roughly handled

No. 1. From J. R. BOYSON, Esq., Honorable Company's Solicitor; to the Chief Secretary to Government, dated 27th March 1858, No. 163.

SIR,

E. M. C. 23rd March 1858, No. 199, Political Department. I have the honor to acknowledge the Extract Minutes of Consultation noted in the margin.

I submitted same together with the previous papers relating to the same matter for the consideration of the Advocate General and

I now beg to forward a copy of his remarks and opinion.

COPY OPINION.

In Messrs. Richardson's letter to Dr. Balfour, dated 20th February, they state as positive fact "that about half past six on Tuesday Evening (16th) a mob of Musselmen, many armed with "Sticks, entered upon the premises, and *forcibly expelled our Peons*," and added that the mob was led by Abdool Guffoor, the Begum's Khansana, acting, he said, by the Begum's orders. And in their letter of the 27th to Dr. Balfour. they again complain of "Her Highness having taken "the law into her own hands, and taken *forcible possession* of the house and premises in question "by the *expulsion of our* (their) *Servants by a mob armed with sticks*"—and in the next paragraph they speak of a "forcible entry" having been effected with impunity.

The Begum now in her letter of the 17th March "positively denies" that her Servants "used or resorted to force to expel the Peons of Messrs. Richardson," and says that, upon being remonstrated with when attempting to intrude upon the Zenana, they "quitted the Pre-"mises of their own accord, and without a blow being struck." Whether the word premises is here meant to apply to the Zenana only, or to the whole of Pater's Gardens I do not know,—but the denial of any resort to force is full and explicit.

The Begum, however, I assume, does not profess to speak as an eye witness, but merely from the information of others—but I see that the Messrs. Richardson are in the same position in this respect, for the information of Mr. George Richardson before Colonel Boulderson, dated 17th February, states merely that "the men he had left in possession had been put outside. They "will tell their own story." What story they did tell is not shewn, but if any of them had deposed to any personal violence, I presume Colonel Boulderson would have mentioned the fact.

I can only therefore say on this part of this case that while I adhere entirely to my opinion in this matter, dated the 3rd Instant, as to the course that ought to be adopted if the facts stated in Messrs. Richardson's letters of the 20th and 27th February were established, yet that at present I can find no proof of them whatever.

Messrs. Richardson, from information assert them, the Begum, from information positively denies them, and Dr. Balfour says he understands that there was no personal violence; and if any of Messrs. Richardson's Servants have deposed to any personal violence, all I can say is that no statement of the kind has been laid before me.

The whole facts of the case moreover on other points, are by no means clear to me.

I was under the impression, from the papers and information before me, that the whole of Pater's Gardens were in the possession of the Dewan, in his sole possession and that consequent upon my opinion, dated 8th February, he was removing the property under his charge from those premises and was about to quit them, pursuant to the notice to quit served on him in the name of Messrs. Richardson, which was to expire on the 19th February, Messrs. Richardson it appears entered upon the Premises some two or three days before their notice expired, but I collect from Mr. George Richardson's information, and Dr. Balfour's letter, dated 11th March, that they did so by the permission of the Dewan and his son, and in company with the latter. If this be so I do not see what was the "grave error" with which Dr. Balfour charges them in Para: 3 of his letter, dated 18th March.

Purchasers under a Decree of a Court of Justice, who have given the tenants in possession notice to quit, are not obliged to wait till the expiration of that notice, if the tenants offer to give up possession to them before that period, and invite or permit them to enter.

Supposing then that they entered peaceably and properly, by leave of the Dewan, the next question is was the Dewan in possession of the whole of Pater's Gardens—or, as the Begum's letter leads me to infer, was there a Zenana in those Gardens of which some other parties, and not the Dewan was in possession. If the latter were the case, and if, as the Begum's letter leads me to think likely, Messrs. Richardson's Peons, being peaceably and legally in possession of *that part* of the Premises which had been in the Dewan's occupation, were trying to acquire possession of, or to enter into, *another part* of those Premises, known as the Zenana, and occupied by other persons, such conduct on their part would be unjustifiable and the persons occupying the Zenana (or portion of the Premises not given up by the Dewan to Messrs. Richardson and their Peons) would have a perfect right to admit as many men as they pleased into the Zenana. It may be, as the Begum states that Messrs. Richardson's Peons did intentionally or unintentionally trespass on the Zenana or its precincts, that its inmates became alarmed or indignant and called in or admitted defenders, that they threatened Messrs. Richardson's Peons for their having intruded, and that the latter took fright and vacated Pater's Gardens altogether.

Upon the whole I am quite unable to come to any conclusion satisfactory to myself as to whether Messrs. Richardson's Peons were forcibly expelled or not, or whether there was in fact any forcible entry or not. I can only advise that the Begum be informed, and Messrs. Richardson also, that, as Dr. Balfour states, Her Highness wishes it, Government permit Messrs. Richardson to institute such proceedings against Her Highness as they may be advised, in the Supreme Court, to establish their right to, and to obtain possession of Pater's Gardens and that the Begum be expressly informed that if any violence be committed by any of Her Servants with reference to these Premises, the Police will arrest them, or grant Summonses to the parties complaining, whereupon the Magistrates will deal with the Cases in a summary manner.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

No. 2. ORDER THEREON, No. 229; dated 31st March 1858.

As in the 2nd paragraph of his letter of the 18th Instant, the Agent affirms that Her Highness the Nawab Khyre Oon Nissa Begum has expressed her wish that the dispute pending between Her Highness and the Messrs. Richardson, connected with the possession of the Premises termed Pater's Garden, should be settled "by the progress of Suits in Court," and as in her letter to the Agent of the 17th Instant, Her Highness complains of the violence which she represents the Messrs: Richardson to have used in order to gain possession, "instead of adopting "the more peaceful and lawful mode of resorting to the Supreme Court;" by which the Government understand Her Highness to assent to the matter in dispute being taken before the Court, the Governor in Council resolves to permit the Messrs. Richardson to institute such proceedings as they may be advised in the Supreme Court, to establish their rights and to obtain possession of Pater's Garden.

2. The Governor in Council further resolves to inform Her Highness the Nawab Khyre Oon Nissa Begum, that if any violence be committed by any of Her Highness' Servants, with reference to the Premises in question, the Police will arrest them, and grant Summonses to the parties complaining, whereupon the Magistrate will deal with the case in a summary manner.

(Signed) H. FORBES,
Acting Secretary to Government.

Exd. J. A. Wilson.

Pol & Sepl. A

No.

Exhibit A

Read the following letters from H. C. Scudder } herewith No 163 dt 27th March/58.

In accordance with the opinion given by the Advocate General, after perusing the whole of the correspondence that has taken place between Dr Balfour & Messrs Richardson, Dr Balfour & H. H. Khyre oon Nissa Begum, as well as the letters of Dr Balfour & the Comr of Police to Govt, the R. H. has & in C is pleased to direct that H. H. the Begum & the Messrs Richardson be informed, that, in accordance with H. H's wishes, he permits Messrs Richardson to institute such proceedings agst H. H, as they may be advised, in the Supreme Court, to establish their rights to obtain possession of "Pater's Gardens" & that the Begum be further informed, that, if any violence be committed by any of her servants with reference to these Premises, the Police will arrest them, or grant summonses to the parties complaining — whereupon the Magistrates will deal with the cases in a summary manner.

L. H. 1/4 58

Political Dep^{tn}

No. 224

Extract from the Minutes of Consultation
Dated 31st March 1858.

Read the following from the Honorable Company's Solicitor.

Here Enter 27th March 1858
No. 163.

As in the 2d paragraph of his letter of the 18th Instant the Agent affirms that Her Highness the Nawab Khyr Oon Nissa Begum has expressed her wish that the dispute pending between Her Highness and the Messrs. Richardson connected with the possession of the premises termed Pater's Garden, should be settled by the progress of suits in Court, and as in her letter to the Agent of the 17th Instant Her Highness

Highness Complains of the violence which she represents the Messrs. Richardson to have used in order to gain possession, "instead of adopting the "more peaceful and lawful mode of resorting "to the Supreme Court", by which the Government understand Her Highness to assent to the matter in dispute being taken before the Court, the Governor in Council resolves to permit the Messrs. Richardson to institute such proceedings as they may be advised in the Supreme Court to establish their rights and to obtain possession of Peter's Garden.

2. The Governor in Council further resolves to inform Her Highness the Nawab Khyra Oon Nissa Begum that if any violence be committed by any of Her Highness Servants

servants with reference to the premises in question, the Police will arrest them, and grant summonses to the parties complaining, whereupon the Magistrate will deal with the case in a summary manner.

Government Agent for communication Messrs. Richardson & Khyre-bon-Nissa Begum.
Commissioner of Police for comm.n to the Police Magistrates.
H.C. Solicitor

Disp.d 1/4

In 3d to Cons: 9 April
Political 1858 Depart.

No 229

Extract Mins: of Cons

8/31st March 1858 —