

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G O. No.	629	Press Mis.
Dated	22. 9-	19 1.83

Not to be folded or roughly handled

Fort Saint George, Political Consultation, 28th September 1858.

No. 1. From J. R. BOYSON, Esq., Honorable Company's Solicitor; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 13th September 1858, No. 498.

SIR,

Extract Minutes of Consultation, dated 12th July 1858, No. 441, Political Department. Advocate General's opinion, dated 23rd July 1858. Company's Solicitor's letter to Government, dated 24th July, 1858, No. 411.

1. With reference to the papers noted in the margin, I have the honor to report that subsequent to the despatch of my letter to Government, No. 411, I had further communication with Kamatchee Bhoyee's Counsel on the subject thereof and ultimately received from him the letter of which I now enclose a copy.

2. I submitted this letter together with the previous papers relating to the same matter for the further consideration of the Advocate General and afterwards conferred with him thereon and I herewith send a copy of his further opinion.

3. If Government should resolve to authorize the contemplated application to the Supreme Court, I beg to suggest that the Commissioner of Tanjore be requested to furnish me with a Draft Affidavit detailing the facts and circumstances which in his opinion render the removal of the property either necessary or expedient. I will then put it into such form as the practice of the Supreme Court requires and send down an engrossment of it to Tanjore with the necessary Commission for swearing Mr. Phillips to the truth of it.

From J. B. NORTON, Esq., Agent for Her Highness Kamachi Bhayee Sahaba, &c.; to J. R. BOYSON, Esq., Solicitor to the East India Company, dated 24th August 1858.

SIR,

With reference to the conversation which we had some time back respecting a motion to be made in the Supreme Court for liberty to remove the property in the Tanjore Palace at present scattered in various apartments into one room for safe custody, I have now the honor to inform you that I at once wrote to my Clients requesting them to instruct me to consent to such motion, and pointing out that the object of the Government was for the benefit of all parties.

2. I regret to say that I received a very unfavorable answer; upon which I again wrote, but with no better success.

3. If the motion is pressed I shall be placed in an embarrassing position; for my own inclination in the exercise of that discretion which is vested in me as Counsel would be to offer no opposition: while on the other hand my Client's instructions are express upon the point.

4. I would however urgently solicit the Government, through you, to suspend the further prosecution of this step at any rate for the present. I should have addressed the Government on this point, but that it has declined to receive any communication from me direct; and the formalities attending verification of Memorials of my Clients are so irksome to them that I am desirous not to press upon them the task of Memorializing the Government whenever it is avoidable.

5. Of course the Court would require to be satisfied on Affidavit that the state of the Tanjore District is really so unsettled as to render intermeddling with the property expedient; and my Clients assure me that there is no apprehension whatever, either from the state of feeling in the District or from any other cause of an attack upon the Palace. They suggest, however, that if the Government considers any other measure of precaution necessary, additional guards may be placed over the various rooms in which the property is at present deposited, a measure to which they would not object.

6. I am well satisfied that it will be impossible to remove from my Clients' minds the impression that this breaking the seals and removing the property is intended to harass them, or to convince them that the property has not been tampered with in the process of removal.

Fort Saint George, Political Consultation, 28th September 1858.

7. Erroneous as such impression would be, the Government, I am sure, would not desire to give room for it, unless an imperative necessity existed, on account of which all such considerations must be overlooked.

8. The question at issue between the Government and my Clients, must, I should think, be now soon finally decided one way or the other; and I would submit that the orders conveyed in the Minutes of Consultation might be for the present suspended without any danger to the property, looking to the general tranquillity of the Country on the one hand, and the uneasiness of feelings which will be excited in the Palace on the other, if those orders are carried out.

9. In event of sudden emergency arising, matters would bear so different an aspect, that I should not feel disposed to offer opposition to the motion made under such circumstances, notwithstanding the intimation of my Clients' wishes; indeed they would probably then look themselves upon the matter in a different light.

COPY OPINION.

The *right* to remove the "Jewels, Ornaments, Regalia, Arms and other valuables" from the several "halls of the Tanjore Palace" where they now are, under Seal, into "one place of security," appears to me to depend entirely upon the *necessity* for such a step,—upon the point whether such removal can be shown to be necessary for the safety of the property.

If the Commissioner can satisfy the Court that such removal was *necessary*, but required to be effected *immediately* in order to secure the property from risk arising from such gang robberies as he mentions, I am clearly of opinion that, under such circumstances, it would be no breach of the injunction to remove the property, in the way above mentioned, without leave of the Court, and that the Court would not hold such removal to be any breach of its injunction and that if time permitted an application to be made to the Court for leave so to remove them, the Court would grant such leave upon the above state of facts being disclosed.

If time and circumstances do permit, I think that leave had better be asked; and if so it must be asked upon Affidavit disclosing the facts which render the removal necessary or expedient.

As to the actual state of the District, as affecting the question of the security of this valuable property, it seems that Mr. Norton's Clients and the Commissioner are directly at issue, and if so I apprehend the Court would hardly hesitate to accept the Commissioner's version as the true one. It is not a question merely as to the "feeling in the District" of which Mr. Norton's letter speaks, and the intimation of his Clients that they "would not object" to the posting of "additional guards" is almost an impertinence, as their objection if made would be a mere waste of breath, and they have no sort of right to expect, if the position of affairs be such that additional guards are really necessary to protect the Jewels where they now are, which would be an admission that the place is not secure, that Government shall incur the risk of the loss of the Jewels and the trouble and expense of placing additional guards over them, merely to gratify a shew so unreasonable that the Rance's own Agent cannot defend it.

The best course, it seems to me, will be to move on an Affidavit (disclosing the facts upon which the Commissioner has come to the conclusion that the Jewels are not now secure, and that their security requires their removal into one place) for leave to remove the Jewels, &c., into one secure place; but if, before the motion can be made, or leave obtained, any sudden emergency should occur such as to satisfy the Commissioner that he *must* so remove them in order to ensure their safety, then I am of opinion that his so removing them will not be, or be considered as, a breach of the injunction.

The removal, as I before advised, should in any case be made by or in the immediate presence of the Commissioner himself; and, if possible, such notice, as I before suggested, should be given to the Rances so as to allow them to send Agents to witness the removal.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

Fort Saint George, Political Consultation, 28th September 1858.

No. 2.

ORDER THEREON, No. 629; dated 22nd September 1858.

Ordered to be communicated to the Commissioner of Tanjore with reference to Extract Minutes of Consultation, dated 26th July last, No. 466. The Government are of opinion that under the circumstances application should not be made to the Supreme Court unless the removal of the property should be absolutely necessary for its security, in which case the Commissioner may again address the Government stating fully the reasons which have led him to that conclusion.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

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For the Sec. of Pension
 22 September 1901

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Rep. to by the Secy of State
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From
The Hon^{ble} Comd^g Genl

The Chief Secy to Govt

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of the Tanjore Raj into
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With an Order