M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 803 Press ~~Mis~~

Dated 6 - 12 - ~~18~~ 1858

Not to be folded or roughly handled

13-11-30

Fort Saint George, Political Consultation, 7th December 1858.

No. 36. EXTRACT FROM THE MINUTES OF CONSULTATION in the Judicial Department under date the 1st December 1858, No. 1696.

(*Vide* Diary, Judicial Consultation, 7th December 1858, Nos. 17 and 18.)

(*Instructions to Judicial Officers to give prompt and complete effect to the Royal Act of amnesty, pardon, and oblivion contained in Her Majesty's Proclamation, in dealing with persons charged with Political offences.*)

No. 37. ORDER THEREON, No. 803; dated 6th December 1858.

To be Recorded.

(Signed) W. H. BAYLEY,
Acting Secretary to Government.

Exd. J. A. Wilson.

No. 1696.

Extract from the Minutes of Consultation under date the 1st December 1858.

Read the following Extract from the Minutes of Consultation, in the Public Department, dated 25th November 1858, No. 1454.

Read the following letter from G. F. EDMONSTONE, Esq., Secretary to the Government of India, with the Governor General; to T. PYCROFT, Esq., Secretary to the Government of Fort Saint George, dated Allahabad, 8th November 1858, No. 521.

Home Department.

SIR,

I am directed to transmit for the information of the Right Honorable the Governor in Council the accompanying copy of a letter addressed to the Secretary to the Government of Bengal calling attention to the Royal Act of amnesty, pardon and oblivion, which by command of the Queen has been promulgated to the people of India, and conveying instructions for the guidance of all Officers, entrusted with judicial powers, in dealing with persons charged with Political offences.

From G. F. EDMONSTONE, Esq., Secretary to the Government of India, with the Governor General; to A. R. YOUNG, Esq., Secretary to the Government of Bengal, dated Allahabad, the 8th November 1858, No. 519.

Home Department.

SIR,

I am directed by the Right Honorable the Governor General to request, that the attention of all Officers exercising judicial or magisterial powers in the disturbed districts of Bengal, may be called to the Royal Act of amnesty, pardon and oblivion, which by command of the Queen has been proclaimed to the people of India.

2. Pardon is announced from the Throne in the following terms:—

"Our clemency will be extended to all offenders, save and except those who have been, or shall be, convicted of having directly taken part in the murder of British subjects. With regard to such, the demands of justice forbid the exercise of mercy.

"To those who have willingly given asylum to murderers, knowing them to be such, or who may have acted as leaders, or instigators in revolt, their lives alone can be guaranteed; but in apportioning the penalty due to such persons, full consideration will be given to the circumstances under which they have been induced to throw off their allegiance; and large indulgence will be shown to those, whose crimes may appear to have originated in a too credulous acceptance of the false reports circulated by designing men.

"To all others in arms against the Government We hereby promise unconditional pardon, amnesty, and oblivion of all offence against OURSELVES, OUR CROWN and DIGNITY on their return to their homes and peaceful pursuits.

"It is our Royal Pleasure that these terms of grace and amnesty should be extended to all those, who comply with their conditions before the first day of January next."

3. The Honorable the Lieutenant Governor will be pleased to call upon all Officers holding Civil authority under his Government, to give prompt and complete effect to the foregoing paragraphs of Her Majesty's Proclamation.

4. His Honor will direct that all Judges and Special Commissioners within the districts which have been or still are disturbed, shall forthwith examine the indictment, upon which each prisoner whose case is now pending before them, has been committed to their Courts: and that, unless the crime charged involve the murder of British subjects, or the acting as a leader or instigator of revolt, they shall immediately cancel the commitment, and remand the prisoners to the Magistrate who committed them for trial.

5. The Governor General further directs that Magistrates, and Officers in Executive charge of districts now or heretofore disturbed, may be instructed at once to desist from the prosecution or apprehension of supposed rebels or traitors, whose crimes do not fall under any one of the

three heads above specified, upon the condition that such persons consent to return, and do in fact return to their homes, and peaceful pursuits. And in respect of persons who may be under trial before them, the Officers in question should be desired, upon the same condition, to remove from the Calendar all charges of rebellion, or other political offences, provided that the parties accused or committed do not come within any of the three classes excluded from free pardon.

6. I am directed to add that all sentences passed before the 1st November, whether sentences on regular trial in presence of the defendants, or sentences of confiscation upon *exparte* proceedings held under Act XXV of 1857 in their absence, will hold good as having taken effect before the promulgation of Her Majesty's Act of pardon, amnesty and oblivion.

7. But, in cases of confiscation under Act XXV of 1858, wherever the defendants present themselves to the district Authorities within the period fixed by the Proclamation, the Lieutenant Governor is requested, on representation to that effect, favorably to re-consider the sentence, provided that such defendants were not participators in murder, or leading rebels, or instigators of revolt, or that, generally, any material grounds of extenuation can be adduced.

8. The Honorable the Lieutenant Governor will further be pleased to direct that no fresh decisions are to be passed for political offences against any persons, who do not come within the classes excepted from pardon, *viz.*, murderers, those who have harboured murderers, leaders or instigators of revolt, and those, who continue in arms against the Government. This interdict is to be understood to extend to fines and confiscation under Act X of 1858 as well as under Act XXV of 1857.

9. The amnesty, it is to be observed, does not cover acts of private wrong and injury. But prosecutions on this account should be discouraged by district Officers, especially where the cause of complaint occurred during a season of anarchy. Where much time has elapsed, such cases should not be admitted, except upon strong *primâ facie* ground, that a heinous offence, still calling for punishment, was perpetrated, or a heavy wrong sustained, which can now be redressed. And in all cases relating to the period in question, (excepting where the defendant may be charged with direct participation in wilful and deliberate murder,) compromise between the parties should not only be freely admitted, but recommended and encouraged.

10. The Royal Act of grace, I am desired to observe, includes mutineers and deserters, as well as rebels who have not been in the service of the Government ; but, in admitting mutineers and deserters to the benefit of it, care must be taken to warn them that, while those, who have not directly taken part in the murder of British subjects, may securely rely upon being left unmolested in their homes and in the prosecution of peaceful pursuits, those, against whom the Government may obtain evidence of having been directly concerned in the murder of British subjects, will not be protected by a pardon from which they are expressly excluded, but will be sought out, and brought to justice.

11. To this end, as the Honorable the Lieutenant Governor will observe, it will be necessary that a full and accurate Descriptive Roll should be kept of all mutineers and deserters admitted to pardon. This should be done by the Magistrates, and a copy of each Register should be sent to you.

A certificate should be given to each mutineer or deserter dismissed to his home, to the effect that he will in future be free from all molestation, as regards the past, unless he shall be chargeable with having taken part in the murder of a British subject.

12. In those parts of Bengal, where rebels are still in arms against the Government, every exertion should be used by the Magistrate and other Civil Officers to make the leaders, and, so far as may be, their followers, fully acquainted with the conditions, upon which pardon is offered to them in the Proclamation.

If, after this has been done, and after it has become certain that the leaders have knowledge of the offer of pardon, they shall continue to commit acts of rebellion and to oppose the authority of the Government, force may be used against them. The Lieutenant Governor will inform the Civil and Military Authorities that they are not to consider that, in such a case, they are debarred from using force by the fact that the terms of grace and amnesty are extended to all who comply with the conditions before the 1st January next.

13. In regard to determining the punishment of offenders, to whom the amnesty does not extend, I am desired to add the following remarks :—

14. Those, who have directly taken part in the murder of British subjects, are alone excluded from mercy. In respect of these the law will take its course as heretofore.

15. To those, who, having knowingly given asylum to murderers, or having acted as leaders or instigators in revolt, shall surrender themselves upon the terms of the Proclamation, their lives only are guaranteed. But the Lieutenant Governor is requested so to order that, in apportioning to these offenders their respective penalties, Judges, Special Commissioners and Magistrates shall be mindful of the promise, made in the Royal Proclamation, that full consideration will be given to the circumstances under which the offenders were induced to throw off their allegiance, and that large indulgence will be shown to those, who were deceived by the false reports of designing men.

16. In the Governor General's judgment the most guilty in this class of offenders are those, who, not content with resisting the Government in their own neighbourhood, have joined in the attacks made by murderers and plunderers in other parts of the country, thereby spreading violence and suffering far and wide, and those, who have intimidated or compelled others to join and sustain them in rebellion.

The most deserving of indulgence are those, who have had a share in saving the lives of English subjects.

17. The Honorable the Lieutenant Governor will of course take care that each case brought to trial shall be reported to him in weekly statements.

18. In conclusion, I am desired to add that the Right Honorable the Governor General, confiding in the loyalty of every man, to whom judicial powers of any degree have been entrusted, calls upon each to exercise the discretion left to him in the merciful spirit, in which the Proclamation has been conceived.

(True Copy.)

(Signed) G. F. EDMONSTONE,
Secy. to the Govt. of India,
with the Govr. Genl.

The foregoing letter and its enclosure will be communicated to the Judicial Department, whence such orders as may be necessary will be issued.

(Signed) W. H. BAYLEY,
Acting Secretary to Govt.

Order.—Resolved that a copy of the foregoing communication be furnished to the Court of Foujdaree Udalut, to the Commissioners appointed under Acts XIV of 1857 and XXII of 1858, and to the several Magistrates in the Provinces for information and guidance as also to the Political and Military Departments.

2. The particular attention of all Judicial Officers will be called to paras, 3 to 16 of the letter from the Government of India to the Government of Bengal, and they will be directed to give prompt and complete effect to the instructions and views therein contained.

(True Extract and Copies.)

(Signed) W. H. BAYLEY,
Acting Secretary to Govt.

To the Judges of the Court of Foujdaree Udalut.
,, Commissioner unders Act XIV of 1857.
,, Magistrate of
,, Political Department.
,, Military do.

dispd 2/12.

Exd. F. Cartledge.

Entered in List 14/2/58

Political 1858 Departt

Extract Minutes Consultation in the Judicial Departt 16th

12th
22nd Dec/58.

No 822.

Communicating copy of a letter from the Secy to the Govt of India with the Govr General transmitting copy of one addressed to the Govt of Bengal calling attention to the Royal Act of Amnesty, pardon and oblivion, which has been promulgated to the people of India, and conveying instructions for the guidance of all Officers entrusted with Judicial powers, in dealing with persons charged with Political offences.—

No 803

To be recorded

6th Dec 1858. W H S

36 to 37.