M.R.O. 1—33,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No.	510	Press Mis-
41-42.		1861
Dated	14 · 11 ·	1853.

Not to be folded or roughly handled

Proceedings of the Madras Government, Political Department, 14th November 1861.

No. 41. Read the following letter from W. GREY, Esq., for Officiating Secretary to the Government of India; to His Excellency the Governor of the French Settlement in India, dated Fort William, the 21st October 1861, No. 60.

I am directed by the Governor General in Council to reply to your Honor's letter No. 1, dated 16th January 1860, regarding the extradition of criminals by the British and French Governments in India.

2. The British Law of Extradition in India is regulated by Act VII. of 1854, which provides for the surrender of criminals charged with certain specified offences, and also (Sections XXII. and XXIII.) with any offence for which the British Government by any Treaty may have bound itself to deliver up criminals to another Government, or to deliver up any person liable to be proceeded against by the Laws of such other Government, in any case not expressly provided for by the Act.

3. The Governor General in Council is of opinion that the Convention of March 1815, between the British and French Governments, is a Treaty in force within the meaning of Section XXII. of Act VII. of 1854, and that the 9th Article of that Treaty would be a sufficient answer to any proceedings that might be taken in a Municipal Court, either for the liberation of a debtor, or a criminal, when it was intended to give up, or for the recovery of damages for his capture and delivery up by the British Authorities.

4. But the question whether the British Government, on principles of international Law and public policy, ought to treat Article 9 of the Convention as in full force, and to avail itself of Section XXIII. of Act VII. of 1854, for the purpose of delivering up civil debtors and offenders generally, is a wider and more difficult one.

5. By the tacit consent of both the contracting Powers, the date of the Treaty down to the present time (a period of forty-six years), the Clause relating to the extradition of debtors, as distinct from that relating to criminals, has been treated as if it was not in force and has not been acted on. In the opinion of the Governor General in Council this circumstance is sufficient to justify the British Government in now declining to treat that branch of the Treaty as in force, and to render it proper for the British Government so to decline, while it maintains the force of the Clause relating to criminal offenders.

6. The Governor General in Council is further of opinion that, although the 9th Article of the Treaty speaks of offences generally, the subsequent and uniform exposition of the Article by the Acts and Declarations of the two Governments, has virtually put an interpretation to some extent upon the word" offences," so as to limit its meaning to offences of a grave character, and to exclude from the operation of the Treaty mere petty local offences, which would not necessarily be treated as criminal acts by the Laws of both countries or political offences. The Governor General in Council however is far from thinking that the operation of the Treaty should be limited in this respect to cases which in the English Law are treated as Felonies, or to the heinous offences specially enumerated in the Act VII. of 1854. In the opinion of the Governor General in Council all such cases will fall within the provisions of the Treaty; and where a requisition is made, properly supported under the Act, it should be complied with. And conversely the British Government need not scruple to call on the French Government to deliver up persons accused of having committed any of such offences within the British Territories, and of having sought refuge in a French Settlement. But where extradition may be required, either by the British or the French Government in the case of an offence not clearly falling within the description of a felony or a heinous offence, but on the other hand not being obviously either a mere local and petty offence or a political one, the Governor General in Council is of opinion, that it much depends upon the circumstance of each particular case whether extradition should be sought or refused. And it is impossible beforehand to lay down any universal rule which shall apply to all such cases.

7. Such is the opinion of the Governor General in Council, but as the case is one which concerns the interpretation of Treaties, a reference will be made to Her Majesty's Government without delay.

Proceedings of the Madras Government, Political Department,
14th November 1861.

8. In conclusion the Governor General in Council directs me to express the regret of the British Government for what fell from Sir M. Wells on the occasion referred to in your letter, The words were spoken under an error.

No. 63.

Ordered, that a copy of the above be sent to the Bengal Government for information and guidance, with reference to their letters No. 1311, dated 29th March 1860, No. 1601A., dated 21st June 1861, and No. 2540A., dated 25th September 1861; to the Government of Bombay with reference to their letter No. 11, dated 5th April 1860; and to the Government of Madras, with reference to their letter No. 181, dated 24th March 1860.

FORT WILLIAM,
The 21st October 1861.

(Signed W. GREY,
for Offig. Secy. to the Govt. of India.

No. 42. ORDER THEREON, 14th November 1861, No. 510.

Ordered to be communicated to the Collector in charge of the Special Agent's Department at Cuddalore, in reference to the Proceedings of Government, dated 19th March 1860, No. 155.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Carltedge.

Please repeat Copies to 27/7/61

Pol Stg 14/11/61

/Copy/

No. 60

FROM COLONEL H. M. DURAND, *C. B.*,

Offg. Secretary to the Government of India,

TO HIS EXCELLENCY THE GOVERNOR OF THE FRENCH SETTLEMENT IN INDIA.

Fort William, the 21st October 1861.

FOREIGN DEPT.,
Political.

YOUR HONOR,

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4. But the question whether the British Government, on principles of international Law and public Policy, ought to treat Article 9 of the Convention as in full force, and to avail itself of Section XXIII. of Act VII. of 1854, for the purpose of delivering up civil debtors and offenders generally, is a wider and more difficult one.

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8. In conclusion the Governor General in Council directs me to express the regret of the British Government for what fell from Sir M. Wells on the occasion referred to in your letter. The words were spoken under an error.

I have the honor to be,

YOUR HONOR,

Your most obedient Servant,

for Offg. Secretary to the Government of India.

No. 63.

ORDERED, that a copy of the above be sent to the Bengal Government for information and guidance, with reference to their letters No. 1311, dated 29th March 1860, No. 1601A., dated 21st June 1861. and No. 2540A., dated 25th September 1861; to the Government of Bombay, with reference to their letter No. 11, dated 5th April 1860; and to the Government of Madras, with reference to their letter No. 181, dated 24th March 1860.

FORT WILLIAM,
The 21st *October* 1861.

for Offg. Secretary to the Government of India.

Rec'd 5th March 1860 No 429

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Political 1861 Dep't

From

The Sec'y to the Gov't of India. For'n Dep't 63.

Dated 21st Oct'r 1861.
Rec'd 5th Nov'r 1861.

2 Share copies.
not recorded in the Index Office

No. 517

In reference to the letter from this Office No. 181 dated 24th March 1860, forwarding for information & guidance a copy of a letter addressed to the Governor of the French Settlements in India regarding the extradition of Criminals by the British & French Gov'ts in India

With an Order

Order thereon - 11th November 1861 No 570.

Ordered to be communicated to the Collector in charge of the Special Agent's department at Cuddalore, in reference to the Proceedings of Gov't dated 19th March, 1860 - No. 155.

To the Collector in charge of the Special Agent's Dep't at Cuddalore. } dispd 14th

Dep't

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