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Revenue Department

Minutes of Consultations

17th March 1857

Back Nos 31-32

Order no 258 dated 14th March 1857

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செயிட்டு முடித்த நாள்	.. 07/2006
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சரிபார்க்கும்
இரண்டாம் மு.நி.பா.எ.
கைவெப்பம்

ஆராய்ச்சி உதவியாளர்
கையொப்பம்

Fort Saint George, Revenue Consultation of 17th March 1857.

The bill positively prohibits all Collectors and Magistrates and Officers subordinate to them from impressing any carts, &c. for any purpose whatever, while the Madras law repealing Regulation III. of 1810 simply deprived such officers of legal authority to do any thing of the kind. The effect will be the same. The Bengal Officer and the Madras Officer will be equally without a legal defence in the event of being sued for damages for pressing carts, &c.

Section II.

Section III. of the bill goes farther and provides for the infliction of a penalty upon any subordinate Revenue or Police Officer who impresses any cart, &c. or any workman, laborer, or cooly without authority of law. A still heavier penalty is provided by Clause 76 Chapter XVI. of the Penal Code for the punishment of any person who unlawfully compels another person to labor against his will.

Sections IV. and V. make such impressment lawful with the express sanction of Government, or without such sanction when there is not time to obtain it, to facilitate the movement of Troops in certain cases of emergency, and in no other case.

In the debate* upon the 2d reading of Mr. Grant's bill to day, I made mention of the desire of the Madras Government that an Act should be passed to make it lawful to press labor in the cases of emergency described in Section VII. of the draft Act, with regard to which, further papers were sent to me in Mr. Bourdillon's letter of the 17th Ultimo, and suggested that cases of that nature might with propriety be made an exception from the general prohibition of impressment, and this suggestion will be considered by the Select Committee.

* The Official report of this debate will be sent hereafter.

It is I believe the desire of the Government of India that the provisions of Mr. Grant's bill now formally confined to the Presidency of Bengal should be extended substantially to the other Presidencies, and I have now the honor to request through you, that the Right Honorable the Governor in Council will favor me with a communication of the views of the Government of Madras as to the expediency of such extension.

In all the orders I have referred to above, except the first dated 3d February 1840, the question of providing carriage for Troops is the only one discussed, but in the first it is stated that it will be equally the duty of Collectors in cases of emergency to meet requisitions for supplies to Troops. I would beg to be favored with any information the records afford as to the actual practice of the Civil officers in the Districts in regard to the provision of supplies for Troops, and also for travellers at the halting places within their limits, and whether there has been a material improvement in this respect since Sir T. Munro wrote his Minute in 1821.

No. 32. ORDER THEREON, No. 258; dated 14th March 1857.

Ordered to be referred to the Military Department for consideration.

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

From
G. Elliot Esquire,
Member of the Legislative Council.

Thomas Percival Esquire,
Chief Secretary to Government
Fort St. George.

Dated Fort William, the 27th February 1857.

Sir,
I have the honor to transmit to you for the information of the Right Honorable the Governor in Council copy of a Bill to amend the law regarding the provision of carriage and supplies for Troops and Travellers and to prevent unlawful impressment which on the motion of Mr. Grant has been read a first time in the Legislative Council. Also the statement of objects and reasons and other papers annexed to the Bill and a copy of Mr. Grant's speech on introducing the Bill. The law which the Bill is intended partly to repeal, and partly to modify and amend Regulation XI of 1821 of the Bengal Code, is the original from which Regulation III of 1810 of the Madras Code was

was copied. The latter was repealed by Regulation VI of 1831. The reasons for repealing it are stated in a Minute recorded by Sir T. Munro under date the 3rd April 1831. They are very similar to those adduced in support of the present measure. But while Regulation III of 1811 was rescinded absolutely, the present Bill leaves some of the provisions of Regulation XI of 1811 to be applied in certain special cases in which it is contemplated that it may be still necessary to call in the Civil Power to aid the movement of troops, by procuring supplies and providing carriage for them.

Sir T. Munro was of opinion that the evils arising from the operation of Regulation III of 1811 never could be remedied as long as Government authorized its officers to undertake the supplying all the wants of Troops and Travellers at every stage of their progress through the Country, but thought that they might be easily remedied by a prohibition of affording such aid. The system of requisition as regards the supplying of clothes, he observed, was so discreditable to our administration that no obstacle ought to present us

from

from putting an end to it, and he thought that no measure short of a total prohibition by law could have this effect.

The law which made it the duty of the local public officers in the Districts to supply Troops and Travellers with provisions and carriage, having been repealed entirely, without reserve, it has not been lawful since 1831 for Collectors and Magistrates, and their subordinates to use any compulsory means to procure carriage or supplies of any kind either for Troops or Travellers, unless

Circular orders Board of Revenue, pp. 282, 299, 391, 413.

either it appears from many Orders on the subject that the practice still continues, under the qualified sanction of Government, and although the interference of the Civil authorities is in times restricted to cases of emergency in which the Commissariat is unable to furnish the carriage or supplies required, the plea of such emergency seems to be very commonly used. At page 414 Circular Orders of the Board of Revenue there is an Extract from a Despatch of the Court of Directors in which is stated a case which may be taken as an example of the common practice. Communicating upon that case

case

case the Noble Court of Directors remark that, if the practice of pressing carriages on occasions of the ordinary march of Troops within our Territories were justifiable, the measures adopted in this instance would seem to have been regular. But considering that there is no legal warrant whatever for a Magistrate pressing carriages, I apprehend that no Court could hold that proceedings as those described by the Magistrate in the case referred to were justifiable. It seems to me that, as the Law stands, every Magistrate who uses compulsory means to provide carriages is complicit for Troops, is liable to an action for damages to which he could not make a legal defence.

It will be perceived that Mr. Grant's Bill has been prepared in consequence of a resolution of the Government of India to leave the Military Department to provide for their own wants in the open market in the matter of procuring carriages for Troops, under a conviction that when the assistance of the Civil power was no longer to be expected the Military Department would learn to do without it, an opinion which was strongly expressed by Sir M. Munro in the

Munro

Section II

Minute above referred to.

The Bill positively prohibits all Collectors and Magistrates and Officers subordinate to them from impressing any carts, &c. for any purpose whatever, while the Madras Law repeating Regulation III of 1811 simply deprives such officers of legal authority to do any thing of the kind. The effect will be the same. The Bengal Officer and the Madras Officer will be equally without a legal defence in the event of being sued for damages for pressing carts, &c.

Section III of the Bill goes farther and provides for the infliction of penalty upon any subordinate Revenue or Police Officer who impresses any cart &c. or any workman, laborer, or coach, without authority of law. A still heavier penalty is provided by Clause 91 Chapter XI of the Penal Code for the punishment of any person who unlawfully compels another person to labor, &c. and this will

Sections IV and V make such impressment lawful with the express sanction of Government, or without such sanction when there is not time to obtain it, to facilitate the movement of Troops in certain cases of emergency, and in no other case.

In the debate upon the 3^d reading of Mr. Grant's Bill to day, I made mention of the desire of the Madras Government that an Act should be passed to make it lawful to press labor in the cases of emergency described in section VIII of the Draft Act with regard to which, further papers were sent to me in Mr. Bourchillon's letter of the 17th ultimo, & suggested that cases of that nature might with propriety be made an exception from the general prohibition of impressment, and this suggestion will be considered by the Select Committee.

It is the desire of the Government of India that the provisions of Mr. Grant's Bill now formally confirmed to the Presidency of Bengal should be extended substantially to the other Presidencies, and I have now the honor to request, through you, that the Right Honble the Governor in Council will favor me with a communication of the views of the Government of Madras as to the expediency of such extension.

In all the Orders I have referred to above, except the first dated 3^d February 1840, the

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Yours most obedient servant,
D. C. A.

Member of the Legislative Council.

P. No one 20: Jan'y 57. 4: 60 to 62
Jud. C. 6th April / 21 no. 11 to 13.
R. C. 4th Feb / 40. 19 to 22
" " 5th May / 40. 69-70
Rev. Com 2nd Sept / 58 - 172
" " 11th Nov / 58 - 123 & 144

Revenue 1857 Depart^{ts}
Gto Com 17th March.

No 216

Thos. Stantle & Chas.
Member of the Legislative
Council for the Madras Pres.
idency.

Dated 21st & 22nd February 1857
P.D. 28th }

Enclosures

To No. 28 March 57:
Copies from the Secy to the Govt
at 30th March 57

Transmitting copy of
a Bill to amend the Law re-
garding the provision of Carriage
Supply of Troops & Travellers,
the furnish unlaful impress-
ment, also the Statement
of objects & reasons & other
Papers annexed to the
Bill.

With an order
No 258 14th March / 57
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15/5/57
14-6-57
Copy to the Secy to the
with 4 Right Pres
28 April / 57
N 381
13-10-57
19-2-10 ✓
No 258
Ordered to be referred to the
Military Comd. for their consideration
at 11
J. W. George
103/52.
" 14th March 1857
3 Copies to the Secy to the Govt
with 4 Right Pres