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Revenue Department

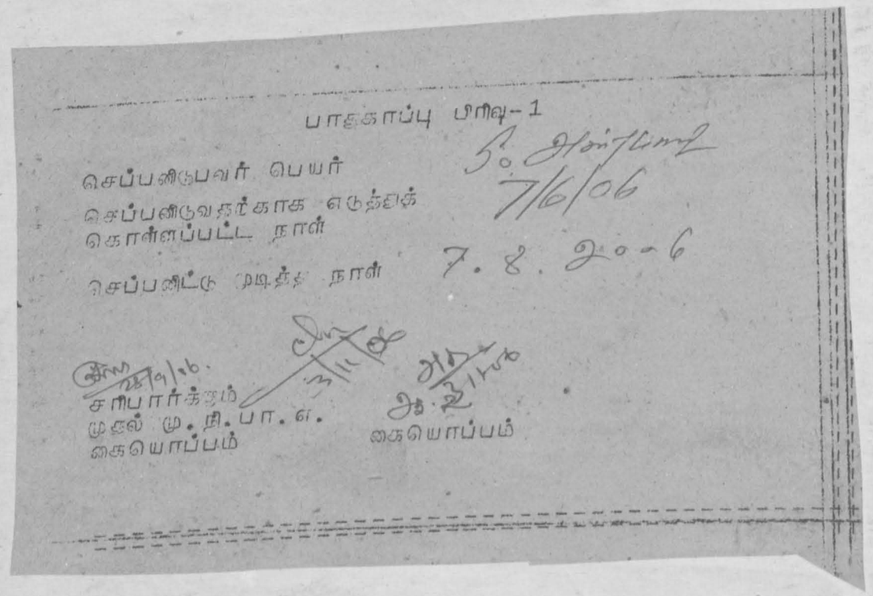
Minutes of Consultations

31st March 1857

Back Nos 20 – 21

Order no 294 dated 26th March 1857

12 Enclosures



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Fort Saint George, Revenue Consultation of 31st March 1857.

No. 20. Read the following letter *from D. ELIOTT, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to Government Fort Saint George, dated Fort William, the 7th March* 1857.

SIR,

1. In my letter to Mr. Secretary Bourdillon under date the 27th December last, I pointed out the provisions in the Penal Code which I thought rendered it unnecessary to submit to the Legislative Council a bill to provide specially for the objects contemplated in the first five sections of the Draft Act transmitted to me on the 9th August last.

2. With respect to the 6th and 7th sections of that Draft, upon which, as I understood, Government had called for further information to be laid before the Legislative Council if it should be determined to press the enactment of a special law to authorize the proceedings therein contemplated, I observed that the Council was averse to such special legislation and that strong reasons must be shewn to induce it to agree to the proposed provisions.

3. Mr. Bourdillon's letter of the 17th January last brought me a copy of a communication from the Board of Revenue containing an abstract of the reports of the Collectors and copy of a letter from Mr. Forbes, the Collector of Tanjore and Acting Member of the Board, on this subject, which the Government hope will remove any doubts in the minds of the Legislative Council as to the necessity of the proposed measure.

4. Soon after I received the above letter, Mr. Grant brought in the bill which is the subject of my letter of the 21st ultimo.

5. From the sentiments expressed on this occasion, I feel that it would be in vain to attempt to gain the consent of the Legislative Council to such a provision as that contained in section VI. of the Draft Act. I did not speak of it therefore, when I endeavoured to shew that the cases which Section VII. is intended to provide for, are cases of emergency which for the public good it is expedient to except from the general rule prohibiting the compulsory employment of labor. I am inclined to hope that the Council would entertain favorably a proposal to this effect.

6. I would therefore beg to be favored with the opinion of the Right Honorable the Governor in Council, whether it will be sufficient to provide for those cases negatively by making them an exception from the general rule, and so virtually sanctioning the impressment of labor to meet such emergencies, or whether His Lordship in Council would prefer that a short bill should be laid before the Council according to the tenor of Section VII. with an additional provision to the effect proposed by Mr. Forbes and approved by Government as stated in the 4th para. of Mr. Bourdillon's letter. I shall be ready to bring in such a bill if His Lordship in Council thinks it advisable to do so. The Council, I apprehend, would feel a difficulty in empowering the Head of the village to make the requisition for labor of his own motion, and I would like to know whether this may not be modified.

7. I respectfully request that I may be favored with an answer to this letter for my guidance as early as possible.

Ordered that the following reply be despatched.

No. 21. *From H. FORBES, Esq., Acting Secretary to the Government of Fort Saint George; to the Honorable D. ELIOTT, Esq., Member of the Legislative Council of India for the Madras Presidency; dated Fort Saint Georeg, 26th March* 1857, *No.* 294.

SIR,

1. I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter of the 7th instant, informing the Government that, from the sentiments expressed on the introduction of the bill which on the subject of your letter of the 21st ultimo, you feel that it would be vain to attempt to gain the assent of the Legislative Council to such a provision as that contained in Section VI of the Draft Act submitted to you with Mr. Bourdillon's letter of the 9th of August 1856, and requesting the opinion of the Right Honorable the Governor in Council whether it will be sufficient to provide for the cases referred to in Section VII, negatively, by making them exceptions to the Act introduced by Mr. Grant, or whether the tenor of

that Section should be embodied in a separate bill. You further lay before the Government your apprehension that the Legislative Council will feel a difficulty in empowering Heads of villages to make a requisition for forced labor of their own motion, and wish to be informed if this provision may be modified.

2. In reply, I am directed to state that the Right Honorable the Governor in Council would not wish you to press upon the Legislative Council a measure which you have reason to believe would not meet with their acceptance; but as His Lordship in Council is of opinion that the Law applied for is both just and necessary, he desires to place on record his anticipations of the consequences that will follow a refusal of the legal powers sought for, and to relieve this Government from the responsibility of those consequences.

3. It has, from time immemorial, been the custom for the ryots of many of the districts in this Presidency, to perform, at their own cost, the petty repairs required to the channels by which their lands are irrigated, and the plan has been so systematized in Tanjore, where irrigation is general, that it is a fixed, known and admitted rule that, while the Mecrassadars clear out and repair *all* the minor channels by which water is led from the main channels to the fields, they also clear and repair the main channels when the expense of the work does not exceed 2½ per cent. of the revenue derived from the village. This long established custom has wanted only a formal enactment to give it the force of Law, and that formality being refused, the Government are of opinion that, at no distant day, the custom itself will cease; with its cessation, the expense of all the repairs hitherto made by the people must be provided by the State, and the expenditure of this Government in the Department of Public Works will in consequence be much increased. As long as the Public Works executive was under the Collector, his authority was sufficient, and the general custom of the country was followed without a question, but when the executive shall have been transferred to Professional Agency, and the exercise of the Collector's authority is at an end, the Government are of opinion that, without the aid of the Law, all unpaid labor will cease.

4. With respect to the manner in which the provisions of Section VII. of the Draft Act should be legalized, it appears to the Government that it will not be sufficient to provide for them negatively, by making them an exception from the general rule, and so virtually to sanction them, because, as there is no Law in this Presidency legalizing forced labor, to except the provisions of Section VII. from the Bill brought in by Mr. Grant to repeal the Bengal Regulation, would have no effect in Madras, and would leave matters precisely as they are. The Government are of opinion that a separate Bill is needed.

5. Finally, I am directed to request that you will press upon the Legislative Council the absolute necessity of giving to the Heads of villages the power to make, of their own motion, a requisition for labor on emergency; that the matters to be provided for are emergent and will not brook delay, is the sole ground on which the Government rest their demand for an Act to legalize forced labor, and if the power of immediate action be denied to the local officer, and must be obtained from some superior who may at the moment, be many miles away, the evil to be averted will be done before preventive measures are commenced, and the Act, when it is passed, will be of no practical use.

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No 20 Judicial letter

3R

From

D. Elliott Esquire,
Member of the Legislative Council.

To

F. Pycroft Esquire,
Chief Secretary to Government
Fort St. George

Dated Fort William the 7th March, 1857.

Sir,

In my letter to Mr. Secretary Bourdillon under date the 27th December last, I noticed the provisions in the Penal Code which I thought rendered it unnecessary to submit to the Legislative Council a Bill to provide specially for the objects contemplated in the first five Sections of the Draft Act transmitted to me on the 7th August last.

With respect to the 6th and 7th Sections of that Draft, upon which, as I understood, Government had called for further information to be laid before the Legislative Council if it should be determined to press the enactment of a special law to authorize the proceedings therein contemplated, I observed that the Council was averse to such special legislation and that strong reasons must be shewn to induce it to agree to the proposed provi-

-sions.

Mr Bundellon's letter of the 17th Janu-
-ary last brought me a copy of a communication
from the Board of Revenue containing an ab-
-stract of the reports of the Collectors and copy of a
letter from Mr Forbes, the Collector of Tanjore &
and acting Member of the Board, on this subject,
which the Government hope will remove any doubts
in the minds of the Legislative Council as to
the necessity of the proposed measure

Soon after I received the above
letter Mr Grant brought in the Bill which is
the subject of my letter of the 21st Ultimo.

From the sentiments expressed
on this occasion I feel that & it would be in
vain to attempt to gain the consent of the Legis-
-lative Council to such a provision as that &
contained in Section VI of the Draft Act. &
& & & I did not speak of it therefore, &
when I endeavoured to shew that the cases which
section VII is intended to provide for are cases
of emergency which for the public good it is
expedient to except from the general rule pro-
-hibiting the compulsory employment of labor. I
am inclined to hope that the Council would
entertain favorably a proposal to this effect.

I

4R

I would therefore beg to be
favored with the opinion of the Right Honble the
Governor in Council whether it will be sufficient to
provide for those cases negatively by making them
an exception from the general rule and so vir-
-tually sanctioning the impressement of labor to
meet such emergencies - or whether His Lordship
in Council would prefer that a short Bill should
be laid before the Council according to the tenor
of Section VII with an additional provision to the
effect proposed by Mr Forbes and approved by Govern-
-ment as stated in the 6th para: of Mr Bundellons
letter. I shall be ready to bring in such a Bill if His
Lordship in Council thinks it advisable to do so.
The Council, I apprehend, would feel a difficulty in
empowering the head of the village to make the requisi-
-tion for labor of his own motion, and I could like to
know whether this may not be modified.

I respectfully request that I may be
favored with an answer to this letter for my guidance
as early as possible

I have the honor to be,
Sir,
Your most obedient Servant,
D Elliot
Member of the Legislative Council.

Revenue 1857 Departt.
Dtd Govt 31st March.

No. 264.

From the Honble D.
Elliott Esqr Member
of the Legislative Council
for the Madras Presidency
Dated 7th } March 57
Receivd 14th }

Submitting his views
on certain Sections of the
Draft Act transmitted
to him on the 9th Augt
last, & requesting the
Remarks of Govt on the
same.

No. 291. 26th March

5R

No 20.

C19 Mund R23

4 Copies Dispatch
Steamer

No 294.

Secret & Con.

Member of the
Legislative Council

Sir/

I am directed
by H. M. Secretary to
acknowledge the re-
-ceipt of your letter
of the 7th inst., inform-
-ing the Govt. that you
have received instructions
-ted on the introduction
of the bill to deal on the
subject of your letter
of the 21st ultimo. You
feel that it would be
wise to attempt to
gain the object of
the

of the Legislative
Council to seek a
provision as that
contained in Section
VI of the Draft act
submitted to you
with Mr Bonedillons
letter of the 9th of
August 1856, and
respecting Provision
of T. R. B. to Engli-
-sh. I will be care-
-ful to provide
for the cases referred
to in Section VII, sepa-
-rately, & making
some exceptions to
the Act introduced
by Mr Grant, & Section
thirteen of that Section
should be embodied
in a separate bill.
You further say

To
Defend the Govt. from
apprehension that
the Legislative Coun-
-cil will pass a Bill
-ficiency in embo-
-dying Heads of Bill-
-ages to make a
repetition of proced
-ings of Session
-tion, and wish to
be informed if this
provision may be
modified.

In reply I am
directed to state
that T.R.B: Religious
ought not wish even
to suggest to the
Legislative Council
a ~~measure~~ measure
which you have reason
to believe would not
meet with their ac-
-quiescence

but as His Lordship
in Council is of
opinion that the
Law attached for in
both point and ac-
-cessary, he declines
to place on record
his anticipations of
the consequences, that
will follow a refusal
of the legal powers
sought for, and to
relieve His Govt. from
the responsibility of
the consequences.

It has, from time
immemorial, been
the custom for the
Roads of many of the
Districts in this Presi-
-dency, to perform,
at their own cost, the
petty

BR

repairs required to the
channels by which their
lands are irrigated,
and the plan has been
so systematized in
Tanjore, that irrigation
is general, that it is
a fixed, known &
admitted rule that
this the proprietors
clear out the main
all the minor chan-
-nels by which water is
led from the main
Channels to the fields,
they also clear and
repair the main
Channels from the
expence of the work
does not exceed 2½
per cent of the revenue
derived from the
village

~~This Colony established~~

This Colony established Customs
Custom has created
only a formal enact-
-ment to give it the
force of law, and
that formality having
refused, the Govt
are of Opinion that at
no distant Day, the
Customs thereof will
create — with the ex-
-ception, the existence of
all the repair Licenses
made by the People must
be provided by the State,
and the Superintendence of
this Govt in the Dept of
Public Works will in
consequence be much
increased.

9R

As long as the Public
Works executive can
under the Collector, his
authority & sufficient, and the Gover-
-al Customs of the
Country be followed
with a question, but
then,
~~Govt~~ the executive
shall have
~~in~~ entrusted being
transferred to Pro-
-fessional Agency, &
the exercise of the Col-
-lectors authority by
is abrogated
~~created~~, the Govt will
of Opinion that, without
the aid of the Law, all
unpaid Labour will
create -
Litigation in the
manner in which
the Provisions of
Section

VII

Section 7 the Draft act
should be legalized,
it obtain to the Govt. But
it will not be sufficient
to provide for them
negatively, & making
them an exception from
the general rule, and
to virtually to sanction.
- ~~if~~ them, because,
as there is no law in the
Presidency legalizing
forced labor, to except
the provisions of Section
VII from the Bill brought
in by Mr. Grant to repeal
the Bengal Regulations,
would have no effect
in Madras, and would
leave murderers kidnapers
as they are - The Govt
are of opinion that

a

separate Bill is
needed. 10R

Finally, I am di-
-rected to request that
you will submit upon
the Legislative Council
the absolute necessity
of giving to the Heads of
villages the power to
make, & levy occa-
-sional requisitions
for labor on emergency
- but these must be
provided for as occa-
-sions need & will not
work delay, in the old
manner on which the
Govt will not decline
for an Act to lega-
-lize forced labor, &
of the power of occa-
-sional requisitions
to the
local

Police, and must be obtained from some extraneous source may be, at the moment, be many miles away, the evil to be averted will be done before the requisite measures are commenced, and the Act, even if passed will be practically a dead letter.

I have &c.

Fort St. George
26th March 1857.

23-1-20

13/5/57

11 R

Revenue 1857 Sept.
Dft to Cons 31st March.

№ 294.

To
The Member of the
Legislative Council of
India for the Madras
Presidency.

Dated 26th March 57.
From - do 8th April 57. Ch. 388
Cons: 5 May

Requesting to impress upon the Legislative Council the absolute necessity of giving to the Heads of Villages the power to make, of their own motion, a requisition for forced labour on emergency.

№ 20 & 21.

C19 Num. A23.