Revenue Department

Minutes of Consultations

2nd June 1857

Back Numbers 5-6

Order re 507 dated 27th May 1857

பாதுகாப்புப்பிரிவு-1

பரிசீலிப்பவர் பெயர் .. ஜி. ஸ்ரீவாமி தேவன்

பரிசீலிப்பதற்காக
ஒப்படைக்கப்பட்ட நாள் .. 07/2006

பரிசீலித்து முடித்த நாள் .. 09/2006

11.9.06
சரிபார்க்கும்
மு.நி.பா.எ.
கையொப்பம்

11/9/06
சரிபார்க்கும்
இரண்டாம் மு.நி.பா.எ.
கையொப்பம்

2.11.06
ஆராய்ச்சி உதவியாளர்
கையொப்பம்

No. 5. Read the following letter from H. A. BRETT, Esq., Collector of Salem, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George; dated Admoncottah 4th May 1857, No. 65.

SIR,

I have the honor to request that copies of the two letters noted in the margin* may be laid before the Right Honorable the Governor in Council.

* 1 *From the Acg. Civil and Session Judge of Salem, dated the 10th April* 1857.
2. *From do. 28th April* 1857.

2. In the first letter, Mr. Cherry, Acting Civil and Session Judge of Salem, objected to my addressing the Board of Revenue regarding certain public servants who were dismissed by Mr. Cherry, as Acting Collector, in the month of February last, while I was absent from the District on leave.

3. He thought that my writing to the Board on the subject before being called upon to do so, was an improper interference on my part, and that it was not "fair" of me to "say one word that is likely to influence their decision."† He therefore requested me to forward a copy of his protest to the Board, if I adhered to my intention of moving in the matter,‡ before I had been directed to do so.

† *Para.* 2.
‡ *Para.* 8.

4. I informed Mr. Cherry, in reply, that a copy of his letter would be laid before the Board, and another copy before the Government; but, as yet, I have not addressed either the Government or the Board, because, before doing so, I thought it necessary to refer to the record of a Criminal trial held before Mr. Reade, the late Acting Session Judge, and Mr. Cherry, has not as yet allowed me to see this record.

5. I therefore waited till those papers could be obtained, but I now wish to submit, for the consideration of Government, Mr. Cherry's letter last received,§ as it shews that he has refused to send me the required papers for special motives, connected with his opinion of what my duty requires of me in matters with which, in his present office, he has no proper concern. I think it right to complain of so unprecedented a course, on account of the unnecessary delay it has already occasioned, and the great inconvenience which that delay causes in my office, seeing that a principal appointment in the Cutcherry is kept vacant till the result of the appeals before the Board shall be made known.

§ *Dated 28th April* 1857.

6. I first applied for certain papers belonging to the same criminal record on the 9th Ultimo. These papers were at once sent to me. On the 10th I applied for permission to see the remaining record. Mr. Cherry, did not comply with that request. He informed me on the 15th that he had made a reference to the Court of Foujdaree Udalut. On the 24th I requested that copies of 2 depositions only might be sent me, being under the impression at that time that Mr. Cherry's doubt related solely to the propriety of my having the original record of the case, instead of copies. It was not till the receipt of the letter now laid before Government, dated the 28th idem, that I understood the true ground on which that reference had been made. It does not appear that the Court of Foujdaree Udalut have as yet replied to Mr. Cherry.

7. Another point, on which I beg the attention of the Government, is the question raised by Mr. Cherry in para. 5 of his letter dated the 18th Ultimo. He supposes it possible that I might be disposed to canvass every punishment or promotion that had taken place in the District during his holding the office.

8. I beg to state that I have cancelled some of the appointments made by Mr. Cherry, as Acting Collector. I have done this, because the appointments referred to were obviously improper. If the Government desire me to explain my objections to them, I am quite prepared to do so.

9. During the course of my public service I have never till now met a case, in which the officer who was temporarily officiating for another, did not consult the latter, in filling up vacancies in the District; or, at least, make all important appointments conditional and temporary. Mr. Cherry has paid no regard to the usual practice, but in no case have I set aside his arrangements without, as it seemed to me, good cause. I therefore trust that my proceedings on this point will meet with the approval of the Government.

10. If the Session Court had furnished me with the papers I am now waiting for, I should have reported to Government certain circumstances connected with the case of the dismissed servants, and, at the same time, noticed the subject of the cancelled appointments. My report on the former point will be submitted as soon as the Court allows me to examine the papers, or evidence referred to.

From J. W. CHERRY, Esq., Acting Civil and Session Judge of Salem; to H. A. BRETT, Esq., Collector of Salem; dated 10th April 1857.

SIR,

Adverting to that part of your letter, yesterday, in which you informed me that you proposed giving to the Board your opinion in the case of the Revenue servants whom I dismissed, while Acting Collector; I have the honor to state that, after due deliberation, I consider it a duty I owe to myself to place upon your records, the expression of my regret at your interfering in a matter that could not have possibly been yet referred to you; and which at present rests entirely between myself and the only authority who can sit on judgment on my proceedings.

2. If the Board of Revenue are dissatisfied with the reply I sent to their letter, and request you to furnish what is wanting in my report, I can of course say nothing; but, while my proceedings are under their consideration, and until they have expressed themselves in one way or the other, I do not think it quite fair that, uncalled upon, you should say one word that is likely to influence their decision.

3. A great principle is now involved in their decision, nothing more or less than this. Can servants, who have been pronounced by a judicial tribunal (before whom they have had to appear) unfit for the Public service, be rightly removed from their situations by the officer who is their immediate superior, and to whom that tribunal's remarks, reflecting upon their conduct, have been communicated?

4. Your volunteering any opinion at the present stage of the enquiry seems to me objectionable and unprecedented, and in opposition to a practice that has hitherto always prevailed, of one officer not questioning the acts of another officiating in the same capacity, unless compelled to do so by superior authority.

5. If my dismissal of these servants meets with disapproval, which I conclude it does, and if that act of mine is canvassed and commented upon by you while it is under review elsewhere, then every punishment or promotion that has taken place during your absence, and for which I am responsible, is liable to the same process. Peculiar circumstances urged on one occasion may be admitted on another, where can the line be drawn? if this rule is not to be adhered to in the Revenue Department of the service, what, if so disposed is to prevent me in my present capacity, expressing an opinion, or furnishing fresh information in any judicial matter that is now in appeal, against my predecessor on the bench.

6. The injurious effects that these collisions of opinion must have on the public interests, and the suspicions that are likely to arise when one officer becomes a partizan, or advocates the course of a servant punished by another, are too obvious for me to dwell upon.

7. The same credit that I willingly give you for a firm belief in the innocence of Soondriah, &c. and an anxious wish to right any injustice to them; you will, I trust, give me for the motives that have actuated me, in the course I thought it my duty to adopt, however unpleasant that was.

8. If, under these circumstances, you still adhere to your intention of moving in this matter before you have been directed to do so by the Board, I request you will be good enough to send with your representation to them a copy of this letter, taking exception to any interference on your part.

From J. W. CHERRY, Esq., Acting Session Judge of Salem; to H. A. BRETT, Esq., Collector of Salem; dated 28th April 1857.

SIR,

In reply to your letter of the 24th Instant, I have the honor to inform that the cause of my reference to the Court of Foujdaree Udalut as to the papers you require arose from a doubt of

my competency to furnish the records of a case that had been disposed of by my predecessor, in accordance with whose proceedings I had acted, and upon which there was nothing before me to shew that you had been directed by superior authority in the usual way to submit the "opinion" you wished to lay before the Board of Revenue.

2. These circumstances were duly brought to the notice of the higher Court, with a view of obtaining their instructions as to whether I was at liberty to furnish you "with the whole, or part of the records of the above sessions case."

3. To supply the copies now applied for by you, would be the same as sending the original papers, and as this is just the question under a reference, I beg to state that I feel still precluded from acceding to your request.

(True Copies.)

(Signed) H. A. BRETT, *Collector.*

No. 6. ORDER THEREON, No. 507; dated 27th May 1857.

The Collector of Salem submits two letters from Mr. Cherry, Acting Session Judge, objecting in one, to Mr. Brett's addressing the Board of Revenue regarding certain public servants who were dismissed by the former officer while Acting Collector, before being called upon to do so, and refusing, in the other, to give him copies of certain papers bearing on their case.

2. The Right Honorable the Governor in Council sees no impropriety in Mr. Brett's addressing the Board of Revenue on the subject in question at the stage alluded to by Mr. Cherry, but he can at present issue no orders in regard to the records of the Court required by Mr. Brett, as the question appears to be pending before the Court of Foujdaree Udalut.

3. Mr. Brett is at liberty to request the Board to suspend their judgment until he has had an opportunity of addressing them, and on the case being represented to them, they would probably themselves call upon the Collector to obtain the record from the Court, when no doubt it would be furnished.

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

Secretary's

Sir

Sir Edward Hyde East

Kt

&c &c &c

1/8/507 1

65.

Read Hospital, Stella

4th March 1837.

From

Jo. J. Butt Esq:

Co. Mem. of Salem.

To

F. Synott Esq:

Chief Secretary to Government

Fort St. Geo.

Sir

I have the honor to request that you will lay one of the two letters noted in the margin before the Right Honorable the Governor in Council.

1. From the Collr & Chief Judge of Salem dated 7th 10th April 1837.

2. From Mr 28th April 37

2. In the first letter, Mr Sherriff, Acting Asst and Sessions Judge of Salem, objected to my addressing the Board of Revenue regarding certain native servants who were employed by Mr Sherriff as acting Collector, in the month of February last; while I was absent from the District on leave.

3. He thought that my writing to the

the Board on the subject before being
called upon to do so, was an intimation
of interference on my part, and that
it was not for me to say one
word that is likely to influence their
decision. He therefore requested
me to forward a copy of his protest
to the Board, if I declined to myself
intention of moving in the matter
before I should been directed to do so.

I informed Mr Clancy, in reply,
that a copy of his letter would be
laid before the Board, and also that
it be laid before the Government, but, as
yet, I knew not of any decision either
the Government or the Board, in
cases, before doing so, I thought it
necessary to refer to the records of
a criminal trial held before His
Honor, the late Acting Chief Justice,
and Mr Clancy has not objected to allowed
me to see the record.-

S.

Page 2

Page 3

Sheet

5/507

4/2

Dated 28 April 57.

5. I therefore wished to know
papers could be obtained, & asked
now wish to submit for the consider-
: tion of Government, Mr Clancy's letter
last received as it shows that he
has refused to send me the requisite
papers from official motives, connect
: ed with his opinion of what my
duty requires of me in matters with
which, in his present office, he has
no proper concern. I think I
right to complain of so unprecedented
a course, on account of the un-
: necessary delay it has already
occasioned, and the great incon-
: venience which that delay causes
in my office, adding that a immediate
appointment in the Archdeanry is
kept vacant till the result of the
appeal before the Board shall
be made known -

6. I feel applied for certain
papers

been made. It does not appear
that the Court of Tongataboo
Rotahs have as yet replied
to Mr Thompson

7. Another point, on which
they the attention of the Government
is the question which has arisen
in Part 5 of his letter dated the
18th Augt. He supposes it probable
that Spaniards may possess
very extensive Dominions on the
West coast of America that
had taken place since the
District during his holding the
Office.

8. They beleive that Mr Jones
Consulted some of the Merchants
made by Mr Thompson relating
to Trade & Navigation done the
Government which has not
referred to were otherwise incon-
sistent. If the Government
desire me to explain my objections

to them, I am quite prepared to do so.—

9th During the Course of my professional Service I have never till now met a case in which the Officer who was temporarily officiating for another, did not Consult the latter, in filling up Vacancies in the District, or pat Cases; make all important Appointments — he always kept him fully informed with regard to the usual practice, but in no case have I set aside his arrangements without, as it seemed to me, good & sufficient reasons. I therefore trust that my proceedings in this point will meet with the approval of the Government.—

67

60/64

10th If the Sepoy Constable had furnished me with the papers I am now waiting for, I should have reported to Government certain Circumstances connected with the case of two dismissed Servants, and, at the same time, noticed the subject of the cancelled Appointments. Upon which points will be submitted as soon as the Court adjourns me to examine the Parkins, or medicines, referred to.—

Salem Collr's Office
Confidential
4th January 1837.

I have the honour &c &c
Sir
Your most obedt Servt
[illegible]
Collr

7

5

507/6

From J. W. Cherry Esquire

Collr & Deputy Judge

of Salem

To

H. A. Brett Esquire

Collector of Salem

Sir, Acton Salem N Hpsr 1822

Adverting to that part of your

letter, yesterday in which you in-

formed me that you

gave notice to the Board your decision in

the case of the Revenue vessels which

I detained, while Acting Collector,

I have the honor to state that, after

due deliberation, I consider it a duty

I owe to myself to place upon your

records the expression of my regret

at your interfering in a matter that

could not have properly been yet

reported to you; and which at present

Revenue
1822
Salem Dec 7th
Brett
Collector
Cherry
Deputy Collector
Salem
Dec 7th
Acted
Collector
Cherry
Deputy Collector
Salem
Dec 7th
Acted
Collector

rests entirely between myself and the only authority who can sit on judgement on my proceedings.

2. If the Board of Revenue are dispatched with the result I send to them letter, and request you to furnish what is wanting in my report, I can of course say nothing more, while my proceedings are under their consideration, and should the former = ration, and exhibit themselves in one way or the other, I do not think it quite fair that, unasked upon, you should say one word that is likely to influence their decision.

3. A great principle is now involved in their decision, nothing more or less than this. Can servants, who have been pronounced by a judicial tribunal (before whom they had

had to appear) unfit for the Civil service, be rightly removed from their situations by the Officer who is their immediate superior, and to whom that Tribunal themselves are = pleasing, before their Conduct, has been Communicated?

4. Upon volunteering my opinion at the present stage of the enquiry, seems to me objectionable and unprecedented, and unfortunate to a practice that has hitherto always prevailed, of one officer not question = ing the acts of another officiating in the same capacity, unless compelled to do so by superior authority.

5. If my principal if these servants meets with disapprobation, which I conclude it does, and if that act of mine is censured

that are likely to arise when one officer becomes a partizan, or advocates the Course of a servant furnished by another, are too obvious for me to dwell upon.

7. The same credit that I will be by you for a firm belief in the innocence of Soondrah Mr. and my endeavours wish to right any injustice to them; you will, I trust, give me for the motives that have actuated me, in the Course I thought it my duty to adopt, however unpleasant that was.

8. If, under these Circumstances, you still adhere to your intention of moving in this matter before you have been directed to do so by the Board, I request you will be good enough to send with your representation to them

a Copy of this letter, taking exception to any interference on your part.

I have &c.

Salem
28th April 1857.

Signed J. W. Cherry.
Actg Civil & Sessions
Judge of Salem

Salem Sessions Court
28th April 1857.

From

J. W. Cherry, Esquire
Actg Sessions Judge
of Salem

To

H. A. Brett Esquire
Collector of Salem

Sir,

Salem 28 April 57.

In reply to your letter of the 24th Instant, I have the honor to inform you that the cause of my reference to the Court of Foujdaree Adalut as to the papers you require arose from a doubt of my Competency to furnish the records of a case that had been disposed of by my predecessor, in accordance with whose proceedings I had acted, and upon which there was nothing before me to shew that you had been directed by superior authority in the usual way to submit the "opinion" you wished to lay before the Board of Revenue.

2. These Circumstances were duly brought to the notice of the Higher Court, with a view of obtaining their instructions as to whether I was at liberty to furnish you with the whole or part of the records of the above Sessions Case.

3. To supply the Copies now applied for by you, would be the same as sending the original papers, and as this is just the question under reference, I beg to state that I feel still precluded from acceding to your request.

I have &c.
Signed J. W. Cherry
Actg Sessions Judge

True Copies
(Signed) H. A. Brett
Collector

Rec: Rs 504. 50½ 11

Office of the Collector of Salaries are communicated to the Lepsion Court on a claim of Sibbey Julie which for some years past has been paid to the said Court attested by the Collector.

In his decision the Lepsion Judge stated Victuries on Torres

Ste. Catherine's Road,
and St. Clair's Ave
on Rail Road Bridge,
immediately dist.
[illegible] Rail
Road Co. attended
& the Board of Revenue,
and Rail Cats in Steel
Yards Rail Cars.

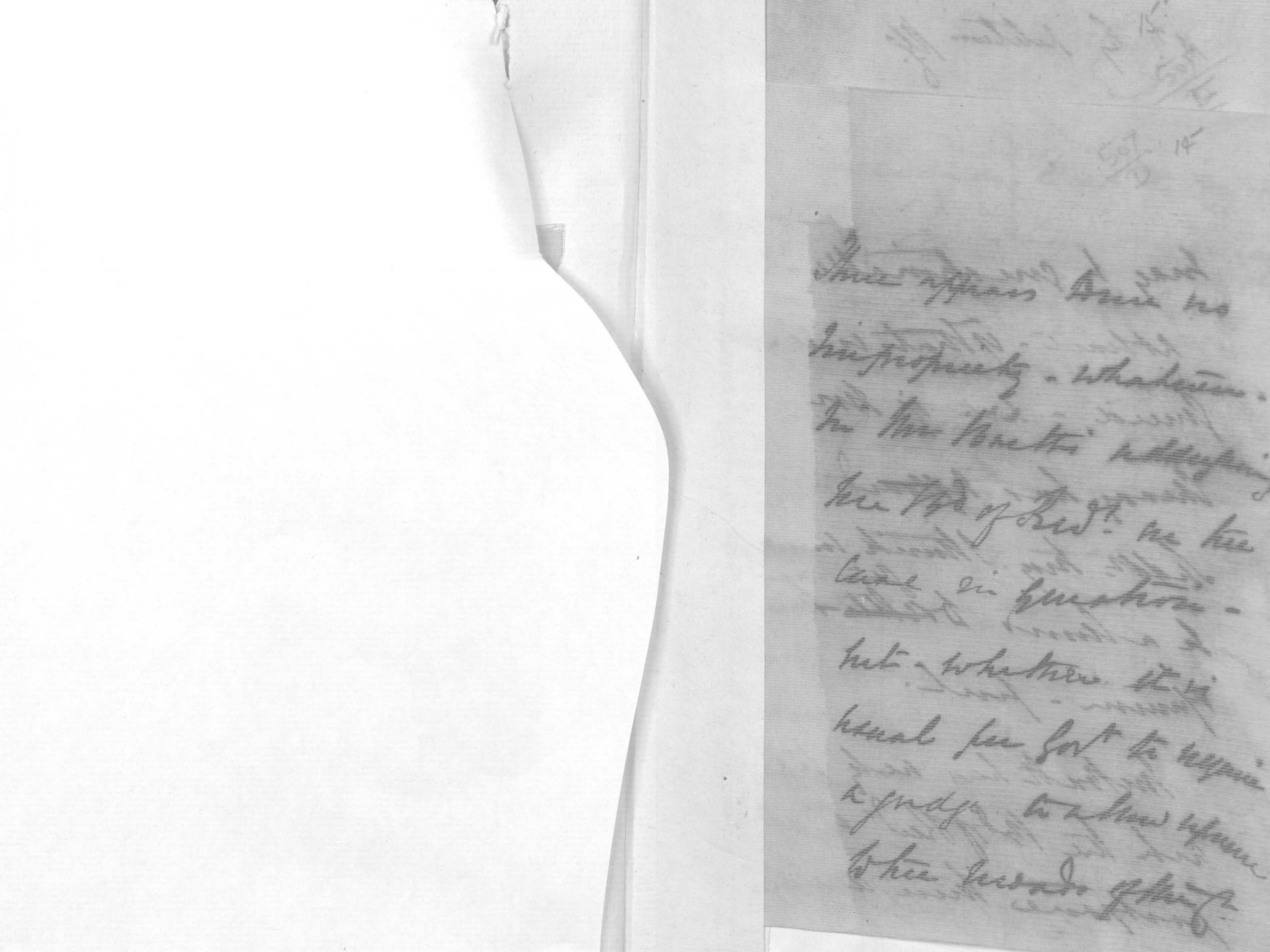
It was agreed that
Mr. Reed, on re-joining

The Office formerly occ
different Offices here
the Board, respectively
the Architect Office
Civil Engineer's Office
Civil Eng. Office
before the Board and
in order that he might
do so, attached for each
Yard of the Record
& the trial. Mr. Clarke
declined to furnish Reed

on the ground that the Bretts is entitled
to intercept the
matter that settled
thereby Lord Ashburton from
the District, unless he
the District called upon
to do so, by the Act of Geo:
IV. Both which is that
the Act should be fully
enforced upon a
matter they are about
to decide; and if the

believes that the in-
formation is truly
sent by Mr Clerry
on defective, then
attend no notice
of his Lordship.
of why that on the
united.

On regard Mr
Clerry affidavit.
- much stick Mr
Brett has caused.
- Ld, there is no



Rs. by petition ff.

Revenue Dept. 507/12

No. 507

Extract from the Minutes of Consultation

Under date the 27th May 1807.

Read the following letter from the Collector of Salem.

Recd enter 4th May 1807

The Collector of Salem submits two letters from Mr Cherry, Acting Session Judge, objecting in one, to Mr Brett's addressing the Board of Revenue regarding certain Public Servants who were dismissed by

by the former Officer while
Acting Collector, before
being called upon to do
so, and refusing in the
other to give him Copies
of certain papers bear-
ing on their case.

2. The Right
Honorable the Governor
in Council were no in-
[illegible] in
Mr Brett's addressing
the Board of Revenue
on the subject in ques-
tion at the stage alluded
to by Mr Harry but
he can at present find
no order in regard
to the Records of the
Court required by
Mr Brett as the question
appears

592/13

appeared to be pending
before the Court of
Faujdaree Udalut.

3 Mr Brett is
to request the Board
at liberty, to suspend
their judgment until
he has had an oppor-
tunity of addressing
them and on the case
being represented to
them, they would
probably them-
selves call upon
the Collector to
obtain the record
from the Court when
no doubt it would
be furnished.

EB

Copy to the Coll[r] of Salem Dist[t] 29
Bd. of Rev[e]

Revenue 1857 Depart.
Dr to Cous Jones

No. 507.

Extract Minis. of Cous.
Dy 27th May 57.

Passing Order on a
letter from the Coll. of Salem
regarding Probate Civil
& Sessions Judges refusal to
furnish the Coll. with
Copies of certain docu-
ments & any remaining the Govt
that he has cancelled as ob-
viously improper certain
appointments made by
Mr Cherry as Ag. Coll.
of Salem.

No 586

C 22 Jones 26