Revenue Department

No 285

Dated 8—3—1859

No. 51. Read the following letter from T. D. LUSHINGTON, Esq., Collector of Masulipatam; to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, dated Madras 11th April 1856.

SIR,

The rules of Government preclude the publication by their servants of answers to the attacks made by the Press upon their official conduct, but I think it desirable that when false statements are made the refutation should be on the records of the Government.

2. As I am now leaving the country I think it right to place before Government a few facts in reference to the Masulipatam Revenue trials regarding which an article replete with untrue statements and inferences appeared yesterday in one of the Public Prints of the Presidency.—(Athenæum April 10th.)

3. It is there stated that "not a single judgment has stood the test of an appeal," that an "uniform blank is now to be found in the place of the manifold convictions which the lega "acumen of Mr. Bird for a time secured for the Government which appointed him," that "the innocence of the sufferers of Masulipatam has been established by Law" and much to the same effect. A simular article appeared on the 2d February asserting that only one decision then remained unreversed, declaring the Court's Despatch on Masulipatam matters "the most shameless document the writer had ever commented on" that "it was doubly scandalous to treat as guilty those who after the fullest trial by the appointed Courts of the land have been declared innocent."

4. I will not add more than is necessary to show to the Government how few of the Masulipatam Revenue trials have actually come in appeal before the Civil Court, and that with all the advantage attaching to the anomolous position of appellants without respondents to answer them, with utter ignorance on the part of the officers of Government of the assertions and arguments put forth in appeal, the result in these cases has been very different from what has been represented by the journal above alluded to.

5. Mr. Bird convicted 100 individuals (the actual number of convicted defendants in the convicted cases being 204) in 76 out of 90 cases which were brought to trial. I have not here any details shewing the result of the Commissioner's disposal of the appeals. In 67 cases brought forward in appeal 15 cases were reversed by myself. My impression is that the Commissioner reversed about 9 or 10 cases and that the convictions in 34 or 35 appealed cases were approved of by him. To the Civil Court, appeals were preferred only in 14 cases in which the aggregate number of defendants had been 64. The appellants were 10 individuals; representing, from some of them having been concerned in 2 or more of these cases, 20 defendants. Of these 14 cases, 8 have been reversed by the Civil Court (5 by Mr. Cotton and 3 by Mr. Knox) and 6 have been confirmed in full or in part, 5 by Mr. Cotton and 1 by Mr. Knox. Of the grounds on which Mr. Cotton disapproved of the decisions approved of by Mr. Bird, by myself, and by Mr. Elliot, I have official intimation; and in a letter which has probably not yet been laid before Government, I have expressed my opinion that had it been possible for any one to appear on behalf of Government, some of the grounds on which the judgments of reversal are based might have been shewn to be fallacious. Of the grounds on which Mr. Knox reversed the last of the judgments which the Commissioner determined to press against the late Sheristadar I have no official intimation. The case, the sharge of obtaining 10,000 Rupees from the Treasury through spurious Bonds, was from its peculiar character a very complicated and very difficult one, in which I thought it not improbable that the conviction might not be sustained before the Civil Courts, and I entered very fully into it in reporting to the Commissioner, but no case has ever come before me in which I have been more fully convinced that the acts constituting the offence charged had been committed, nor do I anticipate that even the officer who has reversed the decision could have arrived at any other conclusion, a general outline of this case No. 6 will I think be found in Mr. Bird's general report.

See Collector's letter to Government No. 4, 2d March 1854.

6. This brief and hasty sketch of the result of the cases which have come before the Civil Court at Masulipatam, which is formed upon a Statement drawn up by the head Sheristadar just

before I left Masulipatam, will shew the Government the untrue character of the statements placed before the public. I happen to have their refutation in my hands, and I feel it my duty to palce the same before Government. I should mention that one of the confirmed cases, that of S. Vencatasawmy Naidoo, has been since reversed by the Sudder the 5th tribunal before which it was scrutinised. Upon the unfairness towards the officers of Government who upheld that decision, with which the Government Pleader has written in reporting upon it, I have already addressed the Government.

7. I would here beg leave to observe that if the same person, who as a public writer has strongly espoused the cause of the dismissed servants in Masulipatam, and shown such marked and unchanging hostility to those upon whom the painful duties connected with these trials were thrown, be also the person to whom in an official capacity the decisions against these servants are referred, it can hardly be considered that the Government can obtain an unbiassed opinion. Unquestionably the double position must be one of extreme difficulty, and it seems hardly fair to the servants of Government that a judgment should be placed on official record as the simple and unbiassed opinion of their legal adviser, if it really emanates from a journalist who has already committed himself by publicly denouncing them. It certainly appears an anomaly that one servant of Government to whom important official papers are submitted for opinion should be exempted from rules regarding connection with the press, which restrict the rest. Publicity of the true fact connected with the Masulipatam investigation has ever been my desire, publicity of fact, instead of publicity of fiction, as for the innocence of the dismissed servants there is not, so far as my memory serves me, a single case which I reversed in which I did not feel moral conviction that the charge was founded on truth, although I considered the evidence inadequate for legal conviction, or doubted whether the offence fell exactly within the scope of the Act.

See Athenæum of 2d February 1856, and many others.

No. 52. From J. FRASER, Esq., Acting Collector of Masulipatam; to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George; dated Masulipatam, 29th May 1856, No. 23.

SIR,

As requested in your letter of the 18th Ultimo, No. 386, I have the honor to forward herewith copies of 20 Proceedings,* (in 14 original cases) of the Civil Court of Masulipatam in cases appealed to it from the decisions of the late Special Assistant Collector of this District.

* *Not printed.*

No. 53. ORDER THEREON, No. 288; dated 8th March 1859.

Ordered that the foregoing letters be recorded.

(Signed) J. D. BOURDILLON,
Secretary to Government.

Rev. Bd. 657.

These are the Sentences
passed by the Civil Judge
of Masulipatam,
in the twenty cases appealed
to him from the adverse
decisions of the Revenue
Authorities. They were sent
for at the instance of Mr
Elliot
2. The twenty cases were
disposed of as follows.

Sentence reversed —	10
Do. confirmed — —	4
Do. Do. in part —	5
Not examd. —	1
	Total 20.

3. In all the cases wherein the decision was reversed, the Judge seem to have been of opinion that the commission was wrong on the merits; & not merely on technical grounds -

4. One of the confirmations of the Judge (viz 13 of the allowed) No. 67 Page $\frac{3}{12}$ was often-wards reversed by the Supreme Court, on the ground that the acts charged

did not constitute an offence under the Regulation.

5. It can only be ascertained by the Judge (Ld. 10) was so in consequence of the Judge being informed by the Collr. that the fine had been remitted by order of the Commissioner -

D. H. June 12.

Revenue Dept.

No. 288.

Extract from the Minutes of Consultation

Under date the 8th March 1859.

Read the following papers.

From the Collector of Masulipatam / Here enter 11th April 1856 /

From the Dety Coll.r of Masulipatam / Here enter 29th May 1856 No 23 /

Ordered that

the foregoing letters be

recorded.

Revenue 1859 Dept.
Cons: 8th March

No 288.

Extract Mins of Cons:
Dy 8th March 59-

Collector's observations
on an article in the
Athenium newspaper
of the 10th April 1858 re-
lative to the Masulipatam
Revenue Trials-

No 51 at 53

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