Proceedings of the Madras Government, Revenue Department, 1st November 1862.

No. 12. Read the following Proceedings of the Board of Revenue, dated 16th October 1862, No. 6,918 :—

Read again letter from the Collector of Salem, dated 11th September 1862, No. 203.

(In Cons. 15th September 1862, No. 5,888.)

Read also the following letter from CLEMENT DALE, Esq., Government Pleader, Madras, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 8th October 1862, No. 153.

SIR,

15th September 1862, No. 6,161.

1. I have the honor to acknowledge the receipt of the Proceedings of the Board of Revenue, under the date and number noted in the margin, and as requested to forward to you for the information of the Board, a copy of a letter I have addressed to the Collector of Salem under this day's date.

2. I deem it my duty to draw to the attention of the Board the anomalous position of Messrs. Boyson and Miller, the Solicitors to Government, giving to the Collector of Salem a notice of the nature of that enclosed in Mr. Arbuthnott's letter. In 1842 or 1843 the then Government considered it objectionable that I then holding the office of the Honorable Company's Solicitor, should have addressed in my private professional capacity a relation (I believe a distant one) of the late Nabob's requesting payment of a debt alleged to be due from the lady to a private client. The Board have in this instance sought my advice, and I have had much pleasure in complying with their request, but as it is a question arising out of proceedings in the late Supreme Court, it properly should have been referred to the Government Solicitor; this, it is obvious, the Board could not consistently do, Mr. Miller being concerned for the party claiming adversely to Akkachi Ammani, and having committed himself by advising the notice to Mr. Arbuthnott.

ENCLOSURE No. 1.

From CLEMENT DALE, Esq., Government Pleader, Madras, to the Honorable D. ARBUTHNOTT, Collector of Salem, dated Madras, 8th October 1862, No. 152.

SIR,

15th September 1862, No. 6,161.

With reference to the Proceedings of the Board of Revenue, under the date and number noted in the margin, I have the honor to advise (assuming the facts are correctly stated in the letter addressed to you by Messrs. Boyson and Miller) that you cannot safely hand to Akkachi Ammani the personal property in your hands belonging to the deceased Vira Ammani, until the proceedings in the High Court have been decided in favor of Akkachi Ammani or are dropped for want of prosecution by the pursuing parties. When the case is terminated it will be desirable that you should seek further advice.

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1. The Board observe that in referring the matter in question to Mr. Dale for his opinion, they had in view the Suits in Salem Zillah Court and in the Sudder Court. They considered it necessary that the Collector should be advised as to the course he ought to take now that the above Courts do not propose to interfere further with the property. They did not intend to make any allusion to Mr. Miller's position in the Suit instituted by the Poligar in the late Supreme Court to try the Will promulgated by Akkachi Ammani.

2. They also observe that the Poligar's proceedings in this matter are entirely in accord with those of Government in the matter of the Suit instituted by Akkachi Ammani in the late Supreme Court against the Secretary of State to obtain possession of the Poliem, and that therefore it does not appear that the Acting Government Solicitor has placed himself in a position incompatible with his special relation to Government as one of their Law Officers.

3. The case does not appear to the Board analogous with that cited by Mr. Dale, but his letter will be submitted to Government for their consideration and such orders as they may think fit to pass.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 13. From T. SYDNEY SMYTH, Esq., Advocate General, to the Honorable T. PYCROFT, Chief Secretary to Government, Fort Saint George, dated 22nd October 1862

SIR,

1. The Government Solicitor has just placed in my hands the Proceedings of the Board of Revenue dated 16th October 1862, No. 6,918, from which I regret to observe that Mr. Dale, in his capacity of Government Pleader, has permitted himself, under color of "deeming it his duty" to charge Mr. Miller with having "*committed* himself," and placed himself in an "*anomalous* position," contrary to, or at least inconsistent with his duty to Government.

2. The sole ground for this very serious charge is that Mr. Miller is concerned for the Poligar of Ankusagiri adversely to Akkachi Ammani, who claims the personal property of the late female Poligar; and who, as alleged Executrix of her Will (which there is every reason to believe to be a forgery, and Probate whereof was certainly obtained by misrepresentation if not actual perjury), has been suing the Collector of Salem in the Zillah Court, and the Secretary of State in the Supreme Court.

3. If Mr. Miller is to blame, I am responsible for his proceeding in this matter, for I advised it, in paragraphs 11 and 12 of my letter to Government under date 14th March 1862, communicated to the Board of Revenue (see their Proceedings 11th April 1862, No. 2,347), and approved of by Government, in their Order thereon dated 14th April 1862, No. 835; all which, I observe from the same Order, was communicated to the Government Pleader and copies of all the papers in question furnished to him, as I had expressly requested might be done, in paragraph 18 of my letter to Government in this case dated 5th February 1862.

4. Mr. Dale therefore might and ought to have known, and I am entitled to assume did know, that Mr. Miller in acting for the Salem Poligar, so as to frustrate Akkachi Ammani's attempts to harrass the Collector of Salem and Government, by compelling her to prove the alleged Will under cover of which she was so harrassing Government (but which Government had no power to compel her to prove), was acting under my advice, with the approbation of the Board of Revenue, and with the sanction of Government.

5 I have to submit therefore that Mr. Dale very much misconceives his duty as Government Pleader, when he thus permits himself to go out of his way to make attacks on Officers of Government, which are not only wholly uncalled for, but entirely unfounded. I say Officers for I consider his remarks as applying to myself even more strongly than to Mr. Miller, for I not only advised what Mr. Miller has done, but have myself taken a part in it, by moving for, as Counsel for the Poligar, and obtaining, an Order of Court citing Akkachi Ammani to prove the Will in solemn form, and postponing the hearing of her Suit against the Secretary of State until she shall have done so. This was duly communicated to Government, and I conceive that in no other way would I have so effectually served the interests of Government in this matter.

6. The remarks of the Board of Revenue in paragraph 2 of their Proceedings of 16th October 1862, will doubtless be seen by Government to set forth the true state of the case.

No. 14. From JOHN MILLER, Esq., Acting Government Solicitor, Madras, to the Honorable T. PYCROFT, Chief Secretary to Government, dated Madras, 22nd October 1862, No. 466.

SIR,

1. I have this day received from the Board of Revenue a copy of their Proceedings, dated 16th October 1862, No. 6,918 passed upon the Government Pleader's letter to them, dated 8th October 1862, No. 163, in paragraph 2 of which letter, Mr. Dale has in a most wanton and uncalled for manner made a very serious charge against me.

Proceedings of the Madras Government, Revenue Department,
1st November 1862.

2. As this charge is one that reflects seriously upon my professional reputation as well as upon me officially as one of the law Officers of Government, I deem it necessary to offer a few observations with a view to show the utter groundlessness of the charge in question.

3. I admit that I have been concerned for the Poligar of Ankusagri against Akkachi Ammani. This lady the Government will remember sets up a Will by the late Poligar making over every thing to her, the genuineness of which Will, both the Government and the present Poligar dispute.

4. The Government had no interest whereby they could compel Akkachi Ammani to prove that Will in solemn form of law and, under Mr. Advocate General's advice, the present Poligar was informed officially by me that it was alike his duty and his interest to contest the validity of this alleged Will.

5. In reply to this notice the Poligar instructed me in my private capacity to take the necessary proceedings for that purpose, and Mr. Advocate General has been associated with me in giving effect to those instructions.

6. In taking these proceedings on behalf of the Poligar, both Mr. Advocate General and myself felt that the object and the views of Government would be best served thereby, consequently, I can see nothing anomalous in our position, or inconsistent with our duty to Government, in the course which has been adopted.

7. Indeed Mr. Advocate General in paragraphs 11 and 12 of his letter to Government, dated 14th March 1862, expressly advised that the present Poligar should be informed by the Collector that it was really his interests that Government were defending in the Equity Suit, that Government were not in a position to compel proof of the alleged Will, and that it was the duty of the Poligar to cite Akkachi Ammani to bring in the Probate granted to her in common form and to prove the Will in solemn form, *per testes.*

8. The Government by their Order dated 25th March 1862, No. 655, Revenue Department, approved of the Advocate General's suggestion, and directed the Revenue Board to issue instructions to the Collector of Salem to give it effect, and the Board of Revenue having communicated with the Poligar through the Collector of Salem, subsequently informed Government that the Poligar had agreed to follow the course pointed out by the Advocate General in pursuance of which, the instructions referred to in paragraph 5 of this letter were received by me.

9. Copies of all these Proceedings and orders having been furnished to Mr. Dale, he was, or ought to have been thoroughly cognizant of the facts of the case.

10. I may as well here mention that I have always studiously avoided receiving private business, which might be said in any way to clash with my official position as Government Solicitor. Indeed, so careful have I been of avoiding such a contingency, that during the years that I have been in business totally unconnected with Government, but connected in partnership with Mr. Boyson, the Government Solicitor, I refused business to a very large extent. Without alluding to the ordinary cases in which I have so acted I would only refer to the numerous cases against the Nabob's Estate in which the profession profited very largely.

11. The case alluded to by Mr. Dale, as affording ground for this attack upon me, is I submit a very different case to this one. Moreover, it is cited in such an anonymous way, that without having the special facts and circumstances of that case before me, it would be impossible to show the utter want of analogy between that case and the present one. The remarks of the Board of Revenue afford, I submit, a complete answer.

12. In conclusion, I would only say that I feel very much aggrieved by the unwarrantable imputations which Mr. Dale has without any ground endeavoured to cast upon my professional and official reputation, but feeling assured that the profession both in its higher and lower branches will mark its sense of such conduct in its own legitimate way, I have only to beg that the Government will do me the justice to express its disapprobation also of Mr. Dale's uncalled for course of action. I think I might have been spared the painful necessity of making

these observations against Mr. Dale, but a strong sense of the injustice done to me, and a sense of what is due to myself as an important and responsible Officer of Government, compels me to make these remarks, having done which, I feel sure I can safely leave myself in the hands of Government.

No. 15.

ORDER THEREON, 1st November 1862, No. 2,334.

1. It does not appear to Government that any orders are required from them on the Proceedings of the Board of Revenue above recorded.

2. The Government, however, quite agree with the opinion expressed by the Board in paragraph 2 of their Proceedings that the Poligar's proceedings are entirely in accordance with those of Government in the matter of the Suit instituted by Akkachi Ammani in the late Supreme Court against the Secretary of State to obtain possession of the Polliem, and that therefore it does not appear that the Acting Government Solicitor has placed himself in a position incompatible with his special relation to Government as one of their Law Officers.

Letter 14th March 1862, paragraphs 11, 12.
G. O. 14th April 1862.

3. Indeed it would appear, as stated by Mr. Smyth in paragraph 3 of his letter of the 22nd instant, that the course taken by Mr. Miller was that advised by himself as Advocate General and approved by Government.

4. The Government are no further concerned in the matter than as maintaining their nominee in the Poliput, and asserting the principle that it was their prerogative as the paramount power to deal with an unsettled Polliem as they saw fit. With the personal property and private lands of the deceased Poligar they did not pretend to interfere. In respect to these it was open to the present Poligar to proceed as he might think proper, nor was there any impropriety in the Law Officers of Government acting for him in their private professional capacity in that behalf.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

3

Ordered to be recorded.

Note—

This seems to me all that is necessary—It does not strike me that there is any objectionable in Mr. Miller's proceedings—Messrs Boyton and Miller appear to be acting for the Poligar, whom the Govt have established in the Poliput as the rightful heir—and the Govt have no concern with the personal property and private lands belonging to the deceased Veera Ummani—

GP

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GP

7th October 62 No. 75-76

Rev. 1862 Oct. 17
Rec. of Govt. for Fort St. 2897

Proceedings of the
Board of Revenue

Dated 16th
Despd 16th } October 1862
Recd 17th

No. 6918

Sd No. 2334. 12 Nov.

Submitting to Govt the letter of the Govt Pleader enclosing copy of one to the Collr of Salem advising him not to hand to Akkachi Ummani the property in his possession belonging to Vira Ummani until the High Court had decided in her favor, and drawing attention to the Govt Solicitor advising the party claiming this property adversely to Akkachi Ummani.

No. 12.

W. H. Harrison

(28 October R 25th R 28th R 30

Revenue Department

No. 2334

Proceedings of the Madras Government

Under date the 1st November 1862

Read the following papers

Proceedings of the Board of Revenue

Submitting to Government the letter of the Government Pleader, enclosing copy of one to the Collector of Salem, advising him not to hand over to Akkachi Ammani the property in his possession belonging to Vira Ummani until the High Court had decided in her favor, and drawing attention to the Government Solicitor advising the party claiming this property adversely to Akkachi Ammani. (Here enter 16th October 1862 No. 6918)

From the Advocate General

Representing that Mr. Dale, the Government Pleader, has charged without foundation, Mr. Miller the Government Solicitor, with having committed himself and placed himself in an anamolous position contrary to or at least inconsistent with his duty to Government in the matter of Unkuswamy Suit now pending before the High Court. (Here enter 22nd October 1862)

From the Asst Govt Solicitor Madras.

Complaining that Mr. Dale, the Government Pleader has in a most wanton and uncalled for a manner made a very serious charge against him for his concern in the Unkuswamy Suit and begging that Govt will do him the justice to express its disapprobation of Mr. Dale's uncalled for course of action. (Here enter 22nd October 1862 No. 66)

It does not appear

10

to Government that any orders are required from them on the proceedings of the Board of Revenue above recorded.

2 The Government however quite agree with the opinion expressed by the Board in para 2 of their Proceedings that the Poligar's proceedings are entirely in accordance with those of Government in the matter of the suit instituted by Ahkachi Ammani in the late Supreme Court against the Secretary of State to obtain possession of the Poliem, and that therefore it does not appear that the Acting Govt. Solicitor has placed himself in a position incompatible with his special relation to Government as one of their Law Officers.

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Letter 14th March 62 P. 11-12.
G. O. 11th April 1862.

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acting for him in their pri-
vate professional capacity
in that behalf.

J.P.

Board of Revenue Copies 3
2 Advocate General ✓
2 Government Solicitor ✓
3 Government Pleader ✓

& Bds Procs
order only for the other
papers.

Copies ma Letter to Govt
of 6th March 1864 N.15

Revenue 1862 Dept.
Pro: of Govt for December

No 2334.

Pro: of the Madras Govt
Dt 1st November 1862

Vinkiragui Lail.

Papers relating
to the delivery of the
property of Antuva
gherry Polepunt to the
rightful owner by
the Collector of Salem,
with orders thereon.

N:12 to 15.

Dl 21 Dec 1862