

CONFIDENTIAL.

Revenue (1899) Department.

MISCELLANEOUS SERIES.

G.O., No. 439

Confidential No 10

Dated 30th January 1899

with D.O. No 20 of the same date.

[Despatch Abstract.]

Accepting with remarks on W.A. Willock's
offer of assistance in the litigation between
the Virginian and Estate of H.L. Turner.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Confidential

from

S P Caledonia

10th Jan 1899

W A Welles

To

The Hon^{ble} Mr G S Forbes

Revenue Secretary



Sir

With reference to Government Order No 3795 P.W. dated 20th Dec 1898, regarding the mining concessions obtained by Mr A G Turner from the late Maharajah of Vizianagaram I have the honor to report the action taken by me up to date.

2 Before doing so I had better recapitulate what took place previously. On my arrival in England in July 1898 Mr Macfadyen, the managing director of the Vizianagaram Mining Company, read to me an explanation from Mr Turner regarding the points which I had taken exception to on Mr Mac-Cartney's visit to Vizianagaram in Dec 1897. As I could not accept the explanation as in any way satisfactory I placed the matter in the hands of Messrs Freshfield and Williams under the advice of Sir A Wilson, Legal Adviser to the Right Hon^{ble} the Secretary of State. At their suggestion I called on Mr Turner, through the Managing Director, who has acted as the medium of all communication throughout, to submit the Maharajah's ^{successor} in the position which he

appears to have occupied originally of a half share in the enterprise and to hand over all the royalties which he was enjoying to the estate or show that he had earned a right to a half share in them by risking his own money as well as the Maharajahs in the earlier stages of the work, as required by his agreement. This proposal was rejected but eventually an unreserved reference to arbitration was agreed to by Mr Turner. Frivolous difficulties were however raised when it came to the preparation of the deed of reference and eventually Mr Turner withdrew his acceptance of the proposal for a settlement in this way, without any reasonable cause, by a formal letter from his solicitors to mine in which I was referred to a court of law for redress. At the same time he sent a message through the Managing Director to say that the failure of the arbitration arrangements was due to the lawyers and that he would settle matters personally with me on my arrival at home. I communicated with Mr Manjivji ~~on my~~ the Managing Director on reaching England in Sept last and expressed my willingness to meet him but at the same time said that I thought that after what had occurred the next move should be made by Mr Turner if an amicable settlement was to be arrived at. I had previously on receipt of Mr Turner's conciliatory message regarding settling matters with me personally intimated that I could not accept that as modifying the formal notice received through me.

A copy of this is
with the letter
of 8/11/98 in file
A4

solicitor, and that, if further negotiations were to take place with regard to arbitration I would not regard myself as any longer bound by the terms of the arbitration proceedings originally proposed by me. I did this as further investigations had shown me that Mr L W Turner might with advantage be made a party to the arbitration. Hearing nothing in reply to this I decided, after again consulting counsel, to commence an action. Some delay occurred owing to the necessity for taking out letters of administration for the purpose but meanwhile the evidence which I had accumulated was put in order and gone through by counsel and my solicitors. The writ, which is merely a formal document, was served, I think, on 6th Dec, just before Mr Turner's departure for ~~England~~ India. The next step in the action was the putting in of affidavits by the defendants. This has been done. The Court has now to issue Summons for Directions. This will be done after the Christmas vacation and orders will then be passed for the plaintiff to file a Statement of Claim. The Statement of Claim is a most important document as it places the defendant in possession of the whole of the plaintiff's case. It is not usual to have it ready at so early a stage and six or eight weeks would under ordinary circumstances be allowed for its preparation in a case of this magnitude. Messrs Frobisher and Williams have been of the opinion that on the facts

practically constitute a charge of fraud
the defendants should be placed in
possession of them as early as possible. It
is not therefore proposed to ask for anything
the more than the usual time and the statement
etc. was consequently prepared in advance and
to was ready, with the exception of some verbal
amendments, when I left England. The latter-
was to be made by Mr Cassel - the
conveyancing barrister who drew up the claim -
during the vacation and I hope to have
a printed copy by the mail after next.
Mr F. H. F. and Williams placed me in
communication with Mr Cassel and the statement
is the outcome of frequent consultations which
of have placed him, I think, in possession of
the minutest details. It was afterwards
gone through very carefully by Mr Latham
& J. C., who will lead in the case, and received
his full approval after certain alterations
which had been made.

4 After the final consultation with Mr
Latham I asked him for his advice in case
an offer to compromise was made while I
was in India. He replied that the case was
"a strong one and that I should" "take my
mouth very wide". Mr Cassel, whom I
consulted separately on this point, expressed
a strong opinion that very heavy terms
should be exacted.

5 Work on the plaintiffs side was
consequently about 2 months in advance
when I left England, even allowing for
the fact that we want to push matters

on as rapidly as possible. After the
statement of claim has been put in the
defendants will have to file their answer
this, I think, cannot possibly be done
before Easter and probably will take
longer. Meanwhile there is nothing to
be done in England rendering my
presence there necessary.

6 I have now the honor to ask for
instructions regarding the future conduct of
the case as my position has been
altered since Government Order No 3795
has been dated 20th. Sept 1898 was
passed by my retirement from the Indian
Civil Service. If Government desire that
I should continue to act for the estate
I will, while in India, collect further
evidence on the lines indicated to me
by counsel and I hope to be able to
materially strengthen its position now
that the exact grounds on which Mr
Turner's transactions are to be attacked
have been decided on.

7 With reference to para 2 of the
Government Order referred to above
I do not propose, should Government
decide that I should continue in
charge of the case, to ask for any
remuneration for work which
I may do during my absence from
England, unless it involves travelling,
in which case the estate should pay
my travelling expenses on the usual
Government scale.

I also think that it might be left
prae to my discretion to visit India at
the cost of the estate on such terms
as persons as government might subsequently present
is not to be present at the examination of
the witness on commission. It is not
possible to say whether this will be
worth doing at present as much will
depend on Mr Turner's line of defence
and how things are going on. I shall
be quite satisfied with any arrangement
which government makes, but I think
it would be premature to settle any thing
finally until the time comes, as there
is a great difference between a journey
out in July or August, which would
entail the loss of the best part of the
summer in England and one later on.

I think that matters should be ripe
for the issue of the commission about
those months however

I have the honor to be
your most obedient servant
W A Wilcock

From W A W. Lush

To
The Hon Mr G S Forbes & Co
Revenue Secretary

Dated 10th Jan 1899

Asking for further orders
regarding the conduct of
the action on behalf of
the Vijayanpura Estate against
Mr H J Turner and others

Hon Mr Winterton
O.C.C.

I do not think the Hon. Mr Winterton
has seen this. It should go to him first

Para 6 to
do.

9
Do. from W. Lush d.
10th Jan. 99
recd. 16 Jan 99

H. H.

W. Lush in this do.
after recapitulating the
course of the contest between
the Vijayanpura Estate & Mr
Turner since Feb 1898, requests
orders as to his future con-
nection with the estate, to

Mr Lush has, as you
stand, retired from the
action in Feb 1898. He is
preparing to continue to act for the estate.
While in India, collecting further
evidence on the lines indicated
by counsel. He is to do this
without remuneration, except
trav. exp. for himself on behalf
of the estate.

He will be also prepared to attend
his return to England
necessity to come out to
India if the case should necessitate

From W A Wilcock

To
The Hon Mr G S Forbes & Co
Revenue Secretary

Dated 10th Jan 1899

Asks for further orders
by proposals induct of

S.P. 16/1/99

I concur - Mr. Wilcock's
retirement at the present
juncture is unfortunate for
the estate. Mr. Gillman shd.
take advantage of Mr.
Wilcock's presence in Virag.
to thoroughly put him self up
in all matters connected
with the suit. W.A.
21-1-99

Spally concur.

M.A. 25.1.99

Taken A.S.H. 29.1.99

Hon W Wintesthous
O.C.C.

I do not think the Hon. Mr. Wintesthous
has seen this. It should go to him first

9
Do. from W. Wilcock d.
10th Jan. 99
recd. 16 Jan 99

H.M.

W. Wilcock in this does
after recapitulating the
course of the contest between
the Kiziangram estate & Mr.
Turner. Since Feb 1898, requests
orders as to his future con-
nection with the case, to

W. Wilcock has, if you
retired from the
case in which you specify.

H.M. is also very pleased
to agree to your further proposal
to come out to India, if the
necessities of the case shd. require
it, & be present at the exam-
ination of witnesses whose evidence
may be taken here on com-
mission. Your continued con-

It is understood that
the existing power of attorney
will not need to be renewed.

connection with the case cannot
but be of advantage to the
estate.

From W A W. Moch

To
The Hon Mr G S Forbes & Co
Revenue Secretary

Dated 10th Jan 1899

Ask him for further orders
by post.

S.A. 10/1/99

I concur - Mr. Wrocks
retirement at the present
juncture is unfortunate for
the estate. Mr. Gillman shd.
take advantage of Mr.
Lilloek's presence in Vizag.
to thoroughly put him self up
in all matters connected
with the suit. W.S.
21-1-99

Spally concur.

M.A. 25.1.99

Jan. 29. 1899

Hon W Winterton
J.C.

I do not think the Hon. Mr. Winterton
has seen this. It should go to

9
Do. from W. Winterton d.
10th Jan. 99
Recd. 16 Jan 99

H.M.

W. Winterton in this do. v. s.
after recapitulating the
course of the contest before
Kiziangram estate & S. p. m.
since Feb. 18th since, to
orders as to his presence in the
action with the case, to
W. Winterton has, while you
stand, retired from the

cont. in which you specify.
H.M. is also very pleased
to agree to your further proposal
to come out to India, if the
necessities of the case shd. require
it, & be present at the exam.
of witnesses whose evidence
may be taken here on com-
mission. Your continued con-

It is understood that
the existing power of attorney
will not need to be renewed.

action with the case cannot
but be of advantage to the
estate.

ch a journey, and ~~also~~
present at the examⁿ of
witnesses who may be exam^d
are on commission. He
leave for to settle the
runs of such a visit

W. Wilkington is at present
being & has been acting under
power of attorney from
man, the Jolk of Vizianagaram.
Dan Dantap to the estate

Wick's continued
the case there
no doubt; & I see
no objection to accepting

S. J. 16/1/99

concur - Mr. Wilkington's
retirement at the present
junction is unfortunate for
the estate. Mr. J. J.
Taku advantage of
Wilkington's presence in
to thoroughly put himself up
in all matters connected
with the suit. W.S.
21-1-99

I fully concur.
M.A.
25-1-99

29.1.99

Letter misc no 439 d/30.1.99
D.O. no 19
court no 10

Consent
Papers
Recd
resp 31/1/99

Dear Sir
I am directed by H.E.
the J. J. to thank you for
your letter of the 10th Jan.
detailing the course of the
proceeding in the litigation
pending in the Vizianagaram
estate.

I am also gladly
accepts your offer, on your
retirement from the service, to
continue to act for the estate
as far as may be possible, to
act for the estate while you
remain in India on the
conditions which you specify.
H.E. is also very pleased
to agree to your further proposal
to come out to India, if the
necessities of the case require
it, & be present at the examⁿ
of witnesses whose evidence
may be taken here on com-
mission. Your continued con-

nection with the case cannot
but be of advantage to the
estate.

It is understood that
the existing power of attorney
will not need to be renewed.

but the question had better
be looked ^{into} if there is any
doubt about it.

The fact is? he glad if
you would find it convenient
to ^{confer with} Mr. Gillman & give
him all the information you
may deem necessary in connection
with the pending litigation. I
have written him to this
effect.

I am

Sr

W

Let to D

O.O. no 20
Couple no 11

M 30.1.99

of the
Mr. W.

2. I enclose ^{copy} for your
confidential use of a
letter which has been
this day add^d to his
intro.

Despo with
me 31/1/99

Confidential

Dear Gillman,
I am instructed
to tell you that the fact that
you are so well to take
advantage of Mr. Wither's
presence in V. apt. to put
yourself up in all matters
connected with the ^{litigation}
pending between the ^{H. G.} Estate
& Turner.

W 30/1/99

Dear Wither.

When given for copying _____
When copied _____ } 189
When examined _____
When signed _____

READ AGAIN G.O., No. _____ DATED _____
189

[Handwritten signature]

ENCLOSURES TO G. No. _____

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

FA NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- G = Copy heading only.