M.R.O. 1—38,000—16-10-27.

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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 81 (Back No 40-43)	Press Mis. 1818
Dated 16-1-19	

Not to be folded or roughly handled

Read the following papers.

No. 40. From W. ROBINSON, Esq., Acting Magistrate of Malabar; to E. MALTBY, Esq., Acting Chief Secretary to Government, Fort Saint George, dated Calicut, 23rd October 1857, No. 154.

Sir,

From Lieut. General W. Cullen, dated 17th October 1857, No. 1895, with 1 enclosure.
To do. dated 22nd October 1857, No. 4798.

I have the honor to submit the accompanying correspondence for the instruction of Government.

2. It appears that a boat, the property of a British subject, manned by a crew from Cochin, &c., &c., left Cochin having cleared out for Mahé and having on board about 160 bales of tobacco, that on the 6th Instant, she was off the British port of Anjengo, when peons of the preventive establishment of the Travancore Government put off in boats from the shore and seizing her on the high seas, carried her forcibly into a Travancore harbour, where she is detained (if not confiscated) with her crew and cargo, on the plea that it was intended to "smuggle" her cargo of tobacco into Anjengo.

N. B.—Mahé lies 128 miles to the north of Cochin. Anjengo 70 miles to the south. The owner pleads stress of weather as the reason he had not gone direct to Mahé.

3. There is indeed no reasonable doubt that the tobacco was intended to be landed at Anjengo. It was purchased by a resident of Anjengo, and a boat had already put off from the craft with several bales of tobacco in it for the village of Anjengo, with which it will be observed, a correspondence was going on and boats put off from the shore for the rescue. The false Port Clearance was taken out at Cochin to deceive the Travancore spies at Cochin.

N. B.—The Joint Magistrate will examine into the matter.

4. With reference to the correspondence noted in the margin, I am satisfied, that the acts of the Travancore Government in this matter have been utterly illegal. The free trade in tobacco into and in the British Dependency of Anjengo has now become legalized, the existing lease of the Dependency notwithstanding.

To Government, dated 12th March 1857, No. 42
Do dated 25th do No. 47
Do „ 11th April, 58
Do „ 15th do „ 60
From do „ 25th do „ 471
Do. do „ 28th do „ 486
To do „ 30th Septr „ 134

5. Under any circumstances the seizure of a British boat in a British roadstead by the servants of a foreign State, her detention and intended confiscation, and probable criminal trial of her crew, &c., before foreign tribunals would be irregular, under existing state of the Law it is wholly indefensible.

No. 67. 6. I brought to notice under date 6th July 1857, a serious occurrence, arising out of this illegal attempt on the part of the Travancore Government, the lessees of Anjengo, to keep up the tobacco monopoly, and I must admit that I contemplate with the utmost anxiety, the probable consequences of this dangerous struggle if not at once put an end to.

7. It will be observed, that boats put off to the rescue of the seized craft, and a collision must have been inevitable had the Travancore Officers not run her quickly into a Travancore port. I feel assured that had it been otherwise, the people of Anjengo would have rescued the craft at any cost, and they would have been all the more determined and vindictive, as they believe as firmly as do the officials on the coast that the Law is on their side.

(Signed) W. ROBINSON,
Acting Magistrate.

From Lieutenant General W. CULLEN, Resident of Travancore and Cochin; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated Trevandrum, 17th October 1857, No. 1895.

Sir,

I have the honor to forward to you copy of a Report from the Dewan of Travancore, of a
No. 1752, dated 15th Instant. very daring attempt to smuggle tobacco within the limits of the Sirkar monopoly at Anjengo, as guaranteed by the Madras Government, of that article and of the ultimate seizure of the Padavoo, which brought it from Cochin.

2. You will observe, it is stated, that the Padavoo belongs to a Native of Calvetty in Cochin.

That the tobacco was purchased and shipped by a Bramin called Paria Kristnyen, who is brother of Moothoo Iyen, formerly of the Sudr Ameen's Court and of the late Adawlut Gomastah of Anjengo, who was convicted and punished for smuggling, and finally that the Padavoo sailed under a Port Clearance and Manifest for Mahé.

3. The false statements under which the Port Clearance and Manifest were obtained at Cochin, the assertion that one of the parties shipping the tobacco is a public servant, the continued residence at Anjengo of his brother the dismissed Gomastah and the agency of one Mirauda at Anjengo perhaps a pensioner of the Government, will I hope obtain your notice.

I have &c.,

(Signed) W. CULLEN,
Resident.

To Lieutenant General W. CULLEN, British Resident of Travancore, dated Trevandrum, 15th October 1857, No. 1752.

SIR,

You are fully aware of the extensive smuggling trade in tobacco carried on between the British possessions of Cochin, Anjengo, Tangacherry on the one part, &c., and the adjacent territories of the Travancore Sirkar on the other; I now beg to submit to your notice a further instance which occurred a few days ago.

Having received information that a large quantity of tobacco had been shipped from Cochin to be smuggled into the Travancore territory through Tangacherry and Anjengo, I sent the Deputy Peishcar Ramen Pillay, to make the necessary enquiries and if the information be correct, to make arrangements for seizing the tobacco. I also sent strict orders to the local Tassildars and Excise Ameenadars; and the result was as follows:—

On the 6th Instant, a Padavoo (native vessel) was seen off Anjengo and a boat pulled from it towards the shore, which with 8 bales of tobacco and a person from Cochin named Kitthoo found in it, was seized by the Thoracars of Vettoor and taken back to the Padavoo, but just at this juncture several persons from Anjengo put out boats towards the Padavoo with the obvious view of rescuing the smugglers, the Thoracars who had by this time boarded and taken possession of the vessel steered it fast to Valiathoray. On arrival here the Padavoo was found to contain 154 *bales* of tobacco covered by a Port Clearance and a Manifest granted from the Custom House at Cochin on the 2nd Instant, Nos. 38 and 35 respectively for 150 *bales* as shipped *for Mahé.*

The Tindal of the Padavoo named Changaren on being questioned deposed that the Padavoo belonged to a Jonaken Lubbay of Calvetty in Cochin called Coonjummad Cootty; that the deponent had been in his service as Tindal for the last 3 years; that a Bramin brother to one Moothoo Iyen, late of the Principal Sudder Ameen's Court at Cochin, had purchased the said quantity of 154 bales of tobacco from a dealer named Kakkee Vurreedoo, shipped it at Cochin in the Padavoo, paying duty thereon, and left his Agent Kitthoo in charge of the same with directions to take and land it at Anjengo and deliver it to the late Adawlut Gomastah of that place and another individual Antony Merauda after settling the wages of the Tindal and crew; that accordingly the Padavoo left Cochin on the 4th Instant, stood off Poracad on the 5th, arrived at Anjengo the next day, that when they were landing 8 bales in a boat brought by Antony Merauda's people, the Thoracars of Vettoor seized the boat and Padavoo and brought both the latter and tobacco to Valiathoray and that several people from Anjengo put out boats to beat off the captors, but that the latter escaped the collision and made good their way to Valiathoray; that the Port Clearance and Manifest had been handed to him at the time of leaving Cochin for Anjengo, by the said Brahmin, and that he was not aware of their contents.

The individual Kitthoo's statement corroborated the deposition of the Tindal with the addition that the said Brahmin of Cochin was named Paria Krishnien and held some employment in the Principal Sudr Ameen's Court, that he the Brahmin was also brother to the late Adawlut Gomastah of Anjengo; and further that he (deponent) was a private servant of the said Paria Krishnien; that he knew well that his master was in the habit of sending contraband tobacco to his brother and to Antony Merauda at Anjengo.

The depositions of the Thoracars and the 7 rowers in the Padavoo, tallied with the statements of the Tindal and Kitthoo. In the present instance you will perceive, that a public servant of the Honorable Company at Cochin is also concerned in the illicit trade, that he sent down tobacco to Anjengo after fraudulently obtaining a Port Clearance and a Manifest for another port that of Mahé.

As for the late Adawlut Gomastah (Vencatachellum Iyen) of Anjengo, you are well aware, that this individual was apprehended in the act of smuggling tobacco into this Sirkar's Territory, convicted and punished. Since his liberation he has built a house within the limits of Anjengo where no other Brahmins reside, and has settled himself there solely as it is clear for the purpose of resuming his criminal traffic. I leave it to you to judge whether he could carry out this his object, if he were not favored with the support of the local authorities.

I therefore hope you will be so good as to take such steps in the matter as you may deem fit with a view to put an entire stop to the infamous practice in question, whether in the places belonging to the Honorable Company or with the assistance of any of their servants.

(Signed) V. KRISTNO ROW,
Dewan.

(True Copy.)

(Signed) W. CULLEN,
Resident.

(True Copies.)

(Signed) W. ROBINSON,
Acting Magistrate.

From W. ROBINSON, Esq., Acting Collector of Malabar; to Lieutenant General W. CULLEN, Resident of Travancore and Cochin, Trevandrum, dated Calicut, 22nd October 1857, No. 4798.

SIR,

No. 1893. With reference to your letter dated 17th Inst., I have the honor to state, that I have requested the Joint Magistrate at Cochin to inquire into the matter of false statement under which the Manifest was taken, if such should prove to be the case.

As regards the rest of the transaction, I have hastened to lay it with explanation before Government, as I perceive, that the Travancore Officers have boarded and seized a British boat, the property of a British subject, on the high seas, and then took her with her cargo and crew into a Travancore harbour, where she and they are detained on the plea that she intended to smuggle tobacco into Anjengo a British port, into which I conceive the article may legally be imported without hinderance.

I am satisfied that these acts are wholly illegal and such as would subject those engaging in them to heavy legal responsibility, and I beg to suggest that the boat with her crew and cargo be at once set at liberty.

(Signed) W. ROBINSON,
Acting Collector.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 41. From W. ROBINSON, Esq., Acting Magistrate of Malabar; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated Coroth, 10th December 1857, No. 177.

SIR,

*Shangara Sbetty Goondan, dated 4th Instant.

With reference to my letter, dated 23rd October last, No. 754, I have the honor to give cover to an address from the owner* of the tobacco seized on the high seas by the Travancore authorities in the manner then brought under notice.

The property has not yet been released.

(Signed) W. ROBINSON.
Acting Magistrate.

To W. ROBINSON, Esq., Magistrate of Malabar.

The humble Petition of Shangara Shetty Goondan, residing at Amarapady in British Cochin.

HUMBLY SHEWETH,

That your Petitioner had the honor of addressing your honor by petition, No. 680 of 1857, as well as the Joint Magistrate of Cochin on the subject of the illegal seizure on the high seas, of a valuable cargo of tobacco, the property of your Petitioner, while being conveyed on board of a British vessel. The Joint Magistrate declined to interfere in the matter on the ground that the matter is now in the hands of the Magistrate of Malabar.

That the tobacco in question was consigned to Mahé, but the vessel having been overtaken by tempestuous weather was drifted by the force of the elements off Anjengo, where it was seized by the Travancore authorities on suspicion that the tobacco was intended to be landed at Anjengo, for the purpose of being eventually smuggled into the Rajah's country. The Dewan of Travancore and other Circar Officers about him, possess a notorious talent for extorting depositions to bolster up their own views; and accordingly, all the appliances of influence and intimidation were set at work to obtain statements from the Tindal and Crew of the vessel, in accordance with the Dewan's purposes.

That the Petitioner is prepared to prove by the Tindals and Crews of other vessels who suffered by the gale, that the destination of the Padawa which conveyed the Petitioner's tobacco was not Anjengo, but that the said vessel was drifted towards that coast by the weather.

That by Extract Minutes of Consultation, dated 25th July 1834, published in Circular Order by the Foujdaree Udalut, of the 31st Idem, No. 9, it has been ruled that all parts of the sea in India beyond the high water mark of the sea-shore are subject to Admiralty jurisdiction, and accordingly a seizure of tobacco made by the Company's Police at Cochin beyond those limits, though very close to the shore on a certain occasion while the tobacco monopoly was in force, met with the severe reprehension of the Foujdaree Udalut and the fine of 2,000 Rupees levied from the parties concerned was ordered to be returned.

That the seizure of the Petitioner's tobacco was clearly made on the high seas before the very eyes of Police Ameen of Anjengo, who the Petitioner learns officially reported the circumstance.

The Circar have arrogated a right of capture, which even the Company's authorities do not possess. The Petitioner need not add that the serious disturbances in China have emanated solely from a similar insult to the British flag by the Chinese authorities.

That under the above circumstances your Petitioner humbly prays that your honor will be pleased to afford him protection against the outrage committed on his property by the Travancore Circar; and your Petitioner as in duty bound

Shall ever Pray.

\+ Mark of SHUNGARA SHETTY.

Cochin, 4th December 1857.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 42. From W. ROBINSON, Esq., Acting Magistrate of Malabar; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, Fort St. George, dated Sultan's Battery, 29th December 1857, No. 181.

SIR,

To the Resident, dated 10th December 1857, No. 5342.
From do. 22nd do. No. 2346.

I have the honor, in continuation of my letter dated 10th Instant, to forward the accompanying correspondence with General Cullen on the subject.

2. I have no doubt that the conduct of the Travancore authorities is utterly illegal and unjustifiable, that a serious public offence and a agross private injustice have been committed. The Resident however seems to have taken a different view, and, it appears, supports the Native State in its illegal acts towards our subjects. I must therefore lay the matter before Government for an early and distinct decision on the whole question.

Fort St. George, Judicial Consultation, 19*th January* 1858.

3. While in Cochin recently, I was enabled to learn the oppression and injustice to which the maintenance of the tobacco monopoly in Travancore leads, as regards the subjects of that State, and I earnestly desire to secure to our subjects the advantages, which the repeal of the Monopoly Act in the Company's territories, gives them by Law.

(Signed) W. ROBINSON,
Acting Magistrate.

To Lieutenant General W. CULLEN, Resident, Travancore and Cochin, dated Coroth, 10th December 1857, No 5349.

SIR,

I venture again to address you on the subject of the seizure of tobacco, the subject of my letter dated 22nd October last, No. 4788.

The owner Shangaren Shetty Goonden states, that his property has not yet been released and in consideration of the circumstances, I beg that you will enforce the immediate release by the Travancore authority of the goods thus illegally seized and detained.

(Signed) W. ROBINSON,
Acting Magistrate.

To W. ROBINSON, Esq., Acting Magistrate of Malabar, dated Trevandrum, 22nd December 1857, No. 2346.

SIR,

I have the honor with reference to your letter, No. 5349 of the 10th Instant, to observe that the whole of the circumstances of the seizure in question are explained and justified in my
17th October last. letter, No. 1895, with its enclosures.

(Signed) W. CULLEN,
Resident.

(True Copies.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 43. ORDER THEREON, No. 81; dated 16th January 1858.

The foregoing papers are connected with the general question of the *Travancore* Tobacco Monopoly, now under consideration in the Political Department. As the legal point involved in the present correspondence will, at the same time, require a separate decision, it is resolved to refer it for the opinion of the Advocate General.

2. It is proper that the Advocate General should be informed, that, although *Anjengo* is a British Dependency—forming with *Tangacherry* and a few minor settlements within the natural limits of *Travancore*, a portion of the charge of the Collector and Magistrate of the neighbouring province of *Malabar*—its whole revenues, including the Customs, are now, and have been for many years past, leased to the Government of Travancore. The sole jurisdiction retained by the Company is in matters of Police.

* "For the abolition of the Government Monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara."

3. It is argued by the Acting Magistrate that Act* No. IV of 1833, rendered illegal all restrictions on the free importation of tobacco into *Anjengo* and other British settlements similarly situated, any subsisting lease of the revenues of such places held by the Travancore Government of East India Company notwithstanding; a view of the Law demurred to by the Resident at *Travancore*, on behalf of that State, a great portion of whose income is derived from its Tobacco Monopoly.

4. In giving his opinion, therefore, as to the seizure of the boat, as set forth in the correspondence recorded at the head of this Extract Minutes of Consultation, the Advocate General will state, whether the nature of the measures taken by the Travancore authorities is at all affected by the legality or otherwise of the Tobacco Monopoly maintained at *Anjengo* by that State.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

tobacco into and in the British
Dependency of Ayengo has now become
legalized. the existing lease of the
dependency notwithstanding.

5. Under any circumstances
the seizure of a British boat in a
British roadstead by the servants of
a foreign state, her detention and subse-
-ob confiscation, and probable Criminal
trial of her Crew &c before foreign
tribunals would be irregular - under existing
state of the Law it is wholly indefen-
-sible.

6. I brought to notice under
date 6th July 1857 a serious occurrence,
arising out of this illegal attempt on the
part of the Travancore Government. the
Rajahs of Ayengo - to keep up the
tobacco monopoly - and I must admit
that I contemplate with the utmost
anxiety, the probable consequences of this
dangerous struggle if not at once put
an end to.

At

7. It will be observed that boats put off to the rescue of the seized craft, and a collision must have been inevitable had the Travancore Officer not run her quickly into a Travancore Port. I feel assured that had it been otherwise the people of Anjengo would have rescued the craft at any cost, and they would have been all the more determined and vindictive, as they believe as firmly as do the Officials on the Coast, that the Law is on their side.

I have the honor to be,
Sir,
Your most Obedt Servant,

Acting Magistrate.

Lvo P.C.H

From Acting Magistrate of Anjengo 23 Oct and 10 Dec 1857.

...ist of these letters was ...t for disposal with the ...r papers connected with ... Tobacco Monopoly in Travancore - The second has ... recently been received - but ... matter seems to require ... separate consideration apart from that of the present question - There can be no doubt that the parties are attempting to smuggle Tobacco into Anjengo - British village at this now under ... to the Sircar - Sheets of ... may have been blown to Padawoo down to Anjengo - but could not have blown a boat full of Tobacco from to Padawoo to the shore -

B.

Could the Travancore authorities
seize a British vessel, apparently
on the High Seas, when engaged
in smuggling - and that whether
the continuance of the Tobacco Monop-
-oly in Anjengo be kept or not.?

This question should be put
to the Advocate Genl.

H.

Writt.

Judicial Dept.

No 81
Rec.d 7/16 January 1858.

The following papers } Have been Nos 154, 177.
be de Marjoribanks } 23d Oct. & 10th Dec. 57.
& No 181. 29/12/57.

The foregoing papers are connected
with the general question of the Travan-
-core Tobacco Monopoly, now under
consideration in the Political Dept.
As the legal point involved in the
present correspondence will, at the
same time, require a separate decision,
it is resolved to refer it for the opinion
of the Advocate General.

2. It is proper that the Advocate Genl.
should be informed, that, although Anjen-
-go is a British Dependency - forming
with Tangasserry & a few minor Settle-
-ments within the natural limits of
Travancore, a portion of the charge of the
Collector & Magistrate of the neighbouring Pro-
-vince of Malabar - its whole Rev-
-enues, including the Customs, are rang
& have been for many years past,
leased to the Govt of Travancore. The sole
Jurisdiction retained by the Company
is in matters of Police.

3. It is argued by the Acting Magistrate that
Act No V of 1853 rendered illegal
all restrictions on the free Importation
of Tobacco into Anjengo & other British
settlements similarly situated, and
that existing leases of the revenues of such
places held by the Travancore Govt or

for the abolition
of the Govt Monopoly
of Tobacco in the Provin-
-ces of Cochin, Travancore,
Malabar & Canara".

E. I. Company notwithstanding; a view of the case denounced to by the Resident at Travancore, on behalf of that State, a great portion of whose income is derived from its Tobacco Monopoly.

4- In giving his opinion, therefore, as to the designs of the Court, as set forth in the correspondence re at the head of his P. Ll. C. -ocate Genl with state who nature of the measures taken by the Travancore authorities is at affected by the legality or the of the Tobacco Monopoly ma -tained at Anjengo by that

D. G. L. 8/1-58

To the Advocate General
Ag Govt of Malabar } Despl 25th

D

C. Tang
C 15 1

Judicial 1858. Departt

№81.

Ex. Mins. Cons.

Dated 16th January 18..

Petition of Wm Chapman & others praying that a Mining Claim may be granted to them on the Gold Field at Fiery Creek

Rec'd 30th January 1858

Petition of Wm Chapman & others praying that a Mining Claim may be granted to them on the Gold Field at Fiery Creek

Rec'd 30th January 1858

Sept. 173.

C. No. 27-30
25/4/53
*07.10.3.1.6.2
40 @ 43

Ans'd 17 Jany/58