M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1437 Press ~~Mis.~~

248-249

Dated 30. 9. ~~41~~ 1864

4/4

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
30th September 1864.

No. 248. Read the following Proceedings of Government in the Revenue Department, dated 27th September 1864, No. 1762.

Communicating to certain Departments the Advocate General's opinion respecting the legal right to search boats suspected of smuggling on the narrow branch of the Godavery which bounds Yanam. (Vide Proceedings, Revenue Dept., dated 27th September 1864, Nos. 362—364.)

No. 249. ORDER THEREON, 30th September 1864, No. 1437.

To be recorded.

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

Exd. T. Cartledge.

Proceedings of the Madras Government, Revenue Department, 26th September 1864.

Read the following papers :—

No. 362. From W. ROBINSON, Esq., Inspector General of Mofussil Police; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Kotagherry, 23rd August 1864, No. 1,753.

Sir,

1. I have the honor to submit the correspondence* noted in the margin on the subject of the legal right to search Boats suspected of smuggling on the narrow branch of the Godavery which bounds Yanam.

* Letter from the Superintendent of Police, dated 26th July 1864.
Copy of letter to the Magistrate, Godavery District, dated 5th August 1864.
Letter from the Officiating Magistrate, Godavery District, dated 15th August 1864.

2. I need scarcely state that if this is declared free water, the facility of evading the custom duties is greatly enhanced.

3. I do not share the doubt of the Collector of Godavery.

Referred for the opinion of the Advocate General.

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

Fort St. George,
30th August 1864.

No. 363. From H. G. PRICHARD, Esq., for Government Solicitor; to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 8th September 1864, No. 498.

Sir,

Dated 30th August 1864, and made on letter from Inspector General of Mofussil Police to Government of 23rd idem, No. 1,753.

1. I have the honor to acknowledge the receipt of the Order of Government noted in the margin (with its enclosures) requesting the Advocate General's opinion as to the legal right of Government to search Boats suspected of smuggling on the narrow branch of the Godavery which bounds Yanam.

2. I have submitted them, together with the opinion which the Advocate General lately wrote upon a reference from the Board of Revenue touching the same question, and the Proceedings which were then before him, for his consideration, and

3. I now forward a copy of his further opinion, and return the order and enclosures above noted.

COPY—OPINION.

1. It appears to me that I have in effect already answered the question now submitted by my opinion dated 26th August 1864.

2. The correspondence now submitted does not cause me to alter that opinion. I cannot think with the Officiating Magistrate of the Godavery District that Section VIII of Act VI of 1844 is inoperative provided the smuggling be by river. The true distinction, I take it, is between land and sea, not land and water. Again, I cannot see the soundness of the distinction between stopping a bandy and stopping a Boat. It seems to be thought that the goods must be seen before the conveyance is stopped. But it is to be presumed that when bandies are used for smuggling the goods are concealed and not usually seen until after the search. Certainly it could not be a condition precedent to stopping a bandy suspected of carrying smuggled goods that those goods should be seen in the first instance. And I cannot see how it can be necessary in the case of a Boat decked or undecked.

3. It is not necessary to stop all Boats but only such as are suspected.

4. As this practice of smuggling appears to be pretty common it would perhaps be advisable that the terms of Section VIII should be strictly followed, and that His Excellency the Governor in Council should determine that a Customs Chokee be forthwith established at the point marked with a cross on the plan submitted to me on the former reference, or at such other point as may be found most convenient.

5. I have only further to remark that the Acting Superintendent of Police in his letter of 26th July 1864 has not correctly quoted Section XIII of the Act: the operation of which is expressly confined to the night time—the hours "between sunset and sunrise."

(Signed) JOHN BRUCE NORTON,
Advocate General.

6th September 1864.

(True Copy.)

(Signed) H. G. PRICHARD,
for Government Solicitor.

No. 364. ORDER THEREON, 26th September 1864, No. 1,762.

Separate Revenue, No. 122
Customs.

The Advocate General's opinion, received with the second of the papers above recorded, will be communicated to the Inspector General of Madras Police, with reference to his letter of 23rd August 1864, No. 1,753; also to the Board of Revenue, with reference to their Proceedings 13th August and 2nd September last, Nos. 5,208 and 5,719. The Board will report on the suggestion made by Mr. Norton in paragraph 4. They will also furnish to Mr. Robinson copies of their Proceedings noticed above.

(True Extract.)

Deputy Secretary to Government.

To the Inspector General of Mofussil Police.
„ the Board of Revenue.
„ the Judicial Department.

Exd. R. H. Lee.

Boarding of Ghoots in Revenue Letters No 1762

Letter 27 Sept 26. Recd 28

Ltr 2001 dt 29
Coming to contradict particulars stated in Gaja opinion respecting landing by night of Canal boats suspected of smuggling in the narrow branch of the Godavery which bounds Ganjam
No 1487 of 30 Sept 64
To be recorded JL

24849