M.R.O. 1—28,000—18-12-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No.	1828	Press
	1525	Mis.
Dated	26-10-	19 1825

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 26th October 1865.

Read the following papers:—

No. 187. From the Inspector General of Police, to the Chief Secretary to Government, Fort Saint George; dated Kotagherry, 28th July 1865, No. 1516.

General Department.

I beg to submit the following question by the Superintendent of Police of Canara:—

2. Are breaches of contract by coolies engaged to work in Mysore, Travancore, cognizable under Section 492 of the Penal Code?

Referred to the Government Solicitor, for the opinion of the Advocate General.

FORT SAINT GEORGE,
10*th October* 1865.

(Signed) W. HUDLESTON,
Acting Secretary to Government.

No. 188. From the Government Solicitor, Madras, to the Acting Secretary to Government, Fort Saint George; dated Madras, 18th October 1865, No. 613.

I have the honor to acknowledge the Order of Government noted in the margin, relative to cognizance, under Section 492 of the Penal Code, of Breaches of Contract by coolies engaged to work in Mysore and Travancore.

Dated 10th October 1865, and made on letter from the Inspector General of Police, to Government of 28th July 1865, No. 1516, General Department.

2. I submitted the matter for the consideration of the Advocate General; and

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

COPY—OPINION.

The question submitted to me is so vague and indefinite, that I am by no means certain I understand what is the point at issue. I have before this been compelled to animadvert upon the loose general way in which the Officers of Government frequently submit the doubts which they wish to have resolved. When a private individual requires a legal opinion, he takes care to state every fact which he conceives to bear upon his case; and this is the only safe way of framing a case. In the present instance, I would ask where is it intended to punish the alleged offence? By whom is it to be punished? When was the contract entered into? What is its duration? When was its breach? Where are the offenders? Who charges them? &c., &c. If the *facts* were stated, the occasion for such questions could not arise, and I am reduced to the necessity of guessing at the circumstances, or of retarding public business by requesting further information. If I grope my way in the dark, I may very easily supply a circumstance which does not exist, and thus the whole opinion be rendered worthless.

2. To constitute an offence punishable under Section 492, the contract must be to work at a place "within *British India*." Neither Travancore nor Mysore comes within the term as defined by Section 15, for neither of these kingdoms is vested in Her Majesty by Stat. 21, 22, Vic. Ch. 106.

3. I presume that the question put to me has reference to the punishment of the offence by the authorities of this Presidency, when the contractor is apprehended within British Territories. It is obvious that another question would arise if the offender were apprehended in Mysore. It would probably be found difficult to convict him there under Section 492: for the contract must be to work, as I have above remarked, in British India. The Indian Penal Code has, I believe, been "extended" to Mysore, without any alteration whatever. I am not aware whether or no the Rajah of Travancore has adopted the Indian Penal Code within his Kingdom.

(Signed) J. B. NORTON,
Advocate General.

14*th October* 1865.

(True Copy).

(Signed) J. R. BOYSON,
Government Solicitor.

Proceedings of the Madras Government, Judicial Department,
26th October 1865.

No. 189. ORDER THEREON, 26th October 1865, No. 1525.

The Advocate General's opinion is communicated to the Inspector General of Police, with instructions, in case of future references for legal opinion from the Government Law Officers, to state the facts fully, or cause them to be stated by his Subordinate Officers, and thereon to raise the particular question of which he desires a solution.

(True Extract).

Acting Secretary to Government.

To the Inspector General of Police.

Exd. J. H. Burns

Read the following letters:-

From the Inspector Genl. of Police — Inter. 28 July '65 No. 1516.
" the Govt. Solicitor — 18 Oct. — " 613.

Order — 26 October 1865 No. 1525

The Advocate Genl's. opinion is communicated to the Inspector General of Police. with instructions in case of future references for legal opinion from the Govt. Law Officers to state the facts fully or cause them to be stated by his subordinate Officers & thereon to raise the particular question of which he desires a solution &c.

Sd. W. Elliot

Sd. J. H. Burns
Acting Secy to Govt.

To the Inspector General of Police.

Forwarded instructions the Inspector General of Police when seeking a judicial opinion in future to state facts or cause them to be stated in the letters by himself or from his subordinate officers thereon to raise the particular question in regard to which he desires a solution.

It is not fair to the Inspector Genl. to require that he should be limited to the mere statement of facts in cases where questions of law are involved.

Sd. W. E.