M.R.O. 14—18,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1928 Press ~~Mts.~~

34.372

Dated 19—8. 1865.

Not to be folded or roughly handled

No. 311. Read the following Proceedings of the Board of Revenue, dated 27th July 1865, No. 4,426.

Read again letter from the Collector of Malabar, dated 16th June 1865, No. 107, recorded in the Board's Proceedings, under date 19th June 1865, No. 3,334.

Read also the following letters:—

From Æ. R. McDONELL, Esq., Collector of Trichinopoly, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated 30th June 1865, No. 125.

SIR,

1. As directed in Board's Proceedings, No. 3,334, dated 19th instant, I consulted Major-General Williams, Commanding the Southern Division, regarding how far he considered it would be necessary for the Civil Authorities to interpose their power in preventing the sale of intoxicating drugs to non-military residents within the limits of the Cantonment Abkarry farm.

2. Major-General Williams is of opinion that the sale of intoxicating drugs in the Cantonment to Military persons having been prohibited without a license from the Commanding Officer is sufficient. Mr. Ballard in his letter to the Board, No. 107, dated the 16th of this month, says that he considers it essential that such restriction should be extended to the non-military residents also; but he does not give his reasons. General Williams is persuaded that if the object of extending the restriction is considered from a moral point of view he does not believe it will have any effect. With, or without the prohibition, natives will continue to indulge in opium and ganja; and that as intoxicating drugs are always procurable somewhere, he considers the moral effect of such restriction would be inappreciable.

3. I quite agree with General Williams, and do not see the necessity of our interfering at all in the sale of intoxicating drugs to non-military residents in the Cantonment.

4. As, however, there is a feeling of doubt, or rather uncertainty, as to the legality of such sales, I would feel obliged if the Board, should they consider any restriction to such sale of drugs uncalled for, would permit my publishing such a Notification in the District Gazette.

From G. A. BALLARD, Esq., Collector of Malabar, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Calicut, 4th July 1865, No. 129:—

SIR,

1. Adverting to the Board's Proceedings noted, I have the honor to report that I addressed the Officer Commanding Malabar and Canara on the subject of the sale of intoxicating drugs in Cantonments; shewing why the exclusive right to sell these drugs in Cannanore had not been included in the Abkarry farm as hitherto, and expressing my opinion that the sale

No. 3,334, dated 19th ultimo.

Section 29 of Act IV. of 1865 only gives the Commanding Officers power to prohibit sale to certain classes of Europeans, &c. The sale to native soldiery, or private persons, in Cantonments is not controlled by the Act. Government, however, could issue all necessary Orders under Section 25.

must be controlled, and that Government should be moved to issue orders on the subject.

2. Brigadier Faunce replies that he has thought it necessary to put up the exclusive right of sale in Cannanore to auction, as a temporary measure, and, till further orders are issued on the subject. To prevent misunderstanding, however, I have pointed out to him that in the present state of the law, the Civil power cannot support the privilege which he has assumed the power to dispose of.

3. I think it very desirable that prompt legal measures be adopted; and Brigadier Faunce agrees with me so far.

Two courses seem to me open—

Firstly.—Government may, by an Order under Section 25 of the Cantonment Act (IV. of 1865, Madras), provide for the regulation of the sale of intoxicating drugs in Cantonments similarly with that of the Abkarry farm, or,

Secondly.—Government may, under the same law, prohibit absolutely the sale of such drugs in Cantonments without licenses granted on certain conditions by Commanding Officers.

4. The object being not to realize a revenue, but to check the excessive consumption of such drugs. I think the license plan is the best. I would charge, say, Rupees 50 for a license for one year, and make licenses issuable by the Officer Commanding. This would secure the sales being entrusted only to such persons as could give some guarantee that they would not abuse their opportunities; whilst the demand of a fixed and moderate fee instead of putting the privilege up to auction does not raise that absolute necessity to keep up a brisk trade which the latter system with its heavy liabilities imposes on the renter.

5. I submit copies of the correspondence between Brigadier Faunce and myself.

From Collector to Officer Commanding Malabar and Canara, dated 28th June 1865, No. 1,881.
To Collector from do. dated 30th do. „ 141.
From do. to do. dated 3rd July 1865, „ 1,941.

Enclosure No. 1.

From G. A. BALLARD, Esq., Collector of Malabar, to Brigadier General R. FAUNCE, Commanding Malabar and Canara, dated Calicut, 28th June 1865, No. 1,881 :—

1. You are aware that the management of the Abkarry farm of Cannanore has now been transferred to the Revenue Department.

The farm is sold under the provisions of the Madras Abkarry Act (III. of 1864.) In this Act there is no reference to intoxicating drugs, consequently these are not included, as heretofore in Cannanore, in the Abkarry farm.

2. Under Regulation VII. of 1832, and Act XVIII. of 1853, the sale of drugs in Cantonments was under strict control.

But these laws are repealed by the Madras Cantonment Act, (IV. of 1865,) which only prohibits the barter, sale, or supply of intoxicating drugs "to or for the use of any European Soldier, "or to, or for the use of any European or Eurasian, being a Camp follower or soldier's wife," without license from the Officer Commanding.

3. Thus, there is now no check or control of any sort on the sale or supply of intoxicating drugs to the native soldiery, or to non-military residents in Cantonments. I think you will agree with me in thinking it highly desirable that such a check should be established.

4. The Board of Revenue have instructed me to communicate with you on this matter, and report the result to them.

5. It seems to me that the necessary control over the sale of drugs in Cantonments would be simply and efficiently provided were Government to pass an Order under Sections 16 and 18 of the Cantonment Act, prohibiting the sale or supply of intoxicating drugs within the Cantonment to any class of subjects by persons not specially licensed to deal in such drugs by the Commanding Officer. The necessary conditions and restrictions could be entered in the license.

6. A fee of, say, Rupees 50 should be charged for each license, (which would ordinarily run one year,) as such charge would tend to secure a more respectable class of drug vendors than if licenses were granted gratis. But I would not advocate putting the exclusive privilege of dealing in intoxicating drugs up to auction, and knocking it down to the highest bidder; because when a large liability of this nature has thus been incurred by a renter, he and his agents have of course to make up their liability and their profit by increased sales, and a trade which it is desirable rather to repress than encourage is in fact stimulated in an unnatural degree.

7. I shall be glad to be favored with an expression of your views on the subject.

From Brigadier General R. FAUNCE, Commanding Malabar and Canara, to G. A. BALLARD, Esq., Collector of Malabar, dated Cannanore, 30th June 1865, No. 141.

1. I have the honor to acknowledge the receipt this day of your letter, No. 1,881 of 28th instant.

The revenue supposed to have been derived from the sale of intoxicating drugs with the Abkarry is estimated at about 12,000 Rupees a year.

2. Being without any instructions whatever regarding the sale of these drugs, which had been hitherto considered as forming a part of the Abkarry sale, I considered the best plan would be some temporary arrangements.

3. I quite agree with you that it is most necessary that there should be a strict check on the supply of intoxicating drugs to all persons residing within Military limits, and which can only be maintained by the sale of drugs remaining on a somewhat similar footing, as has hitherto prevailed.

Vide, also Act IV. of 1865, Section 29.

4. The suggestion made in paragraph 5 of your letter under reply if carried out will fitly meet the case.

5. In my opinion, to reduce the fee or tax would be to greatly increase the sale and its consequent evils; that with the higher fee or tax the contractor must necessarily charge higher rates than he would had he a mere nominal fee to pay, and, therefore, many who might be tempted by the low prices to become consumers would be deterred; while the renter will make his profits out of those habitues who rather than go without what has become a necessity will pay any amount to obtain it; and so I consider the spread of the taste for such luxuries will be rather confined than extended by the higher fee.

6. The contract for the sale of these drugs expiring this day, it is necessary that some steps should be immediately taken to restrict their sale. I deem it, therefore, best under the circumstances to direct that the right of sale thereof shall, as heretofore, be put up to public auction on the following terms :—

The Contract to be at a daily rate; the amount to be paid into the Cantonment Magistrate's Office on the last day of each month.

The Contract to expire and cease altogether on any day that orders, or instructions, may be received, on the subject, when a new contract, if necessary, be entered into, or the existing one may be declared an annual one.

P. S.—The sale of the contract is notified to take place on Monday next, the 3rd proximo.

From G. A. BALLARD, Esq., Collector of Malabar, to Brigadier General R. FAUNCE, Commanding Malabar and Canara, dated Calicut, 3rd July 1865, No. 1,941.

1. I have the honor to acknowledge receipt of your letter of the 30th ultimo, No. 141.

2. I must observe that as far as I am aware there is no Civil law under which the sale of intoxicating drugs to other than the classes mentioned in Section 29, Act IV. of 1865 in Cantonments is punishable; nor under which the sale of such drugs to *any* classes outside the Cantonment limits but within those of the Cannanore Abkarry farm is punishable, and that consequently the Civil power will be unable to protect "the right of sale" which you intimate having directed to be sold until legal authority is given it to do so. I mention this now to prevent any misunderstanding arising.

(True Copies.)

(Signed) G. A. BALLARD, *Collector.*

From A. HATHAWAY, Esq., Collector of Bellary, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated 10th July 1865, No. 126.

I have the honor, with reference to the Proceedings of the Board of Revenue, No. 3,334, under date the 19th June last, requesting me to communicate with the Military authorities on the advisability of restricting the sale in the Cantonment of Bellary of intoxicating drugs, and report the result thereof, to annex copy of letter, number and date as per margin, from the Major-General Commanding the Ceded Districts, from which it will be seen, that he desires the inclusion in the Military Abkarry Farm of the drugs in question, and to state that the practice alluded to by him though it till lately obtained in this Cantonment is unknown in the management of the Abkarry Farm of the District.

No. 129, dated 4th July 1865.

From Major-General W. C. McLEOD, Commanding Ceded Districts, to A. HATHAWAY, Esq., Collector of Bellary, dated 4th July 1865, No. 129.

In reply to your letter No. 635 of the 27th ultimo, accompanied by the Proceedings of the Board of Revenue, No. 3,334, under date the 19th June (herewith returned), I have the honor to observe, that though Section 29 of Act IV. of 1865 provides for the punishment of parties vending intoxicating drugs to Military persons without a license from the Commanding Officer; still I consider that the sale of such drugs by individuals without restriction will render detection most difficult. I would, therefore, recommend that the power to establish such drug shops be, as heretofore, left in the hands of the Abkarry farmers, who will empower parties to offer drugs for sale, and will himself be held directly responsible for any breach of Regulations.

(True Copy.)

(Signed) A. HATHAWAY, *Collector.*

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1. Resolved that the foregoing correspondence be submitted for the consideration and orders of the Governor in Council.

2. His Excellency in Council will observe, that in consequence of the transfer to the Civil Authorities of the management of the Abkarry in the Military Cantonments noted in the margin, by the repeal of Regulation VII. of 1832, the control over the sale of intoxicating drugs, which had been exercised under the provisions of the latter Regulation, have ceased to be in force.

Bellary, Cannanore, and Trichinopoly.

3. The sale of intoxicating drugs was, under Regulation I. of 1820, included in the Abkarry; but for many years it has been omitted from the licenses; and

when the new Abkarry Act (Madras Act III. of 1864) was framed, it was not deemed necessary to legislate on the subject.

4. It will be seen that the Commanding Officers of Cannanore and Bellary are in favor of the sale of such drugs being controlled; while the General Commanding Trichinopoly does not consider such a course necessary, being of opinion that the provision of the Cantonment Act, under which the sale of intoxicating drugs to European Soldiers is prohibited, is sufficient.

5. The Collector of Malabar is of opinion that the sale of these drugs should be controlled; and under the erroneous impression that such a course is provided for under the Cantonment Act recommends that Government should either provide for the regulation of their sale under Section 25 of that Enactment, or prohibit the sale of such drugs in Cantonments without license from the Commanding Officer.

6. There is nothing in Madras Act IV. of 1864, which, in the Board's opinion, empowers the Government to adopt either of the courses recommended. Section 25 merely authorizes the Governor in Council to extend, to places outside the Cantonment, any Rules which may have been laid down for inspecting and controlling houses of ill-fame, and for preventing the spread of venereal disease. And as the Regulation of the sale of intoxicating drugs is not included among the matters regarding which Rules may be laid down by Government under Section 18, the Board do not see how the Government could summarily prohibit the sale of such drugs to *any person* without the Commanding Officer's license.

7. Obviously, if it is necessary to control the sale in the two Cantonments under notice, it is equally necessary to do so in the Cantonments noted in the margin, and, in fact, at all stations where Troops are located; yet no such control has been attempted at any of those places for many years past; and, so far as the Board are aware, no ill-results have followed.

Saint Thomas' Mount and Wellington.

8. If the use of such drugs throughout the country was so large as either to be likely to seriously injure the health of the people, or materially to interfere with the abkarry revenue, then the Board are of opinion that some check on their sale should be prescribed. Should Government think it desirable, the Board will take measures to ascertain whether or not any large consumption of such drugs takes place: though they are of opinion that such could hardly be the case without the matter having been brought to their notice by the District Officers.

No. 312. ORDER THEREON, 19th August 1865, No. 1,928.

Separate Revenue, No. 14.
Abkarry.

1. The Government observe that Regulation I. of 1820 had no reference whatever to the sale of intoxicating drugs, and they therefore conclude that the Board must be in error in regard to the statement made in paragraph 3 of the above Proceedings.

2. In paragraph 6 of those Proceedings the Board doubtless intend to refer to Act IV. of 1865 (Madras), not 1864, and the Government agree with them that

the provisions of Sections 16, 17, 18, 25, and 29 to 35 inclusive, do not empower the Government to restrict the sale of intoxicating drugs to other than European Soldiers, or European or Eurasian camp followers, or Soldiers' wives in any Cantonment to which the Act is applied by Order of Government.

3. It is observed that it has been so made applicable to the Cantonments of Bellary, Trichinopoly, Cannanore, St. Thomas' Mount, and Wellington, and therefore in these Stations the old Regulation VII. of 1832, relating to Military Bazaar Stations, and the Act XVIII. of 1853, relating to the sale of liquor or drugs to European Soldiers and Eurasian camp followers or Soldiers' wives are no longer of any force.

4. So long, however, as the former Regulation was in force, the Abkarry within the Cantonment limits (including the sale of intoxicating drugs) was under the Commissariat, and the Board are therefore in error in paragraph 7 of their Proceedings in saying that no control over the sale of drugs has been attempted for many years past. The fact is that whenever the Commissariat had the management of the Abkarry the sale of drugs was controlled equally with the sale of spirits.

5. When the Abkarry was transferred to the Civil Department, and when Madras Act IV. of 1865 was enacted, it was probably assumed that the Revenue authorities possessed all the powers of control that had been exercised by the Commissariat; but this is not the case as regards intoxicating drugs, the sale of which is uncontrollable by the Revenue Officers, and only partially under control by the Military Department, under Madras Act IV. of 1865, so far as sale to European Soldiers and European or Eurasian camp followers or Soldiers' wives is concerned.

6. Whether it needs to be further controlled in Military Cantonments, and whether the Civil Department should therefore be vested by Law with the powers formerly exercised by the Commissariat, will be considered in the Military Department.

7. The consumption of intoxicating drugs in this Presidency by the general community has hitherto been considered too trifling to need restriction by Law, and there is nothing before Government to shew that any such restriction is more needed now than formerly.

8. If, however, it be deemed advisable to vest the Revenue Officers with power of control in Military Cantonments over such sale, it may be deserving of consideration whether the power should not be general and co-extensive with the powers given by the Madras Abkarry Act III. of 1864, in regard to spirituous liquors.

9. The Board had better call on all Collectors to report how far such powers are desirable.

10. They might be limited to localities to which the Government should specially extend them.

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

control has been attempted at any of those places for many years past; and, so far as the Board are aware, no ill-results have followed.

8. If the use of such drugs throughout the country was so large as either to be likely to seriously injure the health of the people, or materially to interfere with the Abkarry revenue, then the Board are of opinion that some check on their sale should be prescribed. Should Government think it desirable, the Board will take measures to ascertain whether or not any large consumption of such drugs takes place: though they are of opinion that such could hardly be the case without the matter having been brought to their notice by the District Officers.

(True Copies and Extract.)

Acting Secretary.

To W. Hudleston, Esq., Acting Secretary to Government, R. D.,
with copy of Board's Proceedings, 19th June 1865, No. 3,334.

Copy to Æ. R. McDonell, Esq., Collector of Trichinopoly.
„ to G. A. Ballard, Esq., Collector of Malabar.
„ A. Hathaway, Esq., Collector of Bellary.

Exd. R. H. Lee.

No. 3,334.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th June 1865.

Read the following letter from G. A. BALLARD, Esq., Collector of Malabar, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Calicut, 16th June 1865, No. 107:—

1. With reference to my Telegram of yesterday, (copy enclosed,) I have the honor to observe that intoxicating drugs* have hitherto been included in the Cannanore Cantonment Abkarry farm under the provisions of Section 44, Regulation VII. of 1832. But as this Regulation has been repealed by Madras Act No. IV. of 1865, and there is no allusion to intoxicating drugs in Madras Act III. of 1864, under which the Cantonment farm is now sold by the Collector, intoxicating drugs have not been included in the farm.

* Opium, Gunga, &c.

2. Under Section 29 of Act IV. of 1865, the sale of intoxicating drugs to Military persons is prohibited without a license from the Commanding Officer.

I consider it essential that such restriction should extend to non-military residents within the limits† of the Cantonment Abkarry Farm, and this probably can best be done by including intoxicating drugs in the Farm, and passing an order on the subject under Section 25 of the Cantonment Act.

† These are not conterminous with the Cantonment, but extend four miles round beyond it.

3. The question regarding intoxicating drugs was only brought to my notice yesterday evening by a Telegram from the Acting Sub-Collector, who had been deputed to sell the farm in accordance with the advertisements. No mention was made of drugs in the Commissariat Advertisement of last year, and I was not aware, till receipt of the Telegram above said, that they had been previously included in the farm.

4. The Board will observe that the Sub-Collector was directed to postpone the sale till the 24th instant, unless what was considered a fair‡ bid was made for the liquor farm alone. I solicit immediate instructions as to the course to be pursued if no sale was made, and supposing the liquor farm to have been sold, as to the course to be pursued with regard to intoxicating drugs.

‡ Rupees 30,000.

ENCLOSURE No. 1.—Copy of Telegram.

Resolved that the following Telegram be despatched:—

"Intoxicating drugs are not to be included in Abkarry Farm of Cannanore," and that the Collector be informed that his Telegram has not been received. The Board see no reason for interfering with the sale of drugs in Cannanore, but the Collector will be requested to communicate with the Military Authorities on the subject, and report the result. The Collectors of Trichinopoly and Bellary will also be requested to report on the matter after conferring with the Officers Commanding these stations.

(A true Copy and Extract.)

(Signed) R. A. DALYELL,
Acting Secretary.

To G. A. Ballard, Esq., Collector of Malabar.
„ Æ. R. McDonell, Esq., Collector of Trichinopoly.
„ A. Hathaway, Esq., Collector of Bellary.

Exd. J. Wright.

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No. 2115.

PROCEEDINGS OF THE BOARD OF REVENUE

Rev Department.

Read the following letter from G. A. Ballard, Esq., Collector of Malabar, to R. A. Dalyell, Esq., Acting Secretary to the Board of Revenue, dated 27th July 1865, No 4426.

Submitting, with remarks, letters from the Collectors of Bellary and Trichinopoly on subject of control over sale of intoxicating drugs in Canton ment Abkarry Farms.

Revenue Department.

No. 1928.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 19th Augt 1865.

Read the following Pros of the Bd of Revenue:-

Submitting, with remarks, letters from the Collrs of Bellary and Trichinopoly on the subject of controlling sale of intoxicating drugs in Cantonment Abkary Farms.

(Here enter 27th July 1865, No 4426/-)

The Govt observe that Regulation I of 1820 had no reference whatever to the sale of intoxicating drugs, & they therefore conclude that the Board must be in error in regard to the statement made in para 3 of the above Pro:-

In para 6 of those Pro: the Board doubtless intended to refer to Act 4 of 1865 (Madras) not 1864, and the Govt agree with them that the provisions of sections 16-17-18-20 and 29 to 35 inclusive do not empower the Govt to restrict the sale of intoxicating drugs to other than European soldiers or European or Eurasian camp followers or soldiers' wives in any Cantonment

VD

W.N.

Revenue Department.

No. 1928.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 19th June 1865,

Despatched

Received

No. 3,334.

Stating that there is no reason for interfering with the sale of intoxicating drugs in Cannanore, and requesting the Collectors of Malabar, Trichinopoly, and Bellary to communicate with the Military authorities on the subject, and to report the result.

19th August 1865.

Read - 31st August 1865.

Read - 31st August 1865.

Cantonment to which the act is applied by order of Govt.

It is observed that it has been so made applicable to the Cantonments of Bellary, Secunderabad, Cannanore, St Thomas' Mount and Wellington, and therefore in these stations the old Regulations of 1832 relative to Military Bazar Stations and the Act 16 of 1853 relative to the sale of Liquors or Drugs to European Soldiers and Native Camp followers or Soldiers' wives are no longer of any force.

So long however as the former Regulations are in force the Abkary within the Cantonment limits (including the sale of intoxicating drugs) was under the Commissariat and the Boards are therefore in error in part of their Pro: in saying that no control over the sale of drugs has been attempted for many years past. The fact is that whenever the Commissariat had the management of the Abkary the sale of Drugs was controlled equally with the

the sale of spirits.

When the Abkary was transferred to the Civil Dept, and when Madras Act 4 of 1865 was enacted it was probably assumed that the Revenue authorities possessed all the powers of control that had been exercised by the Commissariat - but this is not the case as regards intoxicating drugs - the sale of which is uncontrollable by the Revenue officers - and only partially under control by the Military Dept - under Madras Act 4 of 1865 so far as sale to European soldiers & European or Eurasian camp followers or Soldiers' wives is concerned.

Whether it needs to be further controlled in Military Cantonments, and whether the Civil Dept should therefore be vested by Law with the powers formerly exercised by the Commissariat will be considered in the Military Department.

The consumption of intoxicating drugs in the Residency

Presidency by the general com-
=munity has hitherto been con=
=sidered too trifling to need
restriction by Law - and there
is nothing before Govt to e=
show that any such restriction
is more needed now than for-
=merly. If however, it be e=
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of control in Military Canton-
=ments over such sale, it
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=ation whether the power should
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=sive with the powers given
by the Madras Abkary Act
3 of 1864 - in regard to Spiritu=
=ous Liquors -

The Board had e=
better call on all Collectors
to report how far such powers
are desirable -

They might be e=
limited to localities to e=
which the Government
should

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should specially extend e=
them -

L.B.
16.8.65

To
The Revenue Board, with Mr agreem
dtd 21 Aug
14- " — " Military Septh -/
7 " — " Public — " — /
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Revenue 1865 Dep.tt

Proof Govt. for. august

N° 1928

27-1-71.M

Proof Govt. Madras

Dt 19th August 1865

Pro. of the Board of Rev.

9th Sept. 1865 CA 2553.

Directing the Board of Revenue to call on Collectors to report what powers are needed for control in the sale of Sulphate Cathig drugs.

Some Ckd Bd of Revenue

N/2 cubic Chs. 3361

to June 8 to 9 1865

N° 3114312