M.R.O. 14—13,000—27-9-34

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1959 Press ~~Mis.~~

871-872

Dated 22 - 8 - 1865.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 22nd August 1865.

No. 371. Read the following letter from R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, to W. HUDLESTON, Esq., Acting Secretary to Government, Revenue Department, dated Madras, 5th August 1865, No. 4,689:—

SIR,

1. With reference to the Government Order noted in the margin, I am directed by the Board of Revenue to report that they have communicated personally with the Collector of Madras and the Commissioner of Police on the subject of making the Abkarry Act (Madras Act III. of 1864) applicable to Madras town, and they find that there is one strong objection to this course. The Act in question was drawn up under the impression that it would be brought into force in such parts of the country only as the Indian Penal Code had been introduced into, several offences which were provided for in the Code were consequently omitted from the Abkarry enactment. The Board now learn that that Code is not administered by the Magistrates of Madras, and that they are not empowered to administer it.

28th April 1865, No. 878, Revenue Department.

2. The Commissioner of Police and the Collector also expressed their opinion that the present Abkarry Act XIX. of 1852 worked sufficiently well, and that they were averse to any material modifications of it so long as the present Abkarry system be maintained in the Presidency town.

3. They considered also that any such modifications of the Act as would admit country-made spirits into the limits of the town, except in conformity with the provisions of Section 7 of Act XIX. of 1852, would probably lead to smuggling. At the same time the Collector observed that if the Distillers of spirits on the European system were of opinion that the liquor manufactured by them would be acceptable to the public, and if they would accept the risk of its being refused by the vendors, he would have no objection to obtaining spirits from them, on the understanding, of course, that it was to be supplied to him at a rate not higher than the present cost of the spirits supplied by him to the vendors.

4. In the present state of the Law this appears to be the only course by which such spirits can be brought into the Presidency market. Their retail sale is virtually prohibited by Sections 5 and 6 of Act XIX. of 1852, as the latter Section provides that the vendors licensed under the former, shall obtain the liquor they sell only from such source as is laid down in the license, *i. e.*, the Collector of Madras. The wholesale sale of such spirits is absolutely prohibited in Section 7, except for exportation over sea or to the Collector.

5. It will be observed that these provisions of the Special and Local enactment have been held to render inoperative the provisions of Section 171 of the Consolidated Customs Act so that the supposed anomaly that the spirits under reference could be imported by sea and disposed of wholesale in the local market, though the same spirits could not be imported by land, does not in reality exist.

Opinion recorded in Government Order, dated 7th April 1865, No. 757.

Proceedings of the Madras Government, Revenue Department,
22nd August 1865.

No. 372. ORDER THEREON, 22nd August 1865, No. 1,959.

Separate Revenue, No. 19.
Abkarry.

1. The Board are in error in supposing that the provisions of the Penal Code are not in force in the Madras town limits. The reverse is the case, and it is only the Code of Criminal Procedure that does not apply to those limits.

2. The Board will report how far their views are modified by this change of circumstances.

3. The view expressed in paragraph 5 of the above communication is also incorrect, as the anomaly is that Country-made spirits can be imported by sea *on payment of duty*, and brought into the wholesale market in the same manner as Foreign spirits, while they cannot be so imported by land.

(True Extract.)

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

To the Board of Revenue.

Exd. S. T. Augustin.

R^o 2201 1865

"As this matter now stands, the Bd^s are unable to determine to what extent the Bds' conclusions have been drawn from their erroneous assumption, that the provisions of the I. Penal Code are not in force within the limits of the town of Madras.

The reverse is the case - the fact being, as the Under Secretary, Mr Rose Saunders, states, that it is only the Code of Criminal Procedure w^h cannot be used in those limits.

I think it would be best to mention this error to the Bd^s & ask them to state whether their views are not affected by it - WDL

17 Aug^t

Mem

In Bd Pro. recorded with G.O. 10th June 1864 N 992, the Board required govt to sanction the extension of the "previous practice with regard to Rem to Spirits of Wine. They wished to allow country spirits made after the Europ method to be imported into the town of Madras 1st by land & sea on payment of an excise duty.

It was found on communicating with the law officers that this was contrary to the existing law of Abkary for the town of Madras. XIX of 52. Govt then told the Board to submit a draft Act for amending XIX of 52.

The Board answer that order in the matter now under consideration.

They say they had thought of extending the Mofussil Act, III of 64, to Madras, mutatis mutandis, but they have discovered one strong objection to this course in the fact that the Penal Code is not administered by the Magistrates of Madras. They also anticipate smuggling of any land admitting country made spirits to Madras is passed. On the whole, they think it best to leave well alone.

The difficulty about this Code we seems to have weighed most with the Bd. is not so great as they seem to think. It is the procedure code & not the penal code wh has not been extended to the limits of the High Court

Govt have now to decide whether the Madras Abkarry law needs alteration or not.

H.S.

No. 4,689.

From R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue,

To W. HUDLESTON, Esq., Acting Secretary to Government, R. D.

SIR,

With reference to the Government Order noted in the margin, I am directed by the Board of Revenue to report that they have communicated personally with the Collector of Madras and the Commissioner of Police on the subject of making the Abkarry Act (Madras Act III. of 1864) applicable to Madras town, and they find that there is one strong objection to this course. The Act in question was drawn up under the impression that it would be brought into force in such parts of the country only as the Indian Penal Code had been introduced into, several offences which were provided for in the Code were consequently omitted from the Abkarry enactment. The Board now learn that that Code is not administered by the Magistrates of Madras, and that they are not empowered to administer it.

28th April 1865, No. 878, Revenue Department.

2. The Commissioner of Police and the Collector also expressed their opinion that the present Abkarry Act XIX. of 1852 worked sufficiently well, and that they were averse to any material modifications of it so long as the present Abkarry system be maintained in the Presidency town.

3. They considered also that any such modifications of the Act as would admit country made spirits into the limits of the town, except in conformity with the provisions of Section 7 of Act XIX. of 1852, would probably lead to smuggling. At the same time the Collector observed that if the Distillers of spirits on the European system were of opinion that the liquor manufactured by them would be acceptable to the public, and if they would accept the risk of its being refused by the vendors, he would have no objection to obtaining spirits from them, on the understanding of course, that it was to be supplied to him at a rate not higher than the present cost of the spirits supplied by him to the vendors.

4. In the present state of the Law this appears to be the only source by which such spirits can be brought into the Presidency market. Their retail sale is virtually prohibited by Sections 5 and 6 of Act XIX. of 1852, as the latter Section provides that the vendors licensed under the former, shall obtain the liquor they sell only from such source as is laid down in the license, *i. e.*, the Collector of Madras. The wholesale sale of such spirits is absolutely prohibited in Section 7 except for exportation over sea or to the Collector.

5. It will be observed that these provisions of the Special and Local enactment have been held to render inoperative the provisions of Section 171 of the Consolidated Customs Act so that the supposed anomaly that the spirits under reference could be imported by sea and disposed of wholesale in the local market, though the same spirits could not be imported by land, does not in reality exist.

Opinion recorded in Government Order, dated 7th April 1865, No. 767.

I have the honor to be,
Sir,
Your most obedient servant,

R. A. Dalyell
Acting Secretary.

REVENUE BOARD OFFICE,
Madras,
5th August 1865.

To E. G. R. Fane, Esq., Collector of Madras.
„ J. H. Blair, Esq., Collector of Sea Customs, Madras,
with copy of Government Order, dated 28th April 1865, No. 878.
„ Acting Commissioner of Police.

Exd. J. Wright.

Pro-7 April/65 No 95-96
28 ——— 338-339.

Rev= 1865. Department.
Proc^gs for august

No. 2201.

From The Acting Secretary to the Board of Revenue,
To The Acting Secretary to Government.

Dated 5th August 1865.

No 4,689.

Rec^d Board of Revenue
5/25 Aug^t/65 C n: 2360.

Submitting opinion on the subject of making Abkarry Act (Madras Act III of 1864) applicable to Madras town.

No 1959. 25 Aug^t

W Rae ord^r Sec^y

No 371 & 372

C n Aug^t 28 Rig^t

No 1959.

Sir I am in error in supposing that the provisions of the Penal Code are not in force in the Madras town limits. The 2nd para in the case. and it is only the Code of Criminal Procedure that does not apply to town limits.

Sir I will explain how far this view can be modified by the changes of circumstances

The sum expended in para 5. of the above communication is also incorrect. as the amount is that Country made Spirit can be imported by the payment of duty & brought into the Presidency town but in the same manner as foreign Spirit. While they cannot be imported by land.

I have &c

22nd Aug^t 1865.