

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	2430	Press
		<u>Mis.</u>
	126 127	
Dated	7-10	1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
7th October 1865.*

No. 126. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, to W. HUDLESTON, Esq., Acting Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 2nd October 1865, No. 577 :—

SIR,

1. I have the honor to acknowledge the Proceedings of Government noted in the margin, relative to certain questions arising out of the Madras Town Abkarry and the Law now operative.
2. I submitted the matter for the consideration of the Advocate General, and
3. I now forward a copy of his Opinion.

COPY OPINION.

I. The Code of Criminal Procedure has not been generally extended to the Town of Madras. As the Indian Penal Code is administered by the High Court upon its Original Criminal Side, the Magistrates act merely in their ministerial capacity in preparing and committing for trial offences against that Code. The Indian Penal Code simply defines offences, and declares their punishments. It confers no jurisdiction on this or that class of Courts to try such offences. That jurisdiction is confined and specified by the Criminal Procedure Code. The only cases in which a Magistrate of the Town of Madras can proceed summarily with respect to an offence constituted by the Indian Penal Code, are those affecting the public health, safety, &c., comprised in Chapter XIV. of the Code other than offences under Sections 280 and 281.

1. With respect to these offences, summary jurisdiction has been conferred on the Magistrates of Madras by Act XXI. of 1864, Section 11, and the Notifications in the "Fort Saint George Gazette" of that year, page 1,224, and page 800 of the Gazette of 1865.

2. A reference to the Schedule annexed to the Indian Criminal Procedure Code, will at a glance shew that there is a vast variety of offences against the Indian Penal Code with which the Mofussil Magistrate can deal summarily, over which the Magistrates of the Town of Madras have no corresponding jurisdiction.

II. I do not think that Country Spirits, imported by sea on payment of duty into Madras, are on as favorable a footing as imported Foreign Spirits. Neither the one nor the other can be sold *retail* : but there is nothing to prevent the wholesale sale of European Spirits within the Town of Madras. Section 10 of Act XIX. of 1852 appears to me to prevent even the wholesale sale within the Town of Madras of spirituous liquors manufactured eastward of the Cape of Good Hope, imported by sea, and having paid the Sea Custom Duty.

3. Section 10 appears to me to deal with the case of such spirits imported by sea ; Section 11 with it imported by land. Under Section 10, it cannot even be removed from the Custom House, or from place to place, without the permit of the Collector of Madras. It can only be sold beyond the "limits of Madras and its suburbs."

III. Country Spirits imported by land are regulated by Section 11 of Act XIX. of 1852. The effect I have noted above. So also I have pointed out the effect of Section 10, which provides for liquor manufactured eastward of the Cape of Good Hope. Country Spirits imported by land are in a less favorable position than the same Spirits imported by sea, or European Spirits. The first cannot be sold to any one but the Officers of Government or Abkarry Farm Renters : the second may be sold wholesale to any one beyond the limits of Madras and its suburbs. The third may be sold wholesale in Madras.

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

28th September 1865.

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

No. 127. ORDER THEREON, 7th October 1865, No. 2,430.

Separate Revenue, No. 7.
Abkarry.

Communicated to the Revenue Board.

(True Extract.)

(Signed) J. GROSE,
Acting Under Secretary to Government.

To the Board of Revenue.
,, the Government Solicitor.

Etd. S. T. Augustia.

W-2430.

Communicated to the Rev. Bd.

14 To the Board of Overseas
4 - the Past Selection V

100
- 47

Pro. 7th April 65 N 1221/23

Rev. 1865 Vols.
No. of Govt. for Oct.
N. 2785.

From Governor's Office Madras

To Secy to Govt. Rev. Deptt.

Dated 2nd October

Received 4th

do. 5th

Enclosure

do.

N 1268127-

Forwards copy of the
General's opinion relative to
certain questions arising out
of the Madras Town Ab. Survey
and the Lawrence operation

N 2420-7 October

With order =

L