

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1275	Press ~~Vis.~~
285-86 Dated	16-8-1870	10

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
16th August 1870.*

No. 285. Read the following letter from the Under-Secretary to the Government of India, Financial Department, to the Secretary to Government, Fort Saint George, dated Simla, 9th June 1870, No. 1,132-A:—

REFERRING to your telegraphic communication of the 31st May 1870, regarding the exportation of Opium by land to Foreign and Native States, I am desired to forward an extract (paragraphs 1 to 6) from a communication from the Legislative Department, No. 291, dated 3rd June 1870, and to inform you that a Notification* will be published in the next issue of the *Gazette of India*, prohibiting the exportation of Opium, not covered by a Pass, either by land or by sea.

2. I am to add that no special orders appear to be required regarding the disposal of the Opium seized by the Post Office.

ENCLOSURE No. 1.

Extract from an Office Memorandum from the Legislative Department, addressed to the Financial Department, No. 291, dated 3rd June 1870, paragraphs 1 to 6.

THE undersigned has the honour to acknowledge the receipt of the Memorandum from the Financial Department, No. 889, dated the 1st instant, forwarding for consideration certain papers* relative to the prohibition of the export by sea from any port or place in the Presidency of Fort Saint George of Opium not covered

* Telegram to Government of Madras, No. 606, dated 19th May 1870.
Do. from do., dated 25th do.
Do. do. do., dated 31st do.
Office Note in original (Returned herewith.)

by a Pass; and in reply to communicate the following remarks:—

2. The only provisions of Act VI. of 1844 now in force are Section 6† and Sections 8 to 13, and there is, in the opinion of this department, nothing in those Sections to authorize the prohibition of the export of Opium.

3. But the required prohibition may, this department thinks, be made under Section 23 of Act VI. of 1863. The words of that Section are not confined to imports and exports *by sea*. They are quite general, and their generality would not, it is thought, be restricted by the title or the preamble of the Act in which they occur. In the leading case on this subject (*Crespigny vs. Willinoon*, 4 Term, Rep. 193), it was laid down by Buller and Grose J.J. that the preamble cannot restrain the enacting clauses except in the following three cases:—

- (1.) Where the words are ambiguous;
- (2.) Where they are not sufficiently large to embrace the case; or
- (3.) Where they are so large that convenience and the policy of the law clearly require their generality to be restrained.

And Section 2, Madras High Court Reports 322-323, *ibid* 8.

4. Now it is obvious (1) that the words of Act VI. of 1863, Section 23 are *not* ambiguous; (2), that they are sufficiently large to embrace the case; and, (3), that convenience and the policy of the law do *not* require their generality to be restrained.

5. This being so, neither an Act nor an Ordinance appears necessary for the purpose of prohibiting the export of Opium by land to Foreign or Native States, and if a Notification to that effect be issued, Opium exported contrary to the prohibition may be confiscated under Section 24 of Act VI. of 1863.

6. Care should be taken not to infringe the provisions of the engagement as to Opium which, this department believes, exists between the Governments of British India and of France.

(True Extract.)

(Signed) G. H. M. BATTEN,
Under-Secy. to Govt. of India.

*Proceedings of the Madras Government, Revenue Department,
16th August 1870.*

No. 286.

ORDER THEREON, 16th August 1870, No. 1,275.

Separate Revenue, No. 21.

Customs.

ORDERED to be recorded.

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

Edw. F. R. Bantleman.

N^o 1133.

Government of India.

Financial Department.
Simla.

The 9th June 1870.

Separate Revenue.

Notification.

In exercise of the powers conferred on him by the Consolidated Customs Act, Section twenty three, and of every other power enabling him in this behalf, the Governor General of India in Council is pleased to prohibit the exportation of opium not covered by a pass.

by sea from any port or place in the Presidency of Fort Saint George, or by land from that Presidency to any foreign or Native State.

The above Notification supersedes that published in the Gazette of India, Part I page 348 No 609 dated the 19th May 1870.

By A. B. Chapman
Off. Secy. to the Govt of India.
(True Copy)

Wm. Hatten

1870-71.

Govt. of India.

REVENUE.

To

Dated August, 1870.

Recd.

For

G. O. 16th August 1870, No. 1,275.

AUGUST.

Nos. 285-286.

Opium.—Letter from Government of India stating that a Notification will be published prohibiting the exportation of opium not covered by a pass, recorded.

Nov-1876/70

80-1875-16000/50

Revenue 10/10-27
N°

From

The Under Secy: to Govt
India - Impl.

Dated 9th } June 1890
Recd. 23

N° 1132 A.

N° 1245

RECORDED

15th Aug 90
Forwarding an extract from a
communication from the Legislative
Dept. on the subject of exportation of
opium, & copy of a notification to
be published in the Gazette of India
on the same subject.

He would be pleased
that the notification as soon
as possible be published.

M. L.

No 1132 A

M.R.O. 1-34,000-16-10-27.

WORD OFFICE.

To,

The Secretary to Government
Fort Saint George.

Recd 26/6/70

Sir,

Referring to your Telegraphic
Communication of the 31st May 1870,
regarding the exportation of opium
by land to Foreign and Native States,
I am desired to forward an extract
(Paras: 1 @ 6) from a Communication
from the Legislative Department.

Appended inform you that a Notification
will be published in the next
issue of the Gazette of India, pro-
hibiting the exportation of opium
not-covered by a pass, either by
land or by sea.

2. I am to add that no special
orders appear to be required regarding
the disposal of the opium seized by
the Post Office.

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

J. Mr. Hatten

Under Secy to the Govt. of India

Sd/-
The 9th June
1870

Recd 26/6/70