

Rein 1870

Go- 858- 11-6-70

134-140

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

134-140 Dated 11-6-1870 1Q .

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
11th June 1870.*

Read the following :—

No. 134. Proceedings of the Board of Revenue, dated 24th February 1870,
No. 1,313 :—

Read the following letter from the Collector of Sea Customs, to the Acting Secretary to the Board of Revenue, dated Madras, 22nd February 1870,
No. 148.

I HAVE the honour to forward copy of letter from the Postmaster, Madras, No. 9,127, of the 21st instant.

To Rajasree
Parooroo Lutchmenarasoo,
Madras.
Bearing to Madras.

From
Parooroo Lutchmenarasoo,
Jaggiapettah, Bazaarman.

2. The parcel contains about one pound of opium; value about 10 Rupees,

3. The names of the sender and that of the addressee on the wrapper are marginally given.

4. Under the Notification published in the *Fort Saint George Gazette*, 5th October 1869, page 461, the transmission of opium by post, except on account of Government, is prohibited.

5. I have the honour to request the Board's orders whether the Collector of Sea Customs, or the Collector of Madras as Collector of Land Customs, or the Collector of the Kistna District in which the sender lives, is the proper officer to take the required steps in the matter. If the case comes in my jurisdiction, I beg I may be informed under what Act the offender can be tried and punished.

6. With reference to the present case I beg to refer the Board to their Proceedings of 10th December 1869, No. 9,064.

ENCLOSURE No. 1.

From the Postmaster, to the Collector of Sea Customs, Madras, dated 21st February 1870,
No. 9,127.

I HAVE the honour to forward herewith, for such ulterior proceedings as you may think fit, a parcel of opium which I have detained in transit through the Post Office.

2. The sender's name I do not know; that of the addressee is on the wrapper.

3. A sum of eight Annas bearing postage is due to this department on account of conveyance of this parcel, which I shall be obliged by your forwarding to me with a view to the adjustment of the accounts of this office.

This letter and enclosure will be forwarded to the Government Solicitor, who is requested, in communication with the Advocate-General, to advise on the matter.

No. 135. Proceedings of the Board of Revenue, dated 26th February 1870,
No. 1,387.

Read the following letter from the Acting Collector of Coimbatore, to the Acting Secretary to the Board of Revenue, dated 23rd February 1870, No. 38.

I HAVE the honour to submit the following case for the information and orders of the Board of Revenue.

2. Two parcels containing opium were reported to the Postal authorities to have been despatched from Bangalore to Collegal in this district to the address of one Casse Condiah Chetty. The Inspecting Postmaster directed the Deputy-Postmaster at Collegal to summon the addressee and to open the parcel in his presence and two other witnesses, and if opium were found in them, to report the matter to the Deputy-Collector in charge of the division. Accordingly, the parcels were searched and opium, weighing about 350 tolahs, was found in them. This the Deputy-Postmaster reported to the Deputy-Collector. My Assistant Mr. Farmer, who is now in charge of the Deputy-Collector's office, suggests that the article be confiscated and disposed of under Section 76 of Act XXI. of 1856, (an Act to consolidate and amend the law relating to the Abkarry revenue in the Presidency of Fort William in Bengal,) but this enactment has not the force of law in this Presidency.

3. In a Notification published at page 287 of the *Gazette of India* for 1869, dated 17th September of that year, No. 3,526, the Governor-General in Council, under the provisions of Section 63 of the Indian Post Office Act 1866, prohibited the transmission of opium by post, except on account of Government. The Notification goes on to state "that persons transgressing the above rule are liable to the penalties provided by the *Excise law*, and any cover suspected to contain opium, will be dealt with under the provisions of Section 60 of the Post Office Act; the cover and its contents, if found to be opium, being made over to the nearest excise officer for the adoption of such ulterior proceedings as may be deemed proper."

4. So far as I am aware there is no Excise law in this Presidency under which ulterior proceedings could be taken, and as Section 60 of the Post Office Act provides that, "unless required for ulterior proceedings," the letter opened under its provisions, or "other article should be subsequently delivered to the person to whom it is addressed," I am of opinion that the latter course must be pursued in the case in point.

5. Under the notification the only penalties held out are those provided by the Excise law, and there being no such law in this Presidency no penalties can be exacted.

6. Requesting the instructions of the Board of Revenue on this unusual case.

FORWARDED to the Government Solicitor, who is requested to advise as to the course to be pursued.

No. 136. Proceedings of the Board of Revenue, dated 5th March 1870,
No. 1,588:—

Read the following letter from the Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Repally, 21st February 1870, No. 831.

With reference to the Board's Proceedings, dated 10th December 1869, No. 9,064, requesting me to report the result of the proceedings in the case of a seizure of Opium passing through the Post Office at Juggiahpett, I have the

honour to state that twenty-one banghy packets were at different times opened by the Deputy-Postmaster of Juggiahpett in the presence of the Village Moonsiff and Police, and were then made over to the addressee, Jantmallu, Goomastah of Soorat Ram Rampratap, Sowcar. The weight of the Opium was 9,413 tolas, and its estimated value Rupees 2,859. It was exported from Ajmere and Kotah. The person to whom the Opium was delivered states that he has sold it all. The Deputy-Postmaster did not inform the Sub-Magistrate, nor were any further steps taken in the matter. The first intimation I received was from the Inspecting Postmaster of Hyderabad in a letter, dated 8th September 1869, No. 784.

2. Since that occurred, in the Order of the Government of India, dated 17th September 1869, No. 3,526, Separate Revenue, published in *Fort Saint George Gazette* of 5th October 1869, under the provisions of Section 63 of the Indian Post Office Act of 1866, the Governor-General in Council has been pleased to prohibit the transmission of Opium by post except on account of Government; persons transgressing the above Rule are declared liable to the penalties provided by the Excise Law, and any covers sent by post (not being on account of Government), which may be suspected to contain Opium, are directed to be dealt with under the provisions of Section 60 of the Post Office Act, the cover and its contents, if found to be Opium, being made over to the nearest Excise Officer for the adoption of such ulterior proceedings as may be deemed proper.

3. The Deputy-Postmaster of Juggiahpett states that under the recent orders of Government, the Opium banghies subsequently received are being sent to Kodada in the Nizam's territories, where there is a Sayer Establishment. The Inspecting Postmaster of the 2nd Division has informed me that this course was followed with reference to the instructions of the Postmaster-General, dated 8th September 1869, No. 4,351-1,960. On my applying to the Inspecting Postmaster of the Hyderabad or 3rd Division, he has informed me in a letter, dated 9th January 1870, No. 1,527, that the subject of making over contraband Opium received by post to the nearest Excise Officer for such ulterior proceedings being taken as the case may require, is still under the consideration of the British Resident, and His Highness the Nizam's Minister, in connection with the late imports of Opium at Juggiahpett.

With reference to the Board's Proceedings, dated 29th November 1869, No. 8, 84, I have the honour to forward herewith copy of a letter from the District Superintendent of Police. He confirms what I have already reported that much Opium is received by the Marwari merchants at Juggiahpett from Bombay and Hyderabad.

5. The only check against smuggling is the Sayer Establishment in the Nizam's territories. We have no separate establishment at this frontier town for the protection of the customs, and the Police do not seem to have had their attention directed to the check of any smuggling trade. The Opium brought into British territories through Juggiahpett is sent in large quantities up to Ganjam, Vizagapatam, and Godavery; the demand is said to be particularly large in the hill tracts. This I was informed by one of the principal merchants of Juggiahpett.

6. I have not yet received any information from the Acting Head Assistant Collector, nor from the Nandigama Tahsildar, to whom I applied for information

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as to whether the so-called Malwa Opium, when brought to Juggiahpett, is protected by any Passes, and if so, by whom signed. I shall furnish this information hereafter as soon as I receive it.

ENCLOSURE No. 1.

From the Superintendent of Police, to the Collector of the Kistna District, No. 45 of 1870.

With reference to your letter, No. 618, dated 12th instant, I have the honour to state that much Opium is received by the Marwari merchants at Juggiahpett from Bombay and Hyderabad. Sometimes it is sent to them in bandies with other articles, and sometimes by banghy. This practice has been known to the several Sub-Magistrates who have been at that station, and on one occasion I understood it was brought to your notice.

2. There is no information before me to show that any Opium is smuggled. I observe that in some of the cases brought to light in other districts the clue was given by Custom-house Officers. The attention of the Police is so much engaged in detecting grave crime that it is quite possible some cases of smuggling escape their observation. Certainly they cannot devote as much of their time to the discovery of smuggling as Custom-house Officers have at their disposal. The abolition of the Sayer Department has probably facilitated smuggling on frontiers of Native States, by directing public attention from the restriction laid on Opium.

In this letter the Acting Collector of Kistna reports that no less than twenty-one banghy parcels containing Opium have been opened by the Post Office at Juggiahpett.

2. Opium, valued at 2,857 Rupees, was found and handed over to the addressees apparently without any communication with any authorities except the Police.

3. Subsequently it appears that other parcels have been received, and, in accordance with the Notification of the Government of India, forwarded to be dealt with by the Excise, which in this case is represented by a Sayer Establishment in the Nizam's Dominions.

4. The disposal of these cases is under the consideration of the British Resident at Hyderabad.

5. The Opium is reported to be the produce of Ajmere and Kotah, and to be imported by land into Juggiahpett for supply of the local consumption of the Northern circars.

6. Two cases have recently occurred, one in Madras and the other in Coimbatore, where a parcel of Opium has been handed over to the Revenue authorities, and the Board have referred these cases for the advice of the Government Solicitor, which is expected daily.

7. The Governor-General's Notification, prohibiting the transmission of Opium by post, and stating that parties would be liable to the penalty provided by the Excise Law, referred probably to

some provision of the Abkarry Act in the other Presidencies; but so far as the Board are aware, no law is infringed by the import by land, by post or otherwise, of Opium into Madras.

8. The information now supplied by the Collector does not admit of any definite conclusion, and the Board await his further report as to condition of the

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Opium-trade in the district. He should direct inquiry especially to the subject of whether any of this Opium is exported by sea, as it is only in that case that serious injury to the Opium-revenue can be caused.

9. The matter, however, being important as showing an extensive use of the post for transmission of Opium, the Board have deemed it necessary to lay the information before Government at once.

10. Replies are being received to a Circular calling for information from all districts on Opium-smuggling, and the Board hope shortly to report fully on the subject.

No. 137. Proceedings of the Board of Revenue, dated 15th March 1870,
No. 1,775:—

Read the following letters:—

From the Government Solicitor, Madras, to the Acting Secretary to the Board of Revenue, dated 9th March 1870, No. 124.

I HAVE the honour to acknowledge the receipt of the Proceedings of the Board of Revenue, dated 24th February last, No. 1,313, and its enclosure, requesting the Advocate-General's opinion relative to the transmission by post of a parcel containing Opium from Juggiahpetta in the Kistna District to Madras.

2. I submitted the papers for the consideration of the Advocate-General, and have also conferred with him thereon; and,

3. I now forward a copy of his Opinion.

ENCLOSURE No. 1.

OPINION.

I HAVE given this question my best consideration, conferred with the Collector of Sea Customs, the Government Solicitor, and the Postmaster, and carefully examined all the Acts bearing upon it.

2. I come to the conclusion that in this Presidency it is impossible to give any effect to the Right Honourable the Governor-General's Notification, published in the *Fort Saint George Gazette* of 1869, page 461.

3. The transmission of Opium by post, save on account of Government, is thereby prohibited; and parties transgressing the rule are made liable to the penalties provided by the Excise Law.

4. This may be effectual enough in Bengal where there exists an Opium Act (XXIII. of 1857), and the Abkarry Act has Sections expressly providing for Opium (Act XXI. 1856), but these Acts are not general; they apply only to Bengal, and in this Presidency, as the law at present stands, there is no Excise Law under which Opium can be dealt with.

5. Act VI. of 1844 has been entirely repealed, except Sections 6 and 12.

6. Section 6 is erroneously stated in Theobald's Edition of the Acts to have been repealed by Act VII. of 1859. That Act is also erroneously stated by Theobald, Volume III., page 55, to repeal Act VI. of 1844, except as to Salt and Opium. On turning, however, to the authorized edition of the Acts, it will be found that Act VII. of 1859 does not repeal Section 6 of Act VI. of 1844, but only the Schedules of that Act, A. and B., except as to Salt and Opium. These Schedules have been since entirely repealed by Act VIII. of 1863.

7. The Madras Abkarry Act, Madras Act III. of 1864 for Abkarry beyond the limits of the Presidency Town, which is regulated by Act XIX. of 1852, provides only for *liquors*. There

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is no mention in it of "intoxicating drugs;" and the only allusion made to "intoxicating drugs" in Act XIX. of 1852 is in Section 8 which relates to persons taking out licenses. It might perhaps be open to question whether Opium is not rather a narcotic than an intoxicating drug in the absence of definition. The Bengal Abkarry Act expressly brings Opium under that definition.

8. The question of legislating in respect to intoxicating drugs has recently come before the Madras Government, which by its Order, 28th May 1869, No. 1,506, declared that it saw no ground for taking legislative action at present.

9. There exists then no power, as far as I can see, to confiscate or levy a duty on Opium in this Presidency.

10. The Postmaster should have sent the Opium to the Collector of Madras who is the nearest Excise Officer. The Collector of Sea Customs is not an Excise Officer. The difficulty is that when the Excise Officer has got the Opium, he can do nothing with it.

11. This question is further considered on the other reference as to Opium sent by post from Bangalore.

(Signed) J. B. NORTON;
Advocate-General.

8th March 1870.

From the Government Solicitor, Madras, to the Acting Secretary to the Board of Revenue, dated 9th March 1870, No. 125.

I HAVE the honour to acknowledge the receipt of the Proceedings of the Board of Revenue, dated 26th February last, requesting the Advocate-General's opinion relative to the transmission by post of two parcels containing Opium from Bangalore to Colligal in the district of Coimbatore.

2. I submitted the papers for the consideration of the Advocate-General, and have also conferred with him thereon; and

3. I now forward a copy of his Opinion.

ENCLOSURE No. 1.

OPINION.

In the other reference made to me on the subject of Opium sent by post, the question arose as to the drug being transmitted from one part of British Indian territories to another. In the present case the Opium was sent from Bangalore to Colligal in the Coimbatore District.

2. I beg that what I have written on the other reference may be read in conjunction with this.

3. I am of opinion that there exists no more power to confiscate or levy duty on Opium sent from Mysore into British India than in the case of Opium sent from one part of our own territories into another.

4. Section 6 of Act VI. of 1844 refers only to foreign *European* Settlements "situated on the line of coast within the limits of Fort Saint George." Bangalore is clearly not within this description. The Section does not provide for confiscation; it only says that Customs-duty shall be leviable on the goods so passing according to certain rates specified in the Schedules to the Act for goods imported on foreign bottoms. But the Schedules as I have shown are now entirely swept away.

5. Section 12 makes goods under certain circumstances liable to confiscation; but this only after Notification by the Governor in Council in the Gazette. I am not aware that any such

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has been issued with respect to Mysore. Section 12 further applies only to the foreign territories specified in Sections 6 and 7. Section 6 applies only to foreign European Settlements on the line of coast. Section 7, which applied to foreign Native States, has been repealed by Act XI. of 1869. Section 4 of that Act takes the place of Section 7 of Act VII. of 1844. I am not aware whether any Notification has been issued under Section 4 of Act XI. of 1869. But if it has, it is, I think, ineffectual for the present purpose, for the Section merely makes goods after Notification liable to the duties specified in the Schedules to Act XVII. of 1867, and there is nothing in these Schedules relating to Opium, nor is there "any other law" in force, relating to duties on Opium imported or exported by sea in this Presidency.

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

8th March 1870.

In paragraph 12 of their Proceedings of the 8th March 1870, No. 1,617, the Board alluded to the fact that several seizures of Opium had been made in the Post Office under the authority of the Governor-General's Notification of the 17th September 1869, and they stated that it was doubtful whether the state of the law in this Presidency admitted of penalty being inflicted.

2. They now forward the opinion of the Advocate-General in two cases: in one, the Opium had simply been transmitted from one part of the Presidency to the other; in the second case the Opium had been imported by land from Mysore.

3. Mr. Norton gives it as his opinion that in neither case has any Excise Law been violated, and further points out that there is no longer any prohibition or restriction on the export of Opium *by sea*.

4. Until the repealing Act VIII. of 1869, this was provided by Schedule B. Act VI. of 1844, which prohibited the export of Opium without a Pass.

5. The repealing Act contains a clause saving any duties on Salt and Opium, but not saving any restriction or penalty connected therewith; consequently by repealing the Schedule B., the prohibition has been swept away.

6. Under Section 23 of the Sea Customs Act VI. of 1863, the Governor-General is empowered by a Notification to prohibit or restrict the export of any class of goods, and the Board suggest that a Notification to this effect be at once published.

7. It may be observed that hitherto the shipments of Opium by sea, which have been seized, have been lawfully confiscated, as the shippers have attempted to smuggle the cases, and thus brought themselves under the general penalties for shipping unmanifested goods.

8. If, however, they now come forward and manifest for the drug, the Board do not see how, under the opinion of the Advocate-General, any hindrance can be made to its free export.

9. As regards the export by land the Board consider that, with reference to the trade of Pondicherry and other French Settlements, it is necessary that the export by land of Opium into those places should be restricted in the same way as by sea. Section 3, Act XI. of 1869, provides that in the case of such territories the duties in force for Sea Customs shall be levied, but it does not provide that prohibitions and restrictions in respect to Sea Customs shall have effect.

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10. The Collector of Coimbatore and the Collector of Sea Customs, Madras, should return the parcels to the Post Office authorities to be handed over to the addressees.

No. 138. Proceedings of the Board of Revenue, dated 17th March 1870, No. 1,837 :—

Read the following letter from the British Resident in Travancore and Cochin, to the Acting Secretary to the Board of Revenue, dated 12th March 1870, No. 253.

ADVERTING to your letter, No. 1,063, of 16th February 1870, I have the honour to enclose copies of letters from the Dewans of Travancore and Cochin, from which it will be perceived that there are no restrictions in force in regard to export of Opium by sea.

ENCLOSURE No. 1.

From T. MADAVA ROW, Dewan, to the British Resident of Travancore, dated Trevandram, 4th March 1870, No. 994.

In reply to your letter, No. 212, of the 2nd instant, I have the honour to inform you that there are hardly any particular restrictions in force in Travancore in regard to the export of Opium, and this for the reason that Opium is not a product indigenous to the country; that it is imported into it, and that there is no occasion to export the imported article. Indeed, I am not aware that any Opium is at all exported, and hence the question has never been raised how it should be treated on export.

2. I may perhaps add that the sale of Opium is farmed out like the Abkarry, and that it is only the farmer that is allowed to import the article. When imported, it pays a Duty of ten per cent.

ENCLOSURE No. 2.

From T. SHUNGOONNY MENON, Dewan, to the British Resident of Travancore and Cochin, dated Ernacolum in Cochin, 11th March 1870, No. 160.

I HAVE the honour to acknowledge the receipt of your letter, No. 213, of the 2nd instant.

2. The tariff valuation of Opium, which obtained in this Sirkar previous to the Interportal arrangements, was Rupees 3,650 per Candy, the rates of Customs-duty being four per cent. on importation and three per cent. on export, and a Pass was required from the Sirkar Opium Contractor before the drug was allowed to leave the Custom-house.

3. It appears on inquiry that no Opium has been exported from this territory since the establishment of the port of Mallipooram; but as the drug is excepted from the conditions of the Interportal Convention, it will be liable to duty if exported hereafter, according to the rates leviable in British India.

COMMUNICATED to the Government in continuation of Board's Proceedings, dated 15th instant.

2.° It will be observed that the export of Opium by sea from Travancore and Cochin is not prohibited.

*Proceedings of the Madras Government, Revenue Department,
11th June 1870.*

No. 139. Proceedings of the Board of Revenue, dated 24th May 1870.

Read again Board's Proceedings, 11th November 1869, No. 8,362.

Read also the following letter from J. W. HANDLEY Esq., Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 20th May 1870, No. 57.

WITH reference to the Board's Proceedings noted in the margin, I have the honour to report that the appeal therein referred to against the conviction of Solomon Gingill for an attempt to

Dated 3rd March 1870, No. 1,525. export opium to Cochin came on for hearing this day before Mr. Justice Holloway and Mr. Justice Kindersley, when I appeared as instructed in support of the conviction.

2. The Court held that the only existing legal prohibition of the exportation of opium from Madras, namely, that contained in Schedule B. of Act VI. of 1844, was finally repealed by Act VIII. of 1868, the express repeal in the Schedule of which Act could not be nullified by the proviso in Section I.; that the Act should not affect any principle or rule of law, etc., etc., nor by the proviso in the same section; that the Act should not affect duties leviable on salt or opium; and that therefore the sentence passed by the Head Assistant Magistrate of Malabar must be reversed.

3. It follows from this decision that the exportation of opium by land or sea from this Presidency is not unlawful, and the question remains what course should be taken to alter a state of things which, I suppose, must seriously affect the interests of Government. With regard to exportation by sea there appears to be no difficulty; it can be prohibited by a Notice, issued by the Governor-General under Section 23 of Act VI. of 1863, and any person exporting it after such notice, will be liable to the penalties imposed by Section 24. Possibly, separate legislation may be necessary to meet the case of exportation by land. As I observed in my former letter on this subject, it is doubtful whether Section 23 of the last-named Act gives power to prohibit exportation by land. The words of the section are, indeed, in themselves wide enough to give such a power; but the Act is a Sea Customs Act, and most of its provisions apply only to imports and exports by sea, and it would probably be held that Section 23 had no wider application. Act XI. of 1869 (the Madras and Bombay Land Customs Act), as pointed out by the Advocate-General in his opinion upon the question submitted to him as to the importation of opium from Mysore into British India, does not meet the case of opium at all.

4. The opium confiscated from Solomon Gingill will of course have to be returned, and the fine, if paid, refunded to him.

SUBMITTED for the information of Government.

2. The letter refers to an appeal against the conviction by the Head Assistant Magistrate of Malabar of a Cochin Jew for attempting to smuggle opium into Cochin.

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3. The High Court held that Act VIII. of 1863 has repealed the prohibition of the export of opium uncovered by a Pass, contained in Schedule B., Act VI. of 1844, and quashed the conviction.

4. This decision disposes finally of the question raised in the letter from the Acting Collector of Sea Customs, recorded in Board's Proceedings, 11th May 1870, No. 3,189.

5. The state of the law under which all restrictions on the export of opium both by sea and land had ceased to exist, was brought to the notice of Government by the Board in their Proceedings of the 15th March 1870, No. 1,775.

6. A remedy so far as regards export by sea has been afforded by the Notification alluded to in G. O., 20th May 1870, No. 750, but the export by *land* is still unrestricted, and the consequent danger to the revenue is serious.

No. 140.

ORDER THEREON, 11th June 1870, No. 858.

Separate Revenue, No. 11.

Customs.

THE foregoing papers relate to the transmission of opium through the Post Office and to its export from the Madras Presidency by land and sea.

2. It appears that in the present state of the law no action can be taken on the Notification of the Governor-General, dated 17th September 1869, No. 3,526, as after the opium has been stopped by the Post Office, there is no enactment under which it can be dealt with by the excise officer. It also appears that the repealing Act VIII. of 1863 has removed from the Statute Book the Schedule B. of Act VI. of 1844, under which the export of opium by sea or land was prohibited, and the High Court have affirmed this view in a recent decision, disallowing the seizure of certain opium on the frontier of the Cochin territory.

3. In accordance with the wish expressed in a telegram from this Government the Government of India have already issued a Notification under Section 23 of the Customs Act, prohibiting the export of opium uncovered by a Pass *by sea*; and a further telegram has been despatched, suggesting that pending legislation an Ordinance be passed, providing for the confiscation of opium stopped in transit by the Post Office authorities, and also providing for the prohibition of the export of opium by land, and for its confiscation when attempted to be so exported.

4. Resolved that a copy of these Proceedings be submitted for information of the Government of India, with reference to the telegrams above referred to, and that they be informed that a reply to their letter in the Financial Department, under date 29th June 1869, No. 1,554, is under preparation, and will be submitted shortly.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

My dear Dalzell,

In the letter sent
herewith the Reader asks
how he is to stop opium
from going into Pondicherry.

It has lain over for
the result of the appeal
in the Cochin case.

The High Court have
now decided that all

Govt. of 1870: 311015.

REVENUE.

THE BOARD OF REVENUE.

Dated June, 11th.

Recd.

Recd.

G. O., 11th June 1870, No. 858.

JULIE.

Nos. 134-140.

Opium.—Passing orders on Board's Proceed-
ings relative to its transmission through the Post
Office and to its export from Madras Presidency
by land and sea.

From Govt. of Madras
16 July 1870
1931

restriction on the ex-
port of opium has been
rescinded.

Probably a large quantity
of opium has been col-
lected in Madras for ex-
port by sea, & now it is
stopped by the Governor
General's notification
will be sent to Pondi-
cherry.

The Bd wish to know
if Govt wd approve this.

instructing Rade ^{G.} to
officially to stop opium
in spite of the want of
law?

Of course this will
give rise to suits for
damages but we shall
gain time by it.

Yours very truly,
J. Erle

May 24

I am sorry the G. G. &

notification was ^{expressly} limited
to export by sea. It may
be he has not the power
to issue such a notifi-
cation with regard to ex-
port by land, but it would
have been effectual
for all that.

19.
Circulated for review: letter
from the A. Sec to the B. Sec
Revenue.

Mr. G. writes that he is
to reply to the Col. of
D. H. who enquires under
what authority he can
stop opium from being
exported over the land
frontier.

Mr. G. states that in
a recent case the High Ct.
have declared that there
is no legal authority
against the export of opium.
This defect of the law
has been remedied in

request to export over
land of the notification

1. There is very

Service Telegram

To The Financial Secretary
to the Govt of India
Simla

Under Secy of 19th

from telegram received.

The notification limited
to opium exported
by sea - Opium is
now being exported
over French land
frontier. This should
also be prohibited, if law
permits - otherwise
further legislation neces-
sary

J. D. S.

Yes. But we
might address
the Govt of Madras
& prohibit the
importation &
transit of
opium there.

J. D. S.

25th May 1870.

J. D. S.

1. There is very

referred to in the telegram
from the Govt of India is discussed
now put up, but no
mention is made of

export by land. It is
questionable whether exports
by land could legally be
included in the notification
as the whole of Act is of
1863 under which the
the notification is issued
refers to sea customs. See
preamble of the Act.

It is submitted that
Mr. Gore may be informed
that the Govt do not feel
authorized to sanction
the compensation of opium
exported by land, ~~without~~ and
that the annexed telegram may
be sent to the Govt of India

I concur - We
are sure to be
cost in damages
and nothing can be
gained because if he
leaves the Govt himself
can do nothing as
the law stands.
J. D. S.

J. D. S.

[illegible]

1. *[Illegible]*

Comme

There can be no doubt
that opium is smuggled
from Madras Ports to
places by and sea -
the drug bears a
very high value - is
easily concealed - and
export, otherwise than
illicitly is barred by
existing laws - it
would be strange
therefore if smuggling
did not exist. The
extent of the smuggling
which takes ^{place} is pos-
sibly limited - but
must be expected

I am a likely way
a remedy. The fol-
lowing can be done to
see it not be over.

continued

1. There is heavy rain

pop by cultivation
in the Presidency.
There & there a few
plants are grown
in back yards &
gardens - the seeds
are used in water
cooking and some
of the drug is made
& locally consumed.
There is nothing sur-
prising the name of
cultivation or man-
ufacture - and the
consumption is
small & limited
to the lower class
of Mahomedans
in towns. Con-
sequently a per-
sistent aim to the

+ besides making it
the center in which
to increase consumption
of the drug.

12
cultivation of the billy
or its manufacture
or sale - ^{in billy} - ^{at} Kutch
or under license,
should be in a ^{part} of the
to be tested the ^{opinion} ^{of} the
of Kutch & Bombay.
would yield little
or no revenue - &
would give openings
for a variety
in the future with
the land holders.
The inclusion of
opium in the Ab.
Kary laws, would
enable us to come
in this manner.
I would be benefited
of the other side &
above all what to.
II. It is impossible

to present opinion
being introduced
into the Mexican
Presidency by
land. The opinion
dropped out of
the Presidency
by sea. is believed
to be brought from
Italy directly - they
are and from
part of the sea
by land. There is
no longer any cus-
tomers or in an
land frontier -
it would be im-
possible to main-
tain our war to

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extent of power
except at an ex-
traordinary cost - and
even if we were
maintained, any
thing would be true
in the circumstances the
continuance of the
preventive force - or
in spite of their
vigilance -
As then we cannot
raise any revenue
worth mentioning for
the maintenance of
power in the Pres-
idency it cannot be
sent to the treasury
the Presidency - our
policy & indeed all
our policy is to liquidate

reported by sea - un-
fading on it such an
amount of duty as
while protecting the
opium business of
Kangal & Bannu by
will not act as an
incentive to smuggling.
This and the other
side of every vigilance
at our ports seem to
be the only course
open to us. There
is however a very general
impression that
much of the opium
of Bengal which is
"reserved" for home
consumption is really
exported by smuggles

and reported - and
the prohibition does
not hinder the strength
from the large in-
crease of late years
in a series of years
and the prohibition
even if this is which
cannot be further
traced. Additional
precautions may
possibly be employed
in checking such
malpractices - if
they do in deed
exist.

The large increase
of the export of
opium from India
does however in deed
stimulate the
cultivation of the

3. In October, the Board of Revenue forwarded a short letter from the Collector of Siveully stating that from enquiries he had made, he believed that considerable quantities of opium were made in Mysore and thence forwarded to villages on the Siveully coast whence it was shipped clandestinely. The Govt called for more complete information in their Ld dated 19th Nov 1869 and in their order dated 18th February 1870 No 237, when disposing of an application from the Colr of Mad Customs proposing that the sale & possession of opium without license should be made penal, they requested that the Collectors of Districts might be called upon to report whether the smuggling of the drug was it or using it in

the drug came from Pondicherry & the other French settlements? is no offence of the Paddy. The growth of opium in the Madras is perfectly legal - There is no little of either that it has never been considered necessary or expedient to prohibit either - Hence it follows that the "smuggling of opium" is practically its export by sea with out a pass - There is nothing illegal in bringing it into Madras (save from French possessions) & nothing illegal in proving it - Nothing illegal in using it in

that this should be borne in mind, when we consider how we can best prevent breaches of the Law. It is clear that prohibition of imports from Mysore would be futile, unless we surrounded these territories by a cordon of preventive officers - and then we should be spending pounds in gaining Pence. The prohibition or restriction, proposed by Mr H. Blair - on the possession of opium would be to no effect. That there would be nothing or less to be but that it would be making that illegal which

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was generally prevalent. 4. It appears from the Board's Co: dated 8th March 1870, with their enclosures that there is a considerable amount of opium traffic in, this, Malabar & Canjore. The destination of the opium in the first named district is not clear, but large contraband exportations evidently take place over the natural frontiers in Malabar & by sea from Canjore to Pylow. Small probability similar practices are current in South Arcot over the French frontiers and in Madras & Siveully, though the Collector of the latter district has not sent his final report on the subject. 5. It will also be

seen from the L.P. un-
 -dled date 18th February
 1870 according to the
 letters from the collector
 of Sea Customs and Gov.
 of the Roads, that
 a considerable amount
 of opium smuggling
 is known to take
 place at Madras
 and that the Col-
 -lector is of opinion
 that a large quan-
 -tity of Malwa opium
 said to be retained for

is now legal - & it
 would be objection
 thousands of people
 every a line to restrain
 in printing & Estimating
 & place charges in
 order to check waste
 a few smugglers - &
 after all it really could
 not be enforced in
 the case of an article
 so fictitious by value
 relative to its
 bulk as
 opium -

The only remedy
 is to impose a duty
 on the export of the
 drug - proportioned
 to its value as com-
 pared with that of
 Benzol & Bontong.
 But he fears not.

local consumption finding the public put
 it I wish to be enlightened
 on the following points

1. The reserved Malwa
 opium - For whom is
 this reserved - under
 what precautions is
 it issued - and at
 what rates is it
 sold.
2. Is the cultivation of
 the poppy - or the
 manufacture of
 the drug - or its com-
 -bination - prohibition
 or sale - prohibited
 or restricted (if so
 on what conditions)
 in those parts of
 Bengal & Bontong
 beyond the treaty
 where the monopoly
 is held.
3. How are the people
 outside these treaty
 provided with opium
 for their own consump-
 -tion?
4. How is the introduction

its way into the Madras
 Presidency, and is thence
 exported clandestinely to
 other countries.

6. Under the circum-
 -stances stated above, it seems
 well worthy of consideration,
 whether the G.O. under date
 28th May 1869⁵⁰⁶ in which it was
 determined not to legislate
 restricting the sale or posses-
 -sion of intoxicating drugs
 may not be reconsidered
 with advantage. Opium
 and all drugs of the
 sort are the luxuries of
 the orientals, and therefore,
 it

it is submitted, a fair
object of taxation. Though
the Board are now appa-
rently opposed to any
enactment of the kind
in their Proceedings of 12th
Oct. 1868, they were of opinion
that it would be a wise
and proper measure
to require that all sti-
mulant and narcotic
drugs should be sold
under special license.
If the sale, possession
and transit of opium,
and other drugs were
restricted

of Opium from the
Native States
into Bengal &
Kumby prohibited?
With this informa-
tion before us we can safely
propose a course for adoption

L. D. S.

A. A.

Who gives passes?
Would they give it for
our Madras opium?
If not, would our
High Court hold that
our opium is not
the opium contained
permitted by the Law?

Liquor is bulky &
must be kept or
carried in a bottle
or some thing water-
tight. Opium is
not bulky - and yet
being far more va-
luable and, like
a Diamond - may
be secreted anywhere.
A man can carry
a pound of opium
in his pocket - ~~and~~
he could not carry
a dozen of beer in
the same way. How
is the licensing of
carried out? according
to the character of
the individual? the
quantity he wishes to
have? or what?

Edw. Hall

restricted in the same
manner, as in the sale,
possession and transit
of liquor under the Ab-
kerry Law, it would
render the present system
of opium smuggling
extremely difficult if
not impossible.

Recognize the difficulty
of ending the traffic of
opium for the purpose of
sale criminal. It is a
weighty matter to create
a new crime. The proper
solution of the question appears
to me to be to sanction the
export of opium under a
commercial export duty.
I would ask for the information
demanded by Mr. S. N.

N^o 858

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 11th June. — 1870

Read the following Proceedings of the Board of Revenue.

- Forwarding for advice of Govt. Solicitor letter from Col^l of Sta Customs Madras enquiring who is the proper officer to proceed against sender of a parcel of opium thro' post from Ristna to Madras. } 11th Feb. 1870 N^o 1313.
- Requesting to advise with reference to 2 parcels transmitted thro' post from Bangalore to Col^l in Bangalore dist. } — " — 26 — " — 1307.
- Subung Ristna Col^l letter reporting that 21 baulky parcels of opium were seized at different times by Postal authorities at Juggafootta. } — " — 5 March — " — 1300.
- Submitting opinion of advocate sent regarding opium transmitted by Post from Ristna to Bangalore dist. } — " — 18 — " — " — 1375.
- Forwarding letter from British Resident of Travancore & Cochin forwarding copies of communications from Bureau stating that there are no restrictions in regard to export of opium by sea. } — " — 17 — " — " — 1037.
- Regarding appeal sent instituted in High Court against decision of 4th Div^l Magistrate of Malabar in the case of opium smuggled into Cochin by one Solomon Gieghell a Cochin Jew. } — " — 26 May — " — 1037.

The foregoing papers relate to the transmission of opium through the Post office and to its export from the Madras Presidency by land and sea.

N.

J. D. S.

M. A.

At

There is no report that we may be supplied with the information desired.

2 It appears that in the present state of the Law, no action can be taken on the notification of the Gov^t Genl dated 17th Sept. 1869 No 3526, as after the opium has been stopped by the Post office, there is no enactment under which it can be dealt with by the Excise officer. It also appears that the repealing Act of 1868 has removed from the Statute book the Schedule B of Act VI of 1844 under which the export of opium by sea or land was prohibited, and the High Court have affirmed this view in a recent decision disallowing the seizure of certain opium on the frontier of the Cochin Territory.

Sh

3. In accordance with the wish expressed in a telegram from the Govt, the Govt of India have already issued a notification under Sec: 23 of the Customs Act prohibiting the export of opium uncovered by a pass by sea, and a further telegram has been despatched suggesting that pending legislation and ordinance be passed, providing for the confiscation of opium stopped in transit by the Post office authorities, and also providing for the prohibition of the export of opium by land and for its confiscation when attempted to be so exported.

4. Resolved that a copy of these Proceedings be submitted

Submitted for information
of the Govt. of India, with
reference to the telegrams
above referred to, and that
they be informed that a
reply to their letter in
the Ind. Dept. under date
29th June 1869, N^o 1534, is
under preparation and
will be submitted shortly.

11. Folio B. 10^o 13^o

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S. B. Bell