1002
34

M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 68
(2) Date of repair 2-12-66
(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. ~~B.P. No.~~	1002	Press Mis.
Dated	7-8-1874 ~~196~~ .	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
7th August 1874.

No. 84. Read the following letter from G. A. BALLARD, Esq., Resident in Travancore and Cochin, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Trichoor, 4th July 1874, No. 71:—

ON the receipt of G. O., 16th June 1873, No. 615, I addressed both the Sirkars on the subject of measures to ensure, as far as possible, British Indian duty-paid Opium only being supplied by the Sirkar Opium-farm renters.

I received a reply in due course from the Diwan of Cochin. It was not reported on at the time, awaiting the reply from Travancore. This has not been received to date, and the matter was overlooked.

2. I have now the honor to submit copy of the Cochin Diwan's reply.

He argues that the Notification* of the Government of India does not apply to exportation of Opium by land; that the duty on exportation by sea is Rs. 24 per seer of 80 tolas, which, he believes, is considerably higher than the selling price at Madras; that in contiguous British territory the drug is sold at what would be about one-third of prime cost to the Cochin renter if he obtained his supply by sea from Bombay; that smuggling would certainly be rife; and that the Sirkar has no means whatever of checking it. The Diwan consequently considers that the Sirkar or its renter should be allowed to obtain Opium on the same terms as those on which the people of Malabar and Coimbatore are enabled to get it. He trusts that the excise duty specially collected on Opium imported by land into this State may be remitted, and Sirkar Cochin placed on the same footing as the surrounding British Indian territory in regard to the conditions of obtaining the drug by land.

* Dated 5th December 1872.

3. I have not my full records to refer to, and am not sure how Opium is now treated in Malabar, Coimbatore, *etc.* There was no excise law some years ago (as far as I am aware) that rendered the possession or carriage or sale of Opium illegal in Malabar, Coimbatore, *etc.*, or taxed the drug.

4. On a previous reference from Cochin, Government observed† that no restrictions had been imposed by them on the importation of Opium into these States from the British territories by land. Previously, the Diwan of Cochin had requested, that no duty might be levied on Opium brought from British territory into Cochin; it should have been definitely stated *by land*, for to Opium so brought only did the question put refer. This question was not directly answered by the Madras Government.

† G. O., 26th February 1872, No. 345.

Vide Proceedings, Madras Government, dated 25th September 1871, No. [illegible],672.

5. The Diwan is under impression that a duty or excise is demanded from the Cochin renter if openly purchasing Opium for Sirkar Cochin, which is not levied on Opium sold in contiguous British Indian districts.

The Cochin Opium-farm is said to be suffering from the uncertainty besetting the question. If the Cochin farmer has to pay excise or duty over and above what has to be paid on the article if sold, say, in Malabar, it is clear with a long unguarded frontier he cannot compete with a Malabar merchant who could easily run supplies across the frontier clandestinely. The Cochin renter must do business clandestinely too, or he cannot possibly compete.

6. In their Proceedings, dated 12th November 1870, No. 6,616, the Board of Revenue say (paragraph 7): "If the Cochin and Travancore States will consent to prohibit the export of the drug from their ports altogether, it would remove the necessity that now exists for preventing its crossing their frontiers."

7. This would exactly meet the views of the Cochin Sirkar. It is prepared to impose the British India rate of export duty on Opium exported (by sea) from Cochin Sirkar ports, and make over the proceeds to the British Government, or it is prepared to prohibit export by sea absolutely as the British Government may desire.

8. But with land import or export it desires to have nothing to do. It maintains no land Chowkies now, and cannot control passage of Opium over its land frontiers any more than the transit can be controlled between Malabar and Coimbatore or Coimbatore and Dindigul.

9. If the Cochin renter is put in a position, as far as British Government interference or taxation is concerned, to obtain Opium for sale in Cochin Sirkar territories on the same terms as a merchant can do so for sale in contiguous British territories, it is all Cochin desires. As already said sea-transactions can be regulated or prohibited in the way most agreeable to the British Government. The matter as regards Travancore will be reported on when the Diwan's reply, which has been again called for, is received.

ENCLOSURE No. 1.

From T. SHUNGOONNY MENON, Diwan, to G. A. BALLARD, Esq., British Resident in Travancore and Cochin, dated Eranacollum, 29th July 1873, No. 479.

I HAVE the honor to acknowledge the receipt of your letter of the 28th ultimo, No. 456, giving cover to a Notification* of the Government of India restricting the exportation of Opium to the ports of Calcutta and Bombay.

2. From the preamble of the Consolidated Customs Act (No. VI. of 1863), under which the Notification was issued and a decision of the Sessions Court at Calicut, recorded in G. O., No. [illegible] dated 12th April 1871, received with your Memorandum of the 29th idem, it would appear that the provisions of the said Act do not apply to the exportation of Opium *by land*.

3. The duty upon exportation by [illegible] is Rs. 2[illegible] per seer of 80 tolas, which I have reason to believe is considerably higher than the selling price at Madras. The renter cannot be expected to enter upon a hopeless competition with [illegible] contiguous markets in British territory where the drug is sold at Rs. 8 per lb., or about [illegible] what would be the prime cost to himself if he obtained it by sea from Bombay. Any attempt to deal in duty-paid Opium at Cochin must be a failure, as the people will prefer smuggling the article even at the risk of occasional seizures encouraged by the great disproportion between the price at which the renter can afford to sell it and that prevailing beyond the boundary.

4. Moreover, if the Sirkar made it a rule that only duty-paid Opium should be sold by its renter, it is not now in a position to discover or prevent infringement, the Chowkies on the frontier between Sirkar and British territory having been abolished in 1846.

5. The greater part of the Opium consumed in this country was for many years imported by land from British India without payment of duty to the British Government. The excise duty recently imposed has had the effect of reducing the biddings for the Sirkar's farm from Rupees 10,000 for the current year 1048 to Rs. 5,000 for 1049. I have no hesitation to say that the condition suggested in your letter, if insisted upon, will very nearly extinguish competition at the next sale.

* Dated 5th December 1872.

6. Unless the Sirkar or its renter be allowed to obtain Opium on the same terms as those on which the inhabitants of Malabar and Coimbatore are enabled to get it, in which case alone it would be possible to retail it here at a somewhat remunerative price, I am unable to see how the legitimate trade in the article can be maintained in this country. So long as a prohibitive duty is added in our case to the rate at which the drug is available to the vendor at those places, British tradesmen all around will certainly be able to undersell the local dealer.

7. Should the British Government decline to allow any but duty-paid Opium to be sold in this country, the Sirkar can have no choice but to abandon its monopoly, leaving local consumers to get their Opium as best they may,—a step exceedingly to be deprecated not so much on account of the loss of revenue to the Sirkar as of the smuggling which I am aware it will give rise to at all points of the frontier which is of considerable extent and its demoralizing effects.

8. I trust that, in view of the foregoing facts, the Government will be willing to re-consider the question, and accord the concession requested in my communication of the 31st October 1872, No. 750, namely, that the excise duty now specially collected on Opium imported *by land* into this State be remitted, and Sirkar Cochin be placed on the same footing as British Malabar in regard to the conditions of obtaining the commodity by land.

No. 85. ORDER THEREON, 7th August 1874, No. 1,0[illegible]2.

Separate Revenue, No. 5A.
Customs.

HIS EXCELLENCY the Governor in Council observes that the Cochin Sirkar have misapprehended the present state of the law. Section 23 of the Customs Act (VI. of 1863) has been extended by Act XIV. of 1871 to the importation and exportation by *land* as well as by sea of any particular class of goods, and the Notification of the Governor-General in Council, 9th June 187[illegible], No. 1,133 (Opium), prohibiting the exportation of Opium by sea or land from the Presidency of Fort St. George, is still in force.

2. The only way in which the Cochin Government can legally obtain Opium, with reference to the Notification of 5th December 1872, is, as they have already been informed, *viâ* Calcutta or Bombay on payment of the authorized duty.

3. The Governor in Council can, therefore, pass no order exempting the Cochin State from the operation of the law as laid down by the Government of India. Opium, it is observed, was specially excepted in the arrangements for the removal of fiscal restrictions on trade notified in the *Fort St. George Gazette*, 23rd May 1865, page 1055.

4. It is in contemplation to [illegible] in regard to Opium, and should this be carried out the difficulty of preventing smuggling across the frontier will probably be obviated and the Sirkar monopoly will then be unhampered.

(True Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

To the Resident in Travancore and Cochin.
,, the Board of Revenue.
,, the Political Department.

Exd. F. R. Bantleman.

Govt. of 1874 Madras.

REVENUE.

To

The Resident in Travancore and Cochin,

&c. &c. &c.

Dated August 7th.

Recd. Encl.

G. O. 7th August 1874, No. 1,602.

AUGUST

Cochin Stat.—Remarking that no order can be passed exempting the— from the operation of the law regarding Opium laid down by the Government of India.

1009

3

No. 1,777.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 15th March 1870.

Read the following letter from J. A. C. BOSWELL, Esq., Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Nizampatam, 2nd March 1870, No. 913:—

IN continuation of my letter, dated 22nd November last, No. 349, and with reference to the Board's Proceedings dated 10th December 1869, No. 9,064, I have the honour to detail the information I have been able to procure with reference to the opium imported into British territory through Juggiapett, on the frontiers of the Nizam's territory.

2. Of the banghy packets of opium that were seized, passing through the post and delivered up by the Post Master to the addressees, seventeen came from Ajmere and four from Kotah. The addressee produced his letters of advice, apprizing him of the despatch of the opium with instructions as to its sale, etc.

3. The Marvadi merchants residing at Juggiapett, state that when they bring opium from Indore and Kotah, they obtain licenses from the British Authorities at Amravati, that this license accompanies the opium as far as Khandigam, in the Nizam's territory, where it is delivered to the Nizam's Sayer authorities, who give instead, a passport which protects the opium as far as Kodada, where it is handed over to the Nizam's Sayer Officials, and from Kodada the opium is brought to Juggiapett unprotected by any pass or license. These merchants state also that Malwa opium and opium from Hingoli in the Nizam's territories is brought to Humanabad, also in the Hyderabad country. If this opium is to be imported into British territory by Juggiapett, duty is paid on it and a passport obtained at Humanabad which covers the opium as far as Kodada, the Nizam's Sayer station, where the passport is given up, and the opium is from thence brought to Juggiapett without any pass.

4. At Juggiapett, since the abolition of the frontier duties, no steps have ever been taken to detect smuggling into British territory and no demand is ever made for any passes or licenses to cover the opium imported. It would appear that much of the opium imported by this route comes from Hingoli, and the merchants admit that it never is protected by any passes. This opium is sent from Juggiapett to Vizagapatam, Godavery, Madras and other places.

IN this letter the Collector of Kistna reports on the enquiries he has made with reference to the opium imported into his district by Juggiapett.

2. The merchants state that opium purchased by them in British Territory is covered by passes which they deliver up on entering the Hyderabad territory. The Board have [illegible] means of testing the truth of these statements, but if things are, as represented, it is evident that no law is infringed, and that unless the opium passes out by sea, no injury is inflicted on the opium revenue.

3. The Collector further reports that much opium is imported from Hingoli in the Hyderabad Territory; but as will be seen from the Board's Proceedings, of this date, the law affords no power to interfere with such import.

4. This letter will, therefore, be forwarded for the consideration of Government, in continuation of the Board's Proceedings of the 8th March 1870, No. 1,617.

(A true and Copy Extract.)

(Signed) A. MACGREGOR,
Acting Secretary.

To the Acting Secretary to Government, Revenue Department.

Copy to the Officiating Collector of the Kistna District.

Exd. G. A. Turton.

3

820

1870.

Board of Revenue,

MADRAS.

PROCEEDINGS, 15TH MARCH 1870, No. 1,777.

Encl.

Received

MARCH.

No. 1,777.

Opium—imported into Kistna District through Juggiapett on frontier of Nizam's territory,—Letter from Collector reporting result of his enquiries with reference to, submitted for consideration of Government.

3

1002

4

No. 2,849.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2[illegible] April 1870.

Read the following letter from J. A. C. BOSWELL, Esq., Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 31st March 1870, No. 1,304:—

WITH reference to the concluding part of paragraph 8 of the Board's Proceedings, No. 1,588, dated 5th March 1870, I have the honour to report, that on examining the Trade Returns of several years, it does not appear that any Opium has ever been exported by sea in this district.

2. I am informed that a great quantity of the opium imported into the town of Jaggayapet from Oomravaty, Induri, Mominabad, Hingole, etc., is exported by land to other parts of this and Godavery Districts, through the Agents of the Merchants at Jaggayapet, as well as to Madras.

SUBMITTED to Government, in continuation of Board's Proceedings, dated 5th March 1870, No. 1,[illegible]88.

2. The Collector reports that no opium is exported seawards, but large quantities find their way into local consumption through Jaggayapet.

(A True Copy and Extracts.)

4

Acting Secretary.

To the Acting Secretary to Government, Revenue Department.

Copy to the Officiating Collector of the Kistna District.

,, to the Collector of Sea-Customs, Madras.

Exd. G. A. Turton.

Revenue 1870. Dept

Board of Revenue,

MADRAS. No 1390

PROCEEDINGS, 29TH APRIL 1870, No. 2,849.

Despd 9th May 70

Encl.

Received 9th

S. ack 658 12 Apl/70

APRIL.
No. 2,849.

Opium.—Letter from Collector of Kistna District reporting that no Opium has ever been exported by sea in District, but that large quantities of this drug find their way into local consumption through Jaggiapet, submitted to Government.

No. 6,281.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 24th October 1870.

Read the following letter from A. MACGREGOR, Esq., Collector of Malabar, to the Acting Secretary to the Board of Revenue, dated Calicut, 10th October 1870, No. 350:—

I HAVE the honour to forward copy of a decision of the Session Judge, in a case of Opium smuggling.

2. The circumstances of the seizure were similar to those in the Shoranoor case, the failure in the prosecution in which led to the issue of two Proclamations by the Governor-General, dated 19th May 1870, No. 609, and 9th June 1870, No. 1,133, respectively. The first prohibited under Section 23, the export of opium without a pass, and the second superseded this, and prohibited under Section 23 or under any other provision of law enabling the Governor-General.

3. In the discussions regarding the Shoranoor case, the Government Pleader suggested that the wording of Section 23 was so large, that it might possibly embrace the case of Export and Import by land, and the confiscation was made under this section.

4. The first ground taken by the Session Judge is that there was no *attempt*.

5. The opium was forwarded by rail from Madras to Tiroor for transport, thence by boat to Native Cochin, the defendant admitting the destination.

6. The next is that the Deputy Magistrate had no authority.

7. By Section 218, the Officer in charge of a Custom-House may adjudicate on any goods liable to confiscation under the Act or on any penalty incurred, and by Section 222 the summary jurisdiction of a Magistrate is restricted to cases other than those cognizable under Section 218.

8. This opens quite a new feature in the Act, for in the case of smuggling opium in Calicut, *vide* Board's Proceedings, dated 8th March 1870, No. ,611, the sentence was passed magisterially and upheld on appeal, and other similar cases may be quoted as one at Negapatam decided by the Joint Magistrate.

9. These are the two main points in the case, but the Judge further holds that the Police not being Preventive Officers, have no power to seize, and that Collectors not being in charge of a Custom-House or specially authorized by Government, cannot adjudicate.

10. As there are no Custom-Houses on the frontier between Cochin and this district, there is thus no authority to adjudicate.

11. Finally, he argues on grounds which cannot easily be controverted, that Act VI. 1863, is purely a Sea-Custom Act.

12. To the arguments he adduces may, I think, be added the evidence afforded by Act XI. 1869, that the legislature did not consider Act VI. of 1863 as applicable to Land-Customs.

13. The amount of opium involved in the present case, is valued at Rupees 4,700, and I learn from the Head-Assistant that there are some half dozen merchants in Palghaut regularly exporting opium to Native Cochin.

ENCLOSURE No. 1.

(Copy.)

Proceedings of the Session Court of Calicut, dated the 30th September 1870.

READ petitions of Appeal Nos. 67 and 72 of 1870, presented by Mr. A. G. Gover, Barrister-at-law, on behalf of Varojee Kissenjee Shett, defendant in Calendar Case 146 of 1870, on the file of the Deputy Magistrate of the Southern Division of Malabar, appealing against the conviction and sentence in the said case.

Read also the records in the above case.

2. The circumstances which led to the conviction are as follow: a quantity of opium of the value of Rupees 4,700, was sent up by train from Madras to Tiroor on the 28th or the 29th July last, by the defendant, who himself followed on the 1st August. On arriving at the Tiroor Railway Station, the defendant found the opium under the charge of the Police Inspector; he at

once claimed it, and when asked, said he was going to take it on to Cochin by boat, as soon as he had paid the Railway charges, adding that he had received a pass to take it through the Cochin State; but was ignorant that any pass was required to export it from the British Territory. He was, therefore, taken the next day before the Deputy Magistrate, with the opium, and the sentence passed was that, the defendant had committed an offence, punishable under Section 24, Act VI. of 1863, and was fined Rupees 80, and the opium and what was packed with it, was confiscated to Government.

3. Against that decision the defendant appeals, and the main grounds of his appeal, as urged by his counsel, are—

1stly.—That the Act under which he was convicted is inapplicable, being an Act to consolidate Sea-Customs only—

2ndly.—That the seizure and charge were illegal, and

3rdly.—That the Deputy Magistrate had no jurisdiction.

These were the main grounds on which the legality of the sentence was challenged, and the remaining grounds of appeal related to the severity of the sentence and reasons for mitigating the same, supposing the legality of it was upheld: into these questions it will be unnecessary for me to enter, since on the grounds specified in the former heads of objection, I am of opinion that the decision of the Deputy Magistrate cannot be upheld.

4. The conviction is under Section 24, Act VI. 1863, and waiving for the present the question of whether that Act is applicable to Land-Customs, it is necessary first to consider whether the seizure was a legal one.

The first witness is the Police Inspector, and in his deposition he says, that he seized the opium at the Tiroor Railway Station, and that on the defendant arriving there two days afterwards, he told the witness that he had brought the opium from Madras and was going to take it to Cochin. The witness then says, "Seeing that no opium could be transported to a foreign State without a permit, I seized and produced it before the Court." The seizure was thus made at a place in the British Territory, at a distance of upwards of 20 miles from the nearest boundary of foreign territory, the sole evidence that it was intended for export out of British Territory being the acknowledgment of the defendant himself. Now the only words which can bring this opium within the provisions of Section 24 are, "If any attempt be made so to import or export any such goods;" and in this case though the defendant may have made preparation to carry off the opium, it cannot be said that having it at a Railway Station, 20 miles within the British Territory, and perhaps having a boat ready to receive it (though this is not shown) can constitute an attempt to export. There is nothing on the record to show that the actions of the defendant had passed beyond intention and preparation, into attempt to export, and it is only either exporting or attempting to export, which renders goods liable to confiscation under Section 24.

5. I am, therefore, of opinion that the opium was not then and there liable to confiscation. But even if it were so liable, was the Police Inspector *proprio motu* legally competent to confiscate? Section 199 of the Act says, "Any goods liable to confiscation may be seized and * * detained * * * by any Officer of Customs or other person duly employed for the prevention of smuggling."

The Police are certainly neither Officers of Customs nor employed for the prevention of smuggling, and the only powers given them under this Act, are when they have seized goods under the suspicion that they had been stolen ; and with which, when liable to confiscation, they are to deal in accordance with the provisions of Section 206, and also when they are executing a warrant issued by a Magistrate under Section 208. It is therefore clear that the detention by the Police Constable was an illegal act.

6. The next point for consideration is, whether the Deputy Magistrate had jurisdiction. Section 24, under which the present sentence is inflicted, says that if any attempt be made to export any goods, the exportation of which is restricted, "Such goods, together with any goods which shall be found packed with or used in concealing them shall be liable to confiscation, and any person concerned in any such offence, shall be liable to a penalty not exceeding three times the value of the goods or not exceeding one thousand Rupees."

Section 218 provides that, "In *every case* in which under this Act any goods are liable to confiscation or any person is liable to a penalty, an Officer in charge of a Customs House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation or penalty," and this power given to an Officer in charge of a Customs House is by Section 219 extended to any Officer of Customs specially empowered by the Local Government. In this case, there is nothing to lead the Court to believe that the Deputy Collector and Magistrate, even supposing him to be an Officer of Customs, as contemplated by this Act, has been specially empowered by the Government under this Section or the 7th Section of the Act.

Further, supposing him to have been so empowered, the same Section provides that the power to adjudge confiscation shall not extend as regards a Deputy Collector to goods of a greater value than one thousand Rupees, and the power to adjuge a penalty shall not extend to a sum exceeding fifty Rupees.

In the present case, the value of the goods confiscated appears to be Rupees 4,700, and the amount of the fine is Rupees 80. Therefore there can be no doubt that the sentence is void from want of jurisdiction on the part of the Deputy Magistrate.

7. The findings on the above objections render it unnecessary as far as the decision is concerned, that this Court should go into the last and broader question of whether the provisions of this Act are applicable to Land Customs ; as, however, the objection is one of great importance, and that most relied upon by the Counsel for the Department, it should not be passed by without an opinion being recorded upon it. It is stated on behalf of the prosecution that the exportation of opium by land is restricted by virtue of the following notification which was published in the *Fort Saint George Gazette*, of the 28th June 1870:—"In exercise of the powers conferred on him by the Consolidated Customs Act, Section 23, 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." There can be no doubt, therefore, that by virtue of that Proclamation, the exportation of opium is restricted ; how far restricted it is not necessary for this Court here to decide, for it is only within the narrow limits of this judgment that the opinion here expressed will have weight. The broad question, however, remains whether the word "export" as used in Section 24, under which this sentence is passed, can apply to exportation by land.

In the definitions given in the beginning of the Act, there is no definition given of the words 'export' and 'exportation,' and we are therefore left to gather that meaning from the whole tenor of the Act, and from the intentions of the Legislature as far as they can be ascertained. On the side of the wider interpretation, the Government Vakil pointed to the general terms of the title given in the 1st Section. "This Act shall be called the Consolidated Customs Act," and to the absence of any restricting words after the words export and exportation, which in themselves are equally applicable to carrying out of the country either by sea or land. In spite of this argument, however, I am of opinion that the Act is solely directed to Sea-Customs and exportation and importation by sea, and that without violent straining of the plain meaning of the whole Act, it is inapplicable to export by land. The preamble of the Act from which we derive a knowledge of the intention of its framers, states that it is, "an Act to consolidate and amend the Laws relating to the administration of the Department of Sea-Customs in India." Whereas it is expedient that the laws relating to the administration of the Department of Sea-Customs in India should be consolidated and amended, it is enacted, etc., and the laws which are repealed by Section 2, relate almost entirely to Sea-Customs. Act VI. of 1844, was an Act relating both to Inland and Sea-Customs, and the Sections which are repealed are Sections 17 to 41 and Sections 46 to 68, which relate entirely to Sea-Customs, those relating to the Land Customs being left intact. The Customs Officers have, therefore, the whole machinery for collecting and regulating their transit duties in enactments independent of this Act; whereas the whole of the previous Acts relating to the Sea-Customs were by this Act swept away, and this was substituted in their room. To regulate therefore Land Customs by the provisions of this Act, would seem to be contrary to the intention of the Legislature.

8. Further, although the words export and exportation are not defined in the Act, a chapte comprising Sections 116—136 is headed 'Exportation;' every provision of that chapter relates to exporting by sea exclusively, and there is nothing which can anywhere be applicable to land transit.

9. I am aware that in so holding, I am opposed to an opinion expressed by a former Judge of this Court, in the case of Solomon Gindill. Criminal Appeal No. 73 of 1869, but the reasons which I have detailed appear to forbid the word "export" in the present Act, which is passed to amend the laws relating to the administration of the Department of Sea-Customs, to be interpreted as it must be in Act VI. of 1844, which is an Act dealing with Transit and Inland Customs as well as with Sea-Customs: although in the latter Act, the words, "by land" or, "by sea" are usually used to render the meaning explicit.

10. It was further pointed out at the hearing of this appeal, that the legislature were of opinion that a reasonable doubt existed as to whether the powers granted under Section 23 were not limited, for, on the 16th August last, a motion was put and agreed to, to insert the words "by sea or by land" (*vide Fort Saint George Gazette* Page 166, Supplement of September 6th, 1870).

11. I am therefore of opinion—

1stly.—That the word export as used in Section 24, relates solely to export by sea.

2ndly.—That even supposing exportation by land to be referred to in the Act, the opium was not liable to confiscation, no attempt having been made to export it.

3rdly.—That the seizure by the Police Inspector was illegal; and

4thly.—That the Deputy Magistrate had no jurisdiction.

and I accordingly reverse the sentence appealed against, and direct the restoration to the defendant of the opium confiscated and the fine levied.

(True Extract.)

(Signed) F. C. CARR,
Acting Session Judge.

(True Copy.)

(Signed) A. MACGREGOR,
Magistrate.

Submitted for the information of Government.

2. It is clearly necessary that a special enactment should be passed as quickly as possible to prevent the export of opium by land.

3. If the Judge is right in holding that Police Officers have no power to seize goods which are being smuggled, and that Magistrates have no authority to punish smugglers, the law with regard both to Sea and Land-Customs must be supplemented.

4. It is observed that a bill including provisions with regard to the Export and Import of opium, has just been introduced into the Legislative Council.

(True Copies and Extract.)

J Grose

Acting Secretary.

To the Acting Secretary to Government, Revenue Department.
Copy to the Collector of Malabar.

Exd. G. A. Turton.

No. 114

1870.

Board of Revenue,

MADRAS.

PROCEEDINGS, 24TH OCTOBER 1870, No. 6,281.

Received

Encl.

OCTOBER.

No. 6,281.

Opium smuggling,—Decision of Sessions Judge of Malabar reversing sentence of Deputy Magistrate of Southern Division in a case, of and directing restoration to defendant of opium confiscated and fine levied, submitted for information of Government, with intimation that a special enactment should be passed as quickly as possible to prevent export of opium by land.

1002

8

No. 6,616.

Proceedings of the Board of Revenue, dated 12th November 1870.

Read the following letter from J. H. BLAIR, Esq., Collector of Sea Customs, to the Acting Secretary to the Board of Revenue, dated Madras, 18th October 1870, No. 982:—

ADVERTING to the Proceedings marginally noted,* in which the Board declined to support my recommendations† to introduce penal laws for regulating the transport, possession, and sale of opium in this Presidency, and the fact that no final order‡ has, as far as I know, been passed by the Government of Madras on the subject, I beg respectfully again to address the Board in the hope that they will on re-consideration of my former letters, and the facts subsequently adduced, support my recommendations.

2. The Board in paragraph 10 of their Proceedings, No. 1,617, of 8th March 1870, state:—"Large rewards have been paid to informers and heavy penalties inflicted, and it is believed "that this contraband trade has been checked; and though a few Chinamen resident in Madras, "or employed on the coasting steamers, make a considerable profit by it the loss to the revenue "is trifling." I beg respectfully to differ from the view taken by the Board on the point of the "loss of revenue being trifling," as I have strong grounds for believing it to be enormous.

3. I annex an abstract of the reported cases of opium-smuggling since March 1868, when the matter first attracted my attention:—

(1). On the 4th March 1868, 62 lbs. of opium were found concealed in the Carpenter's cabin of the Steamer *Mahratta* bound to Rangoon. The opium was confiscated and the smugglers fined.

Board's Proceedings, 6th April 1868, No. 2,580.

(2). On the 10th June 1868, 132½ lbs. of opium were seized when about to be shipped from Thangul, four miles north of Madras. The opium was confiscated and the smugglers fined.

Board's Proceedings, 28th September 1868, No. 6,898.

(3). On the 9th July 1868, 288 lbs. of opium were found concealed in chests with false sides, also in double-sided tin canisters, with biscuits in the centre packed in a cart *en route* to Pondicherry, whence the opium was to be shipped to the Mauritius. The opium was confiscated and the smugglers imprisoned for non-payment of fines.

Board's Proceedings, 19th November 1868, No. 8,196.

(4). On the 3rd of December intended smuggling of opium by the Steamer *Oriental* was prevented; 4,500 Rupees were found in the Chinese Carpenter's chest.

Board's Proceedings, 20th February 1869, No. 1,158A.

(5). On the 13th July 1869, 113 lbs. of opium were found concealed in a barrel of coal tar sent from Madras by rail to Negapatam to be shipped thence to Rangoon. The opium was confiscated and the smugglers fined.

Board's Proceedings, 17th September 1869, No. 6,962.

(6). On the 23rd of October 1869, 203 lbs. of opium were sent by rail from Madras to Shoranore to be smuggled into Cochin territory. The opium was seized on the 27th October when just about to pass into the Cochin state; it was confiscated by the Magistrate and the smugglers fined. The sentence was confirmed on appeal to the Session Court, but reversed by the High Court; the seizure being illegal in the then state of the law.

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

(7). On the 7th January 1870, 278½ lbs. of opium were seized by the Collector of Malabar. The opium was confiscated and the smugglers fined, but part of the fine was subsequently remitted on appeal by the Session Court.

Board's Proceedings, 8th March 1870, No. 1,611.

---

[*] No. 7,852, of 5th November 1868, and No. 8,874, of 2nd December 1869.

[†] Collector of Sea Customs to Board, 20th October 1868, No. 1,129, and 26th October 1869, No. 1,086.

[‡] See paragraph 4 of Government Order, 11th June 1870, No. 858.

8

Letter to Board, 4th October 1870, No. 954.

(8). Three hundred pounds of opium were sent by rail on the 12th August 1870 from Madras to Shoranore, and after being watched for three weeks by Customs Officers was successfully smuggled across the river and escaped seizure, as it was only stopped by the Customs Officers when a few yards across the frontier.

4. Several steamers and country square-rigged ships for Rangoon and Penang on which opium had been actually shipped here have been searched by Customs Officers, but to no purpose, as it is most difficult to discover opium when once on board. In some cases the petty officers of these steamers and ships have undoubtedly assisted the smugglers.

5. I am certain that opium is frequently shipped in steamers at out-ports, where such a careful watch against smugglers cannot be kept. On this point the Collector of Customs, Rangoon, wrote to me:—"It would appear that the principal smugglers are two Chinese, who will be found "frequent passengers between Madras and this place by the monthly Mail Steamers, and also that "when troops or Military followers are on board advantage is by some means found to smuggle "opium through their baggage."

6. On very many occasions I have been informed that Native vessels clearing from this port for Ceylon drop anchor at fishing villages, a few miles down the coast, and take opium on board, and Customs Officers have several times been sent to watch but without success, as no attempts were ever made to ship opium while strangers were seen about. I have lately given up sending Customs Officers to watch as the facilities for shipping are so great, and under the present law opium cannot be seized unless there is an actual attempt to ship, and the smugglers are caught with the opium on the beach itself.

7. To satisfy myself, however, that Dhonies from this place had smuggled opium I requested the Collector of Customs at Point Pedro to send me copies of Import Manifests put in at that port. From these documents I find that Dhoney No 273 landed 13 purses and 1 bundle of opium; Dhoney No. 385 landed 7 purses of opium; Dhoney No. 361 landed 27 purses of opium; Dhoney *Hydroos Samad[illegible]ny* landed 37 purses of opium; Dhoney No. 460 landed 47 purses of opium. The last two Dhonies called at Pondicherry on their way to Ceylon and shipped the opium there, this is proved by the Import Manifests put in at Point Pedro by the Tindals of the Dhonies.

8. On numerous occasions I have received information of preparations for smuggling opium being made in the town of Madras, such as opium being manufactured, tins being made, cases being removed from the house where the manufacture and packing was carried on to other houses, from which they could be again removed for export without so much chance of detection, etc., etc.

9. Once in twenty reported cases it may have been thought worthwhile to attempt to catch the smugglers, in most of these cases the result has been failure, and for fifty reported cases there has been about one seizure; as soon as one system of smuggling is discovered it is relinquished and another organized, and it is a well recognized fact that smugglers are always a head of the Customs and Excise laws, and officers.

Letter from Officiating Collector of the Kistna District and Superintendent of Police, contained in Board's Proceedings, No. 4,299, of 22nd June 1870.

10. The Board are aware that opium is now frequently transmitted by post and in carts by land. Among others I would beg to refer to the statements of officers contained in Board's Proceedings, No. 4,299, of 22nd June 1870. A large quantity of Malwah opium appears to be imported into Juggiahpet from Hyderabad, Indore, Omravaly, Ajmere, Kotah, and other places, and thus finds its way into the Madras Presidency for exportation and sale.

11. On looking over the returns of exports of opium from Calcutta I find that within the last few months the drug is being exported to Ceylon and the Mauritius. It may be, therefore, concluded that in consequence of the attention which has of late been paid to the smuggling of opium by the Madras Custom House a legitimate trade in opium is springing up between Calcutta and these Colonies.

8

1002
9

12. At page 28 of the *Indian Economist* of August 10th, 1869, the produce of Malwah opium in 1867-68 is said to have been 57,000 chests, of which 18,000 were reserved for Home consumption. In the same paper of September 10th, 1869, page 45, 25,000 chests are said to have been reserved for Home consumption from the crop of 1868-69.

13. If these returns are correct the quantity of opium said to be reserved for Home consumption is so large that I cannot believe it is actually consumed within the limits of Malwah, but that by far the largest portion is smuggled across the frontier and sold in the southern portion of India. Even admitting that 18,000 chests were actually consumed in Malwah in 1867-68 that will not account for the increase to 25,000 chests in the following year. The duty on the difference of 7,000 chests, at 600 Rupees a chest, would amount to 42 lakhs of Rupees, and if, as I fully believe, at least half of the remaining 18,000 were also smuggled across the frontier the total loss of revenue will have amounted in 1868-69 to very nearly a million* Pounds Sterling. I have written to the Commissioner of Customs, Bombay, for further information on this subject, and will forward his reply to the Board when received.

* 16,000 Chests
Rs. 600 Duty
96,00,000

14. The smugglers' profits are enormous. A pound of opium manufactured and fit for use costs from Rupees 3 to 4 according to quality, and sells in the Mauritius or Rangoon for 15 to 17 Rupees. Even at sales of confiscated opium traders readily pay Rupees 8 to 9 per pound.

15. I think I have shown that so long as the state of the law allows the transport, possession, and sale of opium in British territory to an unlimited extent without any license, regulation, or supervision, all attempts by Customs Officers to prevent smuggling will be useless. An occasional seizure will be made, and though large rewards may be paid to informers, and heavy penalties inflicted, the contraband trade will not be even checked. I am more than ever convinced that the only remedy to put a stop to the enormous amount of smuggling now carried on is to prohibit by law the transport, manufacture, possession, or sale of opium without a license under very heavy penalties.

THE Board resolve to submit this letter for the consideration and orders of Government, with reference to their Proceedings of the 8th March 1870, No. 1-617, which still await disposal.

9

2. In those Proceedings the Board recorded facts which show that Malwah opium which has not paid duty reaches the Presidency through the Nizam's territory, and that a large quantity of the drug is clandestinely exported from the coast to the manifest injury of the Government monopoly. They suggested a consideration of the question whether the sale and manufacture of opium should be restricted by law, but doubted whether the result would compensate for the disadvantage of adding to the number of penal statutes.

3. Mr. Blair now returns to the subject, citing additional facts and urging more strongly than ever that the possession and sale of opium should be placed under control.

4. He believes that the quantity of Malwah opium exported, without paying duty, from the coast of this Presidency is very considerable. The gross annual production of the drug is estimated to be 57,000 chests. The number of chests which paid duty from 1864-65 to 1868-69, is given in the Bombay Administration Report for 1868-69 as follows:—

1864-65...	35,090
1865-66...	36,200
1866-67...	30,869
1867-68...	39,216
1868-69...	30,092

so that the average amount produced, which did not cross the frontier openly, was 22,711 chests. The amount in the year specially referred to by Mr. Blair was 26,908 chests. The decrease in the duty collected is stated by the Bombay Government to be "attributable to various causes. Large stocks were kept back by dealers in expectation of a rumoured reduction in the rate of pass fees. The exports to China were less owing to the market there being throughout the year unfavourable. Persian opium, moreover, is alleged to have competed slightly, and native grown opium more largely, with the Indian drug." Though these circumstances probably explain the *exceptionally* small import of Malwah opium in 1868-69 they do not explain what is done with the enormous quantity far more than can be consumed in Malwah, which disappears without paying duty year after year, and the Board cannot but endorse the suspicion that "it finds its way not only by sea to China but by land to Sind, to the Deccan, and even to the Madras Presidency."

5. A petition has been received by the Board lately, which states that the writer has been in the habit of supplying the Government opium contractor in Cochin with opium for many years, and complains that his trade has been interfered with by the order of the Governor-General, dated the 11th June 1870, prohibiting the exportation of opium not covered by a pass!

6. Nothing but a restrictive law as to the possession of opium will meet such a case as this, for even when the law prohibiting export is again clear the neighbourhood of the railway to the frontier will always make smuggling easy.

7. The Board are convinced that it is necessary for the sake of the Imperial revenue to place the transport, possession, and sale of opium under restrictions similar to the Abkarry law, as seems to be the case in Bengal under Act XXI. of 1856, and in Bombay under Act III. of 1852. They also think it would be expedient to legalize the export of opium from ports on the coast on payment of a duty corresponding to that exacted on the Malwah frontier. If the Cochin and Travancore States will consent to prohibit the exportation of the drug from their ports altogether it would remove the necessity that now exists for preventing its crossing their frontiers. The law with regard to French settlements may remain as it is.

(A true Copy and Extract.)

J Grole

Acting Secretary.

To the Acting Secretary to Government, Revenue Department.

Copy to the Collector of Sea Customs.

No 732.
18 Feby/70 No 175-176
11 July " " 134-141
16 August " " 2857/6

No 115

Exd. J. Tulloch.

Rev = 1870. Dept

Board of Revenue,

MADRAS. ~~Sp~~ Sp-3589

PROCEEDINGS, 12TH NOVEMBER 1870, No. 6,616.

Received 18th Sept/70

Encl.

Each 6 cr. 12th 1/71

6

NOVEMBER.

No. 6,616.

Opium.—Letter from Collector of Sea Customs, Madras, requesting Board to support recommendation made by him for introduction of penal laws to regulate transport, possession and sale of, in Madras Presidency, submitted for consideration and orders of Government, with remarks.

9

1002
10

10

No. 6,921.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd December 1870.

Read the following letter from A. McC. WEBSTER, Esq., Acting Collector of South Canara, to the Acting Secretary to the Board of Revenue, dated Mangalore, 7th November 1870, No. 1,435:—

WITH reference to paragraph 2 of the Board's Proceedings of 29th November 1869, No. 8,784, I have the honour to report, that opium does not appear to be clandestinely exported from the ports of this district.

SUBMITTED to Government in continuation of the Board's Proceedings of 8th March 1870, No. 1,617.

(A true Copy and Extract.)

J Grole

Acting Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Acting Collector of South Canara.

Exd. G. A. Turton.

Rev- 1870. Octr

Board of Revenue

MADRAS. R. 3817

PROCEEDINGS, 2ND DECEMBER 1870, No 6,921.

Dep 28 Dec 70

Received 9th

Encl.

[illegible] 12 [illegible]/71

DECEMBER.

No. 6,921.

Opium.—Report from Collector of South Canara that opium does not appear to be clandestinely exported from ports of that District, submitted to Government.

10

1002

11

No. 7,560.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 16th December 1870.

Read the following letter from J. HUNTER BLAIR, Esq., Collector of Sea Customs, to the Acting Secretary to the Board of Revenue, dated Madras, 30th November 1870, No. 1,18[illegible]:—

ADVERTING to paragraphs 10, 12, and 13 of my letter* to Board, dated 18th October 1870, No. 982, I have the honour to forward copies of letters and statements received from the Commissioner of Customs, Bombay, and the Opium Agent at Malwa, showing the number of chests of opium produced† in Malwa and the number reserved for home consumption.

2. In the remarks column of the Statement, I have entered the number of chests remaining unaccounted for, besides the large quantity of 25,000 chests said to have been expended under the head "dryage" from 1865-66 to 1869-70.

* Recorded in Board's Proceedings of 12th November 1870, No. 6,616.

† From 1865-66 to 1869-70.

ENCLOSURE NO. [illegible]

From J. ROBERTSON, Esq., Commissioner of Customs, Bombay, to the Collector of Sea Customs, Madras, dated 18th October 1870, No. 3,493.

WITH reference to your letter, No. 956, dated the 4th instant, I have the honour to herewith forward Statement showing the number of Guzerat and Malwa chests of opium exported, as requested in the 2nd paragraph of your letter. I am, I regret to state, unable to supply the information called for in your 3rd and the 4th paragraphs. A reference, if made to the Opium Agent, Malwa, will, it is presumed, be the readiest means for your obtaining information as to the outturn of the crop during the past ten years of the Province, together with the amount retained for home consumption, etc.

(True Copy.)

(Signed) J. HUNTER BLAIR,
Collector of Sea Customs.

11

Statement showing the number of Chests of Malwa and Guzerat Opium, imported into Bombay, and on which duty was collected during the season years from 1867-68 to 1869-70.*

—	Number of Chests.	Amount of duty.	
		RS.	
Malwa	31,646	1,89,87,600	
Guzerat *via* Ahmedabad...	1,407½	8,44,500	
Total ...	33,053½	1,98,32,100	For 1867-68.
Malwa	28,562	1,71,37,200	
Guzerat *via* Ahmedabad...	2,588½	15,53,100	
Total ...	31,150½	1,86,90,300	For 1868-69.
Malwa	35,201	2,11,20,600	
Guzerat *via* Ahmedabad...	2,753½	16,52,100	
Total ...	37,954½	2,27,72,700	For 1869-70.

* The Opium season year commences from 1st October and ends with 30th September.

BOMBAY,
18th October 1870.

(Signed) J. ROBERTSON,
Commissioner of Customs.

(True Copy.)

(Signed) J. HUNTER BLAIR,
Collector of Sea Customs.

Dep 28 Dec 70

ENCLOSURE No. 2.

From J. W. A. C. A. KELLY, Esq., Officiating Deputy Opium Agent in Malwa, to the Collector of Sea Customs, Madras, dated Indore, 12th November 1870, No. 497.

WITH reference to your letter, No. 1,047, dated 25th ultimo, I have the honour to forward a Statement for the last five years showing the total outturn of crop of Malwa Opium, and the number of Chests that have been sent to Bombay for exportation, and those reserved for home consumption.

(True Copy.)

(Signed) J. HUNTER BLAIR,
Collector of Sea Customs.

Statement showing the total crops of Malwa Opium and number of Chests reserved for Home consumption during the last five years.

Years.	Total number of Chests produced.	Bombay for exportation.	Reserved for Home consumption, Malwa.	For Guzerat.	For Berar.	Dryage.	Remarks by the Collr. of Sea Customs. Balance unaccounted for in this statement.
1865-66.	58,000	35,515	6,000	5,000	4,000	5,000	2,485
1866-67.	59,000	35,973	5,000	6,000	5,000	5,000	2,027
1867-68.	57,000	33,743	6,000	4,000	3,000	5,000	5,257
1868-69.	56,000	30,487	5,000	5,000	4,000	5,000	6,513
1869-70.	60,000	37,854	5,000	6,000	5,000	5,000	1,146
	2,90,000	1,73,572	27,000	26,000	21,000	25,000	17,428

INDORE,
12th November 1870.

(Signed) J. W. A. C. A. KELLY,
Offg. Dy. Opium Agent in Malwa.

(True Copy.)

(Signed) J. HUNTER BLAIR,
Collector of Sea Customs.

SUBMITTED to Government, in continuation of Board's Proceedings, 12th November 1870, No. 6,616.

(True Copies and Extract.)

J Grose
Acting Secretary.

C.M. 3579/71

To the Secretary to Government, Revenue Department.
Copy to the Collector of Sea Customs, Madras.

Exd. T. Cartledge.

No 11020

Rec. 1870. Decr

Board of Revenue,

MADRAS.

PROCEEDINGS, 16TH DECEMBER 1870, No. 7,160.

Received Decr 22 Decr 24 Encl.

DECEMBER.
No. 7,160.

Opium,—Letter from Collector of Sea Customs, Madras, forwarding copies of letters and statements received from Commissioner of Customs Bombay and Opium Agent at Malwa, showing number of chests of, produced in Malwa, and number reserved for home consumption, submitted to Government.

12

No. 19[illegible].

GOVERNMENT OF INDIA.

FINANCIAL DEPARTMENT.

SEPARATE REVENUE.

Abkaree.

To

THE SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE.

SIMLA, THE 16 JULY 1870.

SIR,

I AM directed to acknowledge the receipt of your letter No. 859, dated 11th June 1870, forwarding a copy of the proceedings of the Government of Fort St. George relating to the transmission of opium through the Post Office and its export by land.

2. By Financial Notification No. 3526, dated 17th November 1869, transmission of opium by Post, except on account of Government, was prohibited. It was further declared that persons transgressing this rule will be liable to the penalties provided by the Excise Law.

3. B[illegible] at there is no Excise [illegible] as wh[illegible] by any person in that Presidency under any circumstances illicit.

4. The Governor General in Council observes that opium is as fair an item of abkaree taxation in Madras as Bengal, and it ought to be included amongst the intoxicating drugs sold by license.

5. I am accordingly to suggest that the Excise Law of Madras might with advantage be assimilated to that of the rest of India in respect of opium. If this were done, opium sent by Post would be liable to confiscation.

6. I am to enquire whether the poppy is grown in Mysore, or whether all the opium referred to in the correspondence came from Central India.

7. The question as regards the export of opium by land has been disposed of by Financial Notification No. 1133, dated 9th June 1870.

I have the honor to be,
SIR,
Your most obedient Servant,

J. W. Batten

Under Secy. to the Govt. of India.

ORDER.—Ordered, that a copy of the above letter, with copy of the communication from the Government of Madras and its enclosures, be forwarded for information to the Director General of the Post Offices in India with the request that the officers of the Postal Department may be warned to be on the look out for despatches to Madras pending local legislation.

Rev 1870 Septr

GOVERNMENT OF INDIA.
FINANCIAL DEPARTMENT.

SEPARATE REVENUE.
Abkaree.
No 2217

To
THE SECY. TO THE GOVT., FORT ST. GEORGE.

No. 1931.
Dated Simla, 16 July 1870.
Received 28

No. 113

Observing that opi
is as poor an item of abkar
taxation in Madras as in B
& it ought to be included a
the intoxicating drugs sold b
& accordingly suggesting to the Re
Law of Madras might with ad
be assimilated to that of the
rest of India in respect of opiu

5th Septr
1870 Rec AP/78

Revenue Department
No.

Proceedings of the Board of Revenue
dated 15 March 1870.

Read the following

No. 913

From
J. A. C. Boswell Esquire
Offg. Collr., Kistna District.

To
A. MacGregor Esquire
Secretary to the Board of Revenue
Madras.

Sir

In continuation of my letter dated 22nd November last No. 2498 with reference to Board's Proceedings dated 10 December 1869, No. 9064, I have the honor to detail the information I have been able to procure with reference to the opium imported into British territory through Juggiapett on the frontiers of the Nizam's territory.

Of the [illegible] packets of opium that were seized passing through the post and delivered up by the Post Master to the Addressees, 17 came from Ajmere, and 4 from Kotah. The addressee produced his letters of advice apprising him of the despatch of the opium with instructions as to its sale

The

opium passes out by sea no injury is inflicted on the opium Revenue.

The Collr. further reports that much opium is imported from Hingole in the Hyderabad Territory, but as will be seen from the Board's Pro: of this date, the law affords no power to interfere with such import.

This letter will therefore be forwarded for the consideration of Govt., in continuation of the Board's Pro: of the 8th March 1870. No. 1617.

(True Copy & Extract)

A Mackenzie
A. Secretary

To
The A. Secretary to Govt. R.D.

1002
15

Revenue 1870 Dept.
No. 820.
Proceedings of the Board of Revenue
Dated 15th March 1870
Recd 15 — " — "
Read 16th.
Sent to 12 Apl
Submitting to Government with remarks, copy of letter from Offg Collr of Malabar regarding opium imported into British territory through Palghaut on the frontier of [illegible] territory.

1002 16

No. 71 Resident's Office on Circuit
Trichoor, 4th July 1874.

From
G. A. Ballard Esquire
Resident in Travancore & Cochin

To
The Honorable D. F. Carmichael
Acting Chief Secretary to Government
Fort Saint George

Sir,

On the receipt of G.O. June 16th 1873 No 615 I addressed both the Sirkars on the subject of measures to ensure as far as possible British India duty paid Opium only being supplied by the Sirkar Opium farm renters.

I received a reply in due course from the Diwan of Cochin. It was not reported on at the time awaiting the reply from Travancore. This has not been received to date and the matter was overlooked.

2 I have now the honor to submit copy of the Cochin Diwan's reply.

He argues that the notification[x] of

[x] dated 5 December/72.

of the Government of India does not apply to exportations of Opium by land - that the duty on exportation by sea is Rs 24 per seer of 80 tolas which, he believes is considerably higher than the selling price at Madras, - that in contiguous British territory the drug is sold at what would be about 1/3 of prime cost to the Cochin renter if he obtained his supply by sea from Bombay - that smuggling would certainly be rife and that the Sirkar has no means whatever of checking it. The Dewan consequently considers that the Sirkar or its renter should be allowed to obtain opium on the same terms as those on which the people of Malabar and Coimbatore are enabled to get it. He trusts that the Excise duty specially collected on opium imported by land into this State may be remitted and Sirkar Cochin placed on the same footing as the surrounding British Indian territory in regard to the conditions of obtaining the drug by land.

3. I have not my full records to refer to and am not sure how opium is now treated in Malabar Coimbatore &ca. There was no excise law some years ago (as far as I am aware

aware) that rendered the possession or carriage or sale of opium illegal in Malabar, Coimbatore &ca or taxed the drug.

G.O. 26th February 1872 No. 345.

4. On a previous reference from Cochin, Government observed that no restrictions had been imposed by them on the importation of opium into these States from the British territories by land. Previously the Dewan of Cochin had requested that no duty might be levied on opium brought from British territory into Cochin. It should have been definitely stated *by land*, for to opium so brought only did the question put refer. This question was not directly answered by the Madras Government.

Vide Proceedings Madras Government of 25th September 1871 No. 1672.

5. The Diwan is under impression that a duty, or Excise, is demanded from the Cochin renter if openly purchasing opium for Sirkar Cochin which is not levied on opium sold in contiguous British Indian districts.

The Cochin opium farm is said to be suffering from the uncertainty besetting the question. If the Cochin Farmer has to pay excise or duty over and above what has to be paid on the article if sold say in Malabar- it is clear with a long unguarded frontier he cannot compete with a Malabar merchant who could easily run supplies across the frontier clandestinely- The Cochin renter must do business clandestinely too or he cannot possibly compete.

6. In their proceedings dated 12th November 1870 No 6616- the Board of Revenue say (p. 7)
"If the Cochin and Travancore States will
"consent to prohibit the export of the
"drug from their ports altogether, it would
"remove the necessity that now exists for
"preventing its crossing their frontiers".

7. This would exactly meet the views of the Cochin Sirkar- It is prepared to impose the British India rate of export duty on opium exported (by sea) from Cochin Sirkar ports, and make over the proceeds to the British Government- or it is prepared to prohibit export by sea absolutely as the British Government may desire-

8. But with land import or export it desires to have nothing to do- It maintains no land Chowkies now and cannot control passage of opium over its land frontiers any more than the transit can be controlled between Malabar and Coimbatore or Coimbatore and Dindigul-

9. If the Cochin Renter is put in a position,- as far as British Government interference or taxation is concerned to obtain opium for sale in Cochin Sirkar territories on the same terms as a merchant can do so for sale in contiguous British territories, it is all Cochin desires- As already said Sea transactions can be regulated or prohibited in the way most agreeable to the British Government. The matter as regards Travancore will be reported on when the Diwan's reply which has been again called for is received-

I have the honor to be,

Sir,

Your most obedient Servant,

G. A. Ballard

Resident.

Copd. K.P.R. 110 S.R.

1002/19

G.O. 12 April/71 No 110-116
— 25 Sept — 333-34
26 July/72 - 290-93
19 April 73 - 80-83
16 June — 115-16

Resy 1874 ~~Rd~~ Dept.
No. 2232.
From
The Resident in
Travancore & Cochin
To The Ch. Chief Secretary
to Government
Fort St George
dated 4th
Recd 7th July 1874
No. 71
Enclosure one
&c.

SO 7 August/74 No 1002
Submitting the De-
wan's letter reporting
on the question of Bri-
tish Indian duty paid
Opium only being supplied
by the Renter of the Sir-
kar Opium Farm.

C 25th July/74

C 3rd July No 3rd July/74

(Copy)

1002/20

No 470/1873.

Huzoor Cutcherry
Ernacollum in Cochin
29th July 1873.

To

G. A. Ballard Esquire
British Resident of Travancore
and Cochin

Sir

I have the honor to acknowledge the receipt of your letter of the 28th Ultimo, No 456, giving cover to a Notification* of the Government of India restricting the exportation of Opium to the Ports of Calcutta and Bombay.

2. From the preamble of the Consolidated Customs Act (No VI of 1863) under which the Notification was issued and a decision of the Sessions Court at Calicut recorded in G.O. No 658 dated 12th April 1871 received with your Memo of the 29th idem it would appear that the provisions of the said act do not apply to the exportation of Opium by land.

3. The duty upon exportation by sea is Rs 24 per Seer of 80 Tolas which I have reason to believe is considerably higher than the selling price at Madras. The renter cannot be expected to enter upon a hopeless competition with the contiguous markets in British territory where the drug is sold at [illegible] per [illegible] or about one third of what would be the prime cost to himself if he obtained it by sea from Bombay. Any attempt to

*Dated 5th December 1872

to deal in duty paid Opium at Cochin must be a failure as the people will prefer smuggling the article even at the risk of occasional seizures encouraged by the great disproportion between the price at which the renter can afford to sell it and that prevailing beyond the boundary.

4. Moreover if the Sirkar made it a rule that only duty paid Opium should be sold by its renter it is not now in a position to discover or prevent infringement, the Chowkeys on the Frontier between Sirkar and British territory having been abolished in 1846.

5. The greater part of the Opium consumed in this Country was for many years imported by land from British India without payment of duty to the British Government. The excise duty recently imposed has had the effect of reducing the biddings for the Sirkar's farm from Rs 10,000 for the current year 1048 to Rs 5,000 for 1049. I have no hesitation to say that the condition suggested in your letter [illegible] upon will very nearly extinguish competition at the next sale.

6. Unless the Sirkar or its renter be allowed to obtain opium on the same terms as those on which the inhabitants of Malabar and Coimbatore are enabled to get it, in which case alone it would be possible to retail it here at a somewhat remunerative price I am unable to see how the legitimate trade in the article can be maintained in this Country so long as a prohibitive duty is added in our case to the rate at which the drug is available to the vendor at those places British tradesmen all around will certainly be able to undersell the local dealer.

7. Should the British Government decline to allow any but duty paid Opium to be sold in this Country the Sirkar can have no choice but to abandon its monopoly leaving local consumers to get their opium as best they may — a step exceedingly to be deprecated not so much on account of the loss of revenue to the Sirkar as of the smuggling which I am aware it will give rise to at all points of the frontier which is of considerable extent and its demoralizing effects.

8. I trust that, in view of the foregoing facts the Government will be willing to reconsider the question and accord the concession requested in my communication of the 31st October 1872 No. 750 namely that the excise duty now specially collected on Opium imported by land into this State be remitted and Sirkar Cochin [illegible] footing as British Malabar in regard

to the conditions of obtaining the commodity by land.

I have &c

(Signed) T. Shungoonny Menon
Dewan

(True Copy)

Resident

Copd. H.H.

11 Aug

No. 2232/74
Enclosure in a letter
from
The Resident in Travancore
and Cochin
To
The Acting Chief Secretary
to Government Fort St George
dated 4th July 1874 No. 71
From
The Dewan of Cochin
To
The Resident in Travancore
and Cochin dated 29 July
1873 No. 847
[illegible] No. 85
On the subject of the
Opium Farm in the Cochin
State.

32

Memo: for Orders on No. 2232.

From Resident in Travancore & Cochin

Reporting on the question of British Indian duty paid opium only being supplied by the Renters of the Sirkar opium Farm.

4 July 1874, No. 71.

1. When certain fiscal restrictions upon the trade between British Territory and the States of Travancore and Cochin were removed by mutual agreement it was settled (vide Notification Fort St. George Gazette 23d May 1865, Page 1055) that opium was to be excepted, i.e. it was to be liable to duty whether imported into or exported from those territories either by sea or land.

2. It appears however, from the correspondence which has taken place on the subject of

Pro. Bd. of Revenue, 17 March '70 No. 1837 recorded in G.O. 11 June 1870, No. 858.

of opium smuggling that no restrictions in regard to export of Opium by sea had ever been enforced by those States because it was not known that such exports had ever been made. The Cochin Circar recognized the obligation it was under with reference to the conditions of the Interportal Convention.

3. It was for some time impossible, under the then existing state of the law, to prevent the export of opium from the Madras Presidency either by sea or land. At length the Govt. of India issued the following Notification.—

Opium &c

The 9th June 1870

"No. 1133. In exercise of the powers

powers conferred on him by the Consolidated Customs Act, Section 23, 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 St. George, or by land from that Presidency to any Foreign or Native State."

4 The power to issue such a notification having been questioned Act XIV of 1871 was

passed amending Act VI of 1863 and declaring among other things that "Section 23 of the said Act shall be deemed to authorize and to have always authorized the Governor General in Council to prohibit or restrict the importation and exportation, by sea or by land, or both by sea and land, of any particular class of goods."

5. The effect of this was to legalize the Notification above quoted.

6. A correspondence on the subject of the

best

best means of preventing injury to the Monopoly ensued between the Govt. of Madras and the Govt. of India. The former considered that "a short enactment prescribing such rates of "Customs duty on import "and export by land and "sea as may suffice to "protect the Bengal "Monopoly or the "Bombay excise" would suffice. The Govt. of India were of opinion that this was insufficient and that it was desirable to introduce the Bengal system for the retail of opium for home consumption or at least to impose penalties upon

Para 12 G.O. 12th April 71
No. 658.

its possession- In the meantime they sanctioned an export duty of Rs 600 per chest (8th June 1871 No. 978) But on being asked (17th January 1872 No. 104) where the provisions of the law (referred to as authorizing such levy of duty) were to be found they omitted to give any direct answer but asked if this Govt. would object to the absolute prohibition of the export of opium from Madras under section 23 Act VI of 1863. In reply this Govt. said that there would be no objection to such a measure but that it would probably aggravate smuggling, and that it would be preferable to legalize the levy of such customs- duty as the Supreme Govt. might consider sufficient for the protection of Imperial Revenue.

31st May 1872 No. 103

30th July 1872 No. 1139

7. No reply to this communication was received but on the 5th December 1872 the Governor General in Council published the following Notification.

"No. 4311. In exercise "of the powers conferred "by section 23 of the Consolidated Customs Act "1863 the Governor General "of India in Council "is pleased to restrict "to the Ports of Calcutta "and Bombay the "exportation of opium.

"This restriction does "not extend to the re-"export, under such re-"gulations as may be "prescribed from any "port of British India "of opium previously "imported into such port"

8. This notification was assumed to prohibit exportation entirely except from the ports named.

G.O. 19th April 1873 No. 415 para 2.

9. The result is that no legal means exist for the importation of opium from British India into Cochin and Travancore except via Calcutta or Bombay where duty would of course be levied.

10. The Notification of the 17th June 1870 is no doubt in force so far as it prohibits the exportation of opium whether by sea or land from this Presidency, and this prohibition is not now qualified by the words "not covered by a pass," for no pass can be given with reference to the Notification of December 1872. It follows that the prohibition is complete.

G.O. 12th April 1871 No. 658.

11. In their Proceedings dated 18th October 1870 No. 982 paragraph 5, the Board in remarking on a petition from the Government Opium Contractor in Cochin complaining that his trade had been interfered with by the Notification of the Governor General in Council dated June 1870 remarked that even when the Law prohibiting export was made clear, the neighbourhood of the railway to the frontier will always make smuggling easy, and they were convinced that it was necessary for the sake of the Imperial revenue, to place the transport possession and sale of opium under restrictions similar to the Abkari Law.

They added "if the Cochin and Travancore States will consent to prohibit the exportation of the drug from their ports altogether, it would remove the necessity that now exists for preventing its crossing their frontiers."

12. As to the first remark of the Board it is observed that this Government have at last consented to take action in the direction suggested and have requested the Advocate General to prepare a Bill providing for the transport, possession and sale of opium being placed under restrictions similar to those of the Abkari Law.

G.O. 6th May 1874. No. 562. R.D.

13. In regard to the second suggestion of the Board, which is the same as that now proposed by the Cochin Dewan and forwarded by the Resident it is only necessary to read the account given by the Additional Deputy Collector of Malabar and recorded in the G.O. last quoted, to see how little probability there is of the illicit export of opium from these States being checked by the local authorities.

G.O. 12 April 1871. No. 658 paragraph 6.

14. These States have all along obtained their supplies of Opium for their monopolies from British India, and much of this has been imported by land. In 1871 Cochin offered to levy on opium imported or exported a rate of duty not lower than that imposed by the British Government, and if thought necessary, to prohibit altogether the export of the drug from Cochin ports, on the condition that no duty should be imposed on opium imported by land from British territory and that the Sirkar might be allowed to obtain the drug on the same terms as those on which the inhabitants of the Madras Presidency get it. Travancore too

being anxious to get it as cheap as possible, offered to forego the import duty it had been in the habit of levying, but was prepared to levy export duty at any rate the British Government might decide upon. Cochin has been constantly ~~consequently~~ pressing the question of free admission of the opium consumed in that State, the drug being usually purchased at Madras and brought by rail to Travancore, where it was liable to be seized as contraband. The Government at length pointed out that no restrictions had been imposed by them on the importation of opium into the States from British Territory by land, but they presumed the Cirkars took proper precautions to satisfy themselves that all such opium was covered by a pass testifying

G.O. 17 July 1871 No. 1239.

G.O. 25 September 1871 No. 1672

G.O. 26 February 1872 No. 345.

Note. This Order seems to have overlooked the fact that by the G.G's Notification of June 1870, Exportation by land was prohibited from British India to these States unless covered by a pass, which no authority in Madras could give. This was previous to the second Notification of December 1872.

G.O. 9th August 1872 No. 1179

to its having paid the established excise duty to the British Government. By sea of course it would be liable to an import duty of Rs 24 per seer of 80 tolahs weight with reference to the Interportal Trade Regulations and the Tariff Act.

15. The detection of a case of attempt at smuggling into Cochin from British Territory led to further enquiries being made which shewed that the traffic was chiefly along the line of rail. The Collector of Malabar pointed out that at Cochin there were unrivalled opportunities for shipping the article thus clandestinely imported either from British Cochin or from the Mattancherry bazaar in Cochin, which was merely a prolongation of the Cochin bazaar, whence it made its way to Rangoon. Both the Collector of Malabar and the Resident of Travancore pointed out

the impossibility of establishing any frontier stations for purposes of search, and the latter suggested that the States might be requested to introduce a clause in their Farm leases, binding the farmers not to introduce opium uncovered by the British Indian Certificate. He forwarded letters from the Dewans of both States describing the position of their monopolies.

G. O. 19 April 1873 No. 415.

16. The Government thereon referred both States to the Notification of December 1872 which had been intermediately published, and which limited exportation from British India to Calcutta and Bombay, and desired the Revenue Board to give every inducement to informers and to stimulate seizures in cases where smuggling across the frontier was attempted.

17. On a further reference

from

G. O. 16 June 1873 No. 615.

from the Resident, the Government expressed an opinion that as all opium unless exported from the ports of Calcutta and Bombay will be smuggled, a clause in the renters contracts requiring them to supply themselves from those ports, was evidently desirable.

18. It is to this Order, as far as regards Cochin, that the Resident has now replied.

The Cochin Dewan in his letter forwarded by the Resident, has misapprehended the scope of the Notification of December 1872 and the existing position of the law. He points out however, what no doubt is perfectly true, that as opium can be purchased in British Territory for one-third of the prime cost at Bombay, it would necessarily follow that the renter if obliged to import from Bombay would be undersold by dealers illicitly importing the drug from

Malabar. There are no chowkies and it would be impossible to prevent smuggling. Unless therefore the Sirkar is allowed to have its opium on the same terms as the Malabar people, the Cochin monopoly would have to be abandoned, a measure to be deprecated, both on account of the loss of revenue and the demoralizing effect of the smuggling which would ensue. " .. .. "

19. The Resident makes no definite recommendation in favor of the Cochin view of the case, but points out that the Sirkar is prepared to impose the British India rate of export from its ports and make over the proceeds to the British Government, or to prohibit export by sea absolutely.

20. It does not appear that

Cochin

Cochin has any real grievance. As stated at the commencement of this Memorandum, opium was specially excepted from the Interportal Convention. The Sirkar has had the benefit of the unrestricted trade, which, notwithstanding that exception, has been allowed until the recent change of law, and though no means at present exist of enforcing the prohibition except by the offer of rewards for the detection of smuggling it is sufficiently clear that if the Cochin request was complied with and opium was allowed openly to enter Cochin without payment of duty it would, the assurances given by the Diwan notwithstanding, be inevitably smuggled out of the ports to the detriment of the Bengal monopoly.

21. When the proposed

law is passed for dealing with opium as with other branches of the Abkari, its purchase in British districts will be taxed to such an extent that the Sirkar will not be a gainer by buying in Malabar or Madras, but can import from Bombay without any great probability of being undersold by the smuggled article which if the law is properly worked will not have any Existence.

GUL

I do not see how we can deal with this question at present.

JDI

27/7

3/8

~~[illegible]~~
~~[illegible]~~
~~[illegible]~~

I think in any case I ought to inform him what is stated in this mem. that the new law to be passed dealing with opium as ~~[illegible]~~ with other Abkari articles will do all that can be done to meet the case

Memo. for Orders

1002/34

Regarding the question of British Indian duty paid Opium only being supplied by the Renters of the Circar Opium Farm

C 25th July/74 R 3rd Augt.

Revenue Departme

No. 1002

Proceedings of the Madras Governme

Under date the 7th August 1874

Read the following letter from the Resident in Travancore & Cochin.

Subg. the Dewan's letter and reporting on the question of British Indian duty paid Opium only being supplied by the Renters of the Sirkar Opium Farm — H.C. 4th July/74 No. 71.

His Excellency th Governor in Council observes that the Cochin Sirkar have misapprehended the present stat of the law. Section 23 of the Customs Act (VI of 18 has been extended by Act XIV of 1871 to the importation and exportation by land as well as by sea of any particular

76.

will then be unhampered.

CM

Resident Travancore & Cochin
Board of Rev
Political Dept } 7/21/8/74

1002/34

3) G.O

Regarding the question of British Indian duty paid opium only being supplied by the Renters of the Circar Opium farm

Council

Dispatch

84-85