M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 58

(2) Date of repair 16-12-68.

(3) Initials of the Referencer 15-4-68

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 224

~~B.P.~~ No.

Press

~~Mis.~~

Dated 15-2-1876 ~~196~~.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
15th February 1876.

No. 188. Read the following Proceedings of the Board of Revenue, dated 24th December 1875, No. 3,423:—

Read the following letters:—

From J. H. GARSTIN, Esq., Collector of South Arcot, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Cuddalore, 2nd December 1875, No. 519.

A SHORT time ago two casks of arrack belonging to the arrack-renters of this district were seized by the French authorities on their way through Pondicherry to Chendur near Tindivanam. Mr. Mackenzie complained to me, and I wrote to the French Government asking if their detention was a mistake or whether it was by order. I enclose a copy of the reply of the French Governor, from which it will be seen that the reason why they were stopped was that they were not covered by a pass from any English official. In consequence of the information in my letter that the liquor was only *en route* to Chendur the barrels have been released, and the Governor now informs me that he has under consideration the rules necessary to regulate the passage of English liquor through French territory from one point of English territory to another.

2. This is no doubt in retaliation for the effect of our Abkári law and the notifications issued in the time of Mr. Reade and since under the Board's authority,* directing that no arrack of French origin shall be allowed to pass across any part of our territory unless covered by our renter's pass.

th G.O.
9 March 76
N. 317

3. I report the matter for the Board's information and for such orders as they may think necessary.

4. The French can make what rules or laws they please on the matter, and the rules made by them will probably have the effect of causing our renter to send his liquor to his outlying shops near Pondicherry by a different route than *viâ* that town.

ENCLOSURE No. 1.—Copy of letter from Governor of Pondicherry.

From the same officer, dated 9th December 1875, No. 531.

I HAVE the honor to forward herewith, for submission to Government, a copy of a letter from the Governor of Pondicherry, in which His Excellency requests me to obtain a decision from the Madras Government to the effect that no new ruling affecting international relations shall be put in force except after a previous agreement; that, with reference to the novel practice which I notified to his predecessor would be put in force relative to the transport of spirits from one point of the French territory to another across English territory (which came into force from the 1st July last), I will request Government to accord to the French passes the same recognition which is extended by the French authorities to our English ones; and, lastly, to hold the execution of the new rules in abeyance till the two Governments have come to an agreement on the matter.

---

* Board's Proceedings, dated 6th April 1875, No. 833.

2. In submitting the letter, I consider it advisable to give a brief resumé of the circumstances which have led to the state of affairs out of which the present correspondence has taken its rise.

3. The French frontier is a very uneven one, several groups of French villages being "*enclave*" in our territory. Facilities for smuggling are thus exceedingly great and very difficult to guard against particularly in respect of small quantities of liquor. It was, therefore, determined by my predecessor, Mr. Reade, in 1870, in the interests of the South Arcot Abkári, to take advantage of the provisions of Section 17 of the Mofussil Abkári Act and by prohibiting the transit of all French arrack and toddy without a pass from the South Arcot Renter, no matter in how small quantities it might be imported, to check the importation of those liquors from French territory completely. Accordingly the subjoined notice was issued by him and published in the District Gazette :—

> NOTICE.—The conveyance of country arrack, toddy, or cocoanut or palm juice from French into English territory to the injury of the Abkári contract in South Arcot, no matter in how small a quantity, is expressly prohibited, and all officers are hereby enjoined to seize all such liquor uncovered by a pass from the contractor, and to forward the same to the office of the Tahsildar for confiscation. The public are warned accordingly.
>
> CUDDALORE,
> 21st October 1870.
>
> C. W. READE,
> Collector.

Soon after I took charge of the district from Mr. Reade in 1871, the Superintendent of Police brought to my notice the illegal character of this notice, which he did not feel justified in acting up to; and, as I concurred with him in thinking that the notice was *ultra vires* and went beyond the intention of the Act, I cancelled it and issued another in its place. The Revenue Board, however, ordered me to cancel my notice and revive Mr. Reade's, which was correct. They pointed out* that a Collector has authority to confiscate liquor passing through his district uncovered by a permit in any quantity whatsoever, and laid down that the effect of the law was that liquor in quantities greater than a quart required to be covered by a permit in transit *in any case* and in quantities less than a quart if *it was so ordered.* My own opinion was, and is, that the effect of Section 17 of the Abkári Act is limited by Section 15 to quantities of all kinds of liquor in excess of a quart, and that smaller quantities cannot be interfered with in transit. However I, of course, obeyed the Board's orders and revived Mr. Reade's order, which has been in force ever since. But its application was not pushed to an extreme, and held to prevent the passage of French liquor from Pondicherry to one of the outlying French villages belonging to that territory until somewhat recently. Liquor so passing was allowed to be conveyed unmolested if covered by a French permit, but in January of the present year a case came before the magistracy of this district for decision in consequence of a man having been charged by the Police for carrying a quantity of arrack from one French village to another without a renter's pass. The case is reported in my letter to the Board of the 8th February last, No. 68, embodied in Board's Proceedings of the 10th March last, No. 580-A. I then recommended that the French Government should receive notice of the necessity we experienced

of strictly enforcing the rules with respect to French arrack and toddy, and after some further explanation given in my letter of the 15th March last, No. 123, printed in Board's Proceedings of the 6th April, No. 833, the Board approved of such notice being given to the French Government and of the strict enforcement of the rules from the 1st July. This is the innovation complained of by the French Governor. It is really only the strict enforcement of a rule of long standing.

* Board's Proceedings of 26th June 1871, No. 2,571.

4. I am of opinion, as I have already reported to the Board, that arrack transported from Pondicherry to outlying French shops is so conveyed chiefly for the purpose of being smuggled into our territory, while as to the expediency of checking its importation in quantities smaller than a quart there can be no doubt, whatever doubt there may be as to the existing law admitting of this being done.

5. I request the Board's orders at an early date on the French Governor's request to suspend the strict action of the rule, and in effect to recognize French passes until the two Governments have come to some understanding on the matter, and in the mean time I propose to address His Excellency M. Trillard on the subject of a subsidy for the outlying villages.

ENCLOSUE No. 1.—Copy of letter from Governor of Pondicherry.

SUBMITTED for the orders of Government with copies of the Board's Proceedings noted in the margin, which contain the correspondence referred to by the Collector.

26th June 1871, No. 2,571.
26th September 1872, No. 1,919.
10th March 1875, No. 580-A.
6th April 1875, No. 833.

2. The Board entertain no doubt as to the effect of Section 17 of the Abkári Act as set forth in the first two Proceedings quoted, *viz.*, that all liquor in whatever quantity is liable to confiscation if uncovered by a permit, though the penal provisions apply only where the quantity is greater than an imperial quart.

3. As shown by Mr. Garstin, the views of the law, and the orders as to its enforcement, of which the French authorities complain, are not new though the orders were not strictly carried out prior to the recent notice given to the Governor of Pondicherry. The Board are of opinion that the course directed in their Proceedings last quoted should not be suspended, but should continue to be enforced, as the matter can scarcely be settled on the basis proposed for the reason shown in paragraphs 7 and 8 of the Collector's letter of the 15th March 1875, No. 123. To recognize the passes of the French shopkeepers would be in fact to countenance the smuggling which is so rife and which it is of such importance to the British revenue to check. From Mr. Garstin's letter, dated 2nd December 1875, No. 519, it would seem that the interest of the British renters are not materially involved in the recognition of their passes in French territory.

3. In future Mr. Garstin is requested to submit translations, with copies in the original, of French correspondence sent up by him for the Board's perusal.

(True Copies and Extract.)

Signed) H. E. STOKES,
Acting Secretary.

Proceedings of the Madras Government, Revenue Department,
15th February 1876.

No. 189. ORDER THEREON, 15th February 1876, No. 224.

Separate Revenue, No. 17.

Abkári.

Board's Pros. dated 26th June 1871, No. 2,571.
„ „ „ 26th Sept. 1872, „ 1,919.
„ „ „ 10th Mar. 1875, „ 580-A
„ „ „ 6th April „ „ 833.
„ „ „ 24th Dec. „ „ 3,423.

BEFORE disposing of the various questions raised in the Proceedings above recorded, the Government desire to have before them the opinion of the Law Officers as to the intention and scope of Sections 15 and 17 of the Abkári Act in connection with the disputed construction put upon them by the Collector of South Arcot and the Board of Revenue. The papers marginally noted will accordingly be referred to the Government Pleader, who will be requested to communicate his opinion on the subject at an early date.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Government Pleader.
„ the Board of Revenue.

Govt. of 1876 Madras.

REVENUE.

To

The GOVERNMENT PLEADER,

&c., &c., &c.

Dated February, 15th.

Recd. Encl.

G.O., 15th February 1876, No. 224.

FEBRUARY.

Nos. 183-189.

Transit of Liquor through Pondicherry uncovered by a Pass from any English Official.—Referring to the Government Pleader for opinion Proceedings of the Board of Revenue in connection with the disputed construction put upon the intention and scope of Sections 15 and 17 of the Abkári Act in reference to the —

R.P. in the [illegible]

No. 3,423.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 24th December 1875.

Read the following letters :—

From J. H. GARSTIN, Esq., Collector of South Arcot, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Cuddalore, 2nd December 1875, No. 519.

A SHORT time ago two casks of arrack belonging to the arrack-renters of this district were seized by the French authorities on their way through Pondicherry to Chendur near Tindivanam. Mr. Mackenzie complained to me, and I wrote to the French Government asking if their detention was a mistake or whether it was by order. I enclose a copy of the reply of the French Governor, from which it will be seen that the reason why they were stopped was that they were not covered by a pass from any English official. In consequence of the information in my letter that the liquor was only en route to Chendur the barrels have been released, and the Governor now informs me that he has under consideration the rules necessary to regulate the passage of English liquor through French territory from one point of English territory to another.

2. This is no doubt in retaliation for the effect of our Abkári law and the notifications issued in the time of Mr. Reade and since under the Board's authority,* directing that no arrack of French origin shall be allowed to pass across any part of our territory unless covered by our renter's pass.

3. I report the matter for the Board's information and for such orders as they may think necessary.

4. The French can make what rules or laws they please on the matter, and the rules made by them will probably have the effect of causing our renter to send his liquor to his outlying shops near Pondicherry by a different route than *viâ* that town.

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* Board's Proceedings, dated 6th April 1875, No. 833.

ENCLOSURE No. 1.—Copy of letter from Governor of Pondicherry.

From the same officer, dated 9th December 1875, No. 531.

I HAVE the honor to forward herewith, for submission to Government, a copy of a letter from the Governor of Pondicherry, in which His Excellency requests me to obtain a decision from the Madras Government to the effect that no new ruling affecting international relations shall be put in force except after a previous agreement; that, with reference to the novel practice which I notified to his predecessor would be put in force relative to the transport of spirits from one point of the French territory to another across English territory (which came into force from the 1st July last), I will request Government to accord to the French passes the same recognition which is extended by the French authorities to our English ones; and, lastly, to hold the execution of the new rules in abeyance till the two Governments have come to an agreement on the matter.

2. In submitting the letter, I consider it advisable to give a brief resumé of the circumstances which have led to the state of affairs out of which the present correspondence has taken its rise.

3. The French frontier is a very uneven one, several groups of French villages being "*enclave*" in our territory. Facilities for smuggling are thus exceedingly great and very difficult to guard against particularly in respect of small quantities of liquor. It was, therefore, determined by my predecessor, Mr. Reade, in 1870, in the interests of the South Arcot Abkári, to take advantage of the provisions of Section 17 of the Mofussil Abkári Act and by prohibiting the transit of all French arrack and toddy without a pass from the South Arcot Renter, no matter in how small quantities it might be imported, to check the importation of those liquors from French territory completely. Accordingly the subjoined notice was issued by him and published in the District Gazette :—

> NOTICE.—The conveyance of country arrack, toddy, or cocoanut or palm juice from French into English territory to the injury of the Abkári contract in South Arcot, no matter in how small a quantity, is expressly prohibited, and all officers are hereby enjoined to seize all such liquor uncovered by a pass from the contractor, and to forward the same to the office of the Tahsildar for confiscation. The public are warned accordingly.

CUDDALORE,
21st October 1870.

C. W. READE,
Collector.

Soon after I took charge of the district from Mr. Reade in 1871, the Superintendent of Police brought to my notice the illegal character of this notice, which he did not feel justified in acting up to; and, as I concurred with him in thinking that the notice was *ultra vires* and went beyond the intention of the Act, I cancelled it and issued another in its place. The Revenue Board, however, ordered me to cancel my notice and revive Mr. Reade's, which was correct. They pointed out* that a Collector has authority to confiscate liquor passing through his district uncovered by a permit in any quantity whatsoever, and laid down that the effect of the law was that liquor in quantities greater than a quart required to be covered by a permit in transit *in any case* and in quantities less than a quart if *it was so ordered.* My own opinion was, and is, that the effect of Section 17 of the Abkári Act is limited by Section 15 to quantities of all kinds of liquor in excess of a quart, and that smaller quantities cannot be interfered with in transit. However I, of course, obeyed the Board's orders and revived Mr. Reade's order, which has been in force ever since. But its application was not pushed to an extreme, and held to prevent the passage of French liquor from Pondicherry to one of the outlying French villages belonging to that territory until somewhat recently. Liquor so passing was allowed to be conveyed unmolested if covered by a French permit, but in January of the present year a case came before the magistracy of this district for decision in consequence of a man having been charged by the Police for carrying a quantity of arrack from one French village to another without a renter's pass. The case is reported in my letter to the Board of the 8th February last, No. 68, embodied in Board's Proceedings of the 10th March last, No. 580-A. I then recommended that the French Government should receive notice of the necessity we experienced of strictly enforcing the rules with respect to French arrack and toddy, and after some further explanation given in my letter of the 15th March last, No. 123, printed in Board's Proceedings of the 6th April, No. 833, the Board approved of such notice being given to the French Government and of the strict enforcement of the rules from the 1st July. This is the innovation complained of by the French Governor. It is really only the strict enforcement of a rule of long standing.

* Board's Proceedings of 26th June 1871, No. 2,571.

4. I am of opinion, as I have already reported to the Board, that arrack transported from Pondicherry to outlying French shops is so conveyed chiefly for the purpose of being smuggled into our territory, while as to the expediency of checking its importation in quantities smaller than a quart there can be no doubt, whatever doubt there may be as to the existing law admitting of this being done.

5. I request the Board's orders at an early date on the French Governor's request to suspend the strict action of the rule, and in effect to recognize French passes until the two Governments have come to some understanding on the matter, and in the mean time I propose to address His Excellency M. Trillard on the Subject of a subsidy for the outlying villages.

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3. As shown by Mr. Garstin, the views of the law, and the orders as to its enforcement, of which the French authorities complain, are not new, though the orders were not strictly carried out prior to the recent notice given to the Governor of Pondicherry. The Board are of opinion that the course directed in their Proceedings last quoted should not be suspended, but should continue to be enforced, as the matter can scarcely be settled on the basis proposed for the reasons shown in paragraphs 7 and 8 of the Collector's letter of the 15th March 1875, No. 123. To recognize the passes of the French shopkeepers would be in fact to countenance the smuggling which is so rife and which it is of such importance to the British revenue to check. From Mr. Garstin's letter, dated 2nd December 1875, No. 519, it would seem that the interest of the British renters are not materially involved in the recognition of their passes in French territory.

3. In future Mr. Garstin is requested to submit translations, with copies in the original, of French correspondence sent up by him for the Board's perusal.

(True Copies and Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,
with copies of Board's Proceedings, dated 26th June 1871,
26th September 1872, 10th March 1875, and 6th April 1875,
Nos. 2,571, 1,919, 580-A, and 833, respectively,
and two enclosures in original to be returned.
" the Collector of South Arcot.

Exd. J. W. Fischer.

Rev 4924

1875.

Board of Revenue,
MADRAS.

PROCEEDINGS, 24TH DECEMBER 1875, No. 3,423.

Desp 24 Dec 1875

Encl.

Received

DECEMBER.
No. 3,423.

Spirits.—Submitting, for orders of Government, letters from Collector of South Arcot requesting instructions on certain points in connection with transmission of — from one French village to another through English territory and from one English village to another through French territory.

South Arcot

Collector's Offic
Cuddalore
No. 519 2d December 1875.

From
J. H. Garstin Esquire
Collector of South Arcot

To
H. E. Stokes Esquire
Ag. Secretary to the Board of Reve
Madras

Sir,

A short time ago 2 casks of arrack belonging to the arrack renters of this Distri were seized by the French authorities on their way through Pondicherry to Chendu near Tindivanum. Mr. Mackenzie complained to me and I wrote to the French Government asking if their detention was a mistake or whether it was by order. I enclose a copy of the reply of the French Governor from which it will be seen that the reason why they were stopped was that they were not covered by a pass from any English Official. In consequence of the information in my letter that the liquor was only en route to Chendoor the barrels have been released and the Governor now informs me that he has under consideration the rules necessary to regulate the passage of English liquor through French territory from one point of English territory to another.

This [illegible]

2. There is no doubt in retaliation for the effect of our Abkarry law and the Notifications issued in the time of Mr Reade and since under the Board's ×authority directing that no arrack of French origin shall be allowed to pass across any part of our territory unless covered by our Renter's pass.

×Board's Proceedings dated 1st April 1875 No 833

3. I report the matter for the Board's information and for such orders as they may think necessary.

4. The French can make what rules or laws they please on the matter and the rules made by them will probably have the effect of causing our Renter to send his liquor to his outlying shops near Pondicherry by a different route than viâ that town.

I have &c

(Signed) J. H. Garstin
Collector.

(True copy)

H. E. Stokes
Ag. Secretary.

Ex/d.

Enclosure in Proceedings
of the Board of Revenue
to the Secretary to Govern=
=ment, Revenue Depart=
=ment, dated 24th December
1875.

$\frac{2}{4924 \text{ of } 75}$

Copy of letter from
Collector of South Arcot
dated 2nd December 1875
No 519.

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No 531.

Collector's Office
Cuddalore
9th December 1875.

From
J. H. Garstin Esquire
Collector of South Arcot

To
H. E. Stokes Esquire
Acting Secretary to the
Board of Revenue
Madras

Sir,

I have the honor to forward herewith for submission to Government a copy of a letter from the Governor of Pondicherry in which His Excellency requests me to obtain a decision from the Madras Government to the effect that no new ruling affecting international relations shall be put in force except after a previous agreement; that with reference to the usual practice which I notified to his predecessor would be put in force relative to the transport of spirits from one point of the French territory to another across English territory (which came into force from the 1st July last), I will request Government to accord to the French passes the same recognition which is extended by the French authorities to our English ones, and lastly to hold the execution of the new rules in abeyance till the 2 Governments have come to an agreement on the matter.

2. In submitting the letter I consider it advisable to give a brief résumé of the circumstances which have led to the state of affairs out of which the present correspondence has taken its rise.

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a very uneven one, several groups of French villages being "enclavé" in our territory. Facilities for smuggling are thus exceedingly great and very difficult to guard against, particularly in respect of small quantities of liquor. It was therefore determined by my predecessor Mr Reade in 1870 in the interests of the South Arcot Abkari to take advantage of the provisions of section 17 of the Mofussil Abkari Act and by prohibiting the transit of all French arrack and toddy without a pass from the South Arcot Renter, no matter in how small quantities it might be imported to check the importation of these liquors from French territory completely. Accordingly the subjoined notice was issued by him and published in the District Gazette.

Notice. The conveyance of country arrack, toddy or cocoanut or palm juice from French into English territory to the injury of the Abkari Contract in South Arcot, no matter in how small a quantity, is expressly prohibited, and all officers are hereby enjoined to seize all such liquor uncovered by a pass from the Contractor & to forward the same to the office of the Tahsildar for confiscation. The public are warned accordingly.

Cuddalore
21st October 1870 } (Signed) C. W. Reade
Collector.

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× Board's Pro: of 26 June/71. No 2571.

so ordered. My own opinion was, and is, that the effect of section 17 of the Abkari act is limited by Section 15 to quantities of all kinds of liquor in excess of a quart, & that smaller quantities cannot be interfered with in transit. However, I of course, obeyed the Board's orders & revived Mr. Reade's order, which has been in force ever since. But its application was not pushed to an extreme, & held to prevent the passage of French liquor from Pondicherry to one of the outlying French villages belonging to that territory until somewhat recently. Liquor so passing was allowed to be conveyed unmolested if covered by a French permit, but in January of the present year a case came before the Magistracy of this district for decision

in

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4 I am of opinion as I have already reported to the Board, that arrack transported from Pondicherry to outlying French shops is so conveyed chiefly for the purpose of being smuggled into our territory, while as to the expediency of checking its importation in quantities smaller than a quart there can be no doubt, whatever doubt there may be as to the existing law admitting of this being done.

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I have &ca
(Signed) J. H. Garstin
Collector.

(True copy)

H. Stokes
Acting Secretary.

Ex/ S. Padmint

Enclosure in Pro: of the Board of Revenue to the Secy: to Govt. R. D. dated 24th Decr /75.

1/4924 of 75

Copy of letter from Coll: of S. Arcot dated 9th Decr/75 No 531.

Revenue Department

Proceedings of the Board of Revenue
Dated 24th December 1875

Read letter from the Collector of South Arcot dated 2nd Instant, No 519, reporting that 2 casks of arrack belonging to the arrack renter of the District were seized by the French authorities while in transit through Pondicherry because they had not been covered by a Pass from an English official but that they were released on the Collector writing to the French Government.

Read also letter from the same officer dated 9th December 1875 No 531 forwarding for submission to Government letter from the French Governor of Pondicherry requesting to obtain a decision from the Madras Government to the effect that no new ruling affecting international relations shall be put in force without the consent of the 2 Governments and requesting early orders on the French Governor's proposal to suspend the strict enforcement of the rules until the 2 Governments have come to an understanding.

Submitted for the orders of Government

with copies of the Board's Proceedings noted in the margin which contain the correspondence referred to by the Collector.

26th June 1871 No. 2571
26th September 1872 No. 1919
10th March 1875 No. 580 A
6th April 1875 No. 833.

2. The Board entertain no doubt as to the effect of section 17 of the Abkari Act, as set forth in the first two Proceedings quoted, viz that all liquor in whatever quantity is liable to confiscation if uncovered by a permit, though the penal provisions apply only where the quantity is greater than an imperial quart.

3. As shown by Mr. Garstin the view of the law and the orders as to its enforcement of which the French authorities complain, are not new, though the orders were not strictly carried out prior to the recent notice given to the Government of Pondicherry. The Board are of opinion that the course directed in their Proceedings last quoted should not be suspended but should continue to be enforced, as the matter can scarcely be settled on the basis proposed, for the reasons shown in paras 7 and 8 of the Collector's letter of the 15th March 1875 No. 123. To recognize the passes of the French shopkeepers would be in fact to countenance the smuggling which is so rife and which it is of such importance

importance to the British revenue to check. From Mr. Garstin's letter, 2nd December 1875 No. 519 it would seem that the interest of the British renters are not materially involved in the recognition of their passes in French territory.

4. In future Mr. Garstin is requested to submit translations, with copies in the original, of French correspondence sent up by him for the Board's perusal.

(True Extract)

H. E. Stokes
Acting Secretary.

To The Secretary to Government
Revenue Department.

with copies of Boards Proceedings dated 26th June 1871, 26th September 1872 10th March 1875 & 6th April 1875 Nos. 2571, 1919, 580 A., and 833 respectively and of letters from Coll.r of South Arcot dated 2nd & 9th December 1875 Nos. 519 & 531 respectively & two enclosures, in original, to be returned.

W. C. Hogg.

Rev: 1875 Dept.
No. 4924

Proceedings of the Board of Revenue,

dd 24
Dated 24
Recd 25
En. 8
} December 1875

Flour sent to Post Office

5.1.76 31

Submitting to Govt. with remarks letters from the Collr. of S. Arcot & the French Govt. of Pondicherry on subject of transit of liquor thro' the latter place uncovered by a Pass from an English Offl. &ca.

G.O. No. 224. 15 February 1876

No. 188

e 26. Jany/76. Wd 5 Feby/76

Revenue Department

Memo for Orders.

Proceedings of the Board of Revr.
Submitting correspondence on subject of transit of liquor thro' Pondicherry uncovered by a Pass from an English Offl. &c. } (B. E. 24th Decr. 1875)

These Proceedings refer to the question of enforcing the strict letter of the law with regard to Arrack & toddy carried from French to French villages, under cover of French passes, through the English territory.

2. Sec XV of the Madras Mofussel Abkarry Act (III of 1874) prohibits the transit of any quantity of liquor, ex:ceeding one Imperial Quart, without permit, and provides that the permits

shall be issued only by certain District authorities and by Abkarry Renters. Sec. XVII provides, that all liquor in transit unaccompanied by a valid permit shall be liable to be confiscated.

3. It appears, that till recently these provisions of the law were ~~not~~ *strictly enforced with respect to liquor passing from one part of the French Settlement to another through the English territory; but on a recommendation from the Collector of South Arcot, the Board of Revenue, in their Proceedings dated 6th April 1875 No. 833, authorized him to give notice to the French authorities, that the law would be enforced from 1st July following, unless such liquor was covered by passes granted by the British Abkarry renters.

4. This has elicited a reference* from the Governor of Pondicherry to the Collector of South Arcot, in which this Govt. is asked "to accord to the French passes the same recognition which is extended by the French authorities to English ones"; and to suspend action until the two Govts. shall have come to an agreement on the subject. The Collector

* Para 2 of Collr's letter in Bd's Progs: 10th March/75 No. 580 A.

* Collr's letter to the Board d/9th Decr. 1875 No. 531.

This is out of the question French passes can be got to cover the most bare-faced smuggling

Collector is further requested *"to obtain a decision from the Madras Government to the effect, that no new ruling affecting international relations shall be put in force except after a previous agreement."

5. The Board consider, that the matter can be scarcely settled on the basis proposed, and that the course directed in their Progs: above quoted should not be suspended but should continue to be enforced. In their opinion, "to recognize the passes of the French

French shopkeepers would be in fact to countenance the smuggling which is so rife, and which it is of such importance to the British revenue to check". The Collector's *letter shows, that the course now adopted can cause no inconvenience with regard to the legitimate wants of the French settlement. The outlying French villages have each a shop, and each shop has its distillery,

In Bd's Progs: 6th April 1875 No. 833 - para 5.

distellery, and
as there is no
embargo on the
transit of the
articles from which
arrack is distilled,
there is practically
no check whatever
on the legitimate
manufacture
or sale of
that spirit.

If

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Mr Garstin adds, "If, therefore, there is such a demand for arrack in the outlying French villages that the local shops cannot turn it out fast enough, and it requires to be imported from Pondicherry; it is not unnatural to conclude, that much of that demand has its origin in the English territory, and that such transported arrack is so transported in order to be smuggled into this District." As to toddy, the × Collector does not think shop-keepers in outlying French villages have any need to transport it from one village to another.

5. It indeed seems, that the French authorities on their part have ever objected to British renters' Arrack passing through their territory. 2 Casks of such Arrack were just lately seizedˣ by them, but on the Collector intimating to them, that the liquor was only en route to a place in the British territory, they were released; the French Governor having replied to say that the casks were stopped because they were not covered by a pass from any English official. Mr Garstin, in reporting this circumstance to the Board, states, that ⓧ the Governor of Pondicherry has intimated to him, that "he has under consideration the rules necessary to regulate the passage of English liquor through French territory from one point of English territory to another," and he gives his own opinion, that any rules they might make will probably have the effect of causing our renters

Cannot be their interest — our liquor is always too dear to be dangerous to the rev: of Pondy

ˣColl^rs letter of 2^d Dec^r /75
No. 519.

ⓧpara 4

renter to send his liquor to his outlying shops near Pondicherry by a different route than via that town". From this the Bd. infer,* that the interests of the British renters are not materially affected by the non-recognition of their passes in the French territory. It does not appear, however, how, after having given the French authorities a notice as mentioned in para 3 supra, Mr. Garstin considered himself justified in demanding from them in respect of the 2 casks of liquor above referred to, a concession which he was not prepared on his part to make to them.

*Concluding part of para 3 of their Proc.

He merely asked a question.

7. Upon the presumption, however, that no particular advantage is to be gained by any concession on the part of the French Govt. in this respect, W. L. le

while the strict enforce:ment of the law is of importance in the interests of the Abkarry revenue× of South Arcot; it seems to be necessary to inform the Governor of Pondicherry, by a letter from Govt. that reciprocal accommodation with regard to the passage of liquor belonging to one territory through the other is not considered desirable, & that that Govt. is at liberty to enforce its own law in this matter

× & of goodfaith towds. our renters

There is no alternative. We cannot refuse to enforce the Law in the interest of the Farm

Hire [illegible] distinct

They can [illegible] do [illegible] carrying [illegible] their own law empowers them to matter. As a necessary consequence of this decision, it would be necessary also to give notice to the Abkarry Renter of South Arcot, that any liquor of his passing henceforth through the French territory will be subject to such rules as may be in force in that territory.

8. The Bd's Proc. & the papers accompanying them seem to call for the decision of Govt. also on another question, on which the

the Board & the Collector of South Arcot differ. As stated in para 2 of this Memo, Sec 15 of the Abkarry Act prohibits the transit of "any quantity of liquor exceeding one Imperial Quart" without a permit; Sec: 17 provides that "all liquor" in transit, without a valid permit, shall be liable to be confiscated, & sec: 22 prescribes that any person who shall convey "more than one Imperial Quart" of liquor without a valid permit shall be liable to a fine not exceeding Rupees 500 for each offence.

× Mr Garstin maintains that the transit of one Imperial Quart or less is not prohibited, and that therefore the Collr: will not be justified in confiscating it; while the Board are decidedly of opinion that under Sec: 17 "the Collector has power to confiscate all liquor passing through his District uncovered by

× Bd Pro: 26 Sept/72 No 1919.

do 26th June 1871 No 2,571 para 2.

" 24th Decr 1875 " para 2.

by a permit in any quantity whatever, and that the effect of the Law is, that liquor in quantities of more than a Quart must be covered by a permit in any case, & that liquor in quantities of less than a Quart must be covered by a

a

a permit, if it is so ordered.

9. A notice ˣ in accordance with the view of the Law as taken by the Board had been published in the District Gazette by the former Collector Mr. Reade, and Mr Garstin, on taking charge of the District in 1871, cancelled it as ultra vires; the Supt. of Police having intimated to him that he did not feel justified in acting up to it. The Board observing in the South Arcot Gazette Mr Garstin's notice cancelling his predecessor's ˣ, ordered him to recall it at once and to revive Mr Reade's, which has been accordingly done. Mr Garstin however

ˣ Collr's letter of Dec/71 No 531 para 3.

ˣ Bd's Pro: 26. June/71 N. 2571

however, in his present report, adheres to his own view, ~~in this respect~~; and the Board, in forwarding the previous correspondence, entertain no doubt as to the correctness of their previous construction

adverting again to this point

x Colls letter 9th Dec. /75 No. 531. para 3

* 24th idem. para 2

10. During the previous discussion on this point, Mr. Garstin asked for a reference to the Law Officers of Govt:, but the Board saw no need for it. Indeed, it is submitted, but for this positive opinion of the Board there would seem to be little need for a reference to Law Officers. According to the ordinary rules of construction, the words "all liquor" in section 17 must, as pointed out by Mr Garstin, be read as qualified by "any quantity of liquor exceeding one Imperial Quart" in section 15; otherwise the two sections cannot hold together. If the transit of liquor in less quantities than one Imperial Quart without a permit is not prohibited, as section 15 clearly shows it is not, it cannot be confiscated. As Mr Garstin points out, there is nothing in the

As there is a difference, I wd refer it. I am inclined to accept the Bd.'s reading of the Law but it is open to question
WOL
27/1

the Act to support the view, that the law gives a discretion to the Executive to "order" that liquor in smaller quantities must be covered by a permit

11. This question of construction has an obvious bearing on the question of enforcing the law with respect to arrack and toddy passing from French to French villages through English territory.

×Mr. Garstin, in his letters in reference to the present question, does not clearly distinguish between the effect of the admission of

French

× Collr's letter in Bd's Pro: 6: Apl/75 – No 833 paras 4 & 8.
His letter 9: Dec/75 No. 531 para 3.

French arrack in quantities larger and smaller than one Imperial quart, generally; but his connecting his apprehensions of risk to the Abkary revenue of his District with the strict enforcement of the terms of Mr. Reade's Notice revised by order of the Board, leads to the inference, that the anticipated risk refers mainly to the introduction of arrack from the French into English villages in smaller quantities. Indeed no other

inference

informed seems to be deducible from para 4 of his present letter, in which Mr Garstin writes thus:—

"I am of opinion, as I have already reported to the Board, that arrack transported from Pondicherry to outlying French stations is conveyed chiefly for the purpose of being smuggled into our territory; while as to the expediency of checking its importation in quantities *smaller than a quart* there can be no doubt, whatever doubt there may be as to the existing law admitting of this being done".

12. It is to be observed, however, that if Mr Garstin's construction of Section 17 of the Abkarry Act be held to be correct, the Abkarry Renter of South Arcot can have no reasonable complaint in respect of an immunity which the law gives and which has not hitherto been practically withheld.

I ~~[illegible]~~ [illegible]

Once seen the Law Officers

~~Before referring the Matter~~

point it is desirable to be informed whether there is anything in the treaties [illegible]

Pondi. or its appendages which governs receipt of French goods to [illegible] detached villages — ?

How are goods from France for such villages dealt with in crossing our territory?

B.C.

C 26 Jany 76 & Rd 5 Feby 76.

Memo for Orders

Regarding transit of liquor thro' Pondicherry unaccompanied by a Pass —

I think we must, in order to keep faith with our Abkari Renters, decline to accede to the request of the Govt of Pondicherry — This should be done in a carefully worded letter, courteously declining & pointing out that no inconvenience will (as shown by Mr Garstin) be caused to the bona fide French consumers in French villages —

I think it will be well to submit the disputed construction of the Act (Bd of Revenue & Mr Garstin) to our Law Officers —

No 224

Boards Proceedings 24 December 1875 No 3423. —

See

The enquiry made by H.E. the Governor has to be replied to after reference to the old records which are being searched. The original treaty between the two Govts. does not contain any stipulation on the subject of access for French goods from & to their detached villages — meanwhile there is no harm in referring to the Advocate General the disputed question of Law, all the members of Govt. being agreed as to the necessity of such reference.

Boards Pro: of 26 June 1871 No 2571
Do Do. 26 Sept 1872 No 1919
Do Do. 10 March 1875 No 580
Do Do. 6 April 1875 No 833.
Do Do 24 Decr 1875 No 3423.

Before disposing of the various questions raised in the Proceedings above recorded, the Govt. desire to have before them the opinion of the Law Officers as to the intention and scope of Sec. 15 & 17 of the Abkari Act in connection with the disputed construction put upon them by the Collector of S. Arcot & the Bd. of Revt. The papers marginally noted will accordingly be referred to the ~~Advocate General~~ Govt. Pleader, who will be requested to communicate his opinion on the subject at an early date. —

15th February 1876

Fair Copy to the Govt. Pleader Da 14 Feb
3 Extracted Copies Da 19 Do
14 To the Board of Rev Da 19 Feb

14.2.76.

Sec 15 & 17 of the Nat'l
Banking act