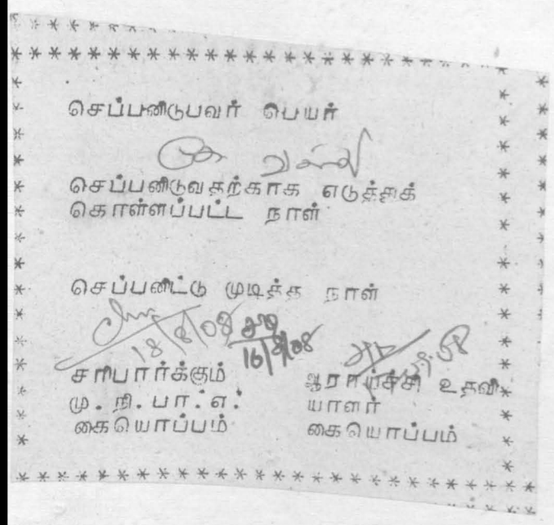
Revenue Department

Minutes of Consultations

20th April 1858.

Back nos 59 & 60.

Order no 507 dt 20th April 1858


செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள்

செப்பனிட்டு முடித்த நாள்

சரிபார்க்கும் மு. நி. பா. எ. கையொப்பம்

ஆராய்ந்து உதவியாளர் கையொப்பம்

507
2

Fort Saint George, Revenue Consultation of 20th April 1858.

No. 59. Read the following letter from D. ELIOTT, Esq., Member of the Legislative Council; to H. FORBES, Esq., Acting Secretary to the Government of Fort Saint George; dated Fort William, 16th March 1858.

SIR,

1. With reference to your letter dated the 19th Ultimo, and the Draft Act for the more effectual prevention of smuggling which accompanied it, I enclose a Minute on the subject, which having been communicated to the Member for Bengal, he has applied to Government for the information desired by me on the question, whether the Customs Law of Bengal which, like that of Madras, provides neither for the punishment of smugglers by fine, nor for the confiscation of the vehicle, &c., used in smuggling, has been found insufficient on that account for the protection of the Customs revenue.

2. It will be seen from my Minute, that the law for preventing the smuggling of *salt* into Calcutta provides specially for the infliction of fines upon the smugglers. In the Madras Presidency also the smuggling of salt is punishable by fine under Section XVIII. Regulation I. of 1805, which seems to have been overlooked by the Board of Revenue, or it may be considered inapplicable for some reason not explained. The Madras salt law does not, like that for Calcutta, authorize the confiscation of the vessels, carriages, &c., employed in the smuggling of salt.

3. The Board of Revenue, as I have remarked in my Minute, have given no information whatever, at least there is none in the papers transmitted to me, as to the extent to which the smuggling of "other articles," than salt, is carried on in the Madras Presidency. I would request that this information may be called for and furnished to me, to be compared with the like information which I have asked for from Bengal; and I would beg to be favored with the opinion of the Right Honorable the Governor in Council, after consideration of that information, whether a necessity is made out for more stringent legislation in order to the prevention of smuggling *generally*, and whether, with reference to the remarks in note H. on the Penal Code referred to in my Minute, it should extend to the confiscation of vessels, &c., employed in smuggling.

4. With regard to salt particularly, I would submit for consideration, whether the liability to fine under Section XVIII. Regulation I. of 1805, if duly enforced, may not be sufficient for the object; and if it is not enforced, as would seem to be inferrible from the observations of the Board of Revenue, I would suggest the inquiry why not.

MINUTE.

The Government of Madras have sent me the Draft of an Act for the more effectual prevention of smuggling, by making smugglers liable to fine and imprisonment, and vessels, carriages, animals, &c., employed in smuggling liable to confiscation.

By the old Customs law, Regulation I. of 1812, smugglers *were* liable to fine and imprisonment.

The existing law, Act VI. of 1844, does not authorize the infliction of fine or imprisonment on such offenders.

But the offence of smuggling was recognized and provided for in Chapter XI. of the Penal Code, smugglers being made liable to imprisonment of either description for a term which may extend to 3 months, *or* with fine to an amount equal to 500 Rupees added to 5 times the value of the property smuggled, *or with both*.

The Commissioners did not think it proper to insert in the Code any provision for the confiscation of property for breach of the Revenue laws, and gave reasons for the omission which are very weighty. They did not, however, regard such confiscation as unjustifiable, but out of place in a Penal Code. They proposed therefore to leave the existing laws which authorized it, untouched.

See note H. page 45.

Also fine to 500 Rupees and imprisonment to 6 months on non-payment.

Also fine to 5 Rupees per maund of salt found in possession.

Also imprisonment to 3 months or fine to 500 Rupees or both.

And the law passed last year, Act IV. of 1857, relating to the duties on *Tobacco*, Section XVIII. but this Section has an important qualification, namely that the vessel or other thing employed in smuggling was so employed

Also fine to 10 times the value.

with the consent and knowledge of the owner or his servant.

By the Madras salt law, Regulation I. of 1805, the smuggling of salt is punishable by fine (Section XVIII).

The Madras Government were at first inclined to the opinion that it was only in the case of salt that some additional stringency in the law was required.

The Board of Revenue had mentioned salt and *other goods* without specification. In their second letter they say they continue of opinion that for the protection of the revenue, and the interests of the fair trader, the proposed Act is necessary as respects *all articles, and not salt alone.* Still they do not particularize the articles besides salt which are extensively smuggled. It is salt especially which is mentioned in the first letter. And they appear to have overlooked the provision for punishing salt smugglers with fine which is contained in Section XVIII. Regulation I. of 1805, above cited.

This is remarkable for they observe that the power to confiscate the carriage, animal, &c., employed in smuggling would be imperfect as a prevention, because salt and the like could still be imported on men's heads.

There is no information whatever in the papers as to the extent to which "other articles" are smuggled.

It would seem to be desirable to ascertain whether the want of a power to fine smugglers and to confiscate the vehicle, &c., by which smuggled goods are conveyed, makes the customs law insufficient for the protection of the revenue in Bengal.

If Mr. Currie would be so good as to address the Government of Bengal on the subject, it would perhaps be the readiest way to obtain this information.

The 12th March 1858.

(Signed) D. ELIOTT,
Member of the Legislative Council.

No. 60. ORDER THEREON, No. 507; dated 20th April 1858.

Ordered that the above letter be referred for the report of the Board of Revenue, who will at the same time furnish the information required by Mr. Eliott in para. 3, and reply to the enquiry made in para. 4.

(Signed) H. FORBES,
Acting Secretary to Government.

Minute 507

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The Government of Madras have sent me the Draft of an Act for the more effectual prevention of smuggling, by making smugglers liable to fine and imprisonment, and vessels, carriages, animals &c employed in smuggling liable to confiscation.

By the old Customs law, Regulation I of 1813, smugglers were liable to fine and imprisonment.

The existing law, Act VI 1844, does not authorize the infliction of fine or imprisonment on such offenders.

But the offence of smuggling was recognized and provided for in Chapter XI of the Penal Code, smugglers being made liable to imprisonment of either description for a term which may extend to 3 months or with fine to an amount equal to 500 Rupees added to 5 times the value of the property smuggled, or with both.

The Commissioners do not think it

See Note A page 45

it proper to insert in the Code any provision for the confiscation of property for breach of the revenue laws, and gave reasons for the omission which are very weighty. They do not however, regard such confiscation as an unjustifiable last out of place in a Penal Code. They propose therefore to leave the existing laws which authorize it untouched.

The existing laws which authorize it are, the Customs Laws for the North Western Provinces, Act XIV 1843 Section VI.

Also fine to 500 Rs and imprisonment to 6 months on non-payment

Act XIII 1848 to prevent the smuggling of salt into Calcutta. Section VII

Also fine to 5 times duty thereof & salt found in possession

Act XXXI of 1850 for protecting the Salt revenue in Bombay. Section IX

Also imprisonment to 3 months or fine to 500 Rs or both

And the Law passed last year, Act IV 1851 relating to the duties on Tobacco, Section XXVIII. But this section has an important qualification, namely that the Vessel or other thing employed in smuggling was so employed with the consent and knowledge of the owner or his servant.

Also fine to 10 times the value

By the Madras Salt Law, Regulation I of 1805, the smuggling of salt is punishable by fine (Section XVIII)

507/4

The Madras Government were at first inclined to the opinion that it was only in the case of salt that some additional stringency in the law was required.

The Board of Revenue had mentioned salt and other goods without specification. In their second letter they say they continue of opinion that for the protection of the revenue and the interests of the fair trader, the proposed Act is necessary as respects all articles, and not salt only. Still they do not particularize the articles besides salt which are extensively smuggled. It is salt especially which is mentioned in the first letter. And they appear to have overlooked the provision for punishing salt smugglers with fine which is contained in Section XVIII Regulation I of 1805 above cited.

There is no information whatever in the papers as to the extent to which other articles are smuggled.

It would seem to be desirable to ascertain whether the want of a power to fine smugglers, and to confiscate the vehicle &c. by which smuggled goods are conveyed, makes the Customs Law insufficient for the protection of the revenue

This is remarkable for they observe that the power to confiscate the carriage, animals &c employed in smuggling would be unjustifiable a power which because salt and the Regulations still the unjustifiable on mens heads.

Specific is specified in next paragraph

WH

in Bengal.

If Mr McCurrie would be so good as to address the Government of Bengal on the subject, it would perhaps be the readiest way to obtain the information.

D Hill

The 12th March 1858 } Member of the Legislative Council

502
5/5

From

D. Hill Esquire

Member of the Legislative Council.

To

H. Forbes Esquire.

Acting Secretary to the Government of Fort St George

Dated Fort William the 6th March 1858

Sir,

With reference to your letter dated the 19th Ultimo, and the Draft Act for the more effectual prevention of smuggling which accompanied it, I enclose a Minute on the subject which having been communicated to the Member for Bengal he has applied to Government for the information desired by me on the question, whether the Customs Law of Bengal which, like that of Madras, provides neither for the punishment of smugglers by fine nor for the confiscation of the vehicle &c used in smuggling, has been found insufficient on that account for the protection of the Customs Revenue.

2 It will be seen from my Minute, that the Law for preventing the smuggling of salt into

Calcutta provides specially for the infliction of fines upon the smugglers in the Madras Presidency also the smuggling of salt is punishable by fine under section XVIII Regulation I of 1805, which seems to have been overlooked by the Board of Revenue or it may be considered inapplicable for some reason not explained. The Madras Salt Law does not, like that for Calcutta, authorize the confiscation of the vessels carriages &c. employed in the smuggling of salt.

The Board of Revenue, as I have remarked in my Minute, have given no information whatever, at least there is none in the papers transmitted to me, as to the extent to which the smuggling of "other articles" than salt, is carried on in the Madras Presidency. I would request that this information may be called for and furnished to me, to be compared with the like information which I have asked for from Bengal; and I would beg to be favored with the opinion of the Right Honble the Governor in Council, after consideration of that information, whether a necessity is made out for more stringent legislation in order to the prevention

of smuggling generally, and whether, with reference to the remarks in Note M on the Penal Code referred to in my Minute, it should extend the confiscation of vessels &c employed in smuggling.

With regard to salt particularly, I wish to submit for consideration, whether the liability to fine under Section XVIII Regulation I of 1805, if duly enforced may not be sufficient for the object, and if it is not enforced, as would seem to be inferrible from the observations of the Board of Revenue, I would suggest the inquiry why not?

I have the honor to be,
Sir,
Your Most Obt Servt

Member of the Legislative Council

Dr to Cons 23d February 1858 P. 217

From the Sub Secy to the Bd of Revenue dd 13th May 59 C. 2914 in

C. 2d. 89 & 90

C 10th April C 15th

Revenue 1858 Dept.
Cons. 20th April

No 466

From D. Elliott Esqr
a Member of the Legisla-
-tive Council -

Dated 16th March 1858.

Recd 24th — Do —.

Enclosing a Minute on the Draft
Act for the more effectual prevention of
smuggling, which, having been com-
municated to the Members for Bengal,
he has applied to Government for
information on the question, whether
the Customs Laws of Bengal, which,
like that of Madras, provides neither
for the punishment of smugglers
by fine, nor for the Confiscation of
the Vessels &c used in smuggling,
has been found insufficient on that
account for the protection of the
Customs revenues -

Write per Order
C. 507 20th April 1858.

No 509

Ordered that the
above letter be referred for the
report of the Board of Revenue,
who will at the same time
furnish the information required
by Mr Elliott in para 3, and
reply to the enquiry made in
para 4 -

Fort St. Geo
20th April 1858.

Copies to the Bd of Rev
Dep. 22d