

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	742	Press Mis
245-46 Dated	19-5-1820.	19

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
19th May 1870.*

No. 245. Read the following Endorsement of the Chief Secretary to Government, Fort Saint George.

Letter from the Commissioner of Customs, Salt and Opium, No. C-4099, dated 16th November 1869—Stating that his Assistant in the Import Department has brought to notice the existence of a system by which the Customs revenue is defrauded by the import, through the Pattern Post, of dutiable articles; and pointing out that such cases can be dealt with under the Postal Act.

Memorandum from the Solicitor to Government, No. 116, dated 12th February 1870—Submitting the opinion of the Acting Advocate-General on the subject.

No. 7 of 1870.

O P I N I O N.

It appears from the papers herewith returned that advantage has been taken of the facilities afforded by the Pattern Post to obtain from England consignments of dutiable articles without payment of import duty; that certain jewellery so forwarded to Madras has been detained by the Collector of Sea Customs at that Presidency; and that notice of action has been given to that Officer by the consignees for the detention. The Advocate-General of Madras has suggested that it may be desirable that the Government of Bombay should be made a party to any action that may be brought, as it may be considered that the offence against the Customs' laws was committed in Bombay.

2. Before advising Government on this point, I propose to consider how the law stands in regard to parcels containing dutiable articles transmitted by Post.

3. By Section 5 of Act VI. of 1863 (the Customs' Act,) the Chief Customs authority of any Presidency or place is empowered, with the authority of the local Government, to make and issue rules for regulating the "landing, shipping and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels." It seems to me that, under this section, the Commissioner of Customs at this Presidency is entitled to make rules with regard to parcels arriving by the Pattern Post; but on inquiry at the Custom-house, I have ascertained that no such rules have hitherto been made.

4. Such parcels accordingly pass through Bombay to their place of address in India without let or hindrance from the Customs authorities here; and it thus becomes a question whether such parcels not having been subjected to duty at the port of entry, can be charged therewith on arrival at their destination.

5. I incline to the opinion that they can be so charged. By Section 16 of the Customs' Act it is provided: "Duties of Customs shall be levied on goods imported by sea into any port in British India not being a free port, from any foreign port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force." This section is silent as to the place at which the duties are to be levied; and it is nowhere enacted that duties shall be leviable at the port of entry exclusively. On the contrary, by Section 106, bonded goods may be removed by sea or by inland carriage from one port to

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19th May 1870.*

another; and by Section 110, goods brought into one Indian port may be transhipped without payment of duty on security being given. No doubt it may be contended that unless the formalities pointed out in these sections are complied with, goods cannot be removed or transhipped from the port of entry without paying duty, and that *prima facie* the port of entry is the place at which duty must be paid. But having regard to the very general words of Section 16, I am of opinion that duty may be levied elsewhere than at the port of entry, if Government, for the public convenience, or other sufficient reason, choose to defer the levy until the arrival of the goods at their destination.

6. The provisions of the Post Office Act are consistent with this view. By Section 60 of Act XIV. of 1866 it is provided that "if any Officer in charge of a Post Office shall suspect that any letter or other article lying for delivery at his office contains any contraband article or any article on which duty is owing Government," he is to deal with it in a certain way. Under this section the Postmaster of the smallest inland village may detain and open letters or parcels which he suspects to contain goods on which duty has not been paid; and there can be but one object for his doing so, viz., that the duty may be levied.

7. It appears to me, therefore, that the offence against the Customs' laws by Post Office smuggling is committed not at the port of entry, but at the place at which the smuggled article is to be delivered by the Post Office. It is there that the article passes from the hands of Government into those of the consignee; and there the consignee has a chance of coming in either voluntarily or at the instance of the Postmaster, and purging himself of the offence. No demand of duty is made at the port of entry, nor (in the absence of any rules under Section 5 of Act VI. of 1863) do I think that suspected letters or packets could be detained there under Section 60 of Act XIV. of 1866, as that section only applies to letters, etc., lying for delivery in the Post Office.

8. I am therefore of opinion that the offence, if any, in the case under consideration was committed in Madras, and that it is not necessary that the Government of Bombay or the Commissioner of Customs for this Presidency should be made parties defendant to any action which Messrs. Orr and Company may bring.

(Signed) A. R. SCOBLE,
Acting Advocate-General.

Bombay, 9th February 1870.

RESOLUTION.—A copy of Mr. Reid's letter, No. C-4099, dated 16th November 1869, to be forwarded to the Government of India, together with the opinion of the Acting Advocate-General; and their views on the whole question should be solicited. They should be informed at the same time that this Government considers it of considerable importance that something should be done to check smuggling through the Post Office, as there is reason to suppose that the practice is extending.

2. A copy of the Acting Advocate-General's opinion should also be sent to the Government of Madras, for communication to the Collector of Sea Customs at

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19th May 1870.*

Madras, with reference to his letters to the Commissioner of Customs, Bombay, No. 681, dated 2nd July 1869, and No. 1,092, dated 28th October 1869.

(Signed) F. R. S. WYLLIE,
For Chief Secretary to Government.

TRANSFERRED to the Revenue Department.

(Signed) R. S. ELLIS,
Chief Secretary to Government.

No. 246.

ORDER THEREON, 19th May 1870, No. 742.

Separate Revenue, No. 13.
Customs.

COMMUNICATED to the Board of Revenue and to the Advocate-General, through the Government Solicitor.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.
,, the Government Solicitor.

Exd. E. C. Shunker.

36

Nov
December

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108 C. to Mr. Boutwell Revenue and
Bd. Wm. Howard ~~and~~ the Genl. Solicitor
19c. May 170

14 Folke, Odo and Agnes
4 The Pauls collection

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Colt. of 1870: 2540

REVUE.

THE BOARD OF REVENUE.

20.

Dated May, 1876.

Recd.

Exercice 1

G. O., 10th May 1870, No. 742.

MEMO

100-246346

*Impact of defensible article by Joint
Opinion of the Acting Advocate-General of Botany
with reference to their liability to Customs duty,
communicated to Board of Revenue and Advocate
General.*

No: 15 May 1869 No: 367-368
 20 " " 303-304
 22 " " 348-
 7 July - 121-122
 7 Sept - 134-135
 14 March 1870 No: 127-129.

Revenue 1870. Offr

No: 1320 (40)

From

The Government of Bombay
 General Offr

Dated 25th Apr. 1870.
 Received 3rd May.

E-1 S. No: 972.

Forwarding copy of
 their Ag. Advoc. Genl's opi-
 nion regarding the existing
 system by which the Cu-
 stoms Revenue is defrauded
 by the import, thro' the
 Patani Port, of dutiable
 articles, & the means for
 checking the smuggling
 No: 742. 19 May

With an order

C. B. May 70 R14