

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1063	Press — 1015 —
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Dated 17. 6. 1916	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
17th June 1863.*

No. 272. Read the following letter from R. A. DALYELL, Esq., Sub-Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, dated Madras, 4th May 1863, No. 2,629 :—

SIR,

1. With reference to the Government Order dated November 8th, 1861, No. 2,138, I am directed by the Board of Revenue to submit, for the consideration of the Honorable the Governor in Council, the accompanying Draft of an Act, re-enacting the greater portion of Regulation I of 1820, and consolidating the law relating to the sale and manufacture of spirituous and fermented liquors, as set forth in that Regulation, and in Act XXXII of 1815.

2. The Government will observe that while the defects of the present Law in regard to providing punishments for all breaches of the Abkarry License have been remedied by the introduction of the License itself into the Schedule of the proposed Act, the unlicensed manufacture of Wines, Beer, &c., has been made illegal, as well as the unlicensed sale of all liquors other than those included in the Abkarry contract.

3. The remarks in the margin of the draft will explain the alterations and additions to Regulation I of 1820, and it will be observed that the following Sections of that enactment have been omitted—Section 4, as not being required, Section 6 of the Draft, together with Form A of the Schedule, providing for the licensed manufacture of spirits by the European system, and Sections 12 and 13 providing for the punishment of any breach of license,—Section 7 as being now obsolete,—and Sections 12 and 13 as seeming to be unnecessary. Certain Clauses of Section 6 describing the conditions of the license have also been omitted, the form of license itself being given in the Schedule, and Clause 7th of that Section as being provided for by the Penal Code (Sections 272 and 273). The second Clause of Section 9 has also been struck out, as the Board did not consider there was any necessity for exempting from Stamp Duty the Agreements between Renters and Sub-Renters.

4. Act XXXII of 1815 has been repealed in the Draft, as it seems to be no longer in keeping with the Law in regard to any difference of punishment for natives of the country, and for European British subjects, and its provision that all spirituous liquor manufactured at a Distillery should either be exported by sea, or sold to the Officers of Government, or the Abkarry Renter is retained, by the insertion of the License for these Distilleries in the Schedule of the Act, in which however provision is made for the sale of methylated spirits.

5. As the late forms of Abkarry License have invariably restricted the contract to the manufacture and sale of Arrack and Toddy, the Draft Act contemplates that no other liquor be included in the Abkarry rent, and provides in Section 6 for licensing the manufacture or sale of any other liquors, the licenses restricting the sale of spirits, however, to those manufactured west of the Cape of Good Hope.

6. It has been deemed advisable to reserve powers to the Board of Revenue, to alter or amend from time to time the conditions of the Licenses under this Act, as the extension of the Railway system, and the exploration and colonization of the Hill ranges of this Presidency, are likely, the one to considerably increase the sales of liquor other than those included in the Abkarry Contract at Hotels and Refreshment Rooms, and the other to create a manufacture of Beers and of other fermented liquors which can be scarcely said to exist at present. The same course was adopted in the Abkarry Act of the Presidency Town (Act XIX of 1852), Clause 6th, giving powers to the Board to alter or add to the conditions of the license, and Clause

14 making the breach of any of those conditions punishable. The recent
• Act XVI of 1863. Act too* authorizing the sale of methylated spirits, gives powers to the Board to lay down rules under which spirits, shall be so treated and any breach of these rules renders the party liable to fine.

7. The penal clauses of the draft (Sections 12, 13, 14, 17, 20, 21 and 22) provide the necessary punishments for breaches of the Law. A fine not exceeding Rupees 200, or two months' imprisonment may be imposed for any breach of license, and the latter includes

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all offences under the old Regulation for which penalties were imposed, except that of adulteration, which is now specially provided for in Sections 272 and 273 of the Penal Code, and has, therefore, been omitted in the proposed enactment. The punishment for breach of the conditions of the license for distilling after the European system remains as in Act XXXII of 1843, but it will be imposed by the Magistrate instead of the Collector, and there will be no appeal to the Board of Revenue. A uniform penalty of fine not exceeding Rupees 500, or one year's imprisonment is provided for unlicensed manufacture or sale, or for unauthorized transport of spirituous or fermented liquor, instead of the present punishments of fine and confiscation, in case of unlicensed distillation after the European process; fine not exceeding Rupees 100 or one year's imprisonment in case of other unlicensed distillation or of unlicensed sale; and fine not exceeding Rupees 500, or one year's imprisonment in the case of unauthorized transport. Confiscation in the latter case has been retained (Section 11 of the Draft), and the vessels and carts in which the liquor is conveyed have also been rendered liable to confiscation. Three new sections numbered XX, XXI, XXII have also been added providing for the distraint of property on non-payment of fines, and for the commutation of them to various terms of imprisonment.

8. Sections 16, 17 and 18 have been inserted for the better supervision of the shops and places of manufacture, and for the better prevention of smuggling; they have been taken from the Presidency Abkarry Act XIX of 1852.

9. The proviso at the commencement of Section 19 will enable parties to draw Toddy for their own private consumption, a privilege which it may perhaps be thought desirable to secure to the public. I am however directed to report that the insertion of this proviso is likely to lead to unlicensed sales, as if unlicensed manufacture is permitted unlicensed sale will be checked with difficulty, but as this private right has always of late been reserved in the licenses granted to Abkarry Renters, perhaps the withdrawal of the privilege might now be considered to bear hardly upon individuals. The majority of the Board are however against the retention of this provision, as being likely to defeat the object of the enactment whether that object be considered to be to restrict the use of intoxicating liquors, or to increase the Government revenue. The Government are doubtless aware that under Regulation I of 1820 the manufacture of Toddy is not punishable, though the intention of the Regulation would seem to have been to retain in the hands of Government an exclusive monopoly both of manufacture and sale, as has been carefully done throughout the present Draft with the exception of the Section under notice. In the Abkarry Act for the town of Bombay special provision is made* against drawing any liquor, toddy, or juice from Coconut or Date trees without license, and the Board learn that a similar prohibition is the practice in the town of Madras, though the Act does not specially provide for it.

10. The instructions of Government have been borne in mind in the preparation of the Draft Act, and the Statutes of the United Kingdom as well as the Abkarry laws of the Bengal and Bombay Presidencies have been consulted. The Board also deemed it advisable to take the opinions of the Collectors noted in the margin, and many of the suggestions of these Officers have been embodied in the draft, for the delay in the submission of which I am to express the Board's regret.

11. I am directed to add that should the Government decide upon transferring the management of the Abkarry in Military Cantonments from the Commissary General to the Civil Authorities, it will be necessary to omit a portion of Section 23 of the Draft, and to repeal those Sections of Act VII of 1852 relating to Abkarry leaving Act XVIII of 1853 untouched.

P. S.—Since the above was in type the Proceedings of Government under date 6th May 1863, No. 779, Revenue Department, directing the transfer of the Abkarry in Military Cantonments from the Commissary to the Civil Authorities, the necessary alterations have accordingly been made in the Draft Act.

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No. 273.

ORDER THEREON, 17th June 1863, No. 1,063.

1. With this letter the Board of Revenue submit as desired in G. O. dated 8th November 1861, No. 2,138, the Draft of an Act for consolidating and amending the Abkarry Laws of the Provinces.

2. The Government observe that in Section II the Board propose absolutely to rescind Regulation I of 1820 and Act XXXII of 1845. Both these enactments, however, are referred to in Act XIX of 1852. (Sections XI and XXVII.)

3. In Section V the Board prescribe, as part of the Act itself, the form of licenses to be issued, but reserve power to themselves to alter the forms as occasion may require. This arrangement, however convenient, cannot be carried out, as it would present the anomaly of a Legislative enactment being variable at the will of the Executive without the sanction of the Legislature. The Law should include all *offences*, and the license merely those stipulations of an administrative nature, as the payment of the rent in instalments, the period during which shops may be kept open and the like. Breaches of the license would of course be punishable in the same way as the specific offences embodied in the Act.

4. In Clause 3, Section V, the Officers before whom the "Muchilkas" or penal engagements there mentioned are to be executed should be specified.

5. In Section VII the Law referred to should be expressly stated. It is not clear whether the Board refer to Regulation XXVIII of 1802 or Act XXXIX of 1858 though the latter is probably the one intended.

6. Section IX, the Government consider, should require that engagements between Renters and their Sub-renters should be reduced to writing and registered. At present Sub-renters are by Regulation I of 1826 entitled to the protection afforded by Regulation V of 1822, and the Government do not quite see what similar adequate security the Sub-renter will have under Act XXXIX of 1858, or how that Act is to be worked by a Renter against his Sub-tenant.

7. In Section X and throughout the Act where mention is made of measures, the Government would adopt English *Imperial* measures. Standards could easily be supplied to Collectors, and on payment stamped measures could also be supplied to Renters and others.

8. The Government apprehend that the reservation at the close of Clause I, Section X, will practically render inoperative the preceding prohibition against the possession without a permit of more than one quart of liquor by any person not licensed as a Vendor. In such cases the plea will always be that the liquor is intended "for *bona fide* private consumption," and it will be impossible to disprove the assertion. The Board will consider whether there is any practical advantage in requiring a permit for the mere possession of liquor. The Government would wish to know how the difficulty imposed by Section XV of Act XIX of 1852 is met in Madras.

9. In Clause 2 of the same Section the power given to Vendors to issue permits should be expressly limited to liquors sold by them.

10. In Clause 3 of the same Section the Government think the permit of a Renter should be restricted to his Farm. Usually this will be coextensive with the District, but in some cases it may be desirable to rent out Taluqs or Military Cantonments separately.

11. In Section XI the Government would leave it discretionary with the Board to grant such portion of the value of confiscated liquor as they think fit in rewards to informers and seizers. All liquor in transit whether intended for private consumption or not, should require a permit.

12. Section XII should embody the chief conditions of the license under Act XXXII of 1845.

13. The Government consider that the first part of License A should give the Collector the option of selling the Farm if he deems that preferable to forfeiture or management.

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14. Clause 4, it is observed, restrains Renters from selling on credit. The Government do not see much advantage in this, as the prohibition may be easily evaded. In Clause 13 a definite period should be named instead of a "reasonable time."

15. With reference to Form C the Government are not certain that the admixture of a substance only of intoxicating quality would come within Section 272 of the Penal Code. It would be safer to declare in the Act that such admixture shall constitute the offence of adulteration within the meaning of that Section.

16. The form E will, the Government conclude, be the license granted to persons making Beer on the Hills. The limitation of sales to a leaguer or 150 gallons at a time will, however, practically prohibit such enterprize. A more moderate minimum should be fixed. The Government also prefer the power of revocation given in Section IX of Act XIX of 1852 to that proposed by the Board in this form.

17. In form G some restriction should be imposed on the sale of samples. It is notorious that in Madras considerable quantities of liquor are sold on this pretext.

18. In form C the Government do not see the object of compelling keepers of Hotels, &c., to sell only for ready money.

19. The Act should define the quantity which constitutes a retail transaction after the example of Act XIX of 1852.

20. The Government approve of the unlicensed sale of Wine and Beer being rendered illegal.

21. The Government concur with the Board that Agreements between Renters and Sub-renters should no longer be exempt from Stamp Duty.

22. With regard to paragraph 9 of the Board's letter the Government think the best plan would be to take power under the Act to prohibit the drawing of Toddy and making of fermented liquors, for private use, except under license. The Government can then interfere whenever necessary. In towns like Madras and Bombay the permission to make Toddy for private consumption may and doubtless would lead to much illicit vending, but this would scarcely be the case in the country, and the necessity of taking out licenses would put the people to much inconvenience. The question seems to the Government to depend on the degree in which the privilege is exercised, and the plan they propose seems the best for adoption. It will then be for the Board to consider where the power should be exercised.

(Signed) J. D. SIM,
Secretary to Govt.

ACT

OF 1863.

AN Act for rescinding Regulation I of 1820, so much of Act VII 1832 as places the Abkarry of Military bazaar Stations under the Commissariat Department, and Act XXXII of 1845, and for prescribing the rules under which Spirituous and Fermented Liquors shall be manufactured and sold within the Territories subject to the Presidency of Fort Saint George, without the limits of the Madras Abkarry as prescribed by Act XIX of 1852.

WHEREAS the provisions of Regulation I of 1820 have been found inefficient to restrain the sale of intoxicating liquors, and are otherwise defective; and it is expedient that the same be revised and amended, and that restrictions be imposed on the manufacture and sale of spirituous and fermented liquors of every description, and on the transit and custody of such liquors whether of foreign or country manufacture, in the territories subject to the Presidency of Fort Saint George, excepting the Town of Madras, and the limits of the Madras Abkarry as prescribed by Act XIX of 1852, it is hereby enacted as follows:—

II. From and after the commencement of this Act Regulation I of 1820 of the Madras Code, Sections 43, 41, 45, 46 and 47 of Act VII of 1832, and Act XXXVII of 1845 shall be repealed except in so far as they rescind any other Regulations or Acts, and except as to any act or offence which shall have been done, or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act came into operation.

In Regulation I of 1820, the liquors are described.

III. All persons are hereby forbidden to manufacture or sell spirituous or fermented liquors, of any description except in conformity with the provisions of this Act.

The italicised words have been inserted, and the description of the liquors omitted.

IV. First.—The Board of Revenue are hereby authorized to empower Collectors, either to retain the exclusive privilege of manufacturing all spirituous or fermented liquors as well as the retail sale of all such liquors whether of country or foreign manufacture in their respective Districts, under their own immediate ma-

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management, on account of Government; or to rent out *or let by license* those privileges jointly or separately, for such periods as may be deemed expedient.

Second.—The Board of Revenue are also authorized and directed to frame the rules and draw up the licenses, under which the manufacture and sale of all spirituous and fermented liquors shall take place, and from time to time, as occasion may require, to alter, and amend, such rules and licenses, and they shall determine the places at which stills and shops shall be erected, and, *if they think proper, the plan on which such shops shall be built*, and the number of such in each District or other division of territory, the rates to be established, and measures to be used in the sale of such liquors, the due publication of such rates and measures, and generally all matters relating to the detailed management and control of such *places of manufacture or sale*.

V. *First.*—Licenses for renting out the exclusive privilege of manufacturing country Arrack and Toddy, and of retailing such liquors shall be *granted in the form A annexed to this Act, subject to revision as provided for in Clause 2 of the foregoing Section*; and no Renter or other person shall be allowed to establish a still or shop, until he shall have obtained such license from the Collector of the District, and executed a counterpart thereof to be lodged with the said Collector.

Second.—Mochilkas or engagements particularizing the rules to be observed by persons employed to superintend distilleries or shops for the manufacture or vend of country Arrack and Toddy shall be taken *in the forms B and C annexed to this Act, also subject to revision as aforesaid*, and shall be translated into the vernacular language of the District.

Third.—Every person placed by a Renter, or by the Collector, when the Abkarry is retained in his management, in charge of a still or shop, shall sign in duplicate the Mochilka mentioned in the foregoing clause *in the presence of the Tahsildar or other Government Officer* after the same shall have been read over by him, or read and explained to him if he is unable to read it himself. Two creditable persons shall be present when the Mochilka is acknowledged and executed by him, and shall sign their names in testimony of such acknow-

Clause 2, Section 5 of the old Regulation gives control over distilleries and shops only

The conditions of the licenses were described in the old Regulation

It has been thought advisable to introduce the italicized words.

This Section has been introduced to provide for licensing the manufacture and sale of any liquors besides those included in the Abkarry Contract.

"Spirituous liquors" was the old wording

It has been considered advisable thus to define the process of recovery of arrears

This measure has been substituted for the sect.

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ledgment; one copy of the said Mochilka shall be deposited with the Collector, and the other shall be fixed up in some conspicuous place in the shop or distillery.

VI. Annual licenses shall be granted in the forms annexed to this Act subject to revision as aforesaid (1) for the distillation of spirits by the European process (Appendix D); (2) for the manufacture, and wholesale sale of fermented liquors (Toddy excepted) (Appendix E); and (3) for the wholesale and retail sale of such liquors and of all spirituous and fermented liquors of foreign manufacture, (Appendices F, G, H) and shall be issued by the Collector of the District, at his discretion, but subject to such conditions as the Board of Revenue may think proper to impose, to any respectable persons applying for them on payment of the fee to be fixed from time to time by the Board of Revenue.

VII. Collectors are empowered to proceed against Abkarry Renters under this Act or their sureties for the recovery of arrears due by them, in like manner as for the recovery of arrears from defaulters of Land Revenue.

VIII. *First.*—Persons who shall have rented the privilege of the manufacture or sale of *Arrack and Toddy* are hereby declared to be authorized to sub-rent their Farms on such terms as they may respectively agree upon.

Second.—Sub-renters of the privilege of manufacturing or selling Arrack or Toddy shall execute, in the mode prescribed in Clause third, Section 5 of this Act, the Mochilka to be entered into by persons engaged in manufacturing or selling spirituous liquors (Appendix C).

IX. Renters under this Act are authorized to proceed against Sub-renters for the recovery of arrears *in the same manner as Collectors are empowered, by Section 7 to proceed against Renters, provided that they shall first apply for, and obtain the permission of the Collector so to proceed. And the Collector is hereby authorized to grant such permission if he is satisfied that the arrear is due, and that the claim of the Renter is otherwise good. If the Collector refuses his permission the Renter may then have recourse to the Civil Courts for the recovery of the arrear.*

X. *First.*—The transit of any quantity exceeding one English quart bottle of spiri-

The old Regulation rendered the possession of any spirits illegal

These words have been introduced to enable shopkeepers to give permits after having made a sale of liquor to a customer.

The old wording extended it to the farm, but there seems no reason why this should not be extended as now proposed.

This Section is new and is founded on Act XXXII of 1845

uous or fermented liquor without a permit, is hereby prohibited; and all persons not being authorized to dispose of such liquors, are prohibited from having in their possession a quantity thereof exceeding one quart bottle without a valid permit *except for bonâ fide private consumption.*

Second.—Permits for the transit of spirituous or fermented liquors shall be issued only by the Collectors, or their Assistants, or Deputies or by Abkarry Renters, or their Sub-renters or *other licensed vendors duly authorized by the Collector to grant such permits.* Each permit so issued shall be granted in the form annexed to this Act (Appendix I.)

Third.—The permit of a Collector or his Assistant or Deputy shall pass any quantity of spirituous or fermented liquor, and shall be held valid throughout the Territories subject to the Government of Fort Saint George; the permit of a Renter, Sub-renter, or licensed Vendor under this Act shall not pass more than 150 Gallons of spirituous or fermented liquor, or one leaguer, and shall not be held valid *beyond the boundaries of the District* in which it is granted.

XI. All spirituous or fermented liquor passing through the Territories under this Government, beyond the limits of the Madras Abkarry as prescribed by Act XIX of 1852, unaccompanied by a valid permit, or materially differing from the quantity specified in the permit, and all spirituous or fermented liquors found in the possession of any person not being a licensed Vendor, or Officer of Government authorized to dispose thereof, without a valid permit, *except for bonâ fide private consumption* shall be liable *together with the vessels, packages and coverings in which the liquors are found, and the animals and conveyances used in carrying them* to be confiscated by the Collectors, subject to the orders of the Board of Revenue; one-third of the proceeds, when confiscated, shall be carried to the account of Government, and the remainder shall be divided between the informer, and the person making the seizure, in such proportion as the Collector under the orders of the Board of Revenue, may deem just and proper.

XII. *First.*—Any person having obtained a license for the distillation of spirits by the

This Clause is from Clause 8, Section 6 of the old Regulation.

From Clause 2, Section 6 of the old Regulation

From Section 15.

European process, who shall dispose of such spirits in breach of the stipulations of his license except as provided for by Act XVI of 1863, which provides for the sale of such liquor when rendered unfit for human consumption, shall on conviction thereof before a Magistrate be liable to the forfeiture of his license, and to a fine not exceeding Rupees 1,000.

Second.—Any person duly licensed under this Act, either to manufacture or sell spirituous or fermented liquors of any description convicted before the Magistrate of permitting drunkenness or riot in his shop, or place of sale, or manufacture, or of harbouring thieves or persons of notoriously bad character, of bartering or pawning liquor for grain, wearing apparel or other effects, or of having committed any other breach of the terms of his license or *Mochulka* shall be liable to the forfeiture of his license, and to a fine not exceeding Rupees 200.

XIII. Any person who shall manufacture spirituous or fermented liquor of any description without being duly licensed to do so, or who shall sell such liquors whether of country or foreign manufacture without due authority, or at any other place or places than those at which he is licensed to sell or after the expiration of his license and before having obtained a new license shall on conviction before the Magistrate be liable to the forfeiture of his license, if in possession, and also to a fine not exceeding Rupees 500.

XIV. Any person passing spirituous or fermented liquor without a valid permit or materially differing from the quantity specified in the permit, any persons attempting the same, and any persons having in their possession *except for bonâ fide private consumption* more than one quart bottle of spirituous or fermented liquor without a valid permit, shall on proof thereof before the Magistrate be liable to a fine not exceeding Rupees 500.

XV. *First.*—Magistrates are hereby authorized to issue search warrants for the discovery of unlicensed stills, or of spirituous or fermented liquors illicitly sold, manufactured, or deposited in any place, whenever information may be given to them on oath, or obtained by them from proceedings holden in any investigation before them, or from any credible source, that

such illicit manufacture, sale, or transport has taken place.

Second.—Provided always, that no such search warrant shall be executed except between sun-rise and sun-set; nor in the apartments of women of respectability and credit who do not ordinarily appear in public, except by women who shall be specially deputed by the Magistrate to execute such warrant.

XVI. Any Police Officer above the rank of Deputy Constable, may enter, inspect, and search, at any time, by day or by night, for any of the purposes contemplated in this Act, the house or shop in which the sale or manufacture of spirituous or fermented liquor is carried on under this Act.

XVII. Every person, holding a license for the sale or manufacture of spirituous or fermented liquors, shall keep such license at the house or shop specified in the license, and shall show the license on the demand of any Police Officer above the rank of Deputy Constable, who shall desire to see the same; and any licensed dealer, who shall refuse or be unable to produce his license on the demand of such Officer, shall on proof of the same before a Magistrate be liable to a fine not exceeding two hundred Rupees.

XVIII. Any Police Officer may stop and detain any person having possession of or carrying in any public road, street, thoroughfare or place, or in any open shop, any spirituous or fermented liquors without a pass or otherwise liable to confiscation under this Act, and may seize the liquors, with the vessels, packages, and coverings in which the liquors are found, and the animals and conveyances used in carrying them.

XIX. *First.*—Nothing in this Act shall be construed to restrict the home manufacture of fermented liquors for bonâ fide domestic consumption, or to authorize any public Officer conducting the sale of spirituous and fermented liquors on account of the Government, or any Renter, to compel or require the owner or occupier of any private garden or ground to draw Toddy from Cocoa, Date, or other Palm trees; nor shall any such Officer or Renter have any right of control or interference therewith, other than to prevent the sale of Toddy drawn therefrom by any unlicensed person.

These three Sections have been introduced for the better control of the manufacture and sale.

These words enable persons to draw Toddy for their own use, or to make Beer or other fermented liquors for consumption in their own houses.

The following Sections are new.

Second.—No Renter of the exclusive privilege of selling Arrack or Toddy shall be entitled to levy any personal tax, ground rent, quit rent, tope rent, or any tax payable by Toddy drawers and not connected with the exclusive privilege of vending Toddy. All such lawful taxes shall be collected by the Officers of Government, or by persons appointed by Government to collect them.

XX. Any penalty imposed under this Act may in case of non-payment be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of the Officer by whom such penalty was imposed.

XXI. In case such penalty shall not be forthwith paid any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

XXII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail there to be imprisoned, according to the discretion of such Officer for any term not exceeding two calendar months when the amount of penalty shall not exceed Rupees 50, for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, for any term not exceeding six calendar months when the amount shall not exceed Rupees 200, for any term not exceeding one year when the amount shall not exceed Rupees 500, and for any term not exceeding two years in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

XXIII. Nothing in this Act shall be taken to interfere with any of the provisions of Act XVIII of 1853, which shall remain in full force any thing in this Act to the contrary notwithstanding.

XXIV. In the construction of this Act the following words shall have the several meanings hereby assigned to them. The term "Spirituous Liquor" shall be taken as denoting all liquor produced by distillation, as Arrack, Brandy, Rum, &c. "Fermented" as denoting liquors subject to fermentation as Wine, Beer, Toddy, &c. "Magistrate," as denoting the Magistrate of the District or other Officer exercising the powers of a Magistrate.

A.

LICENSE to be issued by Collectors to Abkarry Renters, agreeably
to Clause First, Section 5 of Act of 1863.

I, A. B., Collector of _____ being duly authorized by the Board of Revenue, under the provisions of Section 4, Act of 1863, do hereby rent to C D, the exclusive privilege of manufacturing and vending country Arrack and Toddy, within the limits of the District (or Taluk as the case may be) of _____ and to continue the same until the _____ of _____ on the following conditions:—

1st.—That the said C D shall pay to the Collector in the said District of _____ in the following the annual rent of Rupees _____ ing Kists, and that interest at 12 per cent per annum shall be paid by the said C D on all balances due by him, and that in the event of any default in the payment of the rent it shall be lawful for the Collector to take the farm under Government management at the risk of the said C D or to declare the lease forfeited, and that all arrears shall be recoverable by attachment and sale under Act XXXIX of 1858.
(Here enter Kists.)

2nd.—That the said C D shall not work a Still, or open a Shop, for the retail of Spirits, at any other than the places named in the annexed list, and that Sign Boards shall be affixed in a conspicuous part of the front of every Shop and Still, and that on such Sign Boards the name of the Shop or Still owner shall be legibly inscribed in (Here enter the Vernacular of the District) and also the price of the liquor there sold.

3rd.—That no liquor shall be sold for less than the minimum prices fixed by the Collector that is to say

Here enter the prices and the equivalent in English or some other well defined measure, of the seer or other measure adopted.

4th.—That no grain, goods, jewels, wearing apparel, or other property shall be received in barter or pawn for liquor, and that no liquor shall be sold on credit.

5th.—That no liquor shall be knowingly sold or given to any European Soldier or Sailor, or to any member of the Mofussil Police while on duty.

6th.—That no Shop shall be opened before sunrise and that all shops shall be closed at 8 P. M.

7th.—That the said C D shall not in any way meddle with or use Coccoanut, Date, Palmyra, or any other trees growing on Puttah or Inam lands, or in backyards, or in land, the property of any individual, without the permission of the owner, the owners of such trees being at liberty to draw Toddy, &c., for domestic use but not for sale, unless licensed to sell by the said C D.

8th.—That in the event of Government land now waste being granted for cultivation, the said C D shall have no claim whatever to the use of the trees thereon or to compensation for them on their transfer with the land for cultivation.

9th.—That the said C D shall on the requisition of the revenue authorities cause all shops for the sale of liquor of any description, on or adjacent to the line of march, to be closed while a Regiment or detachment of European Soldiers is passing by and during its temporary halts in their vicinity, and that no compensation shall be claimable for loss thereby.

10th.—That bodies of Troops passing through the District may, at the option of Government, be provided by the Military Department with a separate Abkarry Contractor, and that no compensation shall in such case be claimable by the said C D.

11th.—That in the distillation or sale of Arrack, or in the sale of Toddy the said C D shall not use, or permit to be used, under any pretence whatever, any ingredient pernicious to health, such as Chunam, Oomittakay, or other substance intended to increase the power of the liquor or add to its intoxicating quality.

12th.—That he shall use his best endeavours to secure, on the part of the persons appointed by him to superintend Distilleries, and to the charge of retail shops, a strict adherence to the provisions of the Mochilkas entered into by them respectively; and that, on its coming to his knowledge that a breach of those provisions has been committed, he shall bring the circumstance to the notice of the Collector, in order that the penalties attached to the offence may be enforced, and shall dismiss the offender from his service.

13th.—That the said C D shall cause any person to whom he may sub-rent any portion of the exclusive privileges granted to him by this License, to bind himself to observe all the stipulations of the License, in the same manner as the renter himself; and that he shall further cause every such sub-renter, as well as every person whom he may employ to superintend Distilleries or Shops, for the manufacture or sale of spirituous Liquors, to execute within a reasonable time the Mochilkas prescribed in Section 5, Act of 1863, and shall deposit such Mochilkas with the Collector.

14th.—That any wilful breach of these conditions by the said C D or with his guilty connivance and privity by his sub-renter shall render the said C D liable to the forfeiture of his License, and to such further penalty as by Law is attached to the particular fault committed by him; and if he be found manufacturing, or vending Country Arrack, or Toddy after the expiration of his License, and without taking out a fresh License, or after forfeiture of the said License has been declared, he shall be subject to the penalties specified in Act of 1863.

B.

FORM OF MOCHILKA for persons in charge of Shops for the retail sale of Spirits, according to Clause second Section 5, Act of 1863.

I, E F, being appointed to the charge of a Shop (or Shops) at by C D, Renter of the exclusive privilege of vending country Spirits and Toddy in the District (or Taluk) of do hereby bind myself as follows:—

1st.—To prevent all drunkenness, gaming, and disorder within my shop (or shops).

2nd.—Not to harbour robbers, thieves, or riotous persons; but on the contrary to give information to the nearest Magistrate or Police Officer, of any suspected persons who may resort to my shop.

3rd.—Not to receive any grain, jewels, goods, wearing apparel, or other property, in barter, or pawn for liquor; but, on the offer of any such, to give information to the nearest public Officer.

4th.—Not to allow any quantity of liquor exceeding one quart bottle to be removed from my shop under any pretence whatever.

5th.—Not to open my shop before sunrise, nor to keep it open after 8 P. M., and not to harbour any person in it during the night.

6th.—Not to sell or give any liquor to European Soldiers or Sailors, or to any member of the Mofussil Police while on duty, nor to sell any liquor on credit.

C.

FORM OF A MOCHILKA for persons employed to superintend Distilleries under the Renter, according to Clause second, Section 5, Act of 1863.

I, G H, being appointed by C D, Renter of the exclusive privilege of manufacturing country Arrack in the District (or Taluk) of do hereby bind myself not to mix, or knowingly permit any other person to mix, in the liquors distilled at the stills under my charge, any ingredient pernicious to health, such as Chunam, Oomittakay, or other such noxious material intended to increase the power of the spirit, or to add to its intoxicating quality. Any breach of the above engagement will subject me, under Section 272 of the Penal Code to be tried by the Magistrate and to be sentenced to imprisonment and hard labour for six months and to a fine of Rupees 1,000.

D.

FORM OF LICENSE for the distillation of Spirits by the European process.

I, A B, Collector of the District of being duly authorized by the Board of Revenue under Section 6, Act of 1863, hereby license you C, D, to establish a Distillery at the village of in the Taluk of in the District of for the distillation of Spirits by process similar to the European system during the Fasli ending 30th June 186 on the following conditions:—

1st. That the whole of the Spirits so distilled by you shall be exported by sea, or shall be sold only to the Officers of Government, empowered to purchase the same on account of the public service, or to Abkarry Renters for retail sale within the limits of their respective farms.

2nd. That should you directly, or indirectly, sell, or permit to be sold, any quantity of such spirituous Liquor, to any European Soldier or Sailor, or to any native of India, or other person save and except to those to whom it is herein before declared that such Liquors may be lawfully sold except as provided by Act XVI of 1863, which provides for the sale of such Spirits when rendered unfit for human consumption you

shall, on proof thereof, to the satisfaction of the Magistrate, be liable to the forfeiture of this License, and to the penalty prescribed in Clause I Section XII of Act of 1863,

Given under my hand and seal at this day of in the year.

E.

FORM OF LICENSE for the manufacture and wholesale vend of Fermented Liquors (Toddy excepted).

I, A B, Collector of the District of being duly authorized by the Board of Revenue under Section 6 of Act of 1863 hereby License you C D, to establish a manufactory at the village of in the Taluk of in the District of for the manufacture of Fermented Liquors, such as Wines, Beers, &c. (Toddy excepted) during the Fasli year ending June 30th 186 , and to sell the same by wholesale during the same period and to grant permits for the transit of such Liquors within the said District, on the following conditions:—

1st.—That you shall not manufacture any Spirituous Liquor of any description.

2nd.—That you shall not manufacture or sell Toddy (the exclusive privilege of the manufacture and sale of that Liquor being vested on the Abkarry Renter).

3rd.—That you shall not sell Liquor in any less quantity than 150 gallons or one leagner.

4th.—That this License shall be revocable at pleasure by the Collector of subject to appeal to the Board of Revenue whose decision shall be final.

A breach of the conditions of this License will render the said C D, liable to the penalties prescribed in Clause 2 Section XII of Act of 1863.

Given under my hand and seal at this day of in the year

F.

FORM OF LICENSE for the sale of Spirituous and Fermented Liquor (Arrack and Toddy excepted) in quantities not less than two gallons at a time.

I, A B, Collector of the District of being duly authorized by the Board of Revenue under Section 6, Act of 1863 hereby License C D, to vend at during the Fasli year ending June 30th 186 , spirituous and fermented liquors and to grant permits for the transit of such liquors within the said District on the following conditions:—

1st.—That the said C D, shall not sell to any one Arrack or Toddy or any spirituous Liquor manufactured to the eastward of the Cape of Good Hope.

2nd.—That the said C D shall not sell or give any spirituous or fermented Liquor to any European Non-Commissioned Officer or Soldier without the permission in writing of the Commanding Officer, or to any European Sailor or to any Member of the Mofussil Police while on duty.

3rd.—That the said C D shall not sell to any person any description of Liquor in any quantity less than two gallons at a time except as samples.

4th.—That the said C D shall duly conform to the provisions of Act of 1863.

5th.—That this License shall be revocable at pleasure by the Collector of subject to appeal to the Board of Revenue whose decision shall be final.

A breach of the conditions of this License will render the said C D liable to the penalties prescribed in Clause 2 Section XII of Act of 1863.

Given under my hand and seal at this day of in the year

G.

FORM OF LICENSE for Hotels, Refreshment Rooms, &c., for retail sales for consumption on the premises.

I, A B, Collector of the District of being duly authorized by the Board of Revenue under Section 6, Act of 1863, hereby License C D, to vend by retail at during the Fasli year ending June 30th 18 Spirituous and Fermented Liquors to be consumed only on the premises, on the following conditions:—

1st.—That the said C D shall not sell to any one Arrack or Toddy or any spirituous Liquor manufactured to the eastward of the Cape of Good Hope.

2nd.—That the said C D shall not sell or give any Spirituous or Fermented Liquor to any European Non-Commissioned Officer or Soldier without the permission in writing of the Commanding Officer, or to any European Sailor or to any Member of the Mofussil Police while on duty.

3rd.—That the said C D shall sell only to *bond fide* travellers or lodgers and for ready money only.

4th.—That the said C D shall not sell any Liquor between the hours of 8 P. M. and 6 A. M., except to lodgers in his house or travellers arriving between these hours.

5th.—That the said C D shall duly conform to the provisions of Act of 1863.

This License shall be revocable at pleasure by the Collector of subject to appeal to the Board of Revenue whose decision shall be final.

A breach of the conditions of this License will render the said C D liable to the penalties prescribed in Clause Section of Act of 1863.

Given under my hand and seal at this day of in the year.

II.

GENERAL FORM of Retail License.

Under the special sanction of the Board of Revenue of Fort Saint George, I _____ Esq., Collector of _____ do hereby licence you _____ under the provisions of Section 6, Act _____ of 1863, to hold a _____ in _____ street at _____ within the Abkarry limits of this Collectorate for retail sale of _____ during the Fasli year ending June 30th 186____, on the following conditions, viz:—

1st. That you shall not sell any other Liquor than that for which your _____ has been established, and that you shall not allow any Liquor to be carried out of your _____ without a permit issued from this Office.

2nd. That you shall not sell Liquor before sun rise, and that you shall not keep your _____ open after 8 P. M.

3rd. That you shall not sell any Liquor to European Soldiers or Sailors or to any member of the Mofussil Police while on duty, and that you shall not sell any Liquor on credit.

4th. That you shall show your License to any Police Officer above the rank of Deputy Constable who may demand an inspection of it.

5th. This License shall be revocable at pleasure by the Collector of _____ subject to appeal to the Board of Revenue whose decision shall be final. Should you or your servants or other person in charge of the _____ be found to be encouraging any irregular or unlawful practices in your _____ or should you or your servants or other person in charge of the said _____ in any wise act contrary to the conditions of this License, you will be liable to a withdrawal of this License as well as to such further penalties as are provided by Law.

Given under my hand and Seal this _____ day of _____ 186____.

I.

FORM OF PERMIT for the transport of spirituous or fermented liquors to be granted under the provisions of Act _____ of 1863.

* (Here enter Collector, Deputy Collector, Renter, Sub-Renter, as the case may be.)

I A B

being

† (Enter quantity of liquor.)

duly authorized to grant permits under Act _____ permit C D to transport _____ from _____

of 1863, hereby

dated

(Signed) AB.

1055.

Proceedings of the American Convention
Held at St. Louis, Mo. June 1848

Read the following letter from
the sub. Com. to the Convention

Submitting for con-
sideration the draft of an act re-
specting the greater portion of the
territory of 1820, and consoci-
ating the laws relating to the
manufacture of spirituous
and fermented liquors

Res. 10th May 1848

With this letter the
draft of a bill submitted by
the sub. Com. dated 8th March
1848 to 12th 1848 the draft
of the act for Consolidating and
amending the existing laws
of the Territory

The Convention
resolves that in Section 11 the
word propose absolutely
to amend the Act of 1820 and
Act XXVII of 1848. Both these
amendments to be made in the
Act of 1820
Sections XI and XXIII.

Received of the
Hon. Secy of the Convention
the draft of an act re-
specting the greater portion of the
territory of 1820, and consoci-
ating the laws relating to the
manufacture of spirituous
and fermented liquors

Wm. May Jr.

Draft of act

June 27th of 1848
Chas. Jones Secy of Convention

In section V the
Board provided in part of
the Act that the power of
licenses to be issued but no
free power to the master to
alter the power as occasion
may require. This arising
must however however
cannot be carried out
it would prevent the
unity of a legislative
power being variable at the
will of the executive with
out the sanction of the
legislature. The law
should include all of
these, and the license
merely those stipulations
of an administrative
nature, as the payment
of the rent in relation to
the period during which
shops may be kept open
and the like. Branches
of the license would of
course be provided in

the same way, as the power
should be included in the
act.

In section 6 the
of the officers before whom
the "licensing" is given
engagements there
shall be to be executed
shall be specified. The
government do not see the
necessity of the provisions
prescribed in these clauses
the "licensing" is complete
enough and of the nature
which as well as branch
and made part of the
more serious regulations.

In section 14 the
case of a shop to be
expressly stated. It is not
clear whether the Board is to
stop until 1802 or not until
1805. though the latter is
probably the more intent.

Section 15, the
order, should require to
be made.

engagements between the
and their sub-venturers
is reduced to writing and
registered. At present the
interests by the 1st of 1822
entitled to the protection
afforded by the 1st of 1822
and the 1st of 1822 quite
see what similar advantages
namely the sub-venturers
have under the XXXIX of
1822, so that the 1st is to
be carried by a water
against the sub-venturers.

In section 1 and
throughout the act when
reference is made of measures,
the Government intend
adopt English Imperial
measures. Standards could
easily be supplied to
collectors, and on payment
stamped measures could
also be supplied to water
and others.

The Government

approved that the
provisions of the 1st
clause 1 section 1
will practically render
inoperative the preceding
provision against
the possession without
a permit of more than
one quart of liquor
by any person not
licensed as a vendor.
In such cases the
penalty will always be
that the liquor is
intended for home-
use. private consumption

can decide

consumption? and
it will be impossible
to disprove the
assertion. There is
a Board will consider
whether there is any
practical advantage
in requiring a per-
mit for the mere
possession of liquor.
The Government
would wish to know
how the difficulty
imposed

proposed by Act No. 78 of
Act 7th of 1852 is met
by the
Board.

In clause 2 of the
same section the power given
to vendors to issue permits
should be expressly limited
to liquors sold by them.

In clause 3 of the same
section the Govt. limit the
power of a retailer to
be restricted to his own
premises. Usually this will be con-
sistent with the law,
but in some cases it may
be desirable to permit the
sale of liquor in military cantons
and to separate it.

In section 71 the
Govt. would demand the
control with the Board
to grant such permits as

value of confiscated liquors
they think fit in re-
wards to informers and
others. All liquor in the
is whether intended for
private consumption or not
should require a permit.

Section ~~XII~~ should embody
the chief conditions of the
license under Act 4411 of 1845.

The Govt consider that
the first part of License Act
should give the Collector the
option of selling the stores
if he deems that preferable
to forfeiture or management.

Clause 4, it is observed
restrains vendors from selling
on credit. The Govt do not
see much advantage in this
as the prohibition may

be easily evaded. In case
a definite period should
be named instead of a
reasonable time.

With reference to the
the Govt are not certain to
the admixture of a substance
of intoxicating quality
would constitute a violation
of the Penal Code. It would
be safer to declare in the Act
that such admixture alone
constitutes the offence of
adulteration within the
meaning of that section.

The Govt will be
Govt conclude the license
granted to persons making
Beer in the Mills. The
amount of sales to which
is 150 gallons at a time
has not practically been

such enterprise. A more moderate minimum should be set. The Govt. also perfect the power of revocation given in Section IX of Act VII of 1885. That proposed by the Board in this form.

In form G. some restriction should be imposed on the sale of samples. It is notorious that in many considerable quantities of liquor are sold on this pretext.

In form C the Govt. do not see the object of compelling keepers of hotels to sell only for ready money.

The Act should define the quantity which constitutes a retail transaction after the example of Act III of 1882.

The Govt. approve of the unlicensed sale of wine and beer.

I would like to know whether it would not be possible to require licenses for the sale of Opium, and to keep and to make benefit the Revenue.

The Govt. concur with the Board that agreement between Renters of Sub-Ports should no longer be exempt from stamp duty.

With regard to many of the Board's letter the Govt. think the best plan would be to take power under the Act to prohibit the drawing of toddy and making of fermented liquors for private use, except under license.

The Govt. can then interfere whenever necessary. It is like houses & the prohibition to make

2
society for private consumption
and doubtless ^{be} found to
exhibit it vending - but it
could scarcely be the case
in the Country and the re-
sult of taking out licenses
could put the people to
much inconvenience. The
issue seems to the Govt to de-
pend on the degree in which
the privilege is exercised - as
the plan they propose seems
the best for adoption. It will
then be for the Board to consider
where the power should be
exercised.

J. A.

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in order

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Official orders on
Board's draft of ...
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N^o 272 + 273.

C^o June/63 R^o 11