

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1226	Press
		~~Mis.~~
¹⁸⁶⁻⁸⁸ Dated	10-8-	1870

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, •
10th August 1870.

Read the following :—

No. 186. Proceedings of the Board of Revenue, dated 11th May 1870, No. 3,183.

Read the following letter from the Acting Collector of Ganjam, to the Manager, Aska Sugar Company, (Limited,) dated Chetterpore, 6th April 1870, No. 384:—

I AM in receipt of your letter of the 2nd instant, complaining of the existence of illicit Stills, by the use of which you are led to believe the receipts on account of Abkarry are seriously affected, suggesting that certain orders should be taken for the destruction of these Stills, and that instructions should be issued to the Village Magistrates to search the premises on being called upon by your agents, when they may be found.

2. The use of the Stills since the 1st July 1869 is of course illicit, but I am not prepared to admit that the possession of them is so. You will bear in mind that most of, if not all, the proprietors of these Stills were, on the 30th June, under no legal disability to distil liquor, the declaration that the use of these Stills without a license subsequent to the above date would be a breach of the law, could not affect the right of property the possessors had in them. No doubt illicit distillation would, as you remark, be effectually checked by the destruction of these Stills, but I cannot incur the responsibility of adopting such a measure.

3. If the illicit distillers are the holders or licensees from you, the infraction of the law, if your agents are vigilant, can be easily detected, and punishment will follow; it would, however, be most inexpedient to interfere with the discretion of the Sub-Magistrates as to the amount of punishment they should inflict. A repetition of the offence would, of course, call for an enhanced punishment, and I have no reason to suppose the Sub-Magistrates would be unwilling to deal with such cases in a proper manner.

4. Under Regulation XI. of 1816 heads of villages are in particular circumstances authorized to make search, but it seems questionable whether for the purposes suggested by you they could be said to have such jurisdiction as is conferred by Section 114 of the Code of Criminal Procedure.

5. At present, I cannot advocate any alteration of the law which appears to me effectual both for the protection of the interests of Government and of those of the Abkarry renter for the time being.

6. I have, as requested, forwarded to the Board of Revenue the duplicate of your letter and its enclosures, and I have appended a copy of my reply to you.

No. 391.

COPY forwarded to the Board of Revenue for their consideration and orders, with duplicate copy of letter from F. J. V. Minchin, Esq., and its enclosures.

CHETTERPORE,
7th April 1870.

(Signed) G. ELLIS,
Acting Collector of Ganjam.

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ENCLOSURE No. 1.

From the Manager of the Aska Sugar Works and Abkarry Renter, to the Acting Collector of Ganjam, Chetterpore, dated Aska, 2nd April 1870.

I HAVE the honour to address you on the subject of illicit distillation, by which I have grave reason to believe the Abkarry Returns are being most seriously affected.

2. I am receiving reports from all parts of the district complaining of the existence of illicit Stills, the great difficulty of detection, and the insignificant punishments awarded by the Sub-Magistracy in the cases brought to their notice. What makes the matter the more serious is, that the illicit distillers are generally, if not always, holders of shop-licenses from me, they can consequently adulterate my rum to any extent, and cause a most serious reduction of the revenue.

3. Illicit distillation will be most effectually checked by ordering the Police to visit, without delay, the sites of the 1,300 Stills licensed last Fusly, and break up any they may find in existence, to keep their eyes on these spots, and visit them occasionally during their beats.

4. The difficulty of detection arises chiefly from the Abkarry Act permitting no officer below the rank of Head Constable, searching without a Warrant for illicit liquor. In very few places in this district is there a Head Constable, so that unless a Deputy-Constable or a Station Officer is permitted to search, before a Head Constable can be communicated with, or brought from a distant station, the illicit liquor is all made away with.

5. I am, however, advised that you might issue instructions to the heads of villages to search when called upon by my agents. They at any rate are not Police, they are Magisterial Officers, and what a Head Constable can do, a Magistrate can.

6. I enclose copies of two letters (with translations) just received from my Goomastahs at Patrapore and Itchapore, which will show the urgency of my representations and the absolute necessity of severer penalties than those at present imposed by the Sub-Magistracy.

7. I have the pleasure to inform you that I have already brought up the Abkarry Revenue of this district for the current Fusly to Rupees 65,420, or within Rupees 3,800* of the total revenue derived during the whole of the last Fusly, and I am confident, that when effectual measures have been devised to overcome the difficulties I have pointed out, I shall have the satisfaction of showing far better results.

8. As the matter is pressing I send a duplicate of this letter, which I beg you will forward to the Board of Revenue, that the Board may consider whether an alteration of the law may not be necessary to meet the requirements of the case.

9. The Police must help us, or Excise Officers be provided, to give the system a fair trial in this district.

ENCLOSURE 1 IN No. 1.

Letter from Patrapore Depôt Goomastah, dated 22nd March 1870.

ON receiving information that Soondy Mooraly Sow (holding a license) of Lunka village in Jaradah Talook was distilling liquor from rice, I went to his house, accompanied by a Police Constable, and on examining, about 5 Uddas of liquor and fermented rice were found. The man was sent to the station at Itchapore with the above, and the Station Officer charged him under Section 21 of the Abkarry Act No. III. of 1864. The case has not yet been tried.

2. The Sub-Magistrate's decision I will advise you of hereafter.

Letter from Itchapore Depôt Goomastah, dated 25th March 1870.

ON information received I sent on the 20th instant the Patrapore Goomastah with Police Constable to Lunka village in Jaradah Talook to the house of Soondy Mooraly Sow, where four bottles of liquor manufactured by him and fermented rice were discovered and taken. The case was charged and brought before the Sub-Magistrate, and, as it was substantially proved by the witnesses and those present at the trial, that the liquor was made from rice, the man was found guilty and fined Rupees 10.

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2. After a great deal of trouble and searching for nearly four or five months, this case was discovered, so unless imprisonment or a heavy fine be imposed, Soondies that erect Stills to make liquor and sell 50 or 60 Rupees per mensem, will not care to pay Rupees 10 on the thing being discovered. Therefore, unless an appeal against the decision of the Sub-Magistrate be made before the Assistant Magistrate, and a severer punishment be imposed, Soondies will not cease to erect Stills throughout the country.

From the Acting Collector of Ganjam, to the Acting Secretary to the Board of Revenue, dated Chetterpore, 12th April 1870, No. 404.

I HAVE the honour to request that the following figures be substituted for those given in paragraph 7 of Mr. Minchin's letter of the 2nd instant, which accompanied my No. 391, of the 7th idem, on the subject of the existence of illicit Stills in this district, viz., Rupees 65,420 for Rupees 65,378, and Rupees 3,800 for Rupees 3,902.

2. I have also to submit herewith in continuation of my number above quoted, the duplicate of a second letter on the same subject, since received from Mr. Minchin.

From the Manager of the Aska Sugar Works and Abkarry Renter, to the Acting Collector of Ganjam, Chetterpore, dated Aska, 9th April 1870.

I HAVE the honour to acknowledge the receipt this morning of your letter of 6th instant, and beg, with all deference, to submit the following remarks for your further consideration:—

2. From the 1st of July last, this is the only licensed distillery in this district, hence no other can exist, without a breach of the law, and what I maintain is, that the existence of illicit distilleries is proved from the fact of illicit liquor being weekly, if not oftener, apprehended in the district. To search for and destroy these distilleries is surely but a simple duty of the Police.

3. The possession of a mere Still may not *per se* be illicit, but it is a notorious fact as pointed above that these Stills are being used against Government. It is not to be forgotten that the sites of all these Stills are Government property and handed over from one renter to another, so that no individual has any but a contingent right in these sites, that contingency (his having a license to Still) ceased on 30th June last. A Still in this district consists of a few earthen pots, and when new, the whole plant is worth but 2½ Rupees, so that even in this view of the case, the rights of property are not formidable.

4. With reference to your remark in paragraph 3 as to infractions of the law being easily discoverable by my agents, I beg to point out that my complaint is simply that they are powerless, as they have no authority to search for illicit liquor or Stills, although they are aware of the existence of both, by the adulterations they are constantly finding in the spirits exposed for sale in the district.

5. You have been good enough to forward the duplicate of my previous letter to the Board, may I beg the favour of your handing the Board also the duplicate (enclosed) of this letter.

THESE papers will be submitted to the Government Pleader, and he will be requested to advise the Board whether, under Madras Act III. of 1864, the possession of an unlicensed Still (even if there is no proof that it has been used) is illegal, and whether such Stills may be destroyed. Section 23 of the Act gives Magistrates power to issue search-warrants for the discovery of illicit Stills, but there is no express provision as to what is to be done when they are discovered, unless illicit distillation is proved. In England, Excise Officers have power to destroy unlicensed Stills.

17th April 1870. The enclosed letter is submitted for the Board's consideration. 11/7/70. 1870.

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2. With regard to the question whether Village Magistrates can cause search to be made for such Stills, the Board concur with the Collector. There ought to be no difficulty in getting the necessary search-warrant from the nearest Sub-Magistrate.

3. It is not within the province of the Board to criticise Magisterial proceedings, but they feel bound to remark, that if the case reported by Mr. Minchin in which illicit distillation was fully proved, and a fine of Rupees 10 was the only punishment inflicted is fairly stated, and such decisions are usual, the revenue must suffer.

4. These proceedings will be submitted for the information of Government.

No. 187. Proceedings of the Board of Revenue, dated 23rd June 1870, No. 4,361.

Read the following letter from the Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 8th June 1870, No. 70.

I HAVE the honour to acknowledge the receipt of the Board's Proceedings
Dated 11th May 1870, No. 3,183. noted in the margin, requesting my
opinion as to whether under, the Abkarry

Act III. of 1864, the possession of unlicensed Stills is illegal, and whether such Stills may be destroyed.

2. I can find nothing in the Act in question expressly prohibiting the possession of such Stills, or authorizing their destruction. No doubt the mere possession of unlicensed Stills is impliedly made unlawful by the Act, for the sole power to fix the number of Stills to be allowed in a district and the places where they shall be erected is vested in the Revenue authorities (Section 6). Moreover, by Section 7 no Abkarry renter or other person shall be allowed to establish a still or shop without a license. But no means are provided by the Act, or, as far as I am aware, by any other law, for preventing the establishment of unlicensed Stills, or punishing it when it has been done. The only penalties imposed by the Act are contained in Sections 17 to 22 and 25, and they do not reach the offence at an earlier stage than the actual manufacture. The old Abkarry Regulation (I. of 1820) did impose a penalty upon the erection of an unlicensed Still (Section 6, Clause 9,) but it is repealed *in toto* by the present Act.

3. The power given by Section 23 of the Act to Magistrates to issue search-warrants for the discovery of illicit Stills does not, as the Board observe, help in the matter under consideration. It is, of course, a very necessary and useful power, with a view to the detection of illicit manufacture and sale, and when once the place of the unlawful trade is known, it must be easy, by careful watching, to obtain evidence of the infraction of the law. If the whole plant of a Still is of the small value mentioned by Mr. Minchin, a power to destroy it would not avail the authorities much in stopping the illegal trade, and such destruction would, as pointed out by Mr. Ellis, be manifestly unjust in the case of Stills which have once been licensed, unless there was actual evidence that they had been used after the expiration of the license.

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COMMUNICATED to the Acting Collector of Ganjam, who will give Mr. Minchin a copy of the letter.

No. 188.

ORDER THEREON, 10th August 1870, No. 1,226.

Separate Revenue, No. 13.

Abkarry.

ORDERED to be recorded.

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

circulated & no further action appears the needed 11/7/90.

For order No 1526

It seems very questionable whether, even if legal, it would be equitable to authorize the destruction of all these 'Still'. They are clearly the property of the people who were legally in the habit of distilling up to 30 June last year. At the termination of Mr Minchin's lease these people may again acquire the right to distil and it seems hard to destroy their

I would expect the
Hd. to let us see
the fut. Meaders opinion.
The new letter of the
case by Mrs Ellis
seems more sound
I can see no two well
seems she quite totally
dismiss the if wanted
Still are destroyed.

NP Sol

MA

The first Pleader appearing on behalf
for the destruction of the statue is

Means of doing so

Minchin's remedy would
seem to be to revoke his
licenses to sell ~~whenever~~
~~the~~ unless the licensee
consents to destroy his
still himself - If they
are of so little value
as stated by Mr Minchin
most of his salesmen
owned current, and
if they refused, there
would be difficulty in
convicting them of illicit
distillation as they would
no longer be able to plead
that they were licensed
salesmen.

MS