M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 20, 32

(2) Date of repair 20.11.67

(3) Initials of the Referencer 23.2.68

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 1110. Press
~~B.P. No.~~ ~~Mis.~~

Dated 26. 7. 1875 ~~196~~ .

Not to be folded or roughly handled

No. 251. Read the following Proceedings of the Board of Revenue, dated 9th June 1875, No. 1,561 :—

Read the following replies to Board's Proceedings, dated 7th January 1875, No. 34.

From R. DAVIDSON, Esq., Acting Collector of Ganjam, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Chetterpore, 24th March 1875. No. 659 :—

I HAVE the honor to reply to the latter part of paragraph 1, Board's Proceedings, dated 7th January 1875, No. 34, in regard to the question whether any and what changes of the Abkári law are required in consequence of the adoption of the excise system.

2. Experience has, I think, demonstrated the fact that the Abkári contractors under the excise system are deserving of a larger measure of protection than they have hitherto enjoyed, the more especially as greater facilities for evading the law will now be afforded in consequence of the separation of the toddy from the arrack farm, thereby removing the toddy vendors entirely from the control of the arrack renters.

3. The enclosed copy of a letter from Mr. Minchin, dated 11th instant, sufficiently indicates the difficulties which he has to contend with at present, and the remedial measures which he proposes should be introduced, but I am not prepared to go the whole length he suggests.

4. I would propose as striking at the root of the evil, that any one found in possession of any unlicensed still, implements, or materials clearly intended for use in illicit distillation should be liable, on conviction before a competent Magistrate, to a severe penalty (to be decided by Government). This is in accordance with the Board's suggestion conveyed in their Proceedings of the 11th March 1871, No. 1,067.

5. At present, under Section 24, Act III. of 1864, " any Police officer above the rank of Deputy Constable may, without a warrant, enter, inspect, and search at any time by day or by night, for any of the purposes contemplated by this Act, the house, shop, or premises in which the sale or manufacture of liquor is carried on under this Act."

6. It is a very delicate and difficult matter to provide alike for the due protection of the identical interests of Government and Abkári renter, and those of the general community.

7. To permit the Abkári renters to act as their own Policemen in the matter of searching houses, &c., for unlicensed stills unrestrictedly, would, I fear, be to subject the native community to the risk of being unnecessarily harassed, by the native agency employed, in a highly undesirable manner. It is necessary, however, that something should be done to abate the extent to which illicit distillation is at present carried on.

8. I agree with the Board in thinking that the system must be worked through the agency of informers (*Vide* paragraph 2, Board's Proceedings, dated 10th August 1874, No. 2,180).

9. There are not wanting instances in which the requisite assistance can at present be afforded to the Abkári Department by Constables above the rank of

Deputy, who are competent to search houses, &c., for unlicensed stills without the issue of a warrant, but there are many more instances in which owing to distance or other unavoidable cause the aid of the Police cannot be obtained in time to effect a seizure or obtain the necessary reliable evidence to ensure a conviction.

10. A sensible relief may, I think, be extended in this direction by providing that in such cases the head of the village may, in the presence of two or more respectable witnesses, act on information given by searching and seizing contraband stills, implements, or materials. The mere fact of its being known that heads of villages were entrusted with such authority would have a mighty deterring effect.

11. It should be the duty of the head of the village to act promptly in such cases on information given him, and to communicate his proceedings forthwith to the nearest Police station as well as the nearest Magistrate, retaining in his possession the proofs of his seizure until he is relieved of them by the Police or Magistrate.

12. Adequate provision should be made to prevent any abuse of this power by the head of the village or informer, by authorizing the Magistracy to punish summarily such abuse by fine or imprisonment of either description or both (as to Government may seem fit). He should also have it in his power to compensate an innocent sufferer who has been shown to have been wantonly accused on frivolous or vexatious grounds.

13. I see no reasonable objection to the Abkári Department being permitted to seize illicit liquor out of doors. This concession would also afford a sensible relief, or at all events it would remove a ground of present complaint. The renter might also employ a few Deputy Constables specially.

14. A copy of my Principal Assistant's letter, dated 17th instant, No. 56, is enclosed for the information of the Board.

ENCLOSURE No. 1.

From F. J. V. MINCHIN, Esq., for Abkári Renters, to R. DAVIDSON, Esq., Acting Collector of Ganjam, dated Aska, 11th March 1875, No. ——.

IN reply to your letter of 9th instant to Messrs. Minchin Brothers & Co., received this morning, I have the honor to ask your attention and reference to the Proceedings of the Board of Revenue detailed in margin, and from which you will see the various suggestions I have made from time to time regarding the inefficiency of the present Abkári law (Act III. of 1864) to protect the experimental excise system now in force in so many districts of the Presidency.

Proceedings, dated	11th	May	1870, No.	3,183.
,, ,,	23rd	June	,, ,,	4,361.
,, ,,	11th	March	1871, ,,	1,067.
,, ,,	16th	May	1872, ,,	787.
,, ,,	23rd	July	,, ,,	1,392.
,, ,,	31st	January	1873, ,,	132.
,, ,,	28th	August	,, ,,	1,687.
,, ,,	10th	,,	1874, ,,	2,180.

2. Illicit distillation is largely and steadily on the increase in this district. By the Board's Proceedings, dated 10th August 1874, No. 2,180, it is ruled that Minchin Brothers & Co. cannot act as Policemen. We are, therefore, simply powerless to stop the illicit trade, and it is now being carried on in the most barefaced manner. The difficulty, too, attendant on a legal process has no less paralysed our action. While we are going for a warrant, the liquor is made away with, and no traces of it are to be found on our return.

3. In cases of suspected illicit distillation we are required to pay Process Service Fees and write our application on stamped paper and pay down batta. We are required also to give the name of the suspected party, which, in many cases, it is impossible to do, as it is not an uncommon

Proceedings of the Madras Government, Revenue Department,
26th July 1875.

practice now to set up the still in the cooking place of the house, to which we have no means of access. If liquor is not found in the house, we must be answerable in case of a suit. Again, if liquor is found in the enclosures outside a house, objection is raised that some one may have put it there out of spite, as it is not a walled-in place! In all Ganjam villages, the only portion of a dwelling surrounded with a wall is the house, the compounds attached are simply fences of mats and bamboos.

4. Unless therefore, Government are prepared to give us the powers of the Preventive Service in England, I do not see how it can be expected that illicit distillation will be put down. We should, of course, be careful to use for the service none but men who could give security for their good behaviour, then should they abuse their powers, we shall have some hold on them. This should at least be tried now that Government require that the revenue shall be guaranteed.

5. The attention of Government should also be drawn to the opinion expressed by the Government Pleader, Madras, in Board's Proceedings, dated 23rd June 1870, No. 4,361, that "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."

(True Copy.)

(Signed) R. DAVIDSON,
Acting Collector.

ENCLOSURE No. 2.

From W. F. GRAHAME, Esq., Acting Principal Assistant Collector, to R. DAVIDSON, Esq., Acting Collector of Ganjam, dated Bommaly, 17th March 1875, No. 56.

I HAVE the honor to reply to your letter, No. 467, dated the 9th instant, and to your footnote to the Proceedings of the Board of Revenue, No. 365, dated the 15th ultimo.

2. In paragraphs 4, 5 and 6 of their Proceedings, No. 34, dated 7th January 1875, the Board of Revenue proposed to prohibit sub-renting in certain districts, and they say they have come to their conclusions after careful consideration. Further, the proposal has been made in conformity with the views of Government previously expressed. Now Section 9, Clause 1 of Madras Act III. of 1864, gives liberty without any reservation to Abkári renters "to sub-rent their farms on such terms as they and their sub-renters may respectively agree upon." If sub-renting is to be prohibited in any districts, the above-quoted Clause 1 of Section 9 of the Madras Abkári Act ought to be modified, reserving to the Board of Revenue or Collectors the power of sanctioning sub-rents under conditions.

3. In Section 23 of the Act, reference is made to Chapter VIII. of the old Code of Criminal Procedure. This section ought to be altered so as to refer to the corresponding chapter in the new Code of Criminal Procedure (Act X. of 1872).

4. Section 26 empowers any Police officer to stop and detain, or to seize any liquor uncovered by a pass or license. I would give power to the Abkári renter's servants to stop liquor in transit not covered by a valid pass. At present, they can only report matters to the Police, and by the time information is given to a Police officer, and he is in a position to act, the law-breaker and liquor have, as a rule, disappeared. I would render it imperative on Abkári renter's servants to produce at once, before the nearest Village Magistrate, the person and liquor seized, to state the circumstances, and get a bakir from the Village Magistrate. I would also give the Abkári renter's servants the power to search for illicit liquor and stills, and would in fact make them, in districts in which the excise system prevails, a sort of Preventive Force.

(True Copy.)

(Signed) R. DAVIDSON,
Acting Collector.

From H. St. A. GOODRICH, Esq., Acting Collector of Vizagapatam, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 8th March 1875, No. 331 :—

In answer to the call for report contained in Board's Proceedings, dated 7th January 1875 (No. 34), I have the honor to state that I do not think any change in the law will be required in consequence of the adoption of the Abkári excise system.

2. In their Proceedings of 3rd February, the Board did not express any opinion on a point raised in paragraphs 11 and 12 of my letter printed therein.

3. I wish to state my opinion that if additional shops and stills are opened after the acceptance of the contract, an increase of the revenue guaranteed by the renter is the right of Government; this might be secured without any change in the law.

From the same Officer, dated Kondakirla, 23rd March 1875, No. 472.

In my letter of 8th March 1875, No. 331, I reported that I was not of opinion that any change in the law will be necessitated by the extension of the excise system on the terms recently ordered.

2. I beg leave, in continuation of my letter, to forward a letter received by me this day from Messrs. Minchin & Co. Therein they state their conviction that without extended powers of search they will be unable to repress illicit distillation.

3. Unless they have powers given them to arrest without warrant all whom they suspect of illicit distillation, and to search without warrant all premises, I do not see that their position will be improved. I cannot recommend such an enactment as they request.

4. I have already stated my opinion that a number of shops and stills having been named once for all, additional revenue should be required from each newly opened shop and still.

Enclosure No. 1.

From Messrs. MINCHIN & Co., to H. St. A. GOODRICH, Esq., Acting Collector of Vizagapatam, dated Bimlipatam, 18th March 1875, No. 359.

We beg to acknowledge receipt of your letter, No. 242, dated 13th February, handing us the Proceedings of the Board of Revenue. We note that Government are willing to lease out again to us the exclusive privilege of manufacturing and selling arrack in this district.

2. We defer any remarks that we may make until we receive the terms on which the Government are prepared to give it to us.

3. With reference to the last paragraph of your letter, we beg to hand you enclosed copy of Messrs. Minchin Brothers & Co's. letter, dated 11th March, to the Collector of Ganjam, and which in all respect apply to Vizagapatam District.

(True Copy.)

(Signed) H. St. A. GOODRICH,
Acting Collector.

Enclosure No. 2.

Copy of Messrs. Minchin & Co's. letter to Collector of Ganjam, dated 11th March 1875.

Proceedings of the Madras Government, Revenue Department,
26th July 1875.

From R. J. MELVILLE, Esq., Acting Collector of the Chingleput District, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Sydapet, 21st April 1875, No. 197 :—

Referring to the latter part of paragraph 1, Board's Proceedings, No. 34, dated 7th January 1875, calling on me to report whether any change in the law is required owing to the introduction of the excise system, I have the honor to state that, in my opinion, no change is necessary. My experience in this district is necessarily very limited, but I have had some experience of the working of the excise system in the Vizagapatam District.

2. By Section 5 of the Abkári Act, the Board of Revenue are empowered to prescribe such rules as may be found requisite, and this, as far as my experience goes, answers all purposes.

3. Judging from what has been found necessary in other districts, I should like to see the home manufacture of spirits forbidden by a notification under Section 28 of the Act, a course which has had the approval of Messrs. Fane and Barlow, to both of whom the circumstances of this district were familar.

From W. S. WHITESIDE, Esq., Collector of North Arcot, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Raneepett, 24th March 1875, No. 148.

Adverting to the Proceedings of the Board of Revenue, dated 15th ultimo, No. 365, I have the honor to state that I have already reported in my letter to the Board, dated 27th January 1875, No. 36, embodied in the Proceedings of the Board of Revenue, dated 5th ultimo, No. 273, that no changes are necessary in the Abkári law in regard to the excise system, and that the breaches of the law in any particular are as severely dealt with as desirable under the present provisions of the Act.

From J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Vanur, 23rd January 1875, No. 39 :—

I have the honor to acknowledge receipt of the Board's Proceedings of the 7th instant, No. 34, calling on me to report whether any changes of the law relative to distillation are required in consequence of the adoption of the excise system, and to state that, in my opinion, it is advisable to alter Section 23 of the Abkári Act to the extent of giving to any Police officer above the rank of Deputy Constable power to enter any house, shop or premises at any time for the purpose of searching for illicit stills or liquor smuggled or illicitly sold or kept, on information being laid, the said information being first of all reduced to writing and signed by the informant.

2. Section 24 only admits of such officers searching licensed shops without a warrant, and though I do not think there is much illicit distilling, I am inclined to think there is a good deal of night smuggling along the French frontier, which the weakness of our Preventive Force prevents our detecting or checking under

the existing law, and I fear that under the proposed new rule of raising the minimum for arrack to Rupees 3-4-0 per gallon in this district, this contraband traffic will receive an additional impetus.

THESE papers are the reports of Collectors on the question whether the Abkári Act requires amendment in connection with the working of the excise system, and will be submitted to Government with reference to G. O., dated 24th February 1875, No. 290.

2. The Collectors of Vizagapatam, Chingleput, and North Arcot do not think that any change in the law is required. With reference to the remark of the Acting Collector of Chingleput that the home manufacture of spirits should be forbidden, it is to be observed that this is now the case, under Section 3 of the Act. Section 28 provides for an exception being made in the case of fermented liquor only.

3. The Collectors of Ganjam and Vizagapatam forward a letter from Messrs. Minchin Brothers & Co., the Abkári contractors, in which they call attention to the necessity of change in the law with respect to the prevention of illicit distillation and traffic; and repeat suggestions which were made in former correspondence, terminating with Board's Proceedings, dated 14th December 1871, No. 5,018.

4. These suggestions were (1) that the mere possession of unlicensed stills should be declared illegal and rendered punishable by law, (2) that greater powers should be conceded to the Police to stop infraction of the Act.

5. The Board at the time, after reference to all Collectors and the Inspector-General of Police, considered that nothing need be done as regards the first question, for as a matter of fact the same distillers were invariably employed by the contractors, they were men skilled in the work and well known, and if not licensed in communication with the renter, they would be marked men and could not manufacture with impunity. The suggestion is now repeated by the Collector of Ganjam, who, on the ground that more protection to the arrack contractors is now required owing to the separation of arrack and toddy, would also make the possession of any implements or materials for distillation illegal, and subject to heavy penalties.

6. The reasons which led the Board to consider action unnecessary in 1871 are now much weakened. In all excise districts (which will be eleven in number, besides the Bellary Cantonment, from next fasli), and in all farms managed on the Amani system, none can distil except the arrack renters themselves; and in other farms steps have been taken to reduce the number of outlying stills and to concentrate the manufacture in as few localities as possible. The Board are therefore of opinion that an enactment prohibiting and making punishable the possession of stills or implements for distillation, which in fact can be possessed only to be used, is advisable; but they would not include "materials for distillation," an expression which, as pointed out by some Collectors in 1871, is rather too vague. The establishment of a still is now illegal, but there are no means of preventing it or of punishing the act when it has been committed. Evidence of the use in manufacture must be obtained before the party can be made amenable to the present law.

Board's Proceedings, dated 23rd June 1870, No. 4,361.

7. As regards the powers of the Police, at present any Police officer above the rank of Head Constable can visit and search any house or place in which the manufacture or sale of liquor is carried on under the Act. To search any other place, a warrant from a Magistrate must be obtained. Messrs. Minchin urge that recourse to the Magistracy takes so much time that the power is useless, as the offenders obtain information and every trace of the offence has disappeared before the Police arrive at the spot. Messrs. Minchin & Co. also complain of having to pay Court fees and other charges in every case in which they prosecute.

8. The Collector of Ganjam suggests that heads of villages should be empowered to search houses in the presence of witnesses on information given, provided that they are required immediately to report the matter to the nearest station and are made summarily punishable in case of abuse. The Collector of South Arcot suggests that the power given to Police officers in Section 24, Act III. of 1864, be extended to Deputy Constables who are also in charge of Police stations, and in 1871 several Collectors suggested that Police officers should have power to search *any* premises for contraband liquor or unlicensed stills. The Inspector-General, however, then thought that it would be highly unadvisable to give the Police general powers to search without warrant at the instigation of Abkári officers.

9. The Board think that it would be well to give station-house officers power in all cases to search any premises for unlicensed stills or implements for distillation without warrant on written information being given them by a person known as the writer. Though the exercise of this power will require watching, the Board do not think it likely to be abused; and as stated by the Collector of Ganjam in reference to his own proposal above mentioned, the mere knowledge that the power exists will be a great check on illicit distillation. At any rate, all station officers of whatever rank ought to have the powers specified in Section 24.

10. Mr. Minchin also proposed that the servants of the renter should have power to stop and seize illicit liquor in transit, and apparently would wish the servants of the renters to be invested with powers as Preventive Police. The Principal Assistant, Ganjam, makes the same suggestion. The Board, however, emphatically disapprove this suggestion, and adhere to the opinion expressed in their Proceedings, dated 10th August 1874, No. 2,180, on the point. It is undoubtedly necessary to afford some further protection to the revenue; but the measures above proposed seem to go sufficiently far, and adequately to strengthen the hands of the renters, without danger of oppression to the people.

11. With regard to rewards to informers, the Board have already stated their opinion that the fines levied under the Act should be made payable as rewards. (G. O., dated 12th November 1872, No. 1,538.)

12. It has been suggested that offences under the Act should be made punishable with imprisonment as well as fine; as the business of illicit distillation is so profitable that when people are caught, which is very rarely the case, they can easily afford to pay the fine to which they are alone liable under the present law, and begin afresh. There is probably truth in this; but with increased facilities for detection, and with a proper working of the existing law by the magistracy, there will probably be no necessity for change in the character of the penalties prescribed.

13. The Principal Assistant Ganjam, suggests that Section 9, Clause 1, will have to be amended now that sub-renting is forbidden in some places. The prohibition introduced into the renters' engagements by the Board of Revenue with reference to Sections 5 and 6 does not conflict with Section 9; but there would be no harm in adding the words "where sub-renting is not prohibited by the Board of Revenue." Mr. Grahame also points out that the reference in Section 23 to the Code of Criminal Procedure should be corrected.

14. It has been held by the Government Pleader that Abkári renters cannot attach the shops of sub-renters or proceed against their sureties as landholders can against those of their tenants under Act VIII. of 1865; and the question has also been raised whether sub-renters are entitled to proceed under Act VIII. of 1865, for the recovery of dues from shopkeepers and others. On the first point there is probably no need for change in the law; but the Board think that sub-renters who are recognized by the law as occupying position similar to the Abkári renters, and who execute nearly similar engagements, ought equally to be considered farmers of the revenue and to have similar powers to recover sums due to them by licensed shopkeepers. However, it is now the policy to discourage sub-renting.

Board's Proceedings, dated 24th February 1869 No. 1,239.

15. The Board have no further suggestions to make for the amendment of the Abkári law; but if this is undertaken, it might be well to amalgamate with the revised Act, the bill for the regulation of the sale of ganja, which the Advocate General was directed to prepare by G. O., dated 16th February 1874, No. 210.

(True Copies and Extract.)

(Signed) H. E. STOKES,
Acting Secretary.

No. 252. ORDER THEREON, 26th July 1875, No. 1,110.

Separate Revenue, No. 34.
Abkári.

WITH these Proceedings the Board submit their views regarding certain alterations called for in the Abkári laws. The following are the points on which they deem legislation necessary:—

(1.) *Prohibition of Possession of Stills or Implements for Distillation without License.*—The Board show that, under the new system, in many farms the renter alone can distill, which in others steps have been taken to reduce the number of outlying stills and to concentrate manufacture. By Regulation I. of 1820, Section 6, Clause 9 (repealed *in toto*), the erection of an unlicensed still was punishable; but the existing Act does not provide a penalty at an earlier stage than actual manufacture, though Section 6 implies that the erection of an unlicensed still is unlawful.

(2.) *Extension of the Power of the Police to search any Premises for unlicensed Stills and licensed Premises for the purposes of the Act.*—Under Section 23 of the Act, a warrant is required to enable a police officer to search for unlicensed stills, and under Section 24 licensed houses can only be visited by a police officer above the rank of Deputy Constable.

The Board would substitute for Magistr[illegible]s warrant a written information by a person known as the writer as regards the fo[illegible]er power, and would extend the latter power to all station-house officers of whatever grade.

(3.) *Application of Fines as Rewards to Informers.*—The Abkári Act, Section 17, admits only of the application to this purpose of the proceeds of illicit liquor, with the vessels in which it is carried and vehicl[illegible] or animals used, which, as a rule, are worthless.

The proposal now made would assimilate the Mofussil Abkári Act on this point with the Madras Town Abkári Act and the Cantonment Abkári Act, as well as with the Acts relating to Sea Customs and Excise; and a draft Act for the purpose was, in fact, called for in G. O., 12th November 1872, No. 1,538, though legislation was then deferred owing to inquiries going on in regard to Abkári which, it was thought, would necessitate amendments on other points.

(4.) *Power to prohibit Sub-renting.*—In many cases lately farms have been sold on the condition that there is to be no sub-renting. Section 9, however, distinctly gives liberty to sub-rent, and though Sections 5 and 6, in the Board's opinion, justify special agreements limiting this liberty, they would take advantage of the law being under amendment to add to Section 9 the words "when sub-renting is not prohibited by the Board of Revenue."

(5.) *Definite Assignment to Sub-renters of Power to proceed under Act VIII. of* 1865 *for recovery of Dues.*—This power appears to have been questioned, and the Board consider that sub-renters who execute engagements nearly similar to those of renters ought equally to be considered farmers of the revenue, and have similar powers to recover sums due to them by licensed shop-keepers.

His Excellency the Governor in Council approves generally of these suggestions of the Board, and resolves to refer the papers to the Legislative Department in view to the preparation of a draft Bill.

The papers will also be referred to the Advocate-General with reference to the proposal of the Board in paragraph 15 to amalgamate the revised Abkári Act and the Act for regulating the sale of Ganja.

(True Ex[illegible]tract.)

([illegible]ed) A. MACGREGOR,
Acting Secretary to Government.

To the Legislative Department.
„ the Board of Revenue.
„ the Government Solicitor.

Exd. F. R. Bantleman.

Further Cir 57/71.

Govt. of Madras.

REVENUE.

To

THE LEGISLATIVE DEPARTMENT,

&c. &c. &c.

Dated July, 26th.

Read.

Encl.

G. O. 285 July 1875, No. 1,110.

JULY.

Nos. 253 252.

Abkári Act.—Approving generally of the suggestions of the Board of Revenue relative to the amendment of the—, and resolving to refer the papers to the Legislative Department in view to the preparation of a draft Bill. Ordering also to refer the papers to the Advocate-General with respect to the Board's proposal (paragraph 15) to amalgamate the revised Abkári Act and the Act for regulating the sale of Ganja.

No. 1,561.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 9th June 1875.

Read the following replies to Board's Proceedings, dated 7th January 1875, No. 34.

From R. DAVIDSON, Esq., Acting Collector of Ganjam, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Chetterpore, 24th March 1875. No. 659:—

I HAVE the honor to reply to the latter part of paragraph 1, Board's Proceedings, dated 7th January 1875, No. 34, in regard to the question whether any and what changes of the Abkári law are required in consequence of the adoption of the excise system.

2. Experience has, I think, demonstrated the fact that the Abkári contractors under the excise system are deserving of a larger measure of protection than they have hitherto enjoyed, the more especially as greater facilities for evading the law will now be afforded in consequence of the separation of the toddy from the arrack farm, thereby removing the toddy vendors entirely from the control of the arrack renters.

3. The enclosed copy of a letter from Mr. Minchin, dated 11th instant, sufficiently indicates the difficulties which he has to contend with at present, and the remedial measures which he proposes should be introduced, but I am not prepared to go the whole length he suggests.

4. I would propose as striking at the root of the evil, that any one found in possession of any unlicensed still, implements, or materials clearly intended for use in illicit distillation should be liable, on conviction before a competent Magistrate, to a severe penalty (to be decided by Government). This is in accordance with the Board's suggestion conveyed in their Proceedings of the 11th March 1871, No. 1,067.

5. At present, under Section 24, Act III. of 1864, "any Police officer above the rank of Deputy Constable may, without a warrant, enter, inspect, and search at any time by day or by night, for any of the purposes contemplated by this Act, the house, shop, or premises in which the sale or manufacture of liquor is carried on under this Act."

6. It is a very delicate and difficult matter to provide alike for the due protection of the identical interests of Government and Abkári renter, and those of the general community.

7. To permit the Abkári renters to act as their own Policemen in the matter of searching houses, &c., for unlicensed stills unrestrictedly, would, I fear, be to subject the native community to the risk of being unnecessarily harassed, by the native agency employed, in a highly undesirable manner. It is necessary, however, that something should be done to abate the extent to which illicit distillation is at present carried on.

8. I agree with the Board in thinking that the system must be worked through the agency of informers (*Vide* paragraph 2, Board's Proceedings, dated 10th August 1874, No. 2,180).

9. There are not wanting instances in which the requisite assistance can at present be afforded to the Abkári Department by Constables above the rank of

Deputy, who are competent to search houses, &c., for unlicensed stills without the issue of a warrant, but there are many more instances in which owing to distance or other unavoidable cause the aid of the Police cannot be obtained in time to effect a seizure or obtain the necessary reliable evidence to ensure a conviction.

10. A sensible relief may, I think, be extended in this direction by providing that in such cases the head of the village may, in the presence of two or more respectable witnesses, act on information given by searching and seizing contraband stills, implements, or materials. The mere fact of its being known that heads of villages were entrusted with such authority would have a mighty deterring effect.

11. It should be the duty of the head of the village to act promptly in such cases on information given him, and to communicate his proceedings forthwith to the nearest Police station as well as the nearest Magistrate, retaining in his possession the proofs of his seizure until he is relieved of them by the Police or Magistrate.

12. Adequate provision should be made to prevent any abuse of this power by the head of the village or informer, by authorizing the Magistracy to punish summarily such abuse by fine or imprisonment of either description or both (as to Government may seem fit). He should also have it in his power to compensate an innocent sufferer who has been shown to have been wantonly accused on frivolous or vexatious grounds.

13. I see no reasonable objection to the Abkári Department being permitted to seize illicit liquor out of doors. This concession would also afford a sensible relief, or at all events it would remove a ground of present complaint. The renter might also employ a few Deputy Constables specially.

14. A copy of my Principal Assistant's letter, dated 17th instant, No. 56, is enclosed for the information of the Board.

Enclosure No. 1.

From F. J. V. MINCHIN, Esq., for Abkári Renters, to R. DAVIDSON, Esq., Acting Collector of Ganjam, dated Aska, 11th March 1875, No. ——.

In reply to your letter of 9th instant to Messrs. Minchin Brothers & Co., received this morning, I have the honor to ask your attention and reference to the Proceedings of the Board of Revenue detailed in margin, and from which you will see the various suggestions I have made from time to time regarding the inefficiency of the present Abkári law (Act III. of 1864) to protect the experimental excise system now in force in so many districts of the Presidency.

Proceedings, dated	11th	May	1870, No.	3,183.
,,	,,	23rd June	,, ,,	4,361.
,,	,,	11th March	1871, ,,	1,067.
,,	,,	16th May	1872, ,,	787.
,,	,,	23rd July	,, ,,	1,392.
,,	,,	31st January	1873, ,,	132.
,,	,,	28th August	,, ,,	1,687.
,,	,,	10th ,,	1874, ,,	2,180.

2. Illicit distillation is largely and steadily on the increase in this district. By the Board's Proceedings, dated 10th August 1874, No. 2,180, it is ruled that Minchin Brothers & Co. cannot act as Policemen. We are, therefore, simply powerless to stop the illicit trade, and it is now being carried on in the most barefaced manner. The difficulty, too, attendant on a legal process has no less paralysed our action. While we are going for a warrant, the liquor is made away with, and no traces of it are to be found on our return.

3. In cases of suspected illicit distillation we are required to pay Process Service Fees and write our application on stamped paper and pay down batta. We are required also to give the name of the suspected party, which, in many cases, it is impossible to do, as it is not an uncommon practice now to set up the still in the cooking place of the house, to which we have no means of access. If liquor is not found in the house, we must be answerable in case of a suit. Again, if liquor is found in the enclosures outside a house, objection is raised that some one may have put it there out of spite, as it is not a walled-in place! In all Ganjam villages, the only portion of a dwelling surrounded with a wall is the house, the compounds attached are simply fences of mats and bamboos.

4. Unless, therefore, Government are prepared to give us the powers of the Preventive Service in England, I do not see how it can be expected that illicit distillation will be put down. We should, of course, be careful to use for the service none but men who could give security for their good behaviour, then should they abuse their powers, we shall have some hold on them. This should at least be tried now that Government require that the revenue shall be guaranteed.

5. The attention of Government should also be drawn to the opinion expressed by the Government Pleader, Madras, in Board's Proceedings, dated 23rd June 1870, No. 4,361, that "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."

(True Copy.)

(Signed) R. DAVIDSON,
Acting Collector.

Enclosure No. 2.

From W. F. GRAHAME, Esq., Acting Principal Assistant Collector, to R. DAVIDSON, Esq., Acting Collector of Ganjam, dated Bommaly, 17th March 1875, No. 56.

I have the honor to reply to your letter, No. 467, dated the 9th instant, and to your footnote to the Proceedings of the Board of Revenue, No. 365, dated the 15th ultimo.

2. In paragraphs 4, 5 and 6 of their Proceedings, No. 34, dated 7th January 1875, the Board of Revenue proceed to prohibit sub-renting in certain districts, and they say they have come to their conclusions after careful consideration. Further, the proposal has been made in conformity with the views of Government previously expressed. Now Section 9, Clause 1 of Madras Act III. of 1864, gives liberty without any reservation to Abkári renters "to sub-rent their farms on such terms as they and their sub-renters may respectively agree upon." If sub-renting is to be prohibited in any districts, the above quoted Clause 1 of Section 9 of the Madras Abkári Act ought to be modified, reserving to the Board of Revenue or Collectors the power of sanctioning sub-rents under conditions.

3. In Section 23 of the Act, reference is made to Chapter VIII. of the old Code of Criminal Procedure. This section ought to be altered so as to refer to the corresponding chapter in the new Code of Criminal Procedure (Act X. of 1872).

4. Section 26 empowers any Police officer to stop and detain, or to seize any liquor uncovered by a pass or license. I would give power to the Abkári renter's servants to stop liquor in transit not covered by a valid pass. At present, they can only report matters to the Police, and by the time information is given to a Police officer, and he is in a position to act, the law-breaker and liquor have, as a rule, disappeared. I would render it imperative on Abkári renter's servants to produce at once, before the nearest Village Magistrate, the person and liquor seized, to state the circumstances, and get a bakir from the Village Magistrate. I would also give the Abkári renter's servants the power to search for illicit liquor and stills, and would in fact make them, in districts in which the excise system prevails, a sort of Preventive Force.

(True Copy.)

(Signed) R. DAVIDSON,
Acting Collector.

From H. St. A. GOODRICH, Esq., Acting Collector of Vizagapatam, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 8th March 1875, No. 331 :—

In answer to the call for report contained in Board's Proceedings, dated 7th January 1875 (No. 34), I have the honor to state that I do not think any change in the law will be required in consequence of the adoption of the Abkári excise system.

2. In their Proceedings of 3rd February, the Board did not express any opinion on a point raised in paragraphs 11 and 12 of my letter printed therein.

3. I wish to state my opinion that if additional shops and stills are opened after the acceptance of the contract, an increase of the revenue guaranteed by the renter is the right of Government; this might be secured without any change in the law.

From the same Officer, dated Kondakirla, 23rd March 1875, No. 472.

In my letter of 8th March 1875, No. 331, I reported that I was not of opinion that any change in the law will be necessitated by the extension of the excise system on the terms recently ordered.

2. I beg leave, in continuation of my letter, to forward a letter received by me this day from Messrs. Minchin & Co. Therein they state their conviction that without extended powers of search they will be unable to repress illicit distillation.

3. Unless they have powers given them to arrest without warrant all whom they suspect of illicit distillation, and to search without warrant all premises, I do not see that their position will be improved. I cannot recommend such an enactment as they request.

4. I have already stated my opinion that a number of shops and stills having been named once for all, additional revenue should be required from each newly opened shop and still.

Enclosure No. 1.

From Messrs. MINCHIN & Co., to H. St. A. GOODRICH, Esq., Acting Collector of Vizagapatam, dated Bimlipatam, 18th March 1875, No. 359.

We beg to acknowledge receipt of your letter, No. 242, dated 13th February, handing us the Proceedings of the Board of Revenue. We note that Government are willing to lease out again to us the exclusive privilege of manufacturing and selling arrack in this district.

2. We defer any remarks that we may make until we receive the terms on which the Government are prepared to give it to us.

3. With reference to the last paragraph of your letter, we beg to hand you enclosed copy of Messrs. Minchin Brothers & Co's. letter, dated 11th March, to the Collector of Ganjam, and which in all respect apply to Vizagapatam District.

(True Copy.)

(Signed) H. St. A. GOODRICH,
Acting Collector.

Enclosure No. 2.

Copy of Messrs. MINCHIN, & Co's. letter to Collector of Ganjam, dated 11th March 1875.

8/1110

From R. J. MELVILLE, Esq., Acting Collector of the Chingleput District, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Sydapet, 21st April 1875, No. 197 :—

Referring to the latter part of paragraph 1, Board's Proceedings, No. 34, dated 7th January 1875, calling on me to report whether any change in the law is required owing to the introduction of the excise system, I have the honor to state that, in my opinion, no change is necessary. My experience in this district is necessarily very limited, but I have had some experience of the working of the excise system in the Vizagapatam District.

2. By Section 5 of the Abkári Act, the Board of Revenue are empowered to prescribe such rules as may be found requisite, and this, as far as my experience goes, answers all purposes.

3. Judging from what has been found necessary in other districts, I should like to see the home manufacture of spirits forbidden by a notification under Section 28 of the Act, a course which has had the approval of Messrs. Fane and Barlow, to both of whom the circumstances of this district were familar.

From W. S. WHITESIDE, Esq., Collector of North Arcot, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Raneepett, 24th March 1875, No. 148.

Adverting to the Proceedings of the Board of Revenue, dated 15th ultimo, No. 365, I have the honor to state that I have already reported in my letter to the Board, dated 27th January 1875, No. 36, embodied in the Proceedings of the Board of Revenue, dated 5th ultimo, No. 273, that no changes are necessary in the Abkári law in regard to the excise system, and that the breaches of the law in any particular are as severely dealt with as desirable under the present provisions of the Act.

From J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Vanur, 23rd January 1875, No. 39 :—

I have the honor to acknowledge receipt of the Board's Proceedings of the 7th instant, No. 34, calling on me to report whether any changes of the law relative to distillation are required in consequence of the adoption of the excise system, and to state that, in my opinion, it is advisable to alter Section 23 of the Abkári Act to the extent of giving to any Police officer above the rank of Deputy Constable power to enter any house, shop or premises at any time for the purpose of searching for illicit stills or liquor smuggled or illicitly sold or kept, on information being laid, the said information being first of all reduced to writing and signed by the informant.

2. Section 24 only admits of such officers searching licensed shops without a warrant, and though I do not think there is much illicit distilling, I am inclined to think there is a good deal of night smuggling along the French frontier, which the weakness of our Preventive Force prevents our detecting or checking under the existing law, and I fear that under the proposed new rule of raising the mini-

mum for arrack to Rupees 3-4-0 per gallon in this district, this contraband traffic will receive an additional impetus.

THESE papers are the reports of Collectors on the question whether the Abkári Act requires amendment in connection with the working of the excise system, and will be submitted to Government with reference to G. O., dated 24th February 1875, No. 290.

2. The Collectors of Vizagapatam, Chingleput, and North Arcot do not think that any change in the law is required. With reference to the remark of the Acting Collector of Chingleput that the home manufacture of spirits should be forbidden, it is to be observed that this is now the case, under Section 3 of the Act. Section 28 provides for an exception being made in the case of fermented liquor only.

3. The Collectors of Ganjam and Vizagapatam forward a letter from Messrs. Minchin Brothers & Co., the Abkári contractors, in which they call attention to the necessity of change in the law with respect to the prevention of illicit distillation and traffic; and repeat suggestions which were made in former correspondence, terminating with Board's Proceedings, dated 14th December 1871, No. 5,018.

4. These suggestions were (1) that the mere possession of unlicensed stills should be declared illegal and rendered punishable by law, (2) that greater powers should be conceded to the Police to stop infraction of the Act.

5. The Board at the time, after reference to all Collectors and the Inspector-General of Police, considered that nothing need be done as regards the first question, for as a matter of fact the same distillers were invariably employed by the contractors, they were men skilled in the work and well known, and if not licensed in communication with the renter, they would be marked men and could not manufacture with impunity. The suggestion is now repeated by the Collector of Ganjam, who, on the ground that more protection to the arrack contractors is now required owing to the separation of arrack and toddy, would also make the possession of any implements or materials for distillation illegal, and subject to heavy penalties.

6. The reasons which led the Board to consider action unnecessary in 1871 are now much weakened. In all excise districts which will be eleven in number, besides the Bellary Cantonment, from next fasli, and in all farms managed on the Amani system, none can distil except the arrack renters themselves; and in other farms steps have been taken to reduce the number of outlying stills and to concentrate the manufacture in as few localities as possible. The Board are therefore of opinion that an enactment prohibiting and making punishable the possession of stills or implements for distillation, which in fact can be possessed only to be used, is advisable; but they would not include "materials for distillation," an expression which, as pointed out by some Collectors in 1871, is rather too vague. The establishment of a still is now illegal, but there are no means of preventing it or of punishing the act when it has been committed. Evidence of the use in manufacture must be obtained before the party can be made amenable to the present law.

Board's Proceedings, dated 23rd June 1870, No. 4,361.

7. As regards the powers of the Police, at present any Police officer above the rank of Head Constable can visit and search any house or place in which the manufacture or sale of liquor is carried on under the Act. To search any other place, a warrant from a Magistrate must be obtained. Messrs. Minchin urge that recourse to the Magistracy takes so much time that the power is useless, as the offenders obtain information and every trace of the offence has disappeared before the Police arrive at the spot. Messrs. Minchin & Co. also complain of having to pay Court fees and other charges in every case in which they prosecute.

8. The Collector of Ganjam suggests that heads of villages should be empowered to search houses in the presence of witnesses on information given, provided that they are required immediately to report the matter to the nearest station and are made summarily punishable in case of abuse. The Collector of South Arcot suggests that the power given to Police officers in Section 24, Act III. of 1864, be extended to Deputy Constables who are also in charge of Police stations, and in 1871 several Collectors suggested that Police officers should have power to search *any* premises for contraband liquor or unlicensed stills. The Inspector-General, however, then thought that it would be highly unadvisable to give the Police general powers to search without warrant at the instigation of Abkári officers.

9. The Board think that it would be well to give station-house officers power in all cases to search any premises for unlicensed stills or implements for distillation without warrant on written information being given them by a person known as the writer. Though the exercise of this power will require watching, the Board do not think it likely to be abused; and as stated by the Collector of Ganjam in reference to his own proposal above mentioned, the mere knowledge that the power exists will be a great check on illicit distillation. At any rate, all station officers of whatever rank ought to have the powers specified in Section 24.

10. Mr. Minchin also proposed that the servants of the renter should have power to stop and seize illicit liquor in transit, and apparently would wish the servants of the renters to be invested with powers as Preventive Police. The Principal Assistant, Ganjam, makes the same suggestion. The Board, however, emphatically disapprove this suggestion, and adhere to the opinion expressed in their Proceedings, dated 10th August 1874, No. 2,180, on the point. It is undoubtedly necessary to afford some further protection to the revenue; but the measures above proposed seem to go sufficiently far, and adequately to strengthen the hands of the renters, without danger of oppression to the people.

11. With regard to rewards to informers, the Board have already stated their opinion that the fines levied under the Act should be made payable as rewards. (G. O., dated 12th November 1872, No. 1,538.)

12. It has been suggested that offences under the Act should be made punishable with imprisonment as well as fine; as the business of illicit distillation is so profitable that when people are caught, which is very rarely the case, they can easily afford to pay the fine to which they are alone liable under the present law, and begin afresh. There is probably truth in this; but with increased facilities for detection, and with a proper working of the existing law by the magistracy, there will probably be no necessity for change in the character of the penalties prescribed.

13. The Principal Assistant, Ganjam, suggests that Section 9, Clause 1, will have to be amended now that sub-renting is forbidden in some places. The prohibition introduced into the renters' engagements by the Board of Revenue with reference to Sections 5 and 6 does not conflict with Section 9; but there would be no harm in adding the words "where sub-renting is not prohibited by the Board of Revenue." Mr. Grahame also points out that the reference in Section 23 to the Code of Criminal Procedure should be corrected.

14. It has been held by the Government Pleader that Abkári renters cannot attach the shops of sub-renters or proceed against their sureties as landholders can against those of their tenants under Act VIII. of 1865; and the question has also been raised whether sub-renters are entitled to proceed under Act VIII. of 1865, for the recovery of dues from shopkeepers and others. On the first point there is probably no need for change in the law; but the Board think that sub-renters who are recognized by the law as occupying position similar to the Abkári renters, and who execute nearly similar engagements, ought equally to be considered farmers of the revenue and to have similar powers to recover sums due to them by licensed shopkeepers. However, it is now the policy to discourage sub-renting.

Board's Proceedings, dated 24th February 1869 No. 1,239.

15. The Board have no further suggestions to make for the amendment of the Abkári law; but if this is undertaken, it might be well to amalgamate with the revised Act, the bill for the regulation of the sale of ganja, which the Advocate-General was directed to prepare by G. O., dated 16th February 1874, No. 210.

(True Copies and Extract.)

Acting Secretary.

To the Acting Secretary to Government, Revenue Department,
with copies of Board's Proceedings, dated 14th December 1871 No. 5,018,
10th August 1874, No. 2,180, and 24th February 1869, No. 1,239.

,, the Collector of Ganjam.
,, the Collector of Vizagapatam.
,, the Collector of Chingleput.
,, the Collector of North Arcot.
,, the Collector of South Arcot.

Copy to all other Collectors.
,, to the Inspector-General of Police.

Exd W. H. French.

REVENUE DEPARTMENT.

No. 2630

From Bd of Rev.

Dated 9 June 1875.

FOR ORDERS.

Govt assistance necessary to ensure success of Excise system

Submits Abkari Act

Suggests that Collectors should be empowered to search premises for unlicensed stills

Wishes a provision to be made for legislation

Rev: 1875: Dept
No. 2630.

No. 593

1875.

Board of Revenue,

MADRAS.

PROCEEDINGS, 9TH JUNE 1875, No. 1,561.

Dup 30 June 75 Encl. 3 Govt. Legislative Dept

Received 8 July

Govt. No. 1110. 26 July 1875

JUNE.

No. 1,561.

Abkári Act.—Report of certain Collectors regarding amendment of — in consequence of adoption of excise system, submitted to Government. Opinion expressed that it would be advisable to make an enactment prohibiting and making punishable the possession of stills or implements for distillation, to give station-house officers power to search any premises for unlicensed stills or implements for distillation, and regarding the kind of punishment to be given to offenders.

A-251

FOR ORDERS.

No 1110

26 July 75

Read Board's Rec. 12/1110
9th June 1875. See 1561.

With these Proceedings the Board submit their views regarding certain alterations called for in the Abkaree Laws — The following are the points on which they deem legislation necessary.

(1). Prohibition of still or implement for Distillation. [illegible]

The Board show that under the new system in many Farms the renter alone can distill, while

in others steps have been
taken to reduce the
number of unlicensed
stills. & to concentrate
manufacture - By
Regulation I. of 1820.
(repealed in toto)
sec. 6. c. 9. ^ the erection
of an unlicensed still
was punishable. But this
existing act does not
provide a penalty at
an earlier stage than
than actual manufacture
though sec 6 implies
that the erection of an
unlicensed still is unlawful

(2) Extension of the
power of the Police to
search for any premises

13/1110

for unlicensed stills, ^
licensed premises for
the purposes of the act.
Under sec 23 of the act
a warrant is required
to authorize a Police officer
to search for unlicensed
stills, & under sec 24.
licensed houses can only
be visited by a Police
officer above the rank
of Sergt. Constable -
The Board would
substitute for Judge's
warrant a written
information by a person
known to the writer as
regards the former power,
& would extend the
latter power to all

station house officers of whatever grade.

3). Application of fines as rewards & informers

The Abkary act. in almost any of the applications to this purpose of the proceeds of illicit liquor, with the object in which it is carried, a vehicle or animal used, which as a rule are worthless.

The proposal now made would assimilate the Bombay Abkary act on this point with the Madras Town Abkary act, the Cantonment Abkary act. as well as with the Act relating to Sea Customs & Excise,

to draft act for the purpose as in such called for in G. O. 12th Nov. 1892. No 1538. Bombay legislation was then deferred owing to enquiries going on in regard to Abkary which it was thought would negotiate amendments on other points.

(4). Power to prohibit subletting

In many cases lately farms have been sublet at the condition that no subletting is to be allowed. See G Bombay District fixes liberty to sublet, although Sec. 56. in the Board's Specimen petition Recital agreement limiting

this liberty they could take advantage of the law being under amendment & add to the words "sub renting is not "prohibited by the Board "of Revenue".

(5). Definite appointment & sub Renters of powers & proceed under Act VIII. of 1865. In many of these —

This power appears has been questioned & the Board considers that sub Renters, who receive subsequent many similar to that of Renter ought equally to be considered farmers of the Revenue. & have similar powers & responsibilities & therefore should be licensed Shikumbers.

His Excellency the Governor in Council approves generally of these suggestions of the Board & refers the papers to the Legislative Dept. in view to the preparation of a draft Bill.

The papers are also to be referred to the Advocate General with reference to the proposal of the Board in para 15

& amalgamate the
revised Abbacy act
with the act re-
spectively the sale
of ganja —

A. M.

1 To the Legislative Asst Sec. 114 August
1 " the Board of Revenue &
1 " the Government Solicitor &

40

Frankfurt 1 Mayn[illegible]

c 23 July/95. Retd. 24 July/95