

- (1) Number of pages 44
(2) Date of repair 4-4-1974
(3) Initials of the Referencer _____

MADRAS RECORD OFFICE

Tamil Nadu Archives
(GOVERNMENT OF MADRAS)

Revenue DEPARTMENT

G.O. No.	1109	Press
B.P. No.		Mis.
Dated	9-10-1884	196

Not to be folded or roughly handled

9TH OCTOBER 1884, No. 1109, REVENUE.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following letter from J. F. FINLAY Esq., Officiating Under Secretary to the Government of India, Department of Finance and Commerce (Separate Revenue, &c.—Excise), to the Secretary to the Government of Madras, Revenue Department, dated Simla, the 16th September 1884, No. 3481 :—

I am directed to acknowledge the receipt of your letter, No. 571, dated 30th April 1884, forwarding for consideration a draft of a Bill to consolidate and amend the Abkari Law of the Presidency of Madras, and requesting sanction to its introduction into the local Legislative Council.

2. The main object of the proposed measure is to render possible the introduction of certain reforms in the existing system of the administration of the Excise Department in Madras, as contemplated in the correspondence ending with my letter, No. 784, dated 5th May 1884; and in this view His Excellency the Governor-General in Council generally approves of the measure, and sanctions the introduction of the Bill into the local Legislative Council.

3. There are, however, a few points in connection with the draft Bill which His Excellency in Council desires to notice for the consideration of the Government of Madras.

4. The Governor-General in Council observes that no provision has been made in the Bill for regulating the sale and supply of intoxicating drugs. As regards opium and preparations of opium, all the needful provisions are contained in the Opium Act I of 1878 (India Council) and the rules issued thereunder. But there seems to be no law applicable to Madras for regulating the sale of intoxicating drugs other than opium.

The question was once raised in 1876, as will be seen from the correspondence noted on the margin. But since then no further action seems to have been taken in the matter. I am to suggest, for the

consideration of the Government of Madras, that the present opportunity may be taken to make the necessary provisions for regulating the sale and supply of intoxicating drugs.

5. I am also to suggest that the Bill as now framed may be examined with a view to the excision of provisions which involve mere repetitions of those of the Penal Code and Criminal Procedure Code, or which are rendered unnecessary by the provisions of those Codes. As an instance, I am to invite your attention to Section 61 of the Bill, which is to a great extent covered by Sections 176 and 187 of the Penal Code. Section 68 of the Bill is likewise covered to a great extent by the same Code as amended by Act VIII of 1882.

6. Again, the first and third offences set out in Section 62 of the Bill are not matters which, in the opinion of the Governor-General in Council, should ordinarily be made punishable by law. Such offences, when committed by an Excise officer, should be dealt with departmentally. The second offence seems to His Excellency in Council to be rightly punishable by penal legislation.

7. The provisions in Section 16(c) and (d) appear to be rendered *ultra vires* by the provision of Section 6 of the Indian Tariff Act XI of 1882. With a view to avoid any inconvenience which may hereafter arise, His Excellency in Council has decided to repeal that section of the Tariff Act. A Bill will shortly be introduced into the Legislative Council of the Governor-General for this purpose; and I am to request that the Madras Abkari Bill now under consideration may not be finally passed until Section 6 of the Indian Tariff Act XI of 1882 is repealed.

8. In conclusion, I am to draw your attention to the communication from this Department, No. 2744, dated 11th August 1884, and to request that the information asked for by the Secretary of State may be specially reported to him.

ORDER—dated 9th October 1884, No. 1109, Revenue.

Separate Revenue, No. 245.

Abkari.

Communicated to the Legislative Department with Bill and statement of objects and reasons, and to the Board of Revenue.

2. The additions required to render the Bill applicable to the regulation of the traffic in intoxicating drugs other than opium have been made, and Sections 61, 62, and 68 have been struck out.

3. It is desirable that the Bill should be introduced in the Legislative Council at the earliest possible date.

4. The report adverted to in paragraph 8 of the letter read above has been furnished.

(True Extract.)

(Signed) H. E. STOKES,
Secretary to Government.

To the Legislative Department,
with Bill and statement of objects and reasons.
,, Board of Revenue.

Exd. A. F. Aaron.

50 Copies.

26.208

Official
Govt. of (1884) Madras.

REVENUE.

*Inde. No. 8718/84
No. 4123/87*
Issued

Recd.

Encl.

G.O., 9th October 1884, No. 1103.

OCTOBER.

Bill to amend the Madras Abkari Act.

Letter from the Government of India, making observations on the draft —, communicated, with remarks, to the Legislative Department and the Board of Revenue.

No. 3181.

GOVERNMENT OF INDIA.

DEPARTMENT OF FINANCE AND COMMERCE.

SEPARATE REVENUE, &c.
Excise.

To
THE CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS,
REVENUE DEPARTMENT.

Simla, the 16th September 1884.

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I have the honour to be,

S R,

Your mos. obedient Servant,

J. H. M. L. G.

Offg. Under-Secy. to the Govt. of India.

Revenue 1884 B.A.

GOVERNMENT OF INDIA.
DEPARTMENT OF FINANCE AND
COMMERCE.

SEPARATE REVENUE, &c.
Excise.

14/11/84

To

THE CHIEF SECY. TO THE GOVT. OF MADRAS,
REVENUE DEPARTMENT.

No. 3181.

Dated Simla, the 16th September 1884.

Received *25*

Observations on the draft Bill to amend the
Madras Abkari Act.

G. C. D. Press, Simla.—No. 613 C. F.—16-9-84—30.

BOARD OF REVENUE, 5TH MAY 1884, No. 1517.

APPENDIX A.

An Act to consolidate and amend the Abkari
Law of the Presidency of Madras.

WHEREAS it is expedient to consolidate
and amend the law relating to the import,
export, transport, manufacture, sale, and
possession of ~~intoxicating~~ liquor in the
Presidency of Madras; It is enacted as
follows:—

I.—PRELIMINARY AND DEFINI-
TIONS.

1. This Act may be cited as "The
Madras Abkari Act,
1884."

It extends to the
whole of the Presi-
dency of Madras;

And it shall come into force in any
portion of the said
Presidency on such

date as Government by Notification in the
Port St. George Gazette shall direct.

2. The enactments mentioned in the
schedule hereto an-
nexed are repealed

to the extent specified in the third column
of the said schedule:

Provided that all licenses granted under
any of the said enactments in force on the
date on which this Act comes into opera-
tion in any portion of the said Presidency
shall continue in force for the periods for
which the same have been respectively
granted, subject to the provisions of the
enactments under which such licenses were
granted:

Provided further that the said repeal
shall not affect any act done, or any
offence committed, or any proceedings
commenced, or any claim which has arisen,
or any penalty which has been incurred,
before this Act comes into operation.

3. In this Act, unless there be some-
thing repugnant in
the subject or con-
text—

(1) "Abkari Revenue" means revenue
derived or derivable
from any duty, fee,

tax, fine or confiscation imposed or
ordered under the provisions of this Act,
or of any other law for the time being in
force relating to liquor.

(2) "Abkari Officer" means the Com-
missioner, a Collec-
tor, or any officer or

or intoxicating drugs

and intoxicating drugs

other person lawfully appointed or invested with powers under sections four, five or six, and includes the Board of Revenue when exercising any of its functions or powers in respect of Abkari Revenue.

(3) "Commissioner" means the officer appointed by Government under section four.

(4) "Collector" means a Collector of Land Revenue, or any person appointed under section four to exercise any or all of the powers and perform any or all of the duties of a Collector under this Act.

(6) "Toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree.

(7) "Spirits" means any liquor containing alcohol and obtained by distillation.

(8) "Liquor" includes spirits of wine, spirits, wine, toddy, ale, beer, porter and all liquid consisting of or containing alcohol.

(9) "Duty of excise" means duty at a certain rate charged on each imperial gallon of liquor removed from a distillery, depot or other place of production, manufacture or storage.

(10) "Country liquor" means liquor produced or manufactured in British India, but shall not be held to include spirits so manufactured on which duty of excise has been levied or is leviable under this Act at the rates of Customs duty prescribed by the Indian Tariff Act, 1882, or other law for the time being in force relating to Customs duty on goods imported into British India.

(11) "Foreign liquor" includes all liquor other than country liquor.

(12) "Import" means to bring into the Madras Presidency from sea, or from foreign territory or from any other part of British India.

(13) "Export" means to take out of the Madras Presidency to sea, or to foreign territory or to any other part of British India.

(12) Intoxicating Drug includes Saje, Shang, and every preparation and admixture of the same, and every intoxicating drink prepared from hemp, grain or other materials not included in the term "Liquor"; but does not include opium or anything included within the meaning of that word as defined in the Indian Opium Act, 1875.

5 (14) "Transport" means to move from one place to another within the Madras Presidency.

6 (15) "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor is produced or prepared, and also redistillation and every process for the rectification of liquor.

In any case in which doubt arises the Government may decide what for the purposes of this Act shall be deemed to be "country liquor" and what "foreign liquor"; and such decision shall be binding on the Courts.

II.—ESTABLISHMENT AND CONTROL.

4. Notwithstanding anything contained in Regulations I and II of 1803, Government may, by Notification applicable to any district or place in which this Act is in force,

(a) Appoint an officer, to be styled the Commissioner of Excise, who shall exercise all the powers of a Collector in respect of the Abkari Revenue and who shall have, subject to the orders of the Board of Revenue, or, if Government so direct, independently of the Board of Revenue, the control of the administration or of the collection of the Abkari Revenue or of both; and may in either case direct that the control exercised by the Board of Revenue over Collectors in respect of the Abkari Revenue shall be exercised by such Commissioner;

(b) Appoint any person other than the Collector of Land Revenue to exercise all or any of the powers and to perform all or any of the duties of a Collector in respect of the Abkari Revenue, either concurrently with or in exclusion of the Collector of Land Revenue, subject to such control as Government may from time to time direct;

(c) Withdraw from the Collector of Land Revenue any or all of his powers in respect of the Abkari Revenue.

5. To aid in carrying out the provisions of this Act, subordinate officers may be appointed of such classes and with such

or intoxicating drug

(14) 'L' means a weight of eighty tolas.

designations, powers, and duties under this Act as Government may think fit; and Government may order that all or any of the powers and duties assigned to any such officers shall be exercised and performed by any Government Officer or any person, and may from time to time vary or cancel such order.

6. Government may make Rules to regulate—

- (1) The powers and duties under this Act to be exercised and performed by Abkari Officers of the several classes.
- (2) The delegation by the Board of Revenue, by the Commissioner, or by Collectors of any powers conferred by this Act or exercised in respect of Abkari Revenue under any Act for the time being in force.

Government may by Notification delegate any powers which it itself possesses in respect of Abkari Revenue to any Abkari Officer.

III.—IMPORT, EXPORT, AND TRANSPORT.

7. No liquor shall be imported unless—

- (a) it is liable to the payment of duty under the Indian Tariff Act, 1882, or any other law for the time being in force relating to the duties of customs on goods imported into British India and has been dealt with according to such law; or
- (b) such import is permitted under the power next hereinafter conferred. Subject to the orders of Government the Collector may, from time to time,
- (c) permit the import of liquor, or of any kind of liquor, other than liquor liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and
- (d) cancel such permission.

8. No liquor shall be exported unless—

- (a) it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted

by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transshipment or re-exportation; or

- (b) such export is permitted under the power next hereinafter conferred.

Subject to the orders of Government the Collector may, from time to time,

- (c) permit the export of liquor or of any kind of liquor on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and
- (d) cancel such permission.

9. Nothing in the two last preceding sections shall be deemed to affect any law for the time being in force which

prohibits or restricts the importation of any liquor into the said Presidency, or which empowers the Governor-General in Council to prohibit or restrict such importation, or which empowers the Governor-General in Council to exempt any liquor from the whole or any part of the duties of customs to which it is liable under any law for the time being in force.

10. No liquor exceeding such quantity as Government may prescribe by Notification either generally for the whole Presidency, or for any local area, shall be transported except under a permit issued under the provisions of the next following section.

Provided that in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted under the provisions of this Act such permits shall be dispensed with unless Government shall by Notification otherwise direct with respect to any local area.

11. Permits for the transport of liquor may be issued by the Collector or by any other Abkari officer duly empowered in this behalf.

Such permits shall be either general for definite periods and kinds of liquor or special for specified occasions and particular consignments only.

Every permit shall specify—

- (a) the name of the person authorized to transport liquor;
- (b) the period for which the permit is to be in force;
- (c) the quantity and description of liquor for which it is granted;
- (d) the places from and to which the liquor is to be transported, and, in the case of places more than ten miles apart, the route by which it is to be conveyed; and
- (e) any other particulars which Government may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

IV.—MANUFACTURE AND SALE.

12. No liquor shall be manufactured;

no toddy shall be drawn from any tree; no toddy-producing tree shall be tapped; no distillery or brewery shall be constructed or worked; and

no person shall use, keep, or have in his possession, any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy,

except under the authority and subject to the terms and conditions of a license granted by the Collector in this behalf, or under the provisions of section twenty.

13. The Collector may, with the previous sanction of Government,

- (a) establish at any place within his jurisdiction a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under the last preceding section on such conditions as Government deems fit to impose; and
- (b) discontinue any public distillery so established.

14. No liquor shall be sold without a license from the Collector, provided that a person having the right to the

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toddy drawn from any tree may sell the same without a license to a person licensed to manufacture or sell toddy under this Act.

Provided also that Government may from time to time, by Notification, suspend in any local area any or all of the provisions relating to toddy contained in this Act.

Provided further that Government may in like manner declare that any or all of the provisions of this Act shall not apply in any local area to trees tapped, or to toddy drawn in pots or other receptacles freshly coated internally with lime, for the purpose of the manufacture of jaggery.

15. It shall be lawful for Government to grant to any person or persons on such conditions and for such period as may seem fit the exclusive or other privilege of manufacturing or supplying or of selling or of manufacturing or supplying and selling any liquor or liquors within any local area.

Grantees of any privilege under this section shall take out licenses from the Collector for the exercise of the same.

In such cases the provisions of section twelve relating to toddy and toddy-producing trees shall not apply.

V.—DUTIES.

16. A duty shall, if Government so direct, be levied on all liquor.

- (a) permitted to be imported into any part of the Presidency of Madras under the provisions of section seven clause, (c); or
- (b) permitted to be exported from any part of the said Presidency under the provisions of section eight, clause (c); or
- (c) manufactured under any license granted under section twelve; or
- (d) manufactured at any distillery established under section thirteen; or
- (e) permitted under section eleven to be transported; or
- (f) sold in any part of the said Presidency,

of such amount as Government may from time to time prescribe.

Provided that it shall be lawful for the Government to exempt any liquor from any duty to which the same may be liable under any of the provisions of this Act.

and a person cultivating groves of any plant from which an intoxicating drug is produced may sell without license those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed to sell, manufacture or export intoxicating drugs.

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17. Such duty may be imposed in one or more of the following ways—

- (a) by duty of excise;
 (b) by lump sums to be paid at one time or in such instalments as Government may see fit to direct, in consideration of the grant of any exclusive or other privilege of manufacturing or supplying or of selling, or of manufacturing or supplying and selling, any liquor in any local area and for any specified period of time;
 (c) by fees on licenses for manufacture or sale;
 (d) in the case of toddy or spirits manufactured from toddy by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as Government may direct; or
 (e) by transport duties assessed in such manner as Government may direct.

18. Tax on toddy trees due under clause (d) of section seventeen shall be leviable primarily from the person holding the license to draw toddy, and in default by him, or if the trees are tapped without license, from the owner of the trees, who shall be entitled to recover any duty paid by him from the holder of the license, in any, under the provisions of any law for the time being in force for the recovery of rent by land-holders from their tenants.

19. All or any of the duties leviable under this Act in any local area may, with the sanction of Government, be farmed, subject to such payment and on such other conditions as Government shall prescribe. Farmers of duties under this section shall take out licenses as such from the Collector.

20. When the exclusive privilege of manufacturing toddy has been granted under section fifteen, Government may declare that the written permission of the grantee for drawing toddy shall have, within the area to which the privilege extends, the same force and effect as a license from the Collector for that purpose under section twelve.

21. Grantees of exclusive or other privileges or farmers of Abkari revenue

to be charged in the case of spirit either alternatively, or in accordance with such scale of equivalents as Government may prescribe, on the quantity of materials used, or the degree of attenuation of the work, or on the quantity of spirit produced or on the quantity of hands employed in the distilling.

may, unless prohibited by the conditions of the grant or farm, sub-rent any portion of their privilege or farm. All holders of such sub-rents shall take out licenses as such from the Collector.

22. When any amount is due to any such grantee or farmer by a sub-renter or licensee, or to any sub-renter by a licensee, on account of a portion of the exclusive or other privilege or of any duty farmed, such grantee, farmer or sub-renter shall be entitled to recover such amount from the persons by whom it is due under the provisions of any Act for the time being in force for the recovery of rent by land-holders from their tenants.

Provided that nothing contained in this section shall affect the right of any such grantee, farmer or sub-renter to recover by suit in the Civil Court or otherwise any such amount due to him from any such person as aforesaid.

VI.—LICENSES, &c.

23. Every license or permit granted under this Act shall be granted—

- (a) on payment of such fees, if any;
 (b) for such period;
 (c) subject to such restrictions and on such conditions; and
 (d) shall be in such form and contain such particulars,

as Government may direct either generally, or in any particular instance in this behalf:

and every license for drawing toddy granted under section twelve shall specify, in addition to any other particulars prescribed by Government, the number, description and situation of the trees to be tapped.

24. Every person taking out a license for the manufacture or sale of any liquor under this Act may be required to execute a counterpart agreement in conformity with the tenor of his license, and to give such security for the performance of his agreement as the Collector may require.

25. The Collector may cancel or suspend any license or permit granted under this Act,

- (a) if any fee or duty payable by the holder thereof be not duly paid; or
- (b) in the event of any breach by the holder of such license or permit or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such license or permit; or
- (c) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to Abkari revenue, or of any criminal offence; or
- (d) where a license or permit has been granted on the application of a grantee or sub-renter of an exclusive or other privilege or of a farmer of duties under this Act, on requisition in writing by such grantee or sub-renter or farmer; or
- (e) if the conditions of the license or permit provide for such cancellation or suspension at will.

VII.—GENERAL PROVISIONS.

26. The Government may prescribe the measures which shall be used for the sale of liquor, and may fix for any local area a minimum price below which any liquor shall not be sold.

27. Every person who manufactures or sells liquor under a license granted under this Act shall be bound—

- (a) to supply himself with such measures and with such instruments for testing the strength or quality of liquor as the Collector may prescribe, and to keep the same in good condition; and
- (b) on the requisition of any Abkari officer duly empowered in this behalf at any time to measure out or to test the strength or quality of any liquor in his possession in such manner as the said Abkari officer may require.

28. All duties, taxes, fines and fees payable to Government direct under any of the foregoing provisions of this Act, or of any license or permit issued under it, and all amounts due from any grantee of a privilege or from any farmer under this Act may be recovered from the

person primarily liable to pay the same, or from his surety (if any) as if they were arrears of Land Revenue, and in case of default made by a grantee of a privilege or by a farmer, the Collector may take the grant or farm under management, or may declare the grant or farm forfeited and resell it at the risk and loss of the defaulter. When a grant or farm is under management under this section, the Collector may recover amounts due by sub-renters or licensees under engagements with the grantee or farmer as if they were arrears of Land Revenue.

29. The Government may from time to time frame Rules—

- (a) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who use it in the manufacture of bread or who distil spirits from it;
- (b) for determining the number of licenses of each description to be granted in any district or place;
- (c) for regulating the number, size and description of stills to be used in any distillery;
- (d) providing for the inspection and supervision of stills, distilleries and breweries;
- (e) for the management of any public distillery established under section thirteen;
- (f) for placing the storage, import, export or transport of liquor under such supervision as may be deemed necessary for the purposes of this Act;
- (g) prohibiting the use of any article which they shall deem to be noxious or otherwise objectionable in the manufacture of liquor;
- (h) generally, to carry out the provisions of this Act or of any other law for the time being in force and relating to the Abkari Revenue.

VIII.—POWERS AND DUTIES OF OFFICERS, &c.

Power to enter and inspect places of manufacture and sale, and to enter, seize, and arrest on information that liquor, &c., is unlawfully kept in any enclosed place.

30. The Commissioner, or a Collector, or any other Abkari Officer duly empowered in this behalf, may

- (a) enter and inspect, at any time by day or by night, any shop or premises in which any licensed manufacturer or vendor carries on the

*The preparation of intoxicating
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manufacture or sale of any liquor, or draws toddy, or stores any such liquor, and examine, test, measure or weigh any such person's stock of liquor or materials; or

(b) enter, at any time by day or by night, any building, vessel or enclosed place in which he has reason to believe that liquor liable to confiscation under this Act is manufactured, kept or concealed, or that toddy is drawn, or that any still, utensil, implement or apparatus is used, kept or concealed for the purpose of manufacturing liquor contrary to the provisions of this Act; and

(c) in case of resistance, break open any door and remove any other obstacle to his entry into any such building, vessel or enclosed place; and

(d) seize any liquor and any materials used in the manufacture thereof, and any still, utensil, implement or apparatus and any other thing found in such building, vessel or enclosed place which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to the Abkari Revenue; and

(e) detain and search and, if he think proper, arrest any person found in such building, vessel or enclosed place whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to the Abkari Revenue.

Provided that every person arrested under this section shall always be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance before a Magistrate or before an Abkari Officer duly empowered under sections thirty-six to forty-six inclusive of this Act.

31. All officers of the Abkari, Salt, Police, Land Revenue or Customs Departments, and any other officer duly

empowered in this behalf, may arrest without warrant in any public thoroughfare or open place any person found committing an offence against this or any other law for the time being in force relating

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to the Abkari Revenue or against any Rule made in pursuance thereof; and in any such place may seize and detain any liquor or other article which they have reason to believe to be liable to confiscation under this Act or any other such law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which, they may have reasonable cause to suspect any such liquor or other such article to be, or to be concealed.

32. All searches under the two last preceding sections shall be made in accordance with the provisions of the Code of Criminal Procedure.

33. All officers of the Departments of Police, Customs, Salt and Land Revenue shall be legally bound to assist any Abkari Officer in carrying out the provisions of this Act.

34. Every officer employed by Government, other than an Abkari Officer, shall be bound to give immediate information to an Abkari Officer, and every Abkari Officer shall be bound to give immediate information either to an Abkari Officer duly empowered under sections thirty-six to forty-six inclusive or to his immediate official superior,

of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

35. All Zemindars, proprietors, tenants, under-tenants and cultivators who own or hold land on which there shall be any manufacture of liquor not licensed under this Act shall be bound to give notice of the same to a Magistrate or to an officer of the Abkari, Salt, Police, Customs or Land-Revenue Departments immediately the same shall have come to their knowledge.

36. When any person is arrested under the provisions of sections thirty or thirty-one of this Act, the person arresting him shall, unless bail shall have been accepted under the provisions of section thirty, forthwith for-

drug

drug

or intoxicating drug

Offenders may be arrested, and contraband liquor and articles seized, without warrant.

Persons arrested how to be dealt with.

ward him to the Collector or other Abkari Officer duly empowered to inquire into offences against the Abkari Revenue under this section and sections thirty-seven to forty-six inclusive of this Act, or, if there be no such officer within a distance of ten miles from the place at which such arrest took place, to the nearest Police station, with a report of the circumstances under which such arrest was made.

37. When any person arrested under this Act is brought to a Police station as aforesaid, the officer in charge thereof shall either admit him to bail as hereinafter provided to appear before such Abkari Officer as aforesaid within the limits of whose jurisdiction the offence with which he is charged is suspected to have been committed, or in default of bail shall forward him in custody to such officer.

38. When any person arrested under this Act is brought before such Abkari Officer as aforesaid or appears before him on bail as hereinafter provided, such officer shall, after such inquiry as he may deem fit, either release such person, or forward him in custody to, or admit him to bail to appear before, the Magistrate having jurisdiction to try the case.

39. Every person, whom it is lawful to forward in custody to such Abkari Officer as aforesaid or to a Magistrate, as the case may be, shall be admitted to bail if sufficient bail be tendered for his appearance before such officer or Magistrate.

40. When any such person is admitted to bail, a recognizance, in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper, shall be entered into by such person and by one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance and shall continue to attend until otherwise directed by such Abkari Officer as aforesaid before whom he was bailed to attend, or by the Magistrate, as the case may be.

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the recognizance entered into by such person.

41. When by reason of default of appearance of a person bailed to appear before such Abkari Officer as aforesaid, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the recognizance of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

42. When such Abkari Officer as aforesaid forwards in custody any person accused of an offence contrary to the provisions of this Act or of any other law for the time being in force relating to the Abkari Revenue, or of any Rule made in pursuance thereof, to the Magistrate having jurisdiction to try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report, setting forth the name of the accused person and the nature of the offence with which he is charged, and the names of the persons who appear to be acquainted with the circumstances of the case; and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report a competent Magistrate shall have jurisdiction to inquire into such offence and to try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure.

43. When such Abkari Officer as aforesaid forwards in custody any person accused of an offence contrary to the provisions of this Act or of any other law relating to the Abkari Revenue for the time being in force or of any Rule made in pursuance thereof to the Magistrate having jurisdiction to try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure on an officer

in charge of a Police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

44. No Police Station Officer or Abkari Officer duly empowered as aforesaid to inquire into offences against the Abkari Revenue shall

Accused not to be detained in custody for a longer period than twenty-four hours without special authority.

detain a person accused or suspected of having committed an offence contrary to the provisions of this Act or of any other law relating to the Abkari Revenue for the time being in force or of any Rule made in pursuance thereof for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where such Abkari Officer as aforesaid may be, and from thence to the Court having jurisdiction to try the case.

45. All officers in charge of Police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of such Abkari Officer as aforesaid all articles seized under this Act which may be delivered to them; and shall allow any Abkari Officer who may accompany such articles to the Police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be secured by the seal of the officer in charge of the Police station.

46. Any such Abkari Officer as aforesaid may, after recording his reasons in writing, summon any person to appear before

Abkari Officer duly empowered may summon persons suspected of offences against Abkari laws.

him whom he has good reason to suspect of having committed an offence against this or any other law for the time being in force relating to the Abkari Revenue, or against any Rule made under its provisions. When such person appears before such Officer, such Officer shall thereupon deal with him in the manner prescribed by sections thirty-eight, thirty-nine, forty and forty-one of this Act.

47. Any Abkari Officer duly empowered in this behalf holding an investigation regarding an offence against any law relating to the Abkari Revenue or against any Rule made in pursuance thereof may summon any person to appear before himself to give evidence in such investigation or to produce any document relevant thereto which may be in his possession or under his control.

Provided that no such Abkari Officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the Government may from time to time by Rule direct.

48. Summonses under the last preceding section shall be in writing and shall be signed by the officer issuing them. They shall be served in the manner prescribed by the Code of Criminal Procedure and shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

49. Persons so summoned shall attend as required and shall answer all questions relating to such investigation put to them by such officer. Such answers may be reduced into writing.

50. It shall be lawful for such officer to proceed to the residence of any person who, from sickness or other infirmity, may be unable to attend before him or whom by reason of rank or sex it may not be proper to summon, and there to require him to answer such questions as he may consider necessary with respect to such investigation, instead of summoning him to appear; and such person shall be bound so to answer accordingly, and the provisions of Section forty-nine shall apply to such answers.

51. Any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

52. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which liquor is sold by retail shall be closed at such times as he may deem it necessary for the sake of public peace and order that such shop should remain closed. If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any Police officer who is present, to require such shop to be kept closed for such period as he deems fit.

IX.—PENALTIES.

53. Whoever, in contravention of this Act, or of any Rule or order made under this Act, or of any license or permit obtained under this Act,

- (a) imports, exports or transports liquor; or
 - (b) manufactures liquor; or
 - (c) taps any toddy-producing tree; or
 - (d) draws toddy from any tree; or
 - (e) constructs or works any distillery or brewery; or
 - (f) uses, keeps, or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy; or
 - (g) sells liquor,
- shall be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

54. Whoever, in contravention of this Act, or of any Rule or order made under this Act, or of any license or permit obtained under this Act,

- (a) neglects to supply himself with measures for measuring liquor, or with instruments for testing the strength of liquor, or to keep the same in good condition; or
 - (b) refuses to measure or test the strength or quality of any liquor in his possession,
- shall be punished for each such offence with fine which may extend to one hundred rupees.

55. Whoever, being the holder of a license or permit granted under this Act,

or any intoxicating drug

*or any intoxicating drug
or any intoxicating drug*

*or any intoxicating drug
or any intoxicating drug*

- (a) fails to produce such license or permit, on the demand of any Abkari Officer or of any other officer duly empowered to make such demand; or
 - (b) commits any act in breach of any of the conditions of his license or permit not otherwise provided for in this Act; or
 - (c) wilfully contravenes any Rule prescribed for the management of a public distillery established under section thirteen of this Act; or
 - (d) commits any act in breach of the conditions on which he is permitted to manufacture liquor in any such public distillery; or
 - (e) permits drunkenness, riot or gaming in any shop or place in which liquor is sold or manufactured; or
 - (f) permits persons of notoriously bad character to meet or remain in any such shop or place,
- shall be punished for each such offence with fine which may extend to two hundred rupees.

56. Whoever, being the holder of a license for the sale or manufacture of liquor under this Act,

- (a) mixes or permits to be mixed with the liquor sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any Rule made under section twenty-nine, clause (g), when such admixture shall not amount to the offence of adulteration under section two hundred and seventy-two of the Indian Penal Code; or
- (b) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor; or
- (c) marks the cork of any bottle or any bottle, case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign

or intoxicating drug

or any intoxicating drug

or intoxicating drug

liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section four hundred and eighty-two of the Indian Penal Code; or

- (d) sells or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section four hundred and eighty-six of the Indian Penal Code,

shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

57. Whoever knowingly and unlawfully has in his possession any quantity of liquor which has been

For possession of illicit liquor.

unlawfully manufactured or imported or on which the prescribed duty has not been paid shall be punished with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months or with both.

or intoxicating drug

58. Any Abkari or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or enclosed place;

For vexatious search or arrest.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any thing liable to confiscation under this Act;

or vexatiously and unnecessarily detains, searches, or arrests any person; or in any other way vexatiously exceeds his lawful powers,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

59. Any Abkari or other officer or person who vexatiously and unnecessarily

For vexatious delay.

delays forwarding to the Collector or other Abkari Officer duly empowered to enquire into offences against the Abkari

Revenue under sections thirty-six to forty-six inclusive of this Act or to the officer in charge of the nearest police-station as required by section thirty-six of this Act, any person arrested, or any illicit articles seized under this Act, shall be punished with fine which may extend to two hundred rupees.

60. Any Abkari or other officer who unlawfully releases

For conniving at escape of persons arrested, &c.

or connives at the escape of any person

arrested under this Act, or connives at the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkari Revenue may be defrauded,

and any officer of any other department named in section thirty-three invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

61. Any officer of any of the departments named in section thirty-three

For neglecting to assist an Abkari Officer.

who, without lawful

excuse, neglects or refuses to assist any Abkari Officer in carrying out the provisions of this Act or who fails to give information or to prevent offences as specified in section thirty-four, shall be punished with fine which may extend to five hundred rupees.

62. Any Abkari Officer who, without lawful excuse, shall

For refusal to serve, &c., by Abkari Officer.

cease or refuse to perform, or shall

withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so; or

who shall offer any unwarrantable personal violence to any person in his custody; or

who shall be guilty of cowardice or malingering,

shall be punished with fine which may extend to six months' pay or with imprisonment which may extend to three months, or with both.

63. Whoever wilfully does, or omits to do, anything in contravention of any of the provisions of this Act, or of any Rule or order made under this Act, and not otherwise provided for in this Act,

shall be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

64. In prosecutions under section fifty-three it shall be presumed, until the contrary is proved,

that the accused person has committed an offence under that section in respect of any liquor, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor other than toddy, or any such materials as are ordinarily used in the manufacture of liquor, for the possession of which he is unable to account satisfactorily;

and the holder of a license or permit under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting on his behalf under section fifty-three, fifty-four, fifty-five, fifty-six or fifty-seven as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

65. All liquor imported, exported, transported, sold or had in possession, in contravention of this Act, or of any Rule or order made under this Act, or of any license or permit obtained under this Act;

all toddy drawn from any tree in contravention of this Act, or of any such Rule, order, license or permit as aforesaid; and

all liquor, if any, lawfully imported, exported, transported, manufactured, sold or had in possession, and all toddy, if any, lawfully drawn, along with, or in addition to, any liquor imported, exported, transported, manufactured, sold or had in possession, or along with, or in addition to, any toddy drawn as aforesaid; and

all stills, utensils, implements or apparatus whatsoever for the manufacture of

*or intoxicating drug
or of any intoxicating drug
or of any intoxicating drug*

or intoxicating drugs

and all intoxicating drugs, if any.

or intoxicating drugs

liquor other than toddy, used, kept or had in possession, in contravention of this Act, or of any Rule or order made under this Act, or of any license or permit obtained under this Act; and

all materials collected or had in possession for the purpose of unlawfully manufacturing liquor; and

the receptacles, packages and coverings in which any liquor, still, utensil, implement, apparatus or materials aforesaid is found, and the other contents, if any, of the receptacles or packages in which the same is found, and the animals, carts, vessels, or other conveyances used in carrying the same,

shall be liable to confiscation.

66. All confiscations under this Act shall be adjudged by the Collector, and all confiscated articles shall be disposed of, subject to such Rules as the Government may prescribe in this behalf.

67. Any Abkari Officer specially empowered in this behalf may accept from any person whose license or permit is liable to be cancelled or suspended under clauses (a) and (b) of section twenty-five, or who is reasonably suspected of having committed an offence under sections fifty-four, fifty-five or sixty-three, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension or by way of compensation for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

X.—MISCELLANEOUS.

68. The provisions of sections sixty-four to seventy, both inclusive, of the Indian Penal Code shall apply to all fines inflicted by a Magistrate under this Act; and any imprisonment awarded under this Act may be of either

or of any intoxicating drug

or any intoxicating drug

intoxicating drug

me

description within the meaning of the Indian Penal Code.

67. All Rules made and Notifications issued under this Act shall be made and issued by publication in the *Fort St. George Gazette* and shall thereupon have the force of law. All such Rules and Notifications may in like manner be varied, suspended or annulled.

67. All Notifications and orders conferring powers, imposing duties and making appointments under this Act may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles; and all Courts shall take judicial notice thereof.

68. Nothing in the foregoing provisions of this Act applies to the manufacture, possession, sale or supply of any *bond fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for Government at any time, by Notification, to prohibit the sale of any such article within any defined local area or place except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as Government may deem fit to prescribe.

69. No action shall lie against Government, or against any Abkari officer for damages in any Civil Court for any act lawfully done or ordered to be done by them in pursuance of this Act, or of any law at the time in force relating to Abkari Revenue; and all prosecutions of any Abkari officer, and all actions which may be lawfully brought against Government, or against any Abkari officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of, and not afterwards; and any such action if for damages shall be dismissed if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is

paid into Court with costs, by or on behalf of the defendant:

Provided that nothing in this section shall be deemed to affect the powers or jurisdiction of Her Majesty's High Court of Judicature or of the Court of Small Causes at Madras.

SCHEDULE.

(SEE SECTION TWO.)

Enactment.	Subject.	Extent of repeal.
Act XIX of 1852 ..	For better securing the Abkari revenue of the town and suburbs of Madras.	The whole, so far as it has not already been repealed.
Act III of 1856 ..	An Act to amend Act XIX of 1852 ..	The whole.
Act III of 1864 (Madras) ..	An Act for amending the Abkari laws of the Madras Presidency beyond the limits of the Madras Abkari as prescribed by Act XIX of 1852.	The whole, so far as it has not already been repealed.
Act V of 1879 (Madras) ..	The Madras Abkari Laws Amendment Act, 1879.	The whole.

Statement of Objects & Reasons.

The Govt. having recently resolved, with the approval of the Govt. of India & the Secretary of State, to place the administration of the Abkain Revenue under the ^{control} ~~direction~~ of a Commission, ~~it is found that~~ legislation and to undertake directly ^{inventive arrangements} ~~the duty of protection~~ measures for the protection of the revenue which have hitherto been left to abkain rulers, it is found that legislation is necessary to confer the necessary powers, and the present Bill has accordingly been prepared.

2. The Govt. of India has also ~~imposed~~ ^{called} attention to the desirability of legislation

2/11/10
5/10
11/10

in this Presidency for the
regulation of traffic in intoxicating
drugs other than champagne
a subject which has for
some time engaged attention
in this Presidency, ^{and on} ~~which~~
^{what} a Bill ^{was} ~~being~~ intro-
duced into the Legislative
Council in 1875. The present
Bill, which is based in great
measure on the Bombay Act
of 1878, contains all the
provision necessary with regard
to intoxicating drugs.

3. The existing Mahomedan law
is contained in form enact-
ments, and has been found
confused and defective, es-
pecially in respect of the
differences, for which there is

no valid reason, between the
law of the mofussil and
of the Presidency towns. It
prompted therefore to repeal
the whole of it, engrafting on
the Bombay Act such of the
provisions of the existing law
of Madras as are ^{especially} ~~particularly~~
~~required by the circumstances~~
required by the circumstances
of this Presidency, & adding such
minor
amendments of those provisions
as experience has shown to
be ^{warranted} ~~necessary~~. ^{the Bill} ~~will extend to the whole of the~~
~~Presidency~~ The only addition to the
substantive ^{liquor} law of Madras ^{is}
which need be noted, ^{here} is the
former ~~now~~ ^{the} expressly conferred
upon Government of taking
the toddy revenue in the shape

for tax on trees tapped, a
system which is possible ~~and~~
under the present Act, and which
has been ^{successfully} ~~found to be~~ worked in
Bombay. The Bill will extend
to the whole Presidency.

4. The Secy of India have printed
out that in 16 clauses (c) of
is in conflict with section
6 of the Tariff Act of 1882, but
have expressed their intention
to introduce a bill ~~for~~ into the
Council of the Viceroy for the
repeal of the latter enactment.

H.L.

NOTE FOR THE GOVT OFFICE.

Go. No. 109 — The "Abkari
Bill" and "Statement of
Objects & Reasons" have
already been printed by
the Legislative Dept. The
copies sent along with
the Go. have therefore
been taken from them.

NL 15710.

The heading "S. Miscellaneous"
has been omitted in these copies
of the Bill.

NL 15710

5th Dec 1884
Alkani

L 1109 of 9.10.84.

Letter from the Secy to Govt
of India, Financial Dept.
16 Sep 1884 No 3481.

all 5/10

with Bill & statement of
objts & reasons

Communicated to the Legisla-
tive Department, and to the
Board of Revenue.

2. The additions required
^{under} the Bill applicable
to the regulation of the traffic
in intoxicating drugs other
than opium have been made,
and sections 61, 62, & 68
have been struck out. The

~~2. It is recommended that the
Bill should be introduced in the~~

3. It is desirable that the
Bill should be introduced in
the Legislative Council at
the earliest possible date.

4. The report adverted to in
para 2 of the letter read

The Bill is a measure of
importance and should be
introduced in the Council
as soon as possible.

above has been furnished.

W.S.

To the Legislative Dept.
with bill & stat of Maryland
The Board of Revenue.

24th May 1810.

W.S. (from the Board of Revenue)

John Bell

10/10

John Bell

John Bell

New No. Sect. I (3)-1—Old No. M.R.O. 1—10,000—10-6-21

- (1) Number of pages _____
- (2) Date of repair _____
- (3) Initials of the Referencer _____