

ACT No. XXIX. OF 1838.

*Passed by the Hon'ble the President of the Council of India
in Council, on the 12th November, 1838.*

IT is hereby enacted, that from the First day of December 1838, Sections LIX., LX. and LXI. Regulation X. 1819, of the Bengal Code, shall be repealed.

II. And it is hereby enacted, that when information shall be given to any Salt Agent or Superintendent of Salt Chokies that contraband Salt is stored in any warehouse, dwelling house, or other place situated in the tract of country in Bengal or Orissa within which the transportation of Salt without Ruwana is not lawful, and such Salt Agent or Superintendent of Salt Chokies shall deem the information credible, and desire to act thereupon, he shall require the same to be given to him in writing, or shall take the deposition of the informant, as may be most convenient, so that the following particulars shall be placed on record in his office—First, the name profession and place of residence of the informant. Second, the place, that is, the name of the town or village, and description of the house, warehouse or other place where the Salt may be stated to be in store. Thirdly, the name of the person to whom the house, warehouse, or other place belongs, or on account of, or by whom the Salt is there stored. Fourthly, the quantity and description of the Salt, and the grounds for believing the same to be contraband.

III. And

ACT No. XXIX. OF 1838.

III. And it is hereby enacted, that if the contraband Salt so stated to be in store exceed in quantity one maund or Indian mun, it shall be liable to seizure in manner following, that is to say, the Salt Agent or Superintendent of Chokies, having before him the written statement or deposition of an informer, given in or taken down as above prescribed, shall, provided the place of such store be not too distant, proceed in person, together with the informant, summoning by written notice the nearest Police Darogha or other Officer in charge of the Police Thana or Station to attend likewise, and witness the proceeding.

IV. And it is hereby enacted, that for the purpose of making seizure of Salt in store so informed against, it shall be competent to any Salt Agent or Superintendent, having a Police Officer in company, to break open the door of the house, warehouse or other place in which the Salt may be stated to be stored, if, upon requisition duly made, the door be not immediately opened by the owner or occupant thereof.

V. And it is hereby enacted, that if the Salt Agent or Superintendent shall not be able to proceed in person to make a seizure of Salt, in manner above provided, he shall send along with the informer one or more confidential Officers of his public establishment, not being under the rank of a Jemadar of Peons, giving to such Officer or Officers his warrant ordering and authorizing the seizure, and sending notice as above prescribed for the Police Darogha or other Police Officer to attend, and the Officer so deputed shall have power to act in like manner as is provided for the Agent or Superintendent in person; provided that the door of no house, warehouse or other place, shall be broken open to make a seizure of Salt except in the presence of a Salt Agent or Superintendent of Chokies, or of an Officer so specially deputed, and of an Officer of Police.

VI. And

ACT No. XXIX. OF 1838.

VI. And it is hereby enacted, that it shall be competent to the Head Officer of any Salt Chokee or Aurung for the manufacture of Salt, and for any Assistant to a Salt Agent or Superintendent, to receive information of Salt exceeding one maund in quantity being in store in a house, warehouse or other place in the manner prescribed in Section II. and to act thereupon as provided in Sections III. and IV. of this Act for the Salt Agent and Superintendent, provided that the place of store described in such information be situated at a distance of more than three kos from the station of a Salt Agent or Superintendent of Chokies, or from the place where the Salt Agent or Superintendent may be.

VII. And it is hereby enacted, that if the Darogha or person in charge of any Police Thana or Station, receiving notice to attend at a seizure of Salt in store as is above prescribed, shall not attend, or attending shall refuse to act in aid of the seizure, or shall in any way wilfully frustrate the object of the search and seizure, such Darogha or other Officer shall, on representation of the facts by the Officers of the Salt Department, and on conviction of the same before the Magistrate of the District, besides being dismissed from office, be liable to a fine equal to the amount of fine that would have been leviable on the owners of the Salt, if it had been seized according to the information laid.

VIII. And it is hereby enacted, that whenever it shall be necessary to break open any house, warehouse or other place to effect a seizure of Salt the rules and precautions prescribed in Regulation XX. of 1817 and Section X. Regulation VII. of 1799 of the Bengal Code, for breaking into a house for execution of process of distraint, shall always be observed by the Police Officers in attendance; provided however that the responsibility for the act, and the determination whether to require the door to be broken open or not shall rest with the Officers of the Salt Department only.

IX. And

ACT No. XXIX. OF 1838.

IX. And it is hereby enacted, that whenever a seizure of Salt in store in any house, warehouse or other place shall be made by a Salt Agent or Superintendent of Chokies, the circumstances which attended the seizure shall be recorded in an official proceeding to be placed on record in the office.

X. And it is hereby enacted, that if the seizure be made by an Officer of the Salt Department, other than an Agent or Superintendent of Chokies, such Officer shall report the circumstances within twenty-four hours to his official Superior; and the Police Officer in attendance shall likewise report the occurrences at the time of seizure to his Official Superior.

XI. And it is hereby enacted, that no Salt found in store in any house or warehouse shall be deemed to be contraband, or shall be liable to seizure, unless, when the search is made, there shall be found more thereof than one maund or Indian mun, and the owner or person in charge shall be unable to account satisfactorily for the manner of its being in his possession.

XII. And it is hereby enacted, that whenever Salt shall be seized as contraband, because unaccompanied by any Ruwana or other protecting document, the person or persons conveying, or having in charge the same shall be apprehended; and all Officers who are empowered to seize Salt under the provisions of Regulation X. 1819 of the Bengal Code, shall likewise be competent to arrest the parties found with or having the Salt in possession.

XIII. And it is hereby enacted, that it shall be lawful for the Salt Agents and Superintendents of Chokies and other Officers who may be duly empowered to seize Salt, to stop and search any boats or vessels of a build adapted for sea navigation, that may be found within the limits described in Section XXXIII. of this Act; and if Salt shall be found thereon, not accompanied

by

ACT No. XXIX. OF 1838.

by the necessary Ruwana or other protecting document, to detain the vessel with the crew thereof, and to take them for adjudication of the case to the nearest accessible station of an Officer empowered to adjudicate cases of contravention of the Salt Law.

XIV. And it is hereby enacted, in modification of Section XXXVI. Regulation X. of 1819 of the Bengal Code, that if any person shall be found in the act of conveying Salt without Ruwana, or other protecting document, exceeding in quantity five seers of 80 tolahs to the seer, within the tract of country in Bengal or Orissa wherein the transportation of Salt is prohibited unless so protected, or if several persons be found carrying Salt so unprotected, in gangs or companies, which Salt shall exceed in the whole quantity five seers for each person in such gang or company, every such person shall be subject to the penalties prescribed by Regulation X. of 1819 aforesaid, and by this Act, for the illegal possession and transportation of Salt.

XV. And it is hereby enacted, in modification of Section CXXI. of Regulation X. 1819 aforesaid, that any person or persons, who may be convicted of smuggling Salt without Ruwana singly or in gang, and sentenced to pay a fine to Government on account of Salt so smuggled or attempted to be smuggled, shall, if the fine be not paid, be liable to imprisonment in the Criminal or Foujdaree jail, for a period not exceeding six months in commutation of such fine.

XVI. And it is hereby enacted, in further modification of Section CXXI. of Regulation X. 1819 aforesaid, that any person, who may be sentenced under Sections XXXI., LXVIII. and LXX. of the said Regulation, to imprisonment in addition to fine, for the offences described in those Sections respectively, shall in like manner be liable, as above provided for persons convicted of gang smuggling,

smuggling, to undergo such punishment in the Foujdaree jail: and cases of the kind described in the said Sections shall be adjudicated, in like manner as cases in which fine only is adjudged: and the warrant of the Officer adjudicating any case under this or the preceding Section of this Act, shall be authority for the Magistrate, or other person in charge of the Foujdaree jail, to hold the person described therein in confinement in such jail, as may be specified and required in the said warrant.

XVII. And it is hereby enacted, that when any person shall be convicted of gang smuggling, or of any of the offences described in Sections XXXI. and LXX. of Regulation X. of 1819 aforesaid, after having been previously convicted of a like offence, he shall be sentenced, in addition to the penalty attaching to such offence, to imprisonment in the Foujdaree jail for a period of six months, and a like punishment of six months imprisonment shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

XVIII. And it is hereby enacted, that it shall be lawful for any Salt Agent to proceed for the recovery of any balance that may be due to Government within the year, upon any contract made for the manufacture of Salt in the limits of his Agency, by the process of distraint; and for the demand and levy of the same, to exercise the powers vested by the Regulations and Acts of the Government in zemindars and sudder farmers, being subject to like restrictions, and with the like remedies to any parties aggrieved thereby.

XIX. And it is hereby enacted, that if any person shall by threats or by violence prevent the lawful arrest of any person by an Officer duly authorized to seize Salt, or shall procure his release after arrest, or if the party found with the Salt in possession, or any other persons resist any such Officers, they shall severally

severally and respectively be liable to the punishment prescribed in Section I.VI. of Regulation X. 1819 of the Bengal Code.

XX. And it is hereby enacted, that if any Officer making an arrest upon account of Salt smuggling shall neglect to carry the person arrested to the proper Officer of the Salt Department, or shall delay to report the arrest to his superior, or shall release or connive at the escape of the person arrested, every such Officer shall, on conviction of any one of the above offences, besides dismissal from office, be liable to be sentenced for the same to a fine not exceeding 200 Rupees, and to imprisonment not exceeding three months; and the sentence may be adjudged by any Officer competent to adjudicate a forfeiture of contraband Salt, and, in case of non-payment of the fine, to a further imprisonment not exceeding three months, at the discretion of the Officer deciding the case.

XXI. And it is hereby enacted, that whenever any person may be arrested by an Officer of the Salt Department, or by any other Officer of other Departments duly empowered to make a seizure of Salt, the person making the arrest shall be bound to carry the party arrested direct to the Officer of the Salt Department who may be competent to try the case; and no person so arrested shall be released, until the case shall have been brought to judgment in the manner provided by Law.

XXII. And it is hereby enacted, that if any Officer of the Salt Department be convicted before the Magistrate of any District, of having vexatiously and unnecessarily seized the goods of any person on the pretence of seizing or searching for Salt, or of having vexatiously and unnecessarily arrested any person, or of having stopped and detained any boat unnecessarily and without authority, or of having detained any boat longer than is necessary for the
purpose

purpose of search, every such Officer shall, besides dismissal, be punished with imprisonment not exceeding six months, and with fine not exceeding 200 Rupees, commutable, if not paid, to a further imprisonment not exceeding six months.

XXIII. And it is hereby enacted, in modification of Section CXXII. Regulation X. of 1819 aforesaid, that if any person shall wilfully and maliciously give false information in respect to there being illicit Salt in store in any house or warehouse, and so procured that such house or warehouse shall be searched to the injury or vexation of the owners thereof, or of any other person or persons whatsoever, such false informer shall, on conviction of the offence before any Magistrate, be liable to imprisonment for two years, and to fine not exceeding 500 Rupees, at the discretion of any Magistrate by whom the case may be tried, and in case of the non-payment of the fine, to imprisonment for a further period of six months.

XXIV. And it is hereby enacted, that when parties shall be convicted of the illegal possession or transportation of Salt, and shall be liable to the penalty of five Rupees per maund as prescribed in Section XXXVI. Regulation X. of 1819 of the Bengal Code, the fine shall be at the said rate according to the quantity of Salt seized, whether less or more than one maund, and each one of the smugglers in company, or parties to the fraud on the Revenue, shall be liable to the whole fine.

XXV. And it is hereby enacted, that it shall be competent to the Governor or Deputy Governor of Bengal to vest with the power of adjudicating cases of contravention of the Laws for protection of the Revenue derived from Salt, any Assistant to a Salt Agent, or Uncovenanted Superintendent of Salt Chokies, who may seem to him qualified; and such Officers, when invested with

ACT No. XXIX. OF 1838.

with such powers, shall exercise them subject to the same rules and restrictions as Covenanted Salt Agents and Superintendents of Chokies; provided that no Officer adjudicating cases of contravention of the Salt Revenue Laws shall receive any part of the rewards that may be decreed or otherwise benefit directly by the adjudication of such cases.

XXVI. And it is hereby enacted, that cases arising out of this Act shall be tried in the same manner as is prescribed in Regulation X. of 1819 of the Bengal Code for other cases of contravention of the Laws for the protection of the Revenue derived from Salt; and the Officer adjudicating the case shall be guided by the provisions of Sections C. to CXVI. of that Regulation; and the Judge of the City or Zillah shall be bound to proceed in respect to persons sentenced to any fine or other penalty under the provisions of this Act, in the same manner, subject to the modifications and additions hereinafter provided, as is prescribed in respect to persons convicted of the offences and tried before the authorities specified and provided by the said Regulation.

XXVII. And it is hereby enacted in modification of Clauses XXXII. and XXXIII. of Regulation X. 1819 of the Bengal Code, that it shall be the duty of every party under direct engagements with Government for the Land Revenue, either as a proprietor or farmer, and of every proprietor of lakhiraj lands upon whose zemindaree, farm or lakhiraj estate there shall be any works producing Salt, otherwise than under contract with a Salt Agent or on account of Government, to give notice of the same in writing to the nearest public Officer of Police or Land Revenue or of the Salt Department, within ten days from the date on which the works were first prepared; and in like manner it shall be the duty of every person employed in the collection of the Land Revenue of any Muhal on the part of Government, or of the Court of Wards, or of joint proprietors, to give like notice in respect to Salt manufactured on
the

ACT No. XXIX. OF 1838.

the lands under their management; and every such proprietor, farmer, proprietor of lakhiraj estate or manager, who shall knowingly omit to give such notice, shall be liable on conviction before the Judge of any Zillah or City to a fine of 500 Rupees, for every Khalaree or Salt Work established on his lands; and such knowledge shall not be required to be established by direct proof, but may be inferred from circumstances at the discretion of the Judge deciding the case; and any fine that may be adjudged under this Section shall be recoverable by distress and sale of the goods and chattles of the offender, or by process of execution taken out by any Salt Agent or Superintendent of Chokies in the manner provided for decrees of the Civil Courts.

XXVIII. And it is hereby enacted, in modification of Section LXIV. Regulation X. of 1819 aforesaid, and in addition thereto, that when there may be no direct proof of the unauthorized removal of Salt from any golah or place of Government store, sufficient to convict the parties concerned therein of theft within the provisions of the said Section, the Officer or Officers who may have been entrusted with the charge of such golah, or place of Government store, shall nevertheless be liable for the offence of embezzling the Salt of any store in their custody the outturn of which shall, according to the accounts kept of receipts and deliveries, exhibit a deficiency for which he or they may not duly account. And the Officer in charge of any golah or Salt store shall in like manner be deemed guilty of embezzlement if he has made away with, or shall not produce the true account of such store; and any person against whom the offence of embezzlement shall be established under this Section, shall be liable, on conviction before the Magistrate of the City or District, to be punished by fine and imprisonment under the general powers vested in the Zillah and City Magistrates.

XXIX. And it is hereby enacted, in addition to the Rules contained in Sections CXI., CXII. and CXIII. of Regulation X. 1819 of the Bengal Code,
for

ACT No. XXIX. OF 1838.

for the adjudication of cases of contravention of the Laws enacted for the protection of the Revenue derived from Salt, that if the attendance of the parties charged with such offences cannot be obtained by reason of their failure to attend in person or by vakeel, after being served with a summons, or by reason of their evading process, the Officer adjudicating any such case shall issue notice for the attendance of the parties accused in the manner prescribed in Section CII. of the said Regulation; and if the parties do not attend in person or by vakeel within the time fixed by such notice, the Officer adjudicating the case shall pass judgment thereon, under the said last mentioned Section, in like manner as if the parties accused were present; and the Officer so adjudicating any case *ex parte*, may, at any time after such judgment, issue his warrant for the apprehension of the persons convicted for execution of the sentence, in the manner provided in Regulation X. of 1819 of the Bengal Code, and in this Act, for cases in which the parties were present; and further may at any time sue out process for levying the amount of fine adjudged, from any Civil Court competent to execute its own decrees in the manner and form prescribed for the execution of the decrees of such Civil Court under Section XXX. of this Act.

XXX. And it is hereby enacted, that when the Officer holding proceeding in any case *ex parte*, as above provided, shall refer the case to the Judge of any City or Zillah, in consequence of the amount of fine being such as the said Officer is not competent finally to adjudge, the Judge of the City or Zillah, to whom such case may be referred, shall issue such orders and institute such proceedings as are authorized by Sections CXI. to CXIII. of Regulation X. of 1819 of the Bengal Code, in like manner as if the offenders were sent over with the case or were present to be heard in their defence; and whenever any fine may be adjudged by the Zillah or City Judge, the same may be levied on the application of the Salt Agent or Superintendent of Salt Chokies under the rules in force for the execution of the decrees of Civil Courts.

XXXI.

ACT No. XXIX. OF 1838.

XXXI. And it is hereby enacted, in modification of the Rules contained in Sections CIX. and CXII. of Regulation X. of 1819 of the Bengal Code, whereby the power of final adjudication by Salt Agents or Superintendents of Chokies, in cases of the contravention of the laws enacted for the protection of the Salt Revenue, is restricted to cases in which the quantity of Salt proposed to be confiscated shall not exceed twenty maunds or the fine adjudicated shall not exceed 50 Rupees, that the judgment of any Salt Agent or Superintendent of Chokies, or of any other Officer vested by Government with like jurisdiction in such cases, shall be final in all cases wherein the Salt adjudged to be confiscated shall not exceed eighty maunds, and the fine imposed upon the defendant, or any one of several defendants, shall not exceed 400 Rupees. Provided however that every such judgment may under Section CXVII. of the said Regulation be brought by petition before the Board of Customs, Salt and Opium, and be reversed or amended by that authority.

XXXII. And it is hereby enacted, in modification of Section CXIV. Regulation X. 1819 of the Bengal Code, that the Zillah and City Judges shall pass final judgment in all cases referred to them for adjudication when the quantity of Salt to be confiscated shall exceed eighty maunds, or the fine imposed shall exceed 400 Rupees ; provided however that there shall in all such cases be an appeal open to the Sudder Dewany Adawlut, under the Rules for the admission of special appeals in that Court, upon any point of law which may be ruled by a Zillah or City Judge in any such judgment.

XXXIII. And it is hereby enacted, that the penalties of this Act shall take effect only within the tract of Country guarded by Salt Chokies in the manner prescribed in Section XXXVI. of Regulation X. 1819 of the Bengal Code, and within which the transportation of Salt, not belonging to Government, without a Ruwana, or Special Pass from the Board of Customs, Salt and
Opium,

Opium, is not lawful; and it is hereby declared that such tract shall not extend, within the Delta of the Ganges and Megna Rivers, beyond the line of the reach of the tides in the Rivers communicating with the Bay of Bengal as taken at spring tides in the dry season; nor, eastward of the Megna, north of the River Goomtee; nor, westward of the River Hooghly, beyond a line drawn from a point on that River distant one mile from the northern end of the town of Nyasurai, and to the north thereof, to a like point distant one mile to the north of the town of Guttaul, and thence to a like point distant one mile to the north of the town of Midnapore, and thence to a like point distant one mile to the north of Huldipookur in Singbhoom, so as to include each of those towns repectively.