

ABKARI, BENGAL ACT, 1840

ACT NO. XXV. OF 1840

(Rep., Act 21 of 1856)

[20th December, 1840.]

*Passed by the Right Hon'ble the Governor General of India in Council, On the 20<sup>th</sup> of December, 1840.*

*For the better protection of the Abkaree Revenue within the Presidency of Fort William in Bengal.*

I. WHEREAS it has been found necessary, with a view to make better provision for the protection of the Abkaree Revenue than is afforded by the existing system of management, to place the superintendence of certain Districts in a separate commissioner acting under the direction and control of the Board of Customs, Salt and Opium, and whereas it is required to make provision by law for the extension and improvement of this system of management within the Presidency of Fort William in Bengal;-

It is hereby enacted, that whenever a Commissioner of Commissioners shall be appointed, by the Governor of Bengal, or the Governor of Lieutenant Governor of the N.W. Provinces, with the sanction of the Government of India, for the superintendence of the Abkaree Revenue, such Commissioner of Commissioners shall exercise within such Districts as may be assigned and prescribed from time to time by the said Governors or Lieutenant Governor the powers, authority and jurisdiction vested by the Regulations and Acts of the Government in Commissioners of the Land Revenue in all matters appertaining to the Abkaree Revenue.

II. And it is hereby enacted, that within the Districts so assigned to such Commissioner or Commissioners, the Governor of Bengal or Governor or Lieutenant Governor of the N.W. Provinces may appoint any duly qualified persons not being of the description specially provided for in Section XXXI. Regulation X. 1813, to be Superintendents of the Abkaree Revenue, and to vest them with the charge and management of the Abkaree Revenue under the orders of the said Commissioner within such local limits as to him may seem fit, and the persons so appointed shall exercise all the powers of Collectors in regard to this Revenue, excepting the adjudication of cases of contravention of the Laws relating to Abkaree.

III. And it is hereby enacted, that it shall be competent for the Governor of Bengal to vest any person appointed under the foregoing Clause to the charge and superintendence of the Abkaree Revenue with the power of adjudication cases of contravention of the Abkaree Laws, in addition to the powers attaching to the office of Superintendent of Abkaree Revenue in the District or Districts assigned to him- provided that no such Superintendent when so vested with the powers of adjudication shall sentence any person to a fine exceeding 200 Rupees, whether commutable or otherwise, or to imprisonment for a term exceeding 3 months, except for a second offence under Section XVII. of this Act.

IV. And it is hereby enacted, that the warrant or any Officer authorized or especially appointed, to adjudicate cases of contravention of the Abkaree Laws, certifying the conviction of any individual, with a specification of the offence proved and penalty adjudged, shall be authority for the levying of any fine imposed, as therein specified, and for the detention of the person therein described in the Civil Jail of the District as may be therein prescribed,- provided always that it shall be competent to the Commissioner, upon appeal by the parties concerned, or of his own motion, to call for the papers and revise the proceedings in any case decided by such Superintendent, and to alter or reverse the judgment passed

thereon, and a like power shall be possessed and exercised by the Board of Customs, Salt and Opium, or by any other Board possessing like authority whenever they think proper.

V. And it is hereby enacted, that any Officer employed in the Abkaree Department above the rank of Jemadar of Peons, who shall receive information that any person without a license is engaged in the manufacture of fermented or spirituous liquors, or in the preparation of intoxicating drugs, or has on his premises fermented or spirituous liquors or intoxicating drugs in such quantity as may render such person liable to the suspicion of secretly and illicitly trafficking in such articles, shall and is hereby authorised and required to take the deposition of the informer in writing, and if the information so given shall appear credible, so as to justify such proceeding, it shall further be competent to such Officer to enter and search such premises as may be declared by the informer to contain the illicit articles specified in his deposition, and to seize all illicit stills and materials of the kind used in manufacturing liquors and preparing drugs as well as all fermented or spirituous liquors, or intoxicating drugs, and to arrest the owner or occupant of the premises, together with all parties concerned in the transaction who may be found on the premises.

VI. And it is hereby enacted, that except in cases already provided for by Section XVIII. Regulation VII. of 1824, if any person or persons shall by threats or violence prevent the lawful arrest of any person by an Officer duly authorized to seize illicit stills, fermented or spirituous liquors, or intoxicating drugs and materials for the manufacture of the same, or shall procure by unlawful means his release after arrest, or shall obstruct any Officer duly authorized in making search for or seizure of any of the above mentioned illicit articles, or shall rescue such articles after seizure, or if the party found with any such illicit articles in possession, or any other person or persons shall resist such Officer in the execution of a legal process, such person or persons shall severally and respectively be liable on conviction before a Magistrate, to be sentenced for the same to pay a fine not exceeding 500 Rupees, commutable, if not paid, to imprisonment for a term not exceeding six months, provided that such person or persons shall be further liable, in the event of an affray or breach of the peace occurring, in consequence of his or their resistance, on conviction of the same before a competent tribunal to such punishment as is prescribed in the general rules applicable to cases of affray and breach of the peace in addition to the penalties above prescribed for the resistance of process.

VII. And it is hereby enacted, in modification of Clause 6, Section XXII. Regulation X. of 1813 of the Bengal Code, that if any person shall willfully and maliciously give false information in respect to there being an illicit still or illicit stills, or fermented or spirituous liquors, or intoxicating drugs or materials prepared for the manufacture of spirituous liquors and drugs in any premises, and so procure that such premises shall be searched to the injury and vexation of the owners thereof, or of any other person or persons whatsoever, such false informer shall, besides being subject to any other penalties or damages to which he would be subject under the general law, be liable to imprisonment with or without labor for a term not exceeding two years, and to fine not exceeding 500 Rupees, commutable to a further term of imprisonment for six months if not paid.

VII. And it is hereby enacted, that whenever any Officer of the Abkaree Department duly authorized under Section V. of this Act shall arrest any person charged with an infraction of the Laws for the protection of the Abkaree Revenue, or shall seize any still, or fermented or spirituous liquors or intoxicating drugs, or enter any premises for the purpose of such illicit articles, he shall make a full report of all the particulars of such arrest or seizure or search to his official superior, within twenty-four hours after the transaction has occurred.

IX. And it is hereby enacted, that whenever any person may be arrested by an Officer employed in the Abkaree Department or by any other Officer of other Departments duly empowered to make seizure of illicit stills or spirituous liquors, or intoxicating drugs, or materials prepared for the purpose of manufacturing spirituous liquors or intoxicating drugs, the person making the arrest shall be bound to carry the party arrested with all convenient dispatch to the Officer of the 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.

X. And it is hereby enacted, that any Officer who shall neglect to report all the particulars of an arrest, seizure, or search within 24 hours after the transaction has occurred, or who shall delay carrying the person arrested to the proper Officer with all convenient dispatch, or who shall release or connive at the escape of the person arrested shall be liable, on convictions, to dismissal from his situation, and to pay a fine not exceeding 200 Rupees, and to imprisonment for a term not exceeding three months, and in case of nonpayment of the fine, to further imprisonment not exceeding three months, and the sentence shall be adjudged by any Officer competent to adjudicate cases of contravention of the Abkaree Laws.

XI. And it is hereby enacted, shall be lawful for any Officer employed in the Abkaree Department, to enter and inspect at any time, by day or by night, the shop or premises in which any licensed Abkar shall carry on the sale or manufacture of fermented or spirituous liquors, or intoxicating drugs or liquors, in order to satisfy himself that nothing is going on in contravention of the Abkaree Laws, or of the conditions of the licence.

XII. And it is hereby enacted, that if any Officer of the Abkaree 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 illicit stills, spirituous liquors, intoxicating drugs, or the materials for manufacturing the same, or of having vexatiously and unnecessarily arrested any person, or of committing any other excess not required for the execution of his duty, 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.

XIII. And it is hereby enacted, that whenever in this Act or in any other law the terms "Officers employed in the Abkaree Department," are used they shall be deemed and construed to apply to such Officers as receive salary from and are appointed by the persons in charge of the Abkaree Department, in the District, or such Officers as the Commissioner of the Abkaree Revenue may be special delegation or appointment empower to act in relation to this branch of the Revenue.

XIV. And it is hereby enacted, that every person holding a license for the manufacture or sale of fermented or spirituous liquors or intoxicating drugs, shall preserve such license at the shop or premises specified in the body of the license, and shall exhibit the license on the demand of any Abkaree Officer, who shall desire to inspect the same, and any such licensed manufacturer or vender who shall refuse, or be unable to produce his license on the demand of any Abkaree Officer, shall be liable on conviction before a magistrate to a fine not exceeding 200 Rupees, or to imprisonment for a term not exceeding three months, and in case of non-payment of the fine to further imprisonment not exceeding a like term.

XV. And it is hereby enacted, that one moiety of all fines realized from persons convicted of the illicit possession or manufacture of sale of fermented or spirituous liquors or intoxicating drugs, excepting Opium, and of the proceeds from sale of articles confiscated, shall upon adjudication of the case be awarded to the Officer or Officers who may have apprehended the offender or seized the illicit articles,

and the other half shall be given to the informer as provided in Clause 8, Section XXII. Regulation X. of 1813, and if no fine be realized, the Commissioner may recommend through the Board of Customs, Salt and Opium such reasonable reward, not exceeding the sum of 200 Rupees in each case as may appear to him fit,-provided however, that it shall be competent to the Board of Customer, Salt and Opium to prescribe by General Order what classes of Officers of the Department shall receive reward and what classes shall have no title to participate therein.

XVI. And it is hereby enacted, that any Officer employed in the Abkaree Department, who shall be convicted of conniving at the manufacture or sale of fermented or spirituous liquors without license, or by any licensed manufacturer or vender contrary to the terms of such license, shall be liable to the same penalties that would be incurred by the offender at whose act in contravention of the law he so connived.

XVII. And it is hereby enacted, that whenever any person shall be convicted of an infraction of the laws for protection of the Abkaree Revenue after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Dewanny 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, and the warrant of the Officer adjudicating any case under the provisions of this Section shall be authority for the Judge or other Officer in charge of the Dewanny Jail to hold the person described therein in confinement in such Jail, and for such time as may be specified and required in the said warrant.