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**ACT No. XI. OF 1849.**

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*Passed by the Hon'ble the President of the Council of India  
in Council, on the 11th August 1849, with the assent  
of the Most Noble the Governor General of India.*

*For securing the Abkaree Revenue of Calcutta.*

**F**OR better securing the Abkaree Revenue of Calcutta, It is enacted as follows:

**I.** Act I. 1842, Act XXVI. 1845, Section 26, Regulation II. 1802, of the Bengal Code, and so much of Clause CLIX., of an Act of Parliament, numbered Chapter LIII., of the Statutes passed in the Thirty-third Year of the reign of King George the Third, as relates to the sale of Arrack or other Spirituous Liquors, within the Town of Calcutta, and to the punishment of unlicensed Traders in Spirits or Spirituous Liquors, within the said Town, are repealed.

**II.** The collection of the Revenue arising from the retail sale of Spirituous or Fermented Liquors and intoxicating drugs, within the Town of Calcutta, shall be under the charge of the Collector of Calcutta, who shall perform the duties connected therewith under the controul of the  
Commissioner

Commissioner of Abkaree and the Board of Customs, Salt and Opium, and all proceedings of the Collector held under this Act, shall be subject, with or without appeal, to their revision.

III. The Collector may appoint Constables, Darogahs, Jemadars, Burkundauzes, and other Officers, for collection of the said Revenue and prevention of Smuggling; and the Officers so appointed, beside their ordinary respective designations, shall be styled "Abkaree Officers."

IV. Every person who shall sell, by retail, any Spirituous or Fermented Liquors or intoxicating drugs, hereinafter specified, within the Town of Calcutta, without a license for that purpose under the hand and seal of the Collector of Calcutta, shall be liable to a fine, not exceeding five hundred Rupees, for each sale: but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wines or Spirits, as may appear to the Collector to be intended only as samples.

V. A sale of English or Foreign Beer, Wines or Spirits, in any quantity, not exceeding two gallons, or of Bengal Arrack or Rum or other country spirit in any quantity, not exceeding one seer, or of Tauree in any quantity, not exceeding four seers, or of Ganjah or Bhang or any preparation or admixture of the same, in any quantity, not exceeding one quarter of a seer, or of Churrus, Opium, Chundoo, or Muddut, or any preparation or admixture of the same, in any quantity, not exceeding the weight of five tolahs, shall be deemed a retail sale within the meaning of this Act.

VI. The sale of Bengal Arrack or Rum, or other country Spirit, or of Tauree, or of Ganjah, or Bhang, or any preparation or admixture of the same, or of Churrus, Opium, Chundoo, or Muddut, or any preparation or admixture of the same, in quantities larger than those specified for each Article in Section V. of this Act, is prohibited; and every person, who shall act in breach of this prohibition, shall be liable to the fine prescribed

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prescribed in Section XV., for the illicit possession of these Articles : but this prohibition does not apply to the sale of Spirituous or Fermented Liquors and intoxicating drugs, imported into Calcutta, under passes from the Collector, or other Officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Bengal Rum under bond for exportation by Sea, or to the sale of Opium intended for exportation by Sea, and covered by a Certificate to that effect, issued under the authority of the Board of Customs, Salt and Opium.

VII. The Board of Customs, Salt and Opium shall have authority, at all times, to regulate the form of licenses to be granted under this Act, and to alter and add to the conditions thereof.

VIII. Every person taking out a license for the retail sale of Spirituous or Fermented Liquors, or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such license.

IX. Whenever a license shall be granted under this Act, the Collector shall be authorised to demand, in consideration of the privilege granted, such fee, tax or duty as may, from time to time, be fixed, with the sanction of the Board of Customs, Salt and Opium ; and such fee, tax or duty, may be made payable in advance, or at such period as may be settled by the Collector.

X. The Collector may withhold or recall a license, if any such fee, tax or duty be not duly paid, according to the conditions upon which the license is granted, or in case of a breach of any of the other conditions thereof; or with the sanction of the Commissioner of Abkaree, for any other cause, giving one month's notice of such withdrawal; and any person selling, by retail, any Spirituous or Fermented Liquors, or intoxicating

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ting drugs above specified, within the Town of Calcutta, whilst such license is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of Spirituous or Fermented Liquors, or intoxicating drugs.

XI. Any licensed retail dealer may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the tax for that time, over and above the sum payable under the license.

XII. It shall not be lawful for the Justices of the Peace for the Town of Calcutta, to grant a license to open or establish or keep open any Hotel, Punch House, Boarding House, or any other House of public entertainment, within the Town of Calcutta, in which any Spirituous or Fermented Liquors or intoxicating drugs, above specified, may be sold, to any person who has not taken out a license for the retail sale of such Liquors and Drugs; and any such license, granted by any Justice of the Peace, shall become void whenever the license, for the retail of such Liquors and Drugs, granted to such person, is withheld or recalled by the Collector under this Act.

XIII. The Collector, after demand made in writing, may levy any arrear of tax or duty, due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due, provided that no such arrear shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

XIV. A breach of any of the conditions of a license granted under this Act, shall, beside entailing forfeiture of the license, be punishable by a fine not exceeding fifty Rupees; and such fine shall be recoverable from the licensed dealer notwithstanding that such breach may have been

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owing to the default or carelessness of the servant or other person in charge of the shop.

XV. Any person, not being a licensed Dealer, having in his possession, and any person carrying within the Town of Calcutta, any greater quantity of Spirituous or Fermented Liquors, or intoxicating drugs above specified, or any preparation or admixture of the same except English and Foreign Beer, Wines and Spirits, than the quantity specified for each Article in Section V. of this Act, and not being protected by a pass or permit from the Collector, or other Officer duly empowered in that behalf, shall be liable to a fine, not exceeding five hundred Rupees, except in the case of Opium; and in the case of Opium, to a fine not exceeding the rate of sixteen Rupees for each seer found in the possession of, or carried by, such person; and if such last mentioned fine shall not amount to five hundred Rupees, such person shall be liable to a further fine, not exceeding such sum as shall make the total fine imposed amount to five hundred Rupees.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of Spirituous or Fermented Liquors, or intoxicating drugs, all such liquors and drugs found in the possession of any offender against this Act shall be seized and confiscated; and the vessels, packages and coverings in which such liquors and drugs are found, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.

XVII. Any Abkaree Officer above the rank of a Peon or Chauprassy may enter and inspect at any time, by day or by night, and any Abkaree Officer may enter and inspect by day the house or shop in which any licensed Dealer shall carry on the sale of Spirituous or Fermented Liquors, or intoxicating drugs.

XVIII. Every

XVIII. Every person holding a license for the sale of Spirituous or Fermented Liquors, or intoxicating drugs shall keep such license at the house or shop specified in the license, and shall shew the license on the demand of any Abkaree Officer, who shall desire to see the same; and any licensed Dealer, who shall refuse, or be unable to produce his license, on the demand of any Abkaree Officer, shall be liable to a fine, not exceeding two hundred Rupees.

XIX. Any Abkaree Officer may stop and detain any person carrying any Spirituous or Fermented Liquors, or intoxicating drugs, without a pass, or otherwise liable to confiscation under this Act, and may seize the liquors or drugs, with the vessels, packages and coverings in which the liquors or drugs are found, and the animals and conveyances used in carrying them.

XX. If the Collector has good reason to believe, either from information given by any Abkaree Officer or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that any Spirituous or Fermented Liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any place, the Collector, by warrant under his hand, may empower any Abkaree Officer, above the rank of Jemadar or Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the Peace, to enter into every such place, where any such liquors or drugs are suspected to be kept or concealed, and to seize and carry away such liquors or drugs; and, in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal, as aforesaid; and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquors, or drugs, whom he shall find on the premises. Provided, that where there is ground to suspect that such liquors or drugs are unlawfully concealed in any zenana,

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the Officer, charged with the execution of the warrant, shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort William.

**XXI.** All Constables, and other Ministerial Officers of the Peace are required to help the Abkaree Officers in the due execution of this Act upon notice given, or request made by any such Abkaree Officer: and any Officer, who, without lawful excuse, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section XXVII. of this Act, for Abkaree Officers conniving at the escape of a person arrested under this Act.

**XXII.** Whenever any Abkaree Officer, duly authorized under this Act, shall arrest any person, or shall seize any Spirituous or Fermented Liquors, or intoxicating drugs, or shall enter any house or shop for the purpose of searching for such illicit Articles, he shall carry the person arrested, with the illicit Articles, seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all the particulars of such arrest, seizure, or search. And the Collector, after such further enquiry as he deems necessary, shall forthwith either release the person arrested, or send him in custody to a Justice of the Peace for the Town of Calcutta.

**XXIII.** Every person, who shall maliciously give false information against any person for being engaged in the unlicensed sale of Spirituous or Fermented Liquors, or intoxicating drugs, or for having in his possession, or carrying, or in respect of there being in any house or shop any Spirituous or Fermented Liquors, or intoxicating drugs, in contravention of this Act, shall be liable to a fine, not exceeding five hundred Rupees, or to imprisonment in the Common Jail, for a period not exceeding six months, or to both.

**XXIV.** Every

**XXIV.** Every person, who shall obstruct or molest any Abkaree Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine, not exceeding five hundred Rupees; and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

**XXV.** Any Abkaree Officer, who shall delay carrying to the Collector any person arrested or any illicit articles seized under this Act, or who shall neglect to report the particulars of an arrest, seizure or search, within twenty-four hours thereafter, shall be liable to a fine, not exceeding two hundred Rupees.

**XXVI.** Any Abkaree Officer, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit Spirituous or Fermented Liquors, or intoxicating drugs, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty, shall be liable to a fine, not exceeding five hundred Rupees.

**XXVII.** Any Officer, employed in the Abkaree Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of Spirituous or Fermented Liquors, or intoxicating drugs, without license, or by any licensed Dealer, contrary to the terms of such license, or act in a manner inconsistent with his duty for the purpose of enabling any person to do any thing, whereby any of the provisions of this Act may be evaded or broken, or the Abkaree Revenue defrauded, shall be liable to a fine, not exceeding five hundred Rupees.

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XXVIII. Any Abkaree Officer, who shall ask or take any gratuity, not authorized by any Law or Order of Government, or of the Board of Customs, Salt and Opium, in consideration of doing, or of omitting to do any act in his official capacity, and any person, who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine, not exceeding five hundred Rupees.

XXIX. Whenever any goods or chattels shall be seized by an Abkaree Officer, as liable to confiscation under this Act, such seizure shall, upon information, exhibited by order of the Collector, be heard and determined in a summary way, by any Justice of the Peace for the Town of Calcutta; and such Justice shall cause the persons to whom such goods and chattels belong, to be summoned to appear before him, and upon their appearance or default shall examine into the cause of the seizure thereof, and give judgment; and if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Customs, Salt and Opium.

XXX. Whenever any goods or chattels shall be seized as aforesaid, and within one Calendar month, no person shall appear before the Collector to claim the same, the Justice shall examine into the cause of the seizure, at a place and time of which notice shall have been given by the Collector in the *Calcutta Gazette*, and give judgment for the confiscation of such of the goods and chattels, as, upon such examination, shall appear to him liable to forfeiture; and, upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend the said Justice.

XXXI. All fines leviable under this Act, except under Section XXXVIII., shall be adjudged by any Justice of the Peace, for the  
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Town of Calcutta, and the said Justice, upon information exhibited before him by order of the Collector, shall, forthwith, summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable, by order of the said Justice, to imprisonment in the Common Jail, for a period not exceeding six months, or until the fine is sooner paid: and no proceedings shall be taken under this Section by any Justice of the Peace after the expiration of three Calendar months from the date of the offence by which the fine was incurred.

**XXXII.** Whenever any person shall be convicted before any such Justice as aforesaid of an offence against this Act, 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 Common Jail, for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment, which may be inflicted for a first offence, upon every subsequent conviction after the second.

**XXXIII.** One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale of Spirituous or Fermented Liquors, or intoxicating drugs, and of the proceeds from sale of articles confiscated, except Opium, and in the case of Opium confiscated, and declared by the Opium Examiner at the Presidency to be fit for use, a reward of One Rupee Eight Annas for each seer, shall, upon adjudication of the case, be awarded to the Officer or Officers who apprehended the offender, or seized the illicit articles; and the other half, or in the case of Opium as aforesaid, a reward of One Rupee Eight Annas for each seer shall be given

given to the Informer; and, if no fine is realized, the Board of Customs, Salt and Opium may grant such reasonable reward, not exceeding the sum of two hundred Rupees as may appear to them fit: and the Board of Customs, Salt and Opium may direct, by General Order, what class of Abkaree Officers shall receive rewards, and what classes shall have no title to share therein.

XXXIV. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Customs, Salt and Opium may grant any portion thereof, not exceeding one-half, as rewards to Informers, or as compensation to parties injured by any proceedings under this Act.

XXXV. No Writ of *Certiorari* shall be issued at the suit of any party out of the Supreme Court of Judicature, to supersede, stay, remove or in anywise affect any information or judicial proceeding before any Justice of the Peace, in pursuance of this Act; and no judgment thereon shall be quashed, except for error of law apparent on the face of the judgment.

XXXVI. When any penalty or confiscation shall be adjudged by a Justice of the Peace under this Act, the Commissioner of Abkaree, or, in his absence, the Board of Customs, Salt and Opium, within one month after judgment given, may call for the proceedings of the case with which requisition the Justice of the Peace shall be bound to comply) and, if he or they shall see cause, may direct that the seizure, or any part thereof, be restored, and may remit or mitigate any penalty, and discharge the party.

XXXVII. All actions and prosecutions to be commenced against the Collector or any Abkaree Officer, or any person acting in aid of any such Officer, for any thing done in pursuance of this Act, shall be commenced

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menced within three Calendar months after the fact committed, and not afterwards; and notice in writing of such action and of the cause thereof shall be given to the Defendant one Calendar month at least before the commencement of the action; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the Defendant.

**XXXVIII.** The Collector, in respect of the duties to be performed by him, under this Act, shall have power to punish any contempt committed in his presence in open Cutcherry by fine, not exceeding two hundred Rupees, commutable, if not paid, to imprisonment in the Common Jail, for a period not exceeding one month: provided, that an appeal, from any order passed under this section, shall lie to the Commissioner of Abkaree, and, in his absence, to the Board of Customs, Salt and Opium; and the decision of the Commissioner or Board thereon shall be final.

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