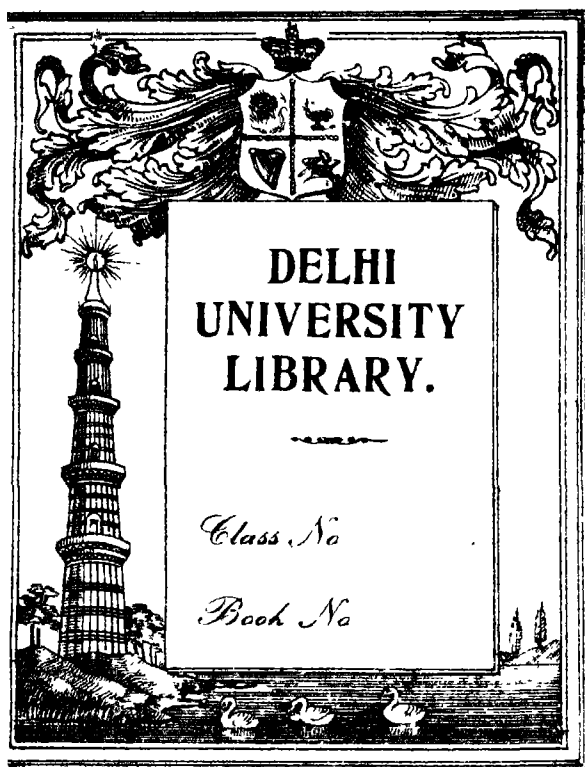




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United Provinces Police.

HANDBOOK

FOR

STATION OFFICERS.

VOLUME III.

Excise.



ALLAHABAD :

PRINTED AT THE GOVERNMENT PRESS, UNITED PROVINCES.

1908

PREFACE.

THIS handbook contains extract from the **Excise Manual** of the United Provinces, 1904. Only those portions have been selected which concern the Police. The numbers borne by the chapters and pages in the **Excise Manual** have been retained for facility of reference.

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UNITED PROVINCES POLICE.
HANDBOOK FOR STATION OFFICERS.

VOLUME III.

EXCISE.

PART I.—LAWS.

ACT XIII OF 1857.

(Received the Governor General's assent on the 6th June 1857.)

An act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the presidency of Fort William in Bengal.*

Page 1.

Whereas the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the opium agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient † (that certain obsolete regulations relating to the provision of opium should be formally repealed, and) that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended. It is enacted as follows:—

Preamble.

* * *

3. The superintendence of the provision of opium for Government shall be entrusted to agents, or other officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta.

Officers
entrusted
superintendence of
provision of op

* Declared to apply to the whole of the United Provinces, except the scheduled districts, by the Laws Local extant Act XV of 1874. It has been declared, by notification No. 1746, dated 2nd November 1876, under the Scheduled Districts Act, 1874, to be in force in Kumaun and Garhwal; by notification No. 638, dated 30th May 1879, in the scheduled portion of the Mirzapur district; and by notification No. 1554, dated 22nd September 1876, in the Tarai parganas; declared to apply to the whole of Oudh by section 3 of the Oudh Laws Act, 1876, modified as specified in part II of the second schedule to that Act.

† Repealed by Act II of 1891.

Pages 1—3.

(Sections 4—7.)

Assistants to
agent.

The agents, or other officers as aforesaid, shall be assisted by deputy agents and sub-deputy agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector
ex-officio
deputy agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex-officio* deputy agent; and the relative duties and powers of the deputy agents and sub-deputy agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers
amenable to
civil courts.

4. The opium agents and their subordinate officers of every description are declared amenable to the civil courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit
without
previous
application to
agent for
redress.

But no suit shall be instituted against an agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such agent or officer shall have first made application for redress to the agent himself.

In the event of such person not being satisfied with the order which the agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the civil court.

Sanction to
suit by agent.

5. The opium agents shall not, in their official capacity, institute any suit in a civil court without the previous sanction of the Board of Revenue.

Board may in
certain cases
appoint officer
to conduct or
defend suits.

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the agent or any other officer.

Board to fix
limits of
cultivation,
and price to
be paid to
cultivators.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

(Sections 8—10.)

Pages 2—8.

The price shall be fixed at a certain sum per seer of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for opium of a consistence below the standard.

8. The sub-deputy agents or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy, and to deliver the produce to the officers of Government at the established rates.

Issue of licenses.

Every license shall specify the number of bighas which the party engages and is authorized to cultivate, and shall be in such form as the agent, with the sanction of the Board of Revenue, may direct.

What to be specified in license.

A counterpart engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not, as he may think fit; and any sub-deputy agent or other officer as aforesaid or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Cultivator have option to engage to cultivate or not. Officers compelling cultivator to engage liable to be dismissed.

It shall be at the option of the sub-deputy agent or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Sub-deputy agent may withhold license to cultivate.

Any person to whom a license has been refused may appeal to the agent, and the decision of the agent shall be final.

Appeal.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the deputy agent or collector on the complaint of the sub-deputy agent or other officer as aforesaid.

Penalty on cultivator receiving advances and not cultivating full quantity of land.

Adjudication of penalty.

Pages 2—4.

(Sections 11—13.)

Appeal.

Any person dissatisfied with the judgment of the deputy agent or collector may appeal to the agent, and the decision of the agent shall be final.

Delivery of opium produced.

11. All opium, the produce of land cultivated with poppy on account of Government, shall be delivered by the cultivators to the sub-deputy agents or other district officers, or shall be brought by them to the sadr factory, as the agent may direct.

Opium not liable to distress or attachment.

And no such opium shall be liable to be distrained or attached by a zamindár or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of court; but the sum due to the cultivator on account of such opium may be attached by order of court in the hands of the agent or of the district officer under the rules in force for such attachments.

Value thereof may be attached.

Opium to be weighed and classified by sub-deputy agent.

12. All opium delivered by the cultivators to the sub-deputy agent or other district officer shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding where cultivator is dissatisfied with classification.

Any cultivator who may be dissatisfied with the classification of the district officer shall be at liberty either to take his opium to the sadr factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at sadr factory.

13. All opium forwarded by the district officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed and examined by the opium examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and the deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the examiner or of the agent, in cases in which a reference to the agent may be prescribed by

(Sections 14—16.)

Pages 4—5.

the said rules, shall be final and conclusive, and not open to question in any court.

14. When opium delivered by a cultivator, either to a district officer or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately scaled up, pending examination by the opium examiner, and notice of such intended examination shall be given to the cultivator.

Confiscation
of adulterat-
ed opium.

If upon such examination the opium shall be found to be so adulterated, the agent, on the report of the examiner, may order that it be confiscated; and the order of the agent shall be final and not open to question in any court.

Adjudication
of confisca-
tion.

15. The weights and scales made use of in the sadr factories and at the district kothis shall be provided by the Board of Revenue.

Weights and
scales.

Every district officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the agent.

Examination
thereof.

The agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

16. The accounts of the cultivators shall be adjusted annually by the district officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator or from any mahto or intermediate manager, may be recovered by the district officer by distress and sale of the property of defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khas may be distrained and sold by the collector for the recovery of an arrear of rent or revenue.

Adjustment
of cultivator
accounts a
recovery of
balance by
distress.

Pages 4—5.

(Sections 17—20.)

Sanction to
issue of war-
rant.

Provided that no warrant of distress and sale shall be issued by any district officer without the sanction of the agent previously obtained.

Penalty on
officer taking
bribes.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a magistrate, shall be liable to a fine not exceeding five hundred rupees.

Exactions by
landholder
from raiyat
recoverable
together with
penalty, in
summary suit
before collect-
or.

18. If any zamindár or other proprietor of land, or any farmer of land, shall exact from any raiyat on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the sub-deputy agent, or other district officer on his behalf, may institute a suit before the collector and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a collector relating to arrears or exactions of rent.

Penalty for
embezzlement
of opium by
cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government, who may embezzle, or otherwise illegally dispose of, any part of the opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for
illegal
purchase of
opium from
cultivator.

And for illegal
connivance at
embezzlement
by opium
officer.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable

(Sections 21—23.)

to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for, or illegally disposed of, shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight, and the opium, if found, shall be liable to confiscation.

21. Any person who shall cultivate the poppy without license from a sub-deputy agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bighas, in which case the fine may be at the rate of twenty-five rupees per bigha : and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

Penalty for
unlicensed
cultivation.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per bigha of land illegally cultivated.

22. All proprietors, farmers, tahsildárs, gumáshtas, and other managers of land shall give immediate information to the police or abkári darogahs, or opium gumáshtas, or to the magistrates, collectors, or officers in charge of the abkari mahal, or to the agents, their deputies, or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them ; and every proprietor, farmer, tahsildár, gumáshta, or other manager of land, who shall knowingly neglect to give such information shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of land-
holders and
others to give
information
of illegal
cultivation.

23. All police and abkari darogahs and opium gumáshtas, and all native officers of Government of whatever description, and all chaukidárs, paiks, and other village police officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy ; and such authority shall transmit the information to the sub-deputy agent, or other officer superintending the cultivation of the poppy if in a district

Duty of police
and other
officer to give
information
of illegal
cultivation.

Pages 6-7.

(Section 24.)

where the poppy is cultivated on account of Government, or to the collector or officer in charge of the abkari mahal if in a district where the poppy is not so cultivated.

Every police or abkari darogah, opium gumáshta, native officer, chaukidár or other police officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

Police or
abkari
darogah how
to proceed in
case of illegal
cultivation.

24. Whenever a police or abkari darogah or opium gumáshta shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

— — —
RULING.

An offence under section 9 of the Opium Act (I of 1878) and not coming under section 14 of that Act, is a non-cognizable offence, and is therefore one for which by section 4 of the Criminal Procedure Code (1882) a police officer cannot arrest without warrant; and he has therefore under section 155 of the Code no authority to investigate such an offence without the order of a Magistrate; nor under section 165 can he make a search in respect of it. The power of arrest without warrant referred to in clause (a) of section 4 of the Criminal Procedure Code is an unqualified power, and not a conditional power, as in section 24 of Act XIII of 1857, which only gives the right to a police officer to arrest without warrant in case the accused does not furnish the security required by that section. When a police officer, therefore, in respect of an offence under section 9 of the Opium Act not coming under section 14 of the Act, made a search in the house of the accused without an order of a Magistrate:—*Held*, that his action could not be justified, either under section 24 of Act XIII of 1857 or under the Code of Criminal Procedure, and that he was liable in an action for damages for the illegal search. *Bahadur Shah v. Tarak Nath Chaudhry*, 24 Calcutta 691.

(Sections 25—30.)

Pages 7—9

25. Proprietors, farmers, tahsildárs, gumáshtas and other managers of land, shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or abkari darogah or opium gumáshta who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Landholders, &c., may attach in cases of illegal cultivation.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the deputy agent or sub-deputy agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the collector or officer in charge of the abkari mahal.

Adjudication of penalties.

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

27. When any person is sentenced to pay any fine or penalty under this Act, such person in default of payment of the same may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Imprisonment in default of payment of fine.

28. Whenever any person shall be convicted 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 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.

Punishment for repetition of offences.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village police officer convicted of an offence under section 17, 20, or 23, shall be imprisoned in the civil jail.

Place of imprisonment under section 28.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20, and 21

Disposal of fines and forfeiture

Pages 9-10.

(Section 31.)

of this Act, together with a reward of one rupee eight annas for each seer of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Governor General may allow free cultivation of poppy and manufacture of opium in any district.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a sub-deputy opium agent or other officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Power to prescribe rules for delivery to Government officers.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

THE OPIUM ACT OF 1878^[a].

(I OF 1878.)

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th January, 1878.)

An Act to amend the law relating to Opium.

[As modified up to the 1st July 1894.]

WHEREAS it is expedient to amend the law relating to opium. It is hereby enacted as follows:—

Preamble.

1. This Act may be called the Opium Act, 1878;

Short title.

It shall extend to such local areas ^[a] as the Governor General in Council may, by notification in the *Gazette of India*, from time to time direct;

Local extent

And it shall come into force in each of such areas on such day as the Governor General in Council in like manner directs in this behalf.

Commence-
ment.

2. [*Repeal and amendment of enactments*] *Repealed by Acts XII of 1891 and IV of 1894.*

3. In this Act, unless there be something repugnant in the subject or context,—

Interpretati
clause.

“Opium” includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

[a] The Act has been extended to the following local areas from the date specified against each:—

the United Provinces of Agra and Oudh, from 2nd February, 1878 [*Gazette of India*, 1878, Pt. 1, p. 68];

the Bombay Presidency, from 1st April, 1878 [*ib.*, p. 231];

Bengal, from 21st August, 1878 [*ib.*, p. 526];

Lower Burma, from 29th March, 1879 [*ib.*, 1879, Pt. I, p. 75];

Assam, from 1st April, 1879 [*ib.*, p. 259];

the Central Provinces, from 28th June, 1879 [*ib.*, p. 441];

Ajmer-Merwara, from 2nd August, 1879 [*ib.*, p. 466];

the Punjab, from 1st April, 1880 [*ib.*, 1880, Pt. I, p. 16];

the Madras Presidency, from 1st July, 1880 [*ib.*, p. 513];

Coorg, from 1st April, 1882 [*ib.*, 1882, Pt. I, p. 135]; and

Upper Burma (except the Shan States), from 15th September, 1888 [*ib.*, 1888, Pt. I, p. 421 (notifications Nos. 75 and 5062, dated 15th September, 1888)].

Pages 9-10.

(Section 4.)

"Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a Magistrate of the first class or (when specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class :

"Import" means to bring into the territories administered by any Local Government from sea, or from foreign territory, or from a territory administered by any other Local Government :

"Export" means to take out of the territories administered by any Local Government to sea, or to any foreign territory, or to any territory administered by another Local Government :

"Transport" means to remove from one place to another within the territories administered by the same Local Government.

Prohibition
of poppy
cultivation
and possession,
&c., of
opium.

4. Except as permitted by this Act, or by any other enactment relating to opium for the time being in force, or by rules framed under this Act or under any such enactment, no one shall—

- (a) cultivate the poppy ;
- (b) manufacture opium ;
- (c) possess opium ;
- (d) transport opium ;
- (e) import or export opium ; or
- (f) sell opium.

RULING.

The plaintiff, who held the farm of the right to retail opium at certain shops in a district, and whose lease contained a clause prohibiting sub-letting without the Collector's permission, entered into an agreement with the defendant to sub-let to him, on certain conditions, the management of certain shops in the district for one year without the Collector's permission. After the expiration of the year, the plaintiff brought a suit against the defendant to recover the balance due to him under the agreement, and obtained a decree :—

Held, reversing the decree, that the agreement not being permitted by the rules framed under the Opium Act (1 of 1878) was forbidden by section 4 of the Act, and was void as having in view an object forbidden by law.

Held, further, that the plaintiff could not recover the price of the opium supplied to the defendant, inasmuch as advances made for an illegal purpose subsequently carried out, cannot be recovered—*Raghunath Lalman versus Nathu Hirji Bhate*, 1 L. R. 19, Bom. 626.

(Section 5.)

Pages 10—11

5. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local Gazette, make rules consistent with this Act, to permit absolutely, or subject to the payment of duty or to any other conditions, and to regulate within the whole or any specified part of the territories administered by such Government, all or any of the following matters :—

Power to
make rules
to permit
such matters

- (a) the cultivation of the poppy ;
- (b) the manufacture of opium ;
- (c) the possession of opium ;
- (d) the transport of opium ;
- (e) the importation or exportation of opium ; and
- (f) the sale of opium, and the farm of duties leviable on the sale of opium by retail :

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the law relating to sea-customs^[a] for the time being in force or under section 6.

VIII of 18

RULING.

Section 5 of the Opium Act (1 of 1878) declares that the Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with the Act regulating the sale of opium. Under this section rules were issued by the Government of Bengal with the previous sanction of the Governor General in Council on the 21st February 1898, rule 15 (1) of which declares that a person to whom a license has been granted may sell opium by retail in accordance with the conditions specified in the license. The conditions of the license for retail sale of opium are contained in Form No. 1 made under rule 15. Under article 13 of this form, the holder of the license is to keep a daily correct account showing the quantity of opium received and sold, and other details. Article 18 sets out that on infringement of any of the conditions contained in the form or imposed by the Opium Act the license may be cancelled. The petitioner, a licensed vendor of opium, was convicted of having kept incorrect accounts in contravention of the rules made under section 5 of the Opium Act, and having thereby committed an offence punishable under section 9 of that Act. He was sentenced to pay a fine of Rs. 200 and in default of payment to undergo rigorous imprisonment for four months. *Held*, that the conviction and sentence must be set aside, there being nothing in any of the rules made under section 5 of the Act which would make the preparation of an incorrect account

[a] See Act VIII of 1878 (Chapter VIII), a revised edition of which, as modified up to 1st July, 1891, has been published by the Legislative Department.

Pages 11—12.

(Sections 6—8.)

punishable under section 9.—*Umesh Chunder Ghosh versus Queen-Empress, I. L. R., Cal. 571.*

Duty on
opium
imported
by land.

6. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, impose such duty as he thinks fit on opium or on any kind of opium imported by land into British India or into any specified part thereof, and may alter or abolish any duty so imposed.

Warehousing
opium.

7. The Governor General in Council may, by order notified in the *Gazette of India* :—

(a) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories administered by such Local Government, and

(b) cancel any such order.

So long as such order remains in force, the Local Government may, by notification published in the official *Gazette*,—

(c) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories administered by such Government, or into any specified part thereof, or intended to be exported thence, and

(d) cancel any such declaration.

An order under clause (b) shall cancel all previous declarations under clause (c) of this section relating to places in the territories to which such order refers.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

Power to
make rules
relating to
warehouses.

8. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local *Gazette*, make rules consistent with this Act to regulate the safe custody of opium warehoused under section 7; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed

(Section 9.)

Page 12.

of, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

9. Any person who, in contravention of this Act, or of rules made and notified under section 5 or section 8:—

- (a) cultivates the poppy, or
- (b) manufactures opium, or
- (c) possesses opium, or
- (d) transports opium, or
- (e) imports or exports opium, or
- (f) sells opium, or
- (g) omits to warehouse opium, or removes or does any act in respect of warehoused opium,

Penalty for
illegal
cultivation
of poppy,
etc.

and any person who otherwise contravenes any such rule, shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

RULINGS.

1. *Wrongful entrance and illegal search, liability of police officer for.*—An offence under section 9 of the Opium Act (I of 1878), and not coming under section 14 of that Act, is a non-cognizable offence and is therefore one for which, by section 4 of the Criminal Procedure Code (1882), a police officer cannot arrest without warrant; and he has therefore under section 155 of the Code no authority to investigate such an offence without the order of a Magistrate; nor under section 165 can he make a search in respect of it. The power of arrest without warrant referred to in clause (a) of section 4 of the Criminal Procedure Code is an unqualified power, and not a conditional power, as in section 24 of Act XIII of 1857, which only gives the right to a police officer to arrest without warrant in case the accused does not furnish the security required by that section. Where a police officer, therefore, in respect of an offence under section 9 of the Opium Act not coming under section 14 of the Act, made a search in the house of the accused without an order of a Magistrate:—*Held*, that his action could not be justified, either under section 24 of Act XIII of 1857, or under the Code of Criminal Procedure, and that he was liable in an action for damages for the illegal search. *Bahabal Shah v. Tarak Nath Chaudry*. 24 Calcutta 691.

(Sections 10—11).

2. *Transport of opium.*—A person having a license for the possession of opium as a medical practitioner, limited to eight *pollums* of opium, sent his servant to buy from a licensed dealer at Sholawaram and bring to Madras four *pollums* of opium; he was convicted of the offence of transporting opium without a license:—*Held*, the conviction was right. *Queen-Empress v. Ramanujam*, 1. L. R., 13, Mad., 191.

3. *Illegal sale of opium.*—*Liability of master for act of servant.*—Contrary to the conditions of his master's opium license, the servant sold a preparation of opium between sunset and sunrise. The master was not present, and there was no evidence to show that he had directly or otherwise authorized the illegal sale. *Held*, that the master was not liable to a penalty under section 9 of Act I of 1878. *In the matter of Bhoobun Chunder Shaw*. 11 C. L. R., 464.

4. *Criminal Procedure Code. Meaning of the term "personally interested."*—A Magistrate in charge of the excise and opium administration of a district is not "personally interested" in the observance of the provisions of Act I of 1878. He is therefore not precluded from exercising jurisdiction in respect of offences against the above-mentioned Act. *In the matter of the petition of Ganeshi*, 1. L. R., 15 All., 192 (F B).

5. *No jurisdiction in Court of Session.*—*Held*, that inasmuch as a conviction of an offence punishable under Act No. I of 1878 must be by a Magistrate, a Magistrate taking cognizance of such an offence has no power to commit to the Court of Session. *Queen-Empress v. Schade and another*, 1. L. R., 19 All., 465.

6. *Possession of chandu in quantity larger than that allowed by law.*—*Abetment—Presence in "chandu den."* *Held*, that the fact of the presence of a person in a "chandu den" where several persons were smoking *chandu*, or even of his being found smoking there, could not warrant his conviction for abetment of the offence on the part of the master of the establishment of possessing *chandu* to a larger amount than that allowed by law. *In the matter of King-Emperor v. Chote Lal*, All., W. N. (1901), 118.

7. Several persons were found together in a room, some of them smoking *chandu*. In the room were also found two pipes for smoking *chandu*, jars containing about five tolas of *chandu*, seven heads-rests, and "the usual paraphernalia of a *chandu* den." *Held* that the circumstances disclosed led up to one inference only, namely, that the *chandu* found was exposed for sale, and that the persons found in the den were persons to whom it was being sold for smoking purposes. *In the matter of King-Emperor v. Bakir*, All., W. N. (1902), 17.

Presumption
in prosecu-
tions under
section 9.

10. In prosecutions under section 9, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation
of opium.

11. In any case in which an offence under section 9 has been committed,—

(a) the poppy so cultivated ;

(Section 12.)

Pages 13-14.

- (b) the opium in respect of which any offence under the same section has been committed ;
- (c) where, in the case of an offence under clause (d) or (e) of the same section the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting ;
- (d) where, in the case of an offence under clause (f) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, shall be liable to confiscation.

The vessels, packages and coverings in which any opium liable to confiscation under this section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it, shall likewise be liable to confiscation.

12. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Order of
confiscation
by whom to
be made.

Whenever confiscation is authorized by this Act, the officer ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the district or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the things

Pages 14—15.

(Sections 13—15.)

intended to be confiscated or without hearing the persons (if any) claiming any right thereto, and the evidence (if any) which they produce in support of their claims.

Power to
make rules
regarding
disposal of
things
confiscated
and rewards.

13. The Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local Gazette, make rules consistent with this Act to regulate—

- (a) the disposal of all things confiscated under this Act; and
- (b) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Power to
enter, arrest
and seize, on
information
that opium is
unlawfully
kept in any
enclosed
place.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,—

- (a) enter into any such building, vessel or place;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry;
- (c) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section 11 or any other law for the time being in force relating to opium; and
- (d) detain and search, and, if he think proper, arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

RULING.

Bahabal Shah versus Tarak Nath Chaudhry, 24 Calcutta 691, see section 9, Act I of 1878.

Power to
seize opium
in open places.

15. Any officer of any of the said departments may—
- (a) seize, in any open place or in transit, any opium or other thing which he has reason

(Sections 15—19.)

Page 15.

to believe to be liable to confiscation under section 11 or any other law for the time being in force relating to opium,

(b) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search and arrest.

16. All searches under section 14 or section 15 shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made

17. The officers of the several departments mentioned in section 14 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers to assist each other.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place,

Vexatious entries, searches, seizures and arrests

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

or vexatiously and unnecessarily detains, searches or arrests any person,

shall for every such offence be punished with fine not exceeding five hundred rupees.

19. The Collector of the district, Deputy Commissioner or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any building or vessel or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

Issue of warrants.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

Page 16.

(Sections 20--24.)

Disposal of
person
arrested
or thing
seized.

20. Every person arrested, and thing seized, under section 14 or section 15, shall be forwarded without delay to the officer in charge of the nearest police-station; and every person arrested and thing seized under section 19 shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

Report of
arrests and
seizures.

21. Whenever any officer makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Procedure in
case of illegal
poppy-culti-
vation.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that, wherever Act No. XIII of 1857 (*an Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal*), or any part thereof, is in force, nothing in this section shall apply to such cultivation.

Recovery of
arrears of
fees, duties,
&c.

23. Any arrear of any fee or duty imposed under this Act or any rule made hereunder,

and any arrear due from any farmer of opium revenue, may be recovered from the person primarily liable to pay the same to the Government or from his surety (if any) as if it were an arrear of land-revenue.

Farmer may
apply to Col-
lector or other
officer to re-
cover amount
due to him by
licensee.

24. When any amount is due to a farmer of opium-revenue from his licensee, in respect of a license, such farmer may make an application to the Collector of the district, Deputy Commissioner or other officer authorized by the

(Section 25.)

Pages 16—17

Local Government in this behalf, praying such officer to recover such amount on behalf of the applicant; and, on receiving such application, such Collector, Deputy Commissioner or other officer may in his discretion recover such amount as if it were an arrear of land revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by such Collector, Deputy Commissioner [a] or other officer for the recovery of such amount shall be stayed if the licensee institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of such officer for the payment of the amount which such court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any farmer of opium-revenue to recover by suit in the Civil Court or otherwise any amount due to him from such licensee.

25. When any person, in compliance with any rule made hereunder, gives a bond for the performance of any duty or act, such duty or act shall be deemed to be a public duty, or an act in which the public are interested, as the case may be within the meaning of the Indian Contract Act, 1872 [b], section 74; and, upon breach of the condition of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of land-revenue.

Recovery
penalties
under box

IX of 18

SCHEDULE.

[ENACTMENT REPEALED.]

*Repealed by Act XII of 1891.*STATEMENT OF REPEALS AND
AMENDMENTS.

REPEALED IN PART ... Act IV of 1894.

REPEALED IN PART AND AMENDED ... Act XII of 1891.

[a] "Deputy Commissioner" was substituted for "Deputy Collector" by Act XII of 1891.

[b] For Act IX of 1872 see the revised edition, as modified up to 1st June 1898, published by the Legislative Department.

ACT XVI OF 1863.**AS AMENDED BY ACT VIII OF 1894.**

An Act to make special provision for the levy of the excise duty payable on spirits used exclusively in arts and manufactures or in chemistry.

WHEREAS it is expedient to make special provision for the levy of the excise duty payable on spirits used exclusively in arts and manufactures or in chemistry: It is enacted as follows:—

Preamble.

1. Spirits intended to be used exclusively in arts and manufactures or in chemistry may be removed from any licensed distillery in any part of British India on payment of duty (a) [not exceeding] five per cent. on the value of the spirits, provided that no spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Such spirits may be removed from distillery on payment of duty on condition.

2. The Board of Revenue, or other authority specially authorized in that behalf by the local Government, shall prescribe from time to time, subject to the approval of the local Government, rules for ascertaining and determining that spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by section 1 of this Act; for causing such spirits to be so rendered if necessary, by its own officers at the expense of the person who wishes to remove them; and for fixing the value of the spirit on which the *ad valorem* duty shall be levied.

Rules for ascertaining and determining that spirits to be removed have been rendered unfit for human consumption &c.

3. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other authority as aforesaid, under the last preceding section of this Act, shall be liable, on conviction before any officer exercising the powers of a Magistrate, to a penalty not exceeding five hundred rupees for every such offence.

Penalty for breach of such rules

4. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption spirits removed from a distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand rupees; and the possessor of such spirits on which

Penalty for attempt to render fit human consumption spirits removed under the Act.

(a) These words were inserted by section 6, Act VIII of 1894.

Pages 19—30.

(Sections 5—9.)

such attempt has been made, or which may have been rendered fit for human consumption, shall be liable, on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees.

Such penalty
how to be
levied.

5. Any penalty imposed under either of the last two preceding sections may, in case of non-payment, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of the officer by whom such penalty was imposed.

In case of
non-payment
of penalty
offender may
be detained
pending
return of
distress
warrant.

6. In case any such penalty shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security, to the satisfaction of such officer, for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment
of offender in
case of failure
to recover
penalty by
distress.

7. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels where upon such penalty could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to the civil jail, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other cases; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

* * * * *

Confiscation
in case of
conviction
under section
3 or 4.

9. In every case of conviction under section 3 or section 4 of this Act, the liquor or spirits, with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

THE EXCISE ACT, 1896.

(XII OF 1896.)

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th March 1896.)

An Act to amend the law relating to the Excise revenue in force in Northern India, Burma and Coorg.

WHEREAS it is expedient to amend the law in force in Northern India, Burma and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; it is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Excise Act, 1896.

Title, loc-
extent and
commence-
ment.

(2) It extends to the territories administered respectively by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, the Lieutenant-Governor of the Panjab, and the Chief Commissioners of the Central Provinces, Burma (inclusive of Upper Burma), Coorg and Ajmer and Merwara; and

(3) It shall come into force at once.

2. (1) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

Repeal.

(2) But all rules made, powers conferred and licenses and farms granted under any of the enactments so repealed and in force at the commencement of this Act shall be deemed to have been respectively made, conferred and granted under this Act.

3. (1) In this Act—

(a) "Chief Revenue-authority" means,—

Definition

in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue;

Pages 21—22.

(Chapter I.—Preliminary—Section 3.)

in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burmah,—the Financial Commissioner; and

in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmere and Merwara,—the Chief Commissioner.

* (b) "Collector" includes any Revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act :

(c) "Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this act :

(d) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorised in this behalf by the Magistrate of the district :

(e) "import" includes removal into one Province of British India from another :

(f) "place" includes also house, boat and raft:

(g) "tari" means the sap of any kind of palm-tree :

†(h) "fermented liquor" means malt liquor, wine, pachwai and fermented tari, and in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tari though it may not have perceptibly begun to ferment:

(i) "spirit" means any liquor containing alcohol obtained by distillation:

(j) the expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the

*The Collector of Jaunpur has been appointed to discharge the functions of a Collector in the Panwara Ilaga of the Partabgarh district, and the Deputy Commissioner of Partabgarh those of a Collector in certain villages of the Allahabad district, and the Collector of Allahabad those of a Collector in certain villages in the Partabgarh district. (Notification Nos. ²⁶⁴ XIII-351A, ²⁶⁶ XIII-351A and ²⁶⁸ XIII-351A, dated 14th November 1894).

†Fermented liquor defined to include tari, sendhi, darbabra, boza and fermented tari. (Notification No. 178, dated 17th July 1882.)

(Chapter I.—Preliminary—Section 4.)

same and includes every other drug which the Local Government may, by notification in the Local Official Gazette, declare to be included in this definition, and every preparation and admixture of any such drug.

(k) "hemp" means any variety of the hemp plant from which intoxicating drugs can be produced:

(l) "tola" means a weight of one hundred and eighty grains Troy:

(m) "ser" means a weight of 80 tolas:

(n) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles;

country spirit, one ser, and in Burma one reputed quart bottle;

country fermented liquor, four sers, and in Burma four reputed quart bottles;

bhāṅg, or any preparation or admixture thereof, one ser;
ganja or charas, or any preparation or admixture thereof, five tolas.

If sold in larger quantities, they shall be deemed to be sold wholesale.

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

4. Nothing herein contained shall affect Act XVI of 1863 (to make special provision for the levy of the Excise duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry) or the Cantonments Act, 1889.

Saving
Acts XV
1863
XIII of

* (1) For the purposes of the Act "spirit distilled from mahwa in the Gwalior territory" has been declared by Local Government to be country spirits if made according to the native process. (G. O. No. $\frac{304}{XIII-571A}$, dated 2nd December 1898, to the address of the Sessions Judge of Jhānsi.)

Pages 22—24.

(Chapter II—Production of Spirit and Fermented
Liquor—Sections 5—6.)

CHAPTER II.

PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

Manufacture
of spirit and
liquor without
license pro-
hibited.

5. No person shall construct, work or possess a distillery, still or brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorized by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

RULING.

The plaintiff obtained from the excise authorities a license to manufacture and sell country liquor, such license containing a condition against sub-letting the benefits of the license. By section 42 of the Excise Act (XXII of 1881) the violation of any condition of a license granted under the Act is made a punishable offence. The plaintiff sub-let the license to defendants who executed an agreement to pay to the plaintiff a certain sum of money, in which was included the sum of Rs. 1,500, which the defendants had undertaken to pay to plaintiff as rent reserved on the sub-lease. The plaintiff instituted the suit for recovery of the amount due to him on the agreement and it was decreed by the Court of first instance, but dismissed by the lower Appellate Court.

On second appeal the plaintiff contended on the authority of *Gauri Shankar v. Mumtaz Ali Khan* that his suit had been wrongly dismissed.

Held that the sub-letting of license to manufacture and sell country liquor having been made punishable as an offence is to be deemed as an act contrary to law within the meaning of section 23 of the Indian Contract Act (IX of 1872), and the claim to recover money due on such sub-lease was therefore not enforceable in a court of justice. *Debi Prasad v. Rup Ram and others.* I. L. R., 10 All., 577.

Power to es-
tablish dis-
tilleries for
country
spirit.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time—

- (a) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established; and
- (b) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

(Chapter II.—*Production of Spirit and Fermented Liquor—Sections 7—9.*)

Page 24.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6 until—

Duty on spirit.

- (a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or
- (b) a bond for such duty has been executed, or
- (c) duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

Explanation.—Duty may be fixed or made payable under this section at different rates according to the places to which any spirit is to be removed for consumption.

8. No fermented liquor shall be removed from a brewery licensed under section 5 until—

Duty on fermented liquor.

- (a) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1894, on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

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- (b) a bond for such duty has been executed.

9. The Chief Revenue-authority may, from time to time, make rules as to—

Power for Chief Revenue-authority to make rules as to distilleries and breweries licensed under sect 5.

- (a) the granting of licenses for distilleries, stills and breweries under section 5 ;
- (b) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work ;
- (c) the size and description of the stills in such distillery ;.
- (d) the storing and passing out of the spirit made in such distillery, or of the fermented liquor

Pages 24—25.

(Chapter II.—*Production of Spirit and Fermented Liquor*—Sections 10-11. Chapter III.—*Cultivation and Control of Intoxicating Drugs*.—Section 12.)

made in such brewery, and the contents of the passes ;

(e) the inspection and examination of such distillery or brewery, and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein ;

(f) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting and other vessels in such brewery.

Power for Chief Revenue-authority to make rules for distilleries established under section 6.

10. The Chief Revenue-authority may, from time to time, make rules as to—

(a) the management of distilleries established under section 6, and, in particular, the conditions on which any materials to be used in making spirit may be brought into such distillery ;

(b) the conditions on which spirit may be made in such distilleries ; and

(c) the storing and passing out of the spirit so made and the contents of the passes.

Sanction to rules under sections 9 and 10.

11. Except in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmer and Merwara, the sanction of the Local Government is required to validate rules under sections 9 and 10.

CHAPTER III.

CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

Prohibition, restriction and regulation of cultivation of hemp and production of intoxicating drugs.

12. (1) In Burma, the cultivation of hemp and the preparation of intoxicating drugs are prohibited except under, and in accordance with, a license granted by such officer as the Local Government may from time to time appoint in this behalf.

(2) In the other territories to which this Act extends, the Local Government, with the previous sanction of the

(Chapter III.—Cultivation and Control of Intoxicating Drugs—Section 13.)

Governor General in Council; may, from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it,—

- (a) prohibit, absolutely or except under, and subject to the conditions of, a license granted by such officer as the Local Government may from time to time appoint in this behalf, the cultivation of the hemp plant and the production or preparation of intoxicating drugs from the hemp plant so cultivated, and place the cultivation of the hemp plant and the production or preparation and storage of such intoxicating drugs as aforesaid under such supervision as may be deemed necessary to secure payment of the duty (if any) imposed under this Act ;
- (b) restrict and regulate, in such manner as may by rule be prescribed, the collection by any person of the spontaneous growth of the hemp plant and the preparation of intoxicating drugs from the spontaneous growth so collected ; and
- (c) prohibit, absolutely or otherwise than by certain specified routes and under specified conditions, the import and transport of intoxicating drugs ;

and may, in like manner, cancel or vary any such notification.

13. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it—

- (a) impose such duty, not exceeding two hundred rupees per acre, as it may think fit, on the cultivation of hemp ; or,
- (b) impose such duty, not exceeding twenty rupees per ser as it may think fit on intoxicating drugs produced or prepared in, or imported into, or exported from, or transported from place to place within, any of the territories

Duty on cultivation of hemp and intoxicating drugs.

Pages 26-27.

*(Chapter III.—Cultivation and Control of Intoxicating
Drugs.—Sections 14—15.)*

to which this Act extends, or any part thereof;

and may, in like manner, alter or abolish any duty imposed under this section.

Establish-
ment and
licensing of
bonded and
other
warehouses
and levy of
duty on
intoxicating
drugs on
issue
therefrom.

14. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time—

- (a) establish or license bonded or other warehouses for the storage of intoxicating drugs, and
- (b) direct that, subject to such conditions (if any) as it may, from time to time, impose, the levy of the duty (if any) payable under section 13 on intoxicating drugs in transit to or from, or stored in, such warehouses shall be postponed until such time as may by rule be fixed in this behalf.

Payment of
warehouse-
dues.

15. (1) If intoxicating drugs be lodged in a warehouse established under the last foregoing section, the owner shall pay monthly, on receiving a bill or written demand for the same from the Collector or other officer deputed by the Collector in this behalf, warehouse-dues at such rates as the Chief Revenue-authority may fix.

(2) If any bill for warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Collector may, in discharge of such demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select.

(3) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold and, next, the demand in respect of which the drugs were sold and shall then pay the surplus (if any) to the owner of the drugs on his application :

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector :

(Chapter III.—Cultivation and Control of Intoxicating Drugs.—Sections 16—18.)

Provided also that the application for such surplus (if any) as aforesaid be made within one year from the date of the sale of the drugs, or that sufficient cause be shown for not making it within such period.

16. Any intoxicating drugs warehoused under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of two years from the date on which they were so deposited. The owner of any drugs remaining in a warehouse on the expiry of such period shall forthwith clear the same.

Period during which intoxicating drugs may remain warehoused.

Provided that, when the license for a warehouse licensed under this Act is cancelled and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

17. Any owner of intoxicating drugs warehoused under this Act may, at any time within two years from the date on which the drugs were so warehoused, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed by the same or another Local Government and whether under this Act or under any other enactment for the time being in force.

Power to remove intoxicating drug from one warehouse to another.

18. (1) In Burma no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general exemption granted by the Local Government, or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf.

Possession of intoxicating drugs.

(2) In the other territories to which this Act extends, no person shall have in his possession—

- (a) any drugs which the Local Government has, by notification under section 3, sub section (1), clause (j), declared to be included in the definition of intoxicating drugs, except under, and in accordance with the terms of, a general

Page 28.

(Chapter III.—Cultivation and Control of Intoxicating Drugs—Sections 19—21. Chapter IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.—Section 21.)

exemption granted by the Local Government or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf, or

- (b) any quantity of any intoxicating drugs mentioned in section 3, sub-section (1), clause (n), greater than the amount therein specified in respect of such drugs, unless he is permitted to collect, cultivate, manufacture or sell the same, or holds a pass therefor from the Collector or some other officer empowered by the Local Government to grant such passes.

Power for Local Government to make rules.

19. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, make rules consistent with this Act—

- (a) to regulate the time, place and manner of payment of the duties (if any) imposed under section 13,
- (b) to carry into effect the provisions of section 12, section 14 and section 18 or any of them, and
- (c) generally, to carry into effect the provisions of this Chapter.

Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue-authority to make rules.

20. The Collector or any other officer empowered by the Local Government in this behalf may, from time to time, grant licenses or passes to persons desirous of possessing or transporting intoxicating drugs, and the Chief Revenue-authority, with the previous sanction of the Local Government, may make rules to regulate the grant of such licenses or passes.

CHAPTER IV.

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

21. No spirit, fermented liquor or intoxicating drug shall be sold except under, and in accordance with the

(Chapter IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.—Section 21.)

Pages 28—29

terms of, a license granted under the provisions hereinafter contained :

Provided as follows :—

- (a) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease ;
- (b) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;
- (c) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;
- (d) any person authorized to cultivate the hemp plant may sell any intoxicating drug prepared from his plants to any person to whom he is permitted by the conditions of his license to sell the same, or to any person authorized to purchase the same by the order in writing of the Collector.

Spirit, fermented liquor and intoxicating drugs not to be sold without license.

Provided also that, where the Local Government has declared, by notification under section 3, sub-section (1), clause (j), any drug to be included in the definition of "intoxicating drugs," such drug may be sold in the territories to which this Act extends under, and in accordance with the terms, of, a general exemption granted by the Local Government.

Pages 29—30.

(Chapter IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.—Sections 22—24.)

Licenses how granted and cancelled.

22. (1) Subject to the rules made by the Chief Revenue authority under the powers conferred by this Act, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma) of intoxicating drugs, within his district or any part thereof or at any place therein.

(2) Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

(3) Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Further power to cancel licenses.

23. (1) Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or the Chief Revenue-authority direct.

Surrender of retail license.

(2) On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

24. (1) Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

(2) If the Collector is satisfied that there is sufficient reason for surrendering a license, he may remit the sum so fixed.

(Chapter IV.—Sale of spirit, Fermented Liquor and Intoxicating Drugs.—Sections 25—28.)

Pages 30—31.

25. (1) The Collector, with the sanction of the Chief Revenue-authority, may let in farm—

Power for Collector to farm fees and for farmer to grant licenses.

(a) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma) of intoxicating drugs;

(b) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

(2) When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

26. The Collector, with the sanction of the Chief Revenue-authority, may cancel any farm granted under this Act.

Farm may be cancelled

27. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Compensation to farmers in certain cases

28. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Recovery arrears by farmers.

Page 31.

(Chapter IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.—Section 29. Chapter V.—Possession and Import of Spirit and Fermented Liquor.—Sections 30 and 31.)

Power for
Chief Revenue-authority to regulate supply of t  ri to licensed vendors.

29. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which t  ri shall be supplied to licensed vendors of the same.

CHAPTER V.

POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Possession of spirit, &c.

30. (1) No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, sub-section (1), clause (n), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

(2) Nothing in this section extends to—

(a) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(b) t  ri intended to be used for the manufacture of g  r or molasses.

Spirit and fermented liquor from foreign territory subject to duty.

31. A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof,—

(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(Chapter V.—Possession and Import of Spirit and Fermented Liquor.—Section 32. Chapter VI.—Officers and their Powers.—Section 33.)

Pages 31—32.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1894, or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (a) of section 8, may from time to time prescribe.

VIII of 1894.

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

32. (1) The Governor General in Council may, from time to time by notification in the Gazette of India, impose such duty as he thinks fit on any spirit or fermented liquor brought by land from beyond the limits of India into any territory to which this Act extends or into any specified part thereof, and may alter or abolish any duty so imposed.

Spirit and fermented liquor from territory beyond India subject to duty.

(2) When any duty is imposed under this section, the Governor General in Council may by rule prescribe the time, place and manner of payment of the same.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

33. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise revenue and for the prevention of offences against this Act, and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers.

Collectors may appoint Excise officers.

RULING.

Held that an officer invested with powers under sections 27, 28, and 29 of Act No. XXII of 1881 (of sections 36, 37 and 38, Act XII of 1896) who had power in certain events to take the case before a Magistrate under section 32, (*cf.* section 41, Act XII of 1896) was an "Excise-officer" within the meaning of section 47 of the Act (*cf.* section 57, Act XII of 1896). *Queen-Empress v. Ram Charan* (1), over-ruled. *Queen-Empress vs. Makunda and another* I. L. R., 20 All., 70.

Pages 32—33.

(Chapter VI.—Officers and their Powers—Sections 34—38.)

Recovery of
arrears of
fees.

34. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land revenue due from landholders or from farmers of land or their sureties.

Power of
Excise officers
to inspect
shops.

35. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs.

Power of
Excise-officers
to arrest
persons carry-
ing spirit,
etc., liable to
confiscation.

36. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act, and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it, and may also arrest the person in whose possession such spirit, liquor or drug is found.

Power of
Excise-officers
to arrest per-
sons in pos-
session of
article liable
to confisca-
tion and to
seize article.

37. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary, may arrest any person having in his possession any article liable to confiscation under this Act or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

Power of
Excise-officers
to receive in-
formation
of illicit man-
ufacture or
possession

38. Whenever any Excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed, such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees, unless the Excise-officer is himself such an officer of police), enter into such place and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such

(Chapter VI.—Officers and their Powers.—Sections 39—42.)

spirit or article, and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

39. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector
may issue
warrant of
arrest in
certain cases.

40. (1) The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

Collector may
issue search-
warrant.

(2) Such warrant may be executed by any Excise officer in the receipt of a monthly salary of not less than ten rupees at the time and in the manner prescribed in section 38.

(3) Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 38, and shall cease to be in force at sunrise on the day next following.

41. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, or enters any place for the purpose of searching for any such article, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure or search to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested or the article seized with all convenient despatch to the Magistrate for trial or adjudication.

Excise-officer
to report
arrest, &c.,
and to take
person
arrested to
Magistrate.

42. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours hereafter, take the person arrested

Procedure
after arrest
or seizure.

Pages 34—35.

(Chapter VI.—Officers and their Powers.—Sections 43—44.
—Chapter VII.—Penalties—Sections 45-46.)

or the article seized to the Collector, and the Collector, after such enquiry, as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

Police to aid
Excise-
officers.

43. All Police officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such Excise-officers.

Power for
Local Gov-
ernment to
invest Police
officers with
powers of
Excise-
officers.

44. (1) The Local Government may, from time to time, invest either by name or in virtue of his office—

(a) any Police-officer with the powers conferred on Excise-officers by section 36 of this Act;

(b) any Police-officer in charge of a station or any Police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 37 and 38 of this Act.

(2) Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

For illegally
manufactur-
ing spirit
or liquor.

45. (1) Whoever in contravention of section 5 constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture shall be liable to confiscation.

For illegally
introducing
country
spirit.

46. (1) Any person who—

(a) without a special pass from the Collector introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

(Chapter VII.—Penalties—Sections 47—48.)

- (b) in contravention of section 7 or section 8 or of any rule made under section 9 or section 10, removes any spirit from a distillery or any fermented liquor from a brewery, or For removing spirit or fermented liquor.
- (c) in contravention of section 31, brings any spirit or fermented liquor into any territory to which this Act extends, or For illegally importing spirit or fermented liquor.
- (d) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 32, brings any spirit or fermented liquor into any territory to which this Act extends, For importing spirit, fermented liquor or intoxicating drug without paying duty

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All such spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

47. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 9 or section 10 shall be punished with fine not exceeding one hundred rupees. For contravening rule prescribed Chief Revenue-authority.

48. (1) Any person who, in contravention of any provision of Chapter III or any rule thereunder, or without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 13, For illegal cultivation of hemp or collecting spontaneous growth of hemp, or preparing, possessing, importing, exporting or transporting drugs

- (a) cultivates hemp, or
- (b) collects the spontaneous growth of the hemp plant, or
- (c) prepares any intoxicating drug, or
- (d) possesses any intoxicating drug, or
- (e) imports, exports or transports any intoxicating drug,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Pages 85 · 86.

(Chapter VII.—Penalties—Sections 49—52.)

(2) Any intoxicating drug in respect of which an offence has been committed under this section, together with the vessels containing the same and any animals and conveyances used in carrying it, shall be liable to confiscation.

For illicitly
selling spirit,
etc.

49. Any person who, in contravention of section 21, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

RULINGS.

License to sell spirits retail—Death of licensee before expiration of period of license—Right of his heir and partner in business to continue sale—Personal nature of license:—Held, that a license for the retail sale of liquor under the Excise Act No. XII of 1896, granted in the name of one man, does not on his death before the expiration of the period of the license descend to his heir and partner in business so as to justify the said heir and partner in business in continuing to sell during the unexpired portion of the period named in the license. Where an order had been made for the sale of the liquor, part of which was, as above ruled, illegally sold by the accused:—*Held,* that if the said liquor had by devolution or otherwise become the property of the accused, there was no reason why it should not be attached and sold. (*In the matter of Madho Parshad, I. L. R., All. 22, 441.*)

For permit-
ting drunk-
ennes, &c.,
in shop.

50. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

For illegally
possessing
spirit or
liquor.

51. Any person who possesses any spirit or liquor, in contravention of section 30, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the spirit or liquor, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For refusing
to produce
license and
for breach
of rules and
conditions.

52. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule under this Act, or any condition of a license granted under this

(Chapter VII.—Penalties—Sections 53—55.)

Pages 34—37.

Act for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

RULINGS.

(1) *Debi Prasad v. Rup Ram, &c.*, I. L. R., 10 All., 577. (See Section 5).

(2) *Liability of master for the act of his servant.*—This is a reference under section 42 of Act XXII of 1881 which imposes penalties on holders of licenses under the Act for breaches of conditions of licenses among other things. The Magistrate who tried the case rightly held that licensee was responsible for breaches of the kind and not his mere servant in charge of the premises. This view of the law is correct and the record is returned.—*In the High Court of Judicature, for the North-Western Provinces, Criminal Side—Revisional Jurisdiction, dated Allahabad, 26th February 1890—Queen-Empress vs. Ram Kishun.*

53. (1) Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

For conniving at illicit manufacture or sale of spirit, etc.

(2) Any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees.

54. Any Police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 43, and any officer in charge of a police station who, on application made by an Excise-officer desiring to act under section 38, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For police neglecting to aid Excise officers.

55. Any Excise-officer who,—

(a) without reasonable grounds of suspicion searches, or causes to be searched, any place, or

For vexatious search or seizure.

(b) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act or

Pages 37—38.

(Chapter VII.—Penalties—Sections 56—60.)

(c) vexatiously and unnecessarily arrests any person, or

(d) commits any other excess not required for the execution of his duty,

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

For delay in reporting arrest, &c., or in taking person arrested to Magistrate.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

RULING.

Queen-Empress vs. Makunda. 1 L. R., 20. All., 70 (see section 33.)

Confinement in what jail.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.
XLV of 1860.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the Indian Penal Code, the commission of any such offence shall be punished with the punishment provided for such offence.

Disposal of fines, etc., as rewards.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

(Chapter VII.—Penalties.—Section 61. Chapter VIII.—Military Cantonments—Sections 62—63. Chapter IX—Miscellaneous—Section 64.)

Page 22.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

Magistrate to pass order of confiscations.

CHAPTER VIII.

MILITARY CANTONMENTS.

*62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit, or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officers; and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Manufacture and sale of spirits, etc., in military cantonments.

63. In all other respects the provisions of this Act shall have effect within such limits or distance.

Application of Act to military cantonments.

CHAPTER IX.

MISCELLANEOUS.

64. (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

Collector subject to control of Commissioner.

(2) The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

* To be in force for a radius of two miles round Chunar Cantonment. Notification No. 73A., dated 16th May 1876.

Page 59.

Additional
power for
Chief
Revenue-
authority to
make rules.

(Chapter IX—Miscellaneous—Sections 65—66).

65. The Chief Revenue-authority may, from time to time, make rules consistent with this Act—

- (a) as to the period for which any license or farm under this Act shall be granted.
- (b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;
- (c) as to the security to be given by any licensee or farmer under this Act;
- (d) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;
- (e) as to the disposal of things confiscated under this Act;
- (f) as to the duties of Excise-officers; and
- (g) to provide generally for carrying out the provisions of this Act.

Power for
Local Gov-
ernment to
exempt
articles and
persons.

*66. The Local Government may from time to time by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption.

*(1) Bhoctias, while within the parganas of Oharins and Johar in the Kumaun (now Almora) district and in pargana Painkhanda in the Garhwal district of the Kumaun Division, have been exempted from all the provisions of the Excise Act which prohibit or render penal the manufacture of spirits or fermented liquor except under a license and the possession of spirits or fermented liquor in excess of the quantities specified in section 3, clause (n) of the Act, provided that the spirits and the fermented liquor so manufactured and possessed shall only be used for home consumption and shall not be sold. (Notification No. ²⁵⁸ XIII—211A, dated 18th September 1890.)

(2) The inhabitants of those portions of pargana Jaunsar-Bawar in the Dehra Dun District which lie outside the town of Kalsi and the cantonment of Chakrata have been exempted from the provisions of the Excise Act, to the extent of permitting them to manufacture for private consumption, though not for sale, the spirit and fermented liquor known as *sar* and *rabra*, respectively, and to possess such spirits and fermented liquor in quantities exceeding those specified in clause (n) of section 3 of the said Act. (Notification No. ²¹⁷ XIII—173A, dated 18th September 1890.)

(3) In tracts where farming and outstall systems are in force the limit of retail vend has been raised to one gallon or 6 reputed quart bottles. (Notification No. ⁹⁸ XIII—126, dated 6th July 1884.)

(*The Schedule.*)
THE SCHEDULE.
 (*See section 2.*)

Year.	No.	Title or subject.	Extent of repeal.
1881	XXII	The Excise Act, 1881	The whole.
1885	VI	Amending the Excise Act, 1881...	Ditto.
"	IX	Amending the Excise Act, 1881, and other Acts.	So much as relates to the Excise Act, 1881.
1887	II	Ditto ...	Ditto.
1888	XVIII	Financial Commissioner, Burma,	So much of section 7 and the schedule as relates to the Excise Act, 1881.
1889	XIII	The Cantonments Act, 1889 ...	So much of section 2 and the schedule as relates to the Excise Act, 1881.
1890	XIII	Amending the Excise Act, 1881, and other Acts.	Sections 2 to 5 (both inclu- sive).
"	XX	The North-Western Provinces and Oudh Act, 1890.	Section 43.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to the Excise Act, 1881.
1893	X	Amending the Excise Act, 1881	The whole.

UNITED PROVINCES POLICE.

HANDBOOK FOR STATION OFFICERS.

Extracts from Excise Manual.

PART II.—RULES.

CHAPTER IV.

Sources of Supply.

10. THE duties on imported spirits and fermented liquors being collected by the Customs Department at the port of entry, these Provinces obtain their supply in the ordinary course of trade. No restriction is placed upon the import of these commodities, and no passes are required, either by traders holding licenses for wholesale or retail vend, or by persons importing for their own private use.

Pages 1—II
Imported
spirits and
fermented
liquors.

11. Licensed vendors obtain their supplies of foreign spirits manufactured in India from distilleries licensed under section 5, Act XII of 1896. The local distilleries so licensed are the Rosa Distillery at Shahjahanpur and the Cawnpore Sugar Works Distillery at Cawnpore. The spirit manufactured is usually rum, the higher qualities being distilled from cane-juice, and a less expensive variety from molasses (*shira*). Other spirits may be, and are to some extent, produced from the same materials, simulating in flavour various imported liquors. All such are classed, for the purposes of the department, under the major head "Rum." Ordinarily no one is entitled to a pass for the removal of rum except a person licensed to sell the same; but the Collector of the district where the distillery is situated is empowered to issue special passes in favour of "accredited individuals" on application certifying that the spirit is for domestic consumption only, and not for sale, for quantities of not less than two imperial gallons or one dozen reputed quart bottles.

Foreign
spirits
manufactured
in India.

The import of such spirits from other provinces is not at present permitted.

Pages 11-12.

Spirits rendered non-potable, for use in arts, manufactures and industries or otherwise.

12. Spirits rendered effectually and permanently unfit for human consumption, by such means as may be, from time to time, prescribed, may be imported subject to customs regulations at the port of entry, or manufactured at any distillery licensed under section 5, Act XII of 1896, subject to the provisions of Act XVI of 1863, as amended by Act VIII of 1894. Such spirits are termed methylated spirits in these rules: they are supplied to vendors or to persons requiring it for industrial or private purposes, under pass, either from the Collector in whose jurisdiction the spirit is to be used, or from the Collector in whose district the distillery is situated. Sale is permitted by persons holding a license, which is granted free of charge to respectable applicants under certain circumstances.

The import of methylated spirits manufactured in India from other provinces is not at present permitted.

Fermented liquors manufactured in India after the English method.

13. These include all varieties of ale, beer, porter and stout, whether produced from malt and hops or other substituted materials. They are manufactured in breweries licensed under section 5 of the Excise Act. They are ordinarily distributed to the consumer through the agency of persons holding wholesale or retail licenses for the sale of imported spirits and fermented liquors, who obtain their supplies under pass. But passes in favour of "accredited individuals" may be granted by the Collector, on application certifying that such liquor is for domestic consumption only and not for sale, for quantities of not less than two imperial gallons or one dozen reputed quart bottles; and there are special arrangements for the supply of British troops under indent from the Army Commissariat Department.

The import of such liquor from other provinces is not at present permitted.

Country spirits.

14. All spirits manufactured after the native method of distillation are classed as "Country Spirits." These are usually distilled from the *mahua* flower, from molasses or gur, or from a combination of these substances. In some districts various flavouring substances, spices and roots, are also added in small quantities. Such spirits are manufactured either in public distilleries or in private stills under the outstill and farming systems. From April

1st, 1906, "plain spirit" (as defined in rule 106A), manufactured in a private distillery employing European methods is also classed as "country spirit."

Pages 12-13.

15. The liquor manufactured in distilleries passes to licensed retail shops either directly or through wholesale shops or bonded warehouses.

Distilleries.

16. Under the outstill and farming systems, the license covers, generally, the manufacture and sale of country spirits the product of a single still, at the sanctioned shop. In special cases branch shops are allowed, to which liquor is conveyed from the main still. The term "outstill" has its origin in the fact that the stills are worked outside the limits of the areas supplied with liquor from public distilleries. The "farming system" is practically the outstill system worked under a contract for the monopoly of manufacture and vend within a specified area containing a fixed number of shops.

Outstills and farms.

17. Under this term are included tari, sendhi, darbakra and boza. Tari and sendhi are the extracted sap of palmyra and date palms, respectively, and are used either when freshly drawn from the trees, or after fermentation. The trees are the property of the owners. The license granted simply covers the right of sale at a particular shop, or over a specified area, the licensed vendor making his own arrangements with the owners of the trees for tapping.

Country fermented liquor.

Darbakra and boza are fermented liquors made from gur and rice, respectively. The licenses for the sale of tari and sendhi cover the right of manufacture and sale of such fermented liquors in localities where there is a demand for them.

18. *Bhang*.—Bhang was formerly extensively imported from the Punjab *viâ* Jagadhri, and from Nepal *viâ* Bahraich. Import having been absolutely forbidden, the United Provinces are now dependent entirely on local sources of supply. Cultivation of the hemp plant for the production of bhang is permitted under Rules 267 to 279 only in certain villages of the Farrukhabad district, where such cultivation is an hereditary occupation. Throughout the remainder of the Provinces (with the exception of the Himalayan portions of the Kumaun Division) the cultivation of the hemp plant is not permitted

Hemp drugs.

Page 12.

for any purpose, it being found that it is practically useless in the plains of India as a source of fibre. The Farrukhabad cultivated drug is known as "tatiya" bhang, and is reputed to be of superior strength and flavour to the ordinary article. It commands a comparatively high price, and is mostly exported to Central India, very little being put upon the local market. Excluding this variety the whole supply of bhang is obtained by collection, regulated by license, of the spontaneous growth of wild hemp where such occurs. This growth is so prolific on the outer slopes of the Himalayas that the hemp plant is among the commonest of weeds. It is almost equally common in the northern portions of all the submontane districts, Gorakhpur, Basti, Gonda, Bahraich, Kheri, Pilibhit, Bareilly, Moradabad, submontane Naini Tal, Bijnor, Saharanpur, and Dehra Dun. It is found more sparsely in the low lands of the rivers in Muzaffarnagar and in portions of Shahjahanpur and Meerut. It occurs elsewhere, in decreasing quantities, southward, through the whole country to the north and east of the Jumna, and rarely in the tract south of the Jumna and Ganges. Such sporadic growth is, however, of no other importance than as a possible means of petty fraud on the Excise revenue. The authorized collection of wild hemp is confined to the submontane districts, the Himalayan plant being reputed inferior in flavour. In practice, the supply almost all comes from Saharanpur, Bahraich, and Gonda. That is, however, a matter of accessibility and organization only. Any one of the submontane districts could more than supply the whole wants of the Provinces.

(2) *Ganja* —The wild plant will not afford the higher hemp narcotics in quantities, or qualities, commercially valuable, and any attempt to manufacture them in these Provinces has been made an offence. The whole supply is imported under the bonded warehouse system (*vide* Rules 291 to 300). *Ganja* of the highest quality is imported from the tract of Bengal known as the *ganja* mahal, which includes an area of a little over sixty thousand acres, parts of which are included in the districts of Rajshahi, Bogra and Dinajpur. The headquarters of this tract are at Naogaon (Nowgong) on the northern border of Rajshahi, about thirty-eight miles north-east of Rampur Baulia, where the Government godowns and export offices are

situated. The characteristics of the different varieties of this ganja, known in those provinces as "*baluchar*," will be found described in Rule 258. It is chiefly used in the eastern districts, forming the Benares and Gorakhpur Divisions, but a little still finds its way further west, where its superior quality secures for it a certain, though small, demand, in spite of its high price. But practically the whole of the demand of the central districts of the provinces, and of those western districts in which *gánjā* is consumed at all, was, until lately, supplied by the "*pathar drug*." Part of this is grown in the Central Provinces, and is imported from the Government storehouse at Khandwa in the Nimar district. The bulk is, however, obtained from the Gwalior State. Importation has also been permitted from certain other Native States in Bundelkhand, but the permission is not at present made use of by the trade.

(3) *Charas*.—The whole of the *charas* consumed in these Provinces is imported from Central Asia. Under rules made by the Punjab Government, the import of *charas* from the area of production in Yarkand and Bokhara is limited to three specified routes. The drug must be imported in packages of not less than ten sérs in weight, and of the form regularly used and recognised by the trade. It must be consigned to one of nine bonded warehouses established in the Punjab. From these warehouses the supply for these Provinces is obtained, without payment of the Punjab duty, under transport-in-bond passes authorizing the conveyance in bond of the *charas* described therein to a bonded warehouse in the United Provinces. Practically the whole supply is obtained either from Hoshiarpur or Amritsar, which are the centres of the wholesale trade in *charas*.

18A. Cocaine and its derivatives can only be obtained by a licensed pharmacist either direct from Europe or from a licensed vendor thereof in India and from nowhere else.

Cocaine.

19. Opium is a State monopoly. The import of opium into these Provinces, except on behalf of Government, is strictly forbidden. All opium required for consumption within the Provinces is supplied by the Opium Department, and is distributed through Government treasuries and sub-treasuries to *ex-officio* or licensed vendors, at

Opium.

Page 14.

prices fixed by Government. No opium may be offered for sale, except opium so obtained. There are special provisions for the sale of opium for medicinal purposes by licensed druggists.

The sale, or preparation for sale, of opium in a form suited for smoking is absolutely forbidden. Persons desirous of smoking opium must make their own preparations from opium obtained in its natural state from licensed vendors.

CHAPTER V.

Powers and Duties of Officers.

20. The responsible direction of the Excise Department is entrusted, subject to the general control and superintendence of the Board of Revenue as Chief Revenue-authority, to the Commissioner of Excise appointed by the Local Government.

Commissioner
of Excise.

21. With reference to section 3 (c) of the Excise Act, XII of 1896, the Commissioner of Excise is appointed to discharge, throughout the territories administered by the Lieutenant Governor of the United Provinces, the functions of a "Commissioner of Revenue" under that Act.

His appointment (G. O. No. 318 - XIII 1897A, dated 6th November 1900).

Under the rules made under the Opium Act, I of 1878, "Commissioner" is defined to mean the Commissioner of Excise.

24. The Collector, or Deputy Commissioner, is responsible for the effective administration of the Excise of his district in conformity with the laws and rules from time to time in force, and subject to the general control and direction of the Commissioner of Excise and of the Board of Revenue. He is empowered to appoint one of his assistants to the subordinate charge of the district excise administration, and to prescribe, from time to time, the duties which this officer, who is called the "officer in charge of Excise," shall perform.

Collector.

Officer in
charge of
Excise.

26. Under section 14 of the Opium Act, officers of the Excise, Police, Customs, Salt, Opium or Revenue Departments may be authorized by the Local Government to exercise powers of search, seizure, and arrest in cases where opium, liable to confiscation, is believed to be manufactured, kept or concealed in a building, vessel or enclosed place. And under section 15, any officer of those Departments may—

Excise officers
under the
Opium Act.

(1) seize opium liable to confiscation, in any open place, or in transit.

(2) detain and search any suspected offender against the Act; and if such offender is in possession of opium, arrest him and any other person in his company.

Pages 17—18.

The authority referred to in section 14 has been conferred by the Local Government on the following persons:—

Excise Department.

Excise Inspectors and Muharrirs.

Police Department.

All Police officers in charge of a station, and all Police officers of and above the grade of head constable or sergeant.

Opium Department.

Administrative officials not inferior in rank to a Kothi Muharrir.

Revenue Department.

Tahsildars, Naib Tahsildars or Pe-dikars.

Section 17 provides that the officers of the several departments mentioned in section 14 shall, upon notice given or request made, be mutually bound to assist each other in carrying out the provisions of the Act.

Under the
Excise Act

27. Under section 33 of the Excise Act, the Collector has power to appoint persons, by name or by virtue of their office, to be officers for the collection of the Excise revenue and for the prevention of offences against the Act, the persons so appointed being styled "Excise Officers." Under section 65 (g) the following rules have been made by the Board of Revenue for regulating such appointments:—

(1) *The following persons may be appointed by the Collector to be officers for the collection of the revenue:—*

(a) All Assistant Collectors, Deputy Collectors and Tahsildars, together with all officers of not lower grade than a jamadar of tahsili peons.

(b) With the sanction of the Commissioner of Excise, any other person.

(2) *The following persons may be appointed by the Collector to be officers for the prevention of offences:—*

(a) All Assistant Collectors, Deputy Collectors, Tahsildars and Naib Tahsildars.

(b) All Excise Inspectors.

(c) All Excise Muharrirs.

(d) All officials of the Revenue Department in receipt of a monthly salary of not less than Rs. 10.

(e) With the sanction of the Commissioner of Excise, any other person.

Under section 44 the following Police officers have been invested by Government with the powers of Excise officers in respect of the matters shown against each :—

(1) All Police officers in the United Provinces, whether enrolled under Act V of 1861, or appointed under Act XX of 1856, Act XV of 1873, Act XV of 1883, Act XVI of 1873, or Act XVIII of 1876, are invested with the powers conferred on excise officers by section 36 of the Act.

(2) All Police officers in charge of a station, and all Police officers of or above the grade of head constable or sergeant, are invested with the powers conferred on Excise officers by sections 37 and 38 of the Act.

By section 43 all Police officers are required to aid Excise officers, upon request made by them, in the execution of their duty.

34. The Excise Inspector is an officer specially appointed to assist the Commissioner of Excise in the supervision of the administration. When in charge of a public distillery it is his duty to control the manufacture, gauging, storage and issue of spirits, to see that the prescribed accounts and returns are kept up, and particularly to enforce all the precautionary measures against the illicit issue of spirit.

Excise
Inspectors in
charge of a
public
distillery.

35. Where an Excise Inspector is appointed to a district on peripatetic duty he is required to be constantly on tour, inspecting minutely the working of all excise arrangements, and enquiring into the nature and extent of all suspected evasions of the law.

Excise
Inspector
on peripatetic
duty.

CHAPTER VI.

Rules of General Application.

38. Unless otherwise specified in these rules, or with the special sanction of the Board of Revenue, all excise licenses shall be yearly licenses, taking effect from the 1st April. Licenses granted at other periods of the year are to remain in force only to the 31st March next ensuing.

Excise arrangements to be annual.

52. All excise licenses and leases are personal to the licensee or lessee in whose favour they are granted, and lapse on his death, if that event takes place before the expiration of the term of the license or lease. . . . It should be clearly understood that sub-lessees or farmer's agents only hold their licenses conditionally on the maintenance of the farm from which they derive their rights.

Licenses and leases personal to holders.

54. Before April 1st of each year a list shall be prepared in Form No. 29, Appendix I, of shops sold, showing (1) name of shop, (2) locality of shop and (3) name of licensed vendor or farmer, for the information of the Superintendent of Police Any changes made in the list during the year shall be notified to the Superintendent of Police.

Extracts from register of sales and demands to be sent to Tahsildars and Police.

II. Licenses and Leases. Fixed fee System.

A.—Foreign Liquor.

57. Licenses for the wholesale vend of spirituous liquors other than plain spirit as defined in rule 106A manufactured at distilleries in India worked according to the European method, of fermented liquors manufactured in India at a licensed brewery, and of spirituous or fermented liquors imported either by land or sea, shall be granted, on application, by the Collector of the district, in Form No. 15, Appendix D.

Wholesale.

59. Persons taking out a local or general license for wholesale vend of spirituous and fermented liquors under the preceding rule are prohibited, on the plea of muster sales or any other plea whatever, from making any sale

Sale of less than two imperial gallons prohibited.

Lges 29—80.

of any one kind of such liquors in less quantities than two imperial gallons or one dozen reputed quart bottles.

Retail.

61. Licenses for the retail sale of spirituous and fermented liquors described in Rules 10 to 13, Chapter IV, shall be of the following descriptions:—

(1) *Hotel and Dāk Bungalow licenses*.—These licenses may be granted to the proprietors or lessees of houses which are *bonâ fide* places for the lodging and entertainment of travellers, and to persons in charge of dāk bungalows. They cover retail sale, for consumption on the premises only, to persons actually residing in, or making use of the accommodation provided by, the hotel or dāk bungalow. The licenses shall be in Form No. 16, Appendix D. They do not include the right to set up or maintain a “bar,” or to open a “restaurant” for the sale of liquor to the general public. Hotel-keepers desiring to open a “bar” or “restaurant” must apply for a license under the rule immediately following.

(2) *Bar Licenses*.—These licenses cover retail sale for consumption on the premises only, subject to the conditions of the license, to all comers, but not the sale of liquor in any quantity to be removed from the premises. The Collector may, subject to appeal to the Commissioner of Excise, refuse to grant a bar license to any holder of a hotel license. Temporary bar licenses may be granted, at the discretion of the Collector, to cover the retail sale of liquors at theatres and other indoor or outdoor places of public resort or entertainment, on payment of a daily fee, provided that no such license shall be granted for a longer time than 10 days, and that the holder shall not be permitted to sell liquors except during the hours of public performances, or at rehearsals. The licenses shall be in Form No. 17, Appendix D.

(3) *Railway Refreshment-room Licenses*.—These licenses cover retail sale in refreshment-rooms and dining-cars maintained by, or under the supervision and control of, railway administrations, for consumption on the premises or dining cars, and also sale, for consumption off the premises, of quantities not exceeding two reputed quarts of each kind of liquor to any one person. Licenses under the same conditions may be granted to the proprietors of refreshment-rooms at military rest camps, with the

previous sanction of the Commanding Officer. The licenses shall be in Form No. 18, Appendix D.

Licenses for sale in dining cars shall be issued only with the sanction of the Chief Revenue-authority. In the case of trains running through the territories administered by more than one Local Government, the license shall be issued by the Local Government within whose territories the headquarters of the contracting firm are situated, and shall be held to cover the whole extent of the journey of the train in respect of which it is granted, intimation of its issue being given to every Local Government or administration through which such train passes in the course of its journey.

(4) *Shop licenses*.—These licenses are of two descriptions:—

(a) Covering sale for consumption both on and off the premises.

(b) Covering sale for consumption off the premises only.

The licenses shall be in Form No. 19, Appendix D.

(5) *Auctioneers' Licenses*.—These licenses cover the sale by auction, by any person charging a fee or commission for his services, of excisable liquors, whether the property of private persons, or consigned in the ordinary course of trade for sale by auction. Sales under these licenses may be held at any place within these Provinces. The license covers the issue, on payment, of samples to intending purchasers, not exceeding in bulk one reputed quart bottle. There is no limit to the quantity which may be sold in a single transaction. The license shall be in Form No. 20, Appendix D.

62A. *Licenses to chemists and druggists for the sale of rectified spirits of wine*.—These will be issued to chemist and druggist firms specially approved by Collectors. Under these licenses the possession of rectified spirits of wine in excess of ten imperial gallons (or such larger quantity as the Commissioner of Excise may specially authorize) is prohibited. Rectified spirits of wine must not be sold under these licenses for other than *bonâ fide* medical, industrial and scientific purposes, and the maximum limit of sale at one time to the same person is restricted to one reputed pint in case of sale to a private individual, two reputed quarts in case of sale to a chemist,

Pages 81—83.

medical practitioner or scientific body, and three imperial gallons to any Government, Local Fund or Municipal Hospital.

N B.—Nothing in these rules shall be held to prevent the sale by chemists and druggists of excisable liquors, when such form an ingredient in a *bona fide* prescription given by a qualified medical practitioner, in the quantity ordered in the prescription.

62B. Tonic or medicated wines and similar preparations containing 20 per cent. and upwards of proof spirit are treated as “foreign liquor” can be sold only by licensed vendors of foreign liquor or by persons holding a special license under rule 62C.

62C. Chemists, medical practitioners and other dealers in drugs may sell such medicated wines containing 20 per cent. or over of proof spirit, under a special license, provided that the proportion of proof spirit does not exceed 42 per cent.

Such licenses shall be granted in Form 20B, Appendix D, by the Collector of the district in which the business is carried on.

62D. The Commissioner of Excise shall supply Collectors with two lists of medicated wines showing respectively those that contain 20 per cent. but under 42 per cent. of proof spirit and those that contain 42 per cent. or over. Persons selling such wines shall obtain copies of such lists from the Collector, and in case of a preparation not on the lists shall apply to the Collector for information regarding its alcoholic strength.

B.—Country Spirits.

Distillery
license.

63. Licenses to erect or work a still in distilleries for the manufacture of spirits after the native process, where the distillery system is in force, shall be granted by the Collector of the district in Form No. 14, Appendix E.

Condition
of license.

64. The license shall entitle the holder to remove from the distillery to his own shop or shops any quantity of spirits (not less than one gallon) on payment of the still-head duty. It shall also include the right of wholesale vend within the distillery to licensed wholesale or retail vendors.

Wholesale
licenses in
connection
with retail
licenses.

67. Licenses for the wholesale vend of country spirits in connection with retail licenses are granted merely to facilitate distribution, and are not to be regarded as a direct source of revenue. The number and location of

wholesale shops in each district must be determined with reference to the convenience and reasonable requirements of retail vendors. To prevent wholesale licenses being used as a cover for sale of illicit spirits, the places of vend should, as far as possible, be at the headquarters of a tahsil or thana, where the licensed premises can be kept under supervision. The licenses shall ordinarily be granted by the Collector of the district to persons holding retail licenses, and the business shall be conducted at the licensed retail shop of the holder.

The license shall be in Form No. 15, Appendix E. All liquor supplied by wholesale to retail shops shall be covered by a pass in Form No. 12, Appendix E. After filling in the pass, both parts shall be signed by the licensed wholesale vendor or his representative: one part shall be given to the person removing the spirit and the counterfoil shall be retained for record and reference. Passes will only be current for the period specified therein and shall be returned to the wholesale vendor who shall paste them to the counterfoils. The wholesale vendor shall make no fresh issues to any shop while a pass is outstanding.

68. Any person to whom such a license has been granted shall be entitled to sell, wholesale, in accordance with the terms of his license to—

Condition of
license.

- (1) a retail vendor of country spirits in the district in which such wholesale vend is licensed;
- (2) with the permission of the Collector of the district, a retail vendor of such spirits in another district;
- (3) any wholesale vendor of country spirits whether within or without the district.

An account of all sales made under the license shall be kept in Form No. 25, Appendix E; and an abstract of such account shall be submitted, on the 1st of each month, to the Collector.

Wholesale
licenses.

C.—Hemp Drugs.

70. Wholesale licenses are granted to persons other than the farmers of the right of retail vend by the Commissioner of Excise in the case of ganja and charas, and in the case of bhang by the Collector of the district, with the previous sanction of the Commissioner of Excise. In the

Pages 22—25.

first case Form No. 26, Appendix F, and in the latter No. 27, is applicable.

Conditions of
License.

71. Subject to the conditions of his license, the holder of a license for the wholesale vend of ganja and charas may sell wholesale to other wholesale vendors of ganja and charas, or to licensed retail vendors of the same with the consent of their farmers.

Subject to the conditions of his license, the holder of a license for the wholesale vend of bhang only may sell wholesale to farmers holding a wholesale license within these provinces, to retail vendors with the consent of their farmers, and to foreign traders for export, where such export is allowed.

Register of
license
granted under
the fixed fee
system.

73. A register of all licenses issued under the fixed fee system shall be maintained in the Collector's office, Extracts from this register relating to all descriptions of fixed fee licenses (other than those disposed of at the time of settlement and communicated to the Superintendent of Police under Rule 54) shall, as each license is granted, be supplied to the Superintendent of Police for the information of his subordinates.

NOTE.—Police officers should make themselves acquainted with the terms of licenses held by vendors under the Excise Department, and should enforce the conditions applying to the management of the shop, to the source from which the supply is derived and to the vend of the commodity for which the license is granted.

III.—Shops.

Fairs.

76. The Collector is empowered to establish temporary shops for sale of liquor, drugs and opium at fairs

(4) For the purpose of these rules the term "fair" shall be held to include weekly or monthly *bāzārs*, markets, *hāts*, &c.

Sign-boards
to be
conspicuously
affixed to
shops.

80. All shops, whether for the sale of English or country spirits, opium, drugs or *tari*, shall have constantly affixed to them, in a conspicuous position outside the place of vend, a sign-board bearing the name of the vendor with the words "Licensed Vendor of country spirits;" or as the case may be, in English and in the principal vernacular language of the district.

80A.—If a room is provided for the private accommodation of customers in any shop licensed to sell English or country spirits on the premises, access to the same shall be only through the shop, or by an entrance at the side of the shop. In the latter case a signboard shall be fixed at the entrance, similar to the one fixed at the shop. No new rooms of the kind should be licensed except in rare cases for special reasons.

Pages 35—37
Private
accommoda-
tion in liquor
shops.

81. The following rules shall be enforced for the prevention of sale of country spirits to European troops on the line of march :—

(1) Every shop, or combined shop and still, for the sale of country spirits on or adjacent to the line of march, shall be closed while European troops are passing or are encamped in the vicinity, and may be closed, during the passage of native troops, should the Officer Commanding so require.

Shops, or
combined
shops and
stills, to be
closed on
passage of
European
troops.

(2) Collectors, on receiving intimation of the march of European troops, shall give timely information to Tahsildars, who will be responsible for the due observance of these rules.

(3) Tahsildars, on receiving intimation of the approach of European troops, shall depute a subordinate to close each shop, who should be instructed to close it to all comers from the time the advance guard approaches till the rear guard has passed onward a full mile. He will, with as little delay as possible, report to the Collector when each shop was closed and when reopened, in order that the necessary refund and compensation may be speedily adjusted.

82. The following rules shall be observed in determining the sites of shops :—

Sites of shops.

(1) That the sites of all shops shall be selected with regard to police control, especially in the case of cities and towns or villages of any considerable size, and of roads on which there is much traffic. * * * *

83. The location of all shops shall be decided by the Collector and not by the contractor. The possession should be clearly defined so as to prevent shifting of sites.

Location of
all shops to
be decided by
Collector.

84. In military cantonments no shop for the sale of spirits, drugs, or opium shall be licensed without the knowledge and consent of the Commanding Officer.

Location of
shops in Mi-
litary can-
tonments.

Pages 37-38.

Where country spirit shops are permitted, it shall usually be made a condition of all licenses that the spirit purchased is to be consumed on the premises only. Whenever this is the case, the terms of such license should be made known to the police, so that they may at once detect any breach of the condition. A copy of section 13, Chapter III, Act XIII of 1889 (The Cantonment Act), as amended by Act V of 1895 and Act XV of 1897, shall be attached to all licenses issued in a cantonment, and a copy posted up in a conspicuous place at the shop in English and Vernacular.

G. G. O.
No. 6538 Exc.,
dated 14th
October 1904.

84A. All district officers and excise officials should assist the military authorities by all practicable means, in their efforts to suppress the consumption of liquor, more especially country liquor, among the British troops in India, and they should pay due attention to any representations which may be made by the local military authorities in respect of such matters.

IV.—*Special Passes.*

Officers empowered to grant special passes.

87. All Tahsildárs, Naib Tahsildárs, Excise Inspectors and all officers exercising the powers of an Assistant Collector or Assistant Commissioner of either class are empowered to grant passes under section 30, Act XII of 1896 for the possession of country spirits, *tari*, or drugs, or special orders under Rule 372 of the Opium Rules for the possession of opium, &c., in larger quantities than are specified in section 3(n), Act XII of 1896, or in Rule 362 of the Opium Rules (Chapter XIV).

Special passes how granted.

88. Any person requiring spirits, *tari*, drugs or opium in excess of the quantities specified in section 3(n), Act XII of 1896, or Rule 362 of Chapter XIV, shall submit to an officer mentioned in Rule 87 an application. . . . Such officer may grant a pass in duplicate in Form No. 12, Appendix H, one copy of which shall be presented at the shop and, after compliance, returned by the vendor to the officer who granted it. The duplicate shall remain with the consignment in its transit from the shop to the place of consumption, and then be returned by the holder to the officer who granted it.

CHAPTER VII.

Distilleries worked after the English method.*(Rules under section 9 of Act XII of 1896.)*

100. The license shall be in Form No. 13, Appendix D.

Form of
license.

104. The grant of a license under these rules shall be subject to the following conditions.

License subject to conditions and rules.

(4) That no spirit shall be removed from the distillery and beyond its premises without a pass issued by the Collector, or by the officer authorized by the Collector in this behalf or, in the case of "plain spirit" by the officer stationed at the distillery.

106A. All spirit manufactured in a distillery employing European methods shall before issue be classified either as :—

(1) "Plain spirit" that is to say the pure spirit as it issues from the still, not coloured or tintured so as to resemble imported spirit. It may however be reduced in strength, or sophisticated to resemble other native spirit, as, for example, the flavour of "mahua" may be added. This spirit is treated exactly as "country spirit" for the purposes of issue, duty and vend. Rules 108—112 of this chapter therefore do not apply to this spirit, their place being taken by rule 222 *et seq.*

To prevent confusion this spirit must not be referred to officially by the name of "rum" or by the name of any other imported spirit, or sold by the name of rum, gin, brandy or whisky or other such name.

(2) "Methylated spirit," the provisions regarding which are contained in rules 117—128 ; or

(3) "Foreign spirit" that is to say all other spirit produced, on which a duty is levied different from that on "Country spirit." This includes "rectified spirits of wine" and all spirits tintured or flavoured to resemble imported spirits.

Pages 43--44.
Sales to
European
soldiers, &c.,
prohibited
without
permission.

107. No spirit shall be sold or given from the distillery to European soldiers, or Non-Commissioned officers below the rank of Lance-Sergeant, or to camp-followers without the written permission of the Officer commanding or other official superior.

Sales to
traders and
others.

108. Distillers desiring to supply traders and others with foreign spirits manufactured at the distillery are at liberty to sell the same, in quantities of not less than eight imperial gallons, on obtaining a pass in Form No 6, Appendix D, from the Collector or Officer in charge of Excise of the district in which such distillery is situated, or of the district to which such foreign spirits are to be consigned.

Issue of pass.

109. The pass will protect the consignment while in transit, but it will not authorize sale of the same to persons other than those specified in it.

Pass may be
renewed.

110. The pass may be renewed for any other district, or the destination of the consignment may be altered, if no portion of the foreign spirits has been removed from the casks or bottles in which they left the distillery.

Special passes
to accredited
individuals.

111. The Collector of the district in which a distillery is worked may, at his discretion, grant special passes in duplicate to accredited individuals, in Form No. 10, Appendix D, for removal of foreign spirits manufactured at such distillery, for domestic consumption only, in quantities of not less than two imperial gallons or one dozen quart bottles, provided that the full duty shall have been paid, and that the distiller shall have taken out a license for wholesale vend.

Procedure on
supply of
spirit to
Commissariat
Department.

115. The following procedure shall be observed in the issue of spirit to the Commissariat Department:—

(2) The Commissariat indent, with an abstract of invoice, will be furnished to the Officer in charge of Excise, who will grant a duty free pass, in Form No. 9, Appendix D, detailing the number of casks, the gallonage, and the strength to be passed out.

CHAPTER VIII.

**Spirits rendered non-potable for use in Arts,
Manufactures and Chemistry or otherwise.***(Rules under section 2, Act XVI of 1863.)*

118. SPIRITS intended for use exclusively in arts and manufactures or in chemistry, or otherwise than for human consumption, must be rendered effectually and permanently unfit for human consumption by such means as may be from time to time prescribed by rules issued by the Board of Revenue under Act XVI of 1863 as amended by Act VIII of 1894, subject to the approval of the Local Government. . . . Spirits so treated are referred to in the following rules as "methylated spirits."

Definition
and method
of rendering
spirit unfit
for human
consumption.

122. The owner or manager of the distillery will be held personally bound, under the penalty prescribed by section 3 of Act XVI of 1863, that no spirit issued under the rules contained in this chapter leaves the distillery until it has been effectually and permanently rendered unfit for human consumption in the manner prescribed in Rule 118.

Penalty for
breach of
rule.

123. Applications to remove methylated spirit from a distillery shall be made to the Collector in whose jurisdiction the spirit is intended to be used, or to the Collector in whose district the said distillery is situated.

Application
for removal
of spirit.

124. On granting an application under Rule 123, the Collector shall furnish the applicant with a pass in Form No. 7, Appendix D.

Pass to cover
removal of
spirit.

126. Licenses granted for the sale of foreign spirits in Forms Nos. 15, 16, 17, 18, 19, and 20, Appendix D, shall not authorize the sale of methylated spirits, which shall be sold only under a special license under the following rules.

Foreign
liquor licenses
not to cover
sale of methylated
spirits.

127. Any person wishing to take out a license for the retail sale of the methylated spirits shall apply to the Collector. Such licenses shall be granted, free of charge, in Form No. 21, Appendix D, by the Collector.

License for
retail sale of
methylated
spirits.

Page 49.
Special
license for
possession of
methylated
spirits in
excess of one
gallon.

128. Chemists, varnish-makers, and others requiring methylated spirits, in quantities exceeding one gallon, for use in their business and not for sale, will be given a special license in Form No. 22, Appendix D, on application to the Commissioner of Excise, supported by evidence of their requirements.

CHAPTER IX.

Breweries.

(*Rules under section 9 of Act XII of 1896.*)

131. Such license shall be in Form No. 14, Appendix D.

Form of
license.

134. The grant of a license under these rules shall be subject to the following conditions, and to such other rules or conditions for the security of the public revenue as may hereafter be made or issued in this behalf :—

Licenses
subject to
conditions
and rules.

(2) That no malt liquor shall be removed from the brewery and beyond its premises without a pass issued by the Collector or Officer in charge of Excise :

Provided that if a brewer has duly executed a bond in Form No. 12, Appendix D, as provided in clause (b), section 8, Act XII of 1896, such brewer is authorized to issue the pass.

136. Licensed brewers shall apply to the Collector on or before the 28th February in each year for the renewal of their licenses for the year following. Unrenewed licenses shall be null and void, and shall not protect the liquor produced in the brewery from seizure and confiscation, or the parties working the brewery from the penalties provided by law for the illicit manufacture of liquor. Provided that in the event of a license being refused for a brewery which had previously been continuously licensed, permission may be granted to continue operations temporarily for a reasonable time pending appeal.

Licenses to be
renewed in
March.

137. No liquor shall be sold or given from the brewery to European soldiers, or non-commissioned officers below the rank of Lance-sergeant, without the written permission of the Officer Commanding or other official superior.

Sales to
European
soldiers, &c.,
prohibited
without
permission.

138. On production of the treasury receipt for the payment of the prescribed duty and an application therefor,

Issue of pass.

Pages 53—54.

the Collector or Officer in charge of Excise shall grant a pass in Form No. 8, Appendix D. When the pass is issued by the brewer under Rule 134 (2) without prepayment of duty, he shall use the same form. This pass will protect the despatch while in transit, but it will not authorize sale of the same to persons other than those specified in it.

Pass may be renewed.

139. The pass may be renewed for any district, or the destination of the consignment may be altered, if no portion of the malt liquor has been removed from the casks, &c., in which it left the brewery. A duplicate of the original or renewed pass specified in this and the preceding rule, when granted, shall be forwarded to the Collector or Officer in charge of Excise of the district for which the despatch is destined.

Duplicate of pass.

Special passes to accredited individuals.

140. Such passes shall ordinarily be issued only to licensed vendors, or for the supply of the Commissariat Department. But the Collector of the district in which a brewery is worked (or the brewer, if he has duly executed a bond in Form No. 12, Appendix D), may at his discretion grant special passes, in Form No. 23, Appendix D, to accredited individuals for the removal of fermented liquor manufactured at such brewery, for domestic consumption only, in quantities of not less than two imperial gallons or one dozen quart bottles, provided that the brewer holds a license for wholesale vend.

Extraction of spirits from refuse prohibited.

142. Only malt liquor of any description shall be manufactured within the brewery and the premises thereof. No attempt shall be made to extract spirits from the grains or refuse of the brewery. No wholesale vend of malt liquor shall be made at the brewery without a wholesale license under section 22 of Act XII of 1896, in Form No. 15, Appendix D.

CHAPTER X.

Manufacture and issue of Country Spirits.

II.—*Management of distilleries established under section 6, Act XII of 1896. Rules under sections 10 and 65, Act XII of 1896.*

157. A public distillery may be established, with the previous sanction of the Board of Revenue, at any convenient place within the area in which the distillery system is in force, and, subject to the same sanction, may be temporarily or permanently closed. Every such distillery must be situated in an enclosure surrounded by a wall of sufficient height, and having one entrance only, so that no spirit may be removed without the cognizance of the police guard on duty. No still shall be constructed, or country spirit manufactured, within the area placed under the distillery system, except at a public distillery so established, and no country spirit manufactured elsewhere shall be introduced into the distillery area, except under a pass from the Collector of the district.

Public
distilleries.

158. Each distillery shall be placed in charge of an Excise Inspector, who will work under the immediate control and direction of the Officer in charge of Excise of the district in which the distillery is situated.

Officer in
charge of
distillery.

159. One or more muharrirs shall, with the sanction of the Commissioner of Excise, be provided at each distillery, and shall be under the immediate control and supervision of the Excise Inspector.

Establishment
provided at
distilleries.

160. A police guard, consisting of one head-constable and three constables, shall be stationed at each distillery, and shall furnish one sentry to guard the gate day and night.

Distillery
guard.

161. The whole of the guard shall be entirely changed as often as practicable, but never at a longer interval than one month. The head constable in charge of the guard must be able to read and write.

Guard to be
changed.

162. In all cases where distillery guards are conveniently accessible from a police station, the Sub-Inspector in charge shall frequently visit these guards at night, and

Inspection of
guard.

Pages 65—66.

shall enter the fact of his having done so in the station diary. He may also depute a Sub-Inspector or a head constable of the first or second grade to do so. Circle Inspectors, when near the distillery guard, should also visit and report on them and their efficiency.

Duties of guards.

163. The duties of the police guard shall be as follows:—

(1) Watch and ward of the buildings and their contents by day and night.

(2) To prevent any liquor being removed from the distillery—

(a) By any other than the regular gate appointed for that purpose.

(b) At any other time than the stated times for so doing, which shall be notified in writing to the officer in command of the guard by the Collector, or by the Officer in charge of Excise.

(c) Except under a pass signed by the Excise Inspector, or other officer for the time being in charge of the distillery.

(d) Except in sealed bottles of the prescribed size, or in the standard vessels of fixed capacity provided at the distillery, each of which has legibly painted upon it its serial number and the amount of its contents.

(3) To prevent any unauthorised persons from entering the distillery enclosure, except under a pass signed by the Collector or Officer in charge of Excise. Such passes shall be written in the vernacular.

(4) To report in writing, through the Superintendent of Police, to the Collector any breach of rules detected by the guard.

(5) When the gate of the distillery is locked at night and the key is in the custody of the head constable, the sentry on duty should go round the distillery at night, at intervals, and it is the duty of the head constable to see that this is done.

Distillery gate when to be opened.

164. The gate of the distillery shall be unlocked at daybreak for the admission of the distillery officials, distillers and workmen and locked at sunset, when all persons

must leave the distillery. The key of the distillery gate shall remain during the day with the sentry on duty, and at night in charge of the head constable. The gate of the distillery shall be ordinarily kept closed, and opened only to allow authorised persons to pass in and out, for the admission of materials, fuel or plant, and the passing out of spirit and waste products.

Pages 66—79.

165. All persons entering a distillery, whether Government servants or distillers and their servants, are bound to obey the orders of the Excise Inspector in charge of the distillery. Any person dissatisfied with his order is at liberty to make a representation to the Officer in charge of Excise or to the Collector.

Authority of
Officer in
charge.

167. Wash, wholly or partially fermented, shall, on no account be allowed to leave the distillery.

Wash not to
pass out.

170. A nominal roll in Form No. 9, Appendix E, shall be maintained at all distilleries, of persons employed in the manufacture of spirit or for conservancy, or other purposes. Each person so employed shall have a registered number. One copy of the roll shall be left in the custody of the head constable in charge of the guard, and another in charge of the muharrir, and the Excise Inspector shall be responsible for seeing that both copies are correct and up-to-date.

Nominal roll
of persons
engaged in
the distillery.

171. Every person whose name appears in the nominal roll prescribed in the foregoing rule, shall be required to wear, at all times when within the distillery, a badge bearing a number corresponding with the number assigned to him in the roll.

Persons
engaged in
distilleries to
wear badges

176. All persons entering or quitting a distillery are liable to be searched. Officers in charge must, however, understand that these powers must be used with discretion. No respectable person should be subjected to search except on very good ground for suspicion. Instances brought to notice of any abuse of these powers will be severely dealt with.

Persons
entering or
quitting
distilleries
may be
searched.

222. The pass for removal of spirits from a distillery or warehouse shall be printed in cheque form, in duplicate, in Form No. 10, Appendix E. One part shall be given to the person removing the spirit, and the counterfoil shall be retained for record and reference.

Form of pas

Pages 80—81.

Verification
and signing
of passes.

224. The Officer in charge of the distillery after filling in the duration of the pass, shall sign both parts of the same. He shall then remove the portion of the pass to accompany the consignment, and retain the same until the spirits have been measured out and removed from the store-room.

Spirits to be
issued in
sealed bottles
or vessels of
fixed capacity.

225. Spirits will only be issued in sealed bottles of such a size that the contents of six bottles shall be equal to one imperial gallon, or in vessels of fixed capacity approved by the Officer in charge of Excise. Each such vessel, the cost of which shall be borne by distillers, will bear a serial number, and have its capacity legibly noted on it in English, Urdu and Hindi. The Officer in charge of the distillery shall be responsible for seeing that no spirit leaves the distillery except as provided above. Every such vessel taken away containing liquor shall be presumed to be full.

Police to be
informed of
description of
standard
vessels in use.

226. The exact description of standard vessels used in the distillery for removing liquor should be made known to the Superintendent of Police, who shall make it generally known to the police of the district that either sealed bottles or standard vessels of fixed capacity have been prescribed for the conveyance of liquor from distilleries, and that vendors have been prohibited from using any other vessels for conveyance of liquor to their shops. They may fairly assume that any person who is caught carrying liquor away in any other description of vessel has not obtained it lawfully.

Issue of
spirits.

227. . . . The Officer in charge of the distillery shall finally note on the pass the serial number of each vessel in which the spirits are to be conveyed, and hand it over to the person in charge of the consignment.

Currency of
passes.

228. All passes covering the issue of spirits from a distillery or warehouse are current for the period specified on them. A list prescribing the time after which passes issued to each shop in the district should be returned, shall be prepared by the Officer in charge of Excise. Ample time should be given, and once the list has been notified, pass-holders should be made to adhere to the time fixed.

Despatch of
liquor to
lower duty
area.

230. In those districts in which higher rates of duty are leviable on spirit issued for consumption within urban areas than on spirit issued for rural consumption, special

precautions should be taken to prevent the lower duty spirit finding its way into the higher duty area. In such cases every consignment of spirit for a rural shop shall be accompanied by a peon to the boundary of the higher duty area. The name of the peon accompanying the consignment, and the hour at which it should cross the boundary shall be endorsed on the pass. The issues to all rural shops should be carefully scrutinized from time to time, and any abnormal increase in the consumption at a rural shop should be made the subject of special enquiry. As an additional safeguard, the Commissioner of Excise may direct that the spirit issued to all shops within a specified area shall be distinctively coloured before leaving the distillery.

VII.—Bonded warehouses for country spirits.

231. (1) Bonded warehouses for the storage of country spirits, for convenience of supplies to places remote from distilleries, may be established, with the sanction of the Board of Revenue, at the headquarters of tahsils. Any licensed vendor, wholesale or retail, may, with the Collector's permission, store country spirit in the warehouse, and may obtain liquor, without prepayment of duty for the purpose, from any distillery in the district, or any other distillery with the sanction of the Collector. Such sanction shall be in writing and, unless otherwise specified, shall be valid until the end of the Excise year in which it is granted, unless it is cancelled before the expiry of the year.

Bonded
warehouse.

(2) The warehouse shall be in charge of the Tahsildár. The receipts and issues shall be conducted by the Naib Tahsildár, or, in his absence, by some other tahsili official duly authorized in this behalf by the Tahsildár with the sanction of the Collector.

Tahsildár to
be in charge.

(4) Country spirits shall be conveyed from the distillery to the warehouse at the cost and responsibility of the owner; every consignment of liquor shall be protected by a pass, in Form No. 11, Appendix E, signed by the officer in charge of the distillery, who will issue such passes in favour only of persons authorized by the Collector of the district in which the bonded warehouse is situated to obtain spirits in bond from the distillery. This pass will be filed in the warehouse on arrival of the consignment. All apertures should be sealed before the cask is despatched.

Conveyance
of spirits to
warehouse.

Pages 83—84.

(5) Country spirit in bond may be transported by rail in small quantities under ordinary conditions. For larger consignments railway companies have agreed to provide a separate wagon, which may be procured, provided it is fully loaded. In such cases the wagon shall have a seal and a lock affixed by a Government official to prevent loss by theft. On arrival of the consignment at its destination the seal and lock shall be immediately removed. Owners of spirits may accompany consignments on payment of a fare under the rules of the lines, traversed.

Disposal of pass.

(6) A copy of the pass shall at once be sent by post direct to the Officer in charge of the warehouse.

Duration of pass.

(7) The time within which a consignment of liquor to a warehouse should reach its destination, should be fixed by the officer in charge of the distillery. The consignment must be taken by the most direct or quickest route, and shall be liable to confiscation if found off it.

Warehouse pass-book.

(9) On receiving permission to store country spirits in a warehouse, the depositor will be furnished with a warehouse pass-book in Form No. 13, Appendix E. No liquor will be received into or withdrawn from a warehouse without the production of the warehouse pass-book.

Pass for removal of liquor.

(12) No liquor shall be removed from a warehouse except under a pass in Form No. 10, Appendix E, under the signature of the Officer in charge of the warehouse. Passes will only be current for the number of hours therein specified.

Bonded warehouse to include distillery.

(18) For the purposes of this chapter the term "bonded warehouse" shall include a distillery established by the Board of Revenue under section 6, Act XII of 1896. The rules applicable to spirit in bond in a warehouse shall, *mutatis mutandis*, apply to spirit in bond in a distillery.

CHAPTER XI.

. Manufacture and vend of spirit in tracts where the outstill or farming system is in force.

232. The holder of a license under the outstill system pays to Government a certain sum per mensem for working, between sunrise and sunset, a single still only, and for opening a shop at the place of manufacture for the sale of the spirit under conditions laid down in the license. No monopoly of manufacture or sale over a specified area is granted, but practically there is a local monopoly limited by the situation of other shops similarly licensed. The place of manufacture and sale shall be the same.

Out-still
system
defined.

233. Under the farming system, a contract for the monopoly of manufacture and vend within a specified area is let to a single individual or firm. The number of combined shops and stills is determined by the Collector. Ordinarily, the place of manufacture and sale is the same; but when necessary, an outlying shop may, with the previous sanction of the Commissioner of Excise, be attached to a combined still and shop. A farmer may be permitted, with the sanction of the Collector, to arrange to distil spirit at one or more places within his farm, and to supply outlying shops from such places, subject to the conditions laid down in Rule 237.

Farming
system
defined.

234. In any case in which this appears to be necessary or desirable, the Collector may, with the previous sanction of the Commissioner of Excise, restrict the number or capacity of stills to be permitted under the outstill or farming system, according to the ascertained local demand for liquor. The lease or license shall, where such condition is to be enforced, state the number of stills to be used and the maximum capacity of the stills.

Number and
capacity of
stills

235. The license under the outstill system shall be in Form No. 19, Appendix E. The farmer is at liberty to make his own arrangements with his sub-lessees at the places specified in his contract, and will receive from the Collector the requisite number of licenses for the manufacture and vend of country liquor. The lease given to the farmer shall be in Form No. 17, and the license granted to his sub-lessee, in Form No. 18, Appendix E.

Licensed and
leases.

Page 88.

It will be noticed that the limit of retail vend entered in the licenses for tracts where the outstill and farming systems are in force, is one gallon or six reputed quart bottles, the limit prescribed by notification under section 66, Act XII of 1896.

It should be noted that condition 11 in the form of farming license and 17 in the form of outstill license bind the licensees only and not the public. That is to say, the mere fact of possession by a private individual of uncoloured liquor within an outstill area does not justify a presumption, either that he has abetted an infraction of the conditions of the vendor's license or that he has committed, or attempted to commit, any other offence against the Excise Laws.

Spirits remaining in a shop on cancellation of license.

236. A holder of a shop or still, the license of which has determined by efflux of time or has been cancelled or relinquished, must, within seven days from the date on which his license ceases to be of effect, either dispose of any stock of spirit remaining in his possession to another license-holder, or surrender the same to the Tahsildar for destruction. Any further retention of such spirits will render the owner of the spirits liable to prosecution under the Excise Act for unlawful possession.

Conditions under which spirits may be manufactured.

237. The conditions under which spirits may be manufactured under the outstill and farming systems are the following:--

(1) the manufacture of liquor, without special permission, is prohibited between the hours of sunset and sunrise. Collectors are authorized to grant permission to distil spirits at night at special seasons on sufficient cause shown;

(2) all spirits distilled shall be coloured with sandal wood (*lāl chandan*), the colouring being effected in the process of distillation by placing a bag of sandal wood shavings in the receiver. No liquor not so coloured shall be manufactured or sold in tracts under these systems.

CHAPTER XII.

Country Fermented Liquor.

(Rules under section 29.)

239. All *tari* and *sendhi* trees are the property of the landowners on whose estates they stand, and no one, therefore, has a right to tap the trees without the permission of the persons who own them. At the same time the owners cannot themselves tap the trees in order to produce *tari* or *sendhi*, unless they have obtained licenses to manufacture this liquor. The trees cannot therefore be a source of profit to the owners unless they are themselves prepared to take out a license to manufacture, or are willing to permit their trees to be tapped for a reasonable consideration by some other person who has a license to manufacture. If the price demanded by an owner for the use of his trees be exorbitant, licensed manufacturers will look for better terms from some other owner. To demand an exorbitant price will, in the long run, prove disadvantageous to the tree owner.

Rights of
owners in
respect of
tari or *sendhi*
trees.

240. The systems under which the revenue from the manufacture and vend of *tari* may be raised are :—

Systems of
tari.

- (1) the farming system,
- (2) the shop-to-shop system, and
- (3) the tree tax system.

The first mentioned system is the only one now in operation in these provinces.

Farming system.

241. (1) Under the farming system a contract for the monopoly of manufacture and vend within a specified area is let to a single individual or firm. The number and situation of shops for sale of *tari* and *sendhi* is regulated by the Collector. The farmer may either sell by retail himself at such shops, or may sublet the shops. He is at liberty to make his own arrangements with his sub lessees at the places specified in his contract, and will receive from the Collector the requisite number of licenses for the manufacture and vend of *tari*.

Farming
system.

Page 92,

(2) The farmer or sub-lessee shall be at liberty to procure his supply of *tari* or *sendhi*—

(a) from any person who owns *tari* or *sendhi* trees ;

(b) from any other person licensed as a farmer or vendor.

(3) The lease granted to the farmer shall be in Form No. 20 and the license for retail vend granted to the farmer or his sub-lessee shall be in Form No. 21, Appendix E.

Shop-to-shop system.

Shop-to-shop
system and
its object.

241A. (1) Under this system each shop is settled separately, the licensee being left to make his own arrangements for the manufacture of *tari* or *sendhi* as the case may be.

Shops.

(2) The license will state the name of the place at which the retail shop may be opened by the licensee, but will leave him free to obtain his *tari* from wherever he pleases. The holder shall not sell at places other than those specified in their licenses. They may, however, with the consent of the owners, tap trees either within or without the village in which their shop is situated.

CHAPTER XIII.

Hemp Drugs.

I.—Introductory.

243. The only substances coming within the statutory definition of "intoxicating drugs" (section 3, Act XII of 1896), the sale of which is licensed in the United Provinces, are the three products of the hemp plant, *bhāng*, *ganja* and *charas*, and preparations and admixtures of the same.

Definition.

244. The hemp plant (*Cannabis Indica*, var. *sativa*) is a tall, erect herb, growing from three to eight or ten feet high when wild; when cultivated as a fibre plant it rarely exceeds six feet, and is usually only from four to five feet high when grown for *ganja*. The wild plant and that cultivated for fibre do not, as a rule, branch till within a short distance of the top; in these cases the plants grow either close together, or in company with other herbaceous plants. In the case of the plant cultivated for *ganja*, the individuals being carefully cultivated, transplanted, and separated from each other by considerable intervals, a branching habit is developed, and a conical shape, somewhat resembling a small cypress, is assumed.

Description of the hemp plant.

245. The lower leaves may or may not be opposite; the rest are alternate, and have long stalks with palmate blades, with five to nine, or even eleven segments, along the stem and large branches. The uppermost branch leaves have often only three segments, and those immediately under the flower spikes are simple. The segments are lanceolate, and have serrated edges. At the base of the leaf-stalk there are free lateral stipules.

Leaves.

246. The hemp plant is dioecious; that is to say, the male and female flowers are distinct, and, with very rare exceptions, are borne upon separate plants.

Inflorescence

247. The male flowers are shortly stalked and drooping, and clustered in small bunches, which are arranged in panicles much shorter than the leaves. The perianth has five imbricated segments of somewhat unequal size, with five shortly-stalked erect stamens opposite these; the anthers are oblong, but slightly narrowed upwards; there is no trace even of a rudimentary female flower.

Male flower

Pages 97-98.
Female
flowers.

248. The female plant has stalkless flowers closely set up on small spikelets, which in the wild plant and in the plant cultivated for its fibre are arranged in panicles almost as long as the leaves, but in the plant grown in Bengal for *ganja* are clustered in heads distinctly shorter than the leaves. The individual flowers are placed in the axils of small oval boat-shaped bracts, which quite envelope them before fertilization, and cover about two-thirds of the fruit when it is fully ripe. Within these bracts lie the flowers, which are surrounded by a thin membranous entire perianth, always difficult to observe, and sometimes quite absent. The ovary is sessile, and consists of two carpels; the style is two armed, the arms being hairy and viscid throughout, and falling off as soon as the flower is fertilized. There is one ovule, which hangs from the top of the ovarian cavity; it is found on examination, however, to be attached to the lower of the two carpels, and originates from a bud between the two carpellary leaves.

Fruit.

249. The nut, popularly called the seed, will be recognised at once as the common hemp-seed which is so largely used as food for birds in captivity.

Glands.

250. The whole plant is covered with fine hairs, and has a somewhat sticky feel; this is owing to the presence among the hairs of modified hairs known as glands. These glands are club shaped at the ends, and on the younger leaves and bracts become filled with a resinous secretion.

Resinous
secretion.

251. It is this resinous secretion with which we have to do in considering the hemp plant as an excisable product. It is found that, under certain conditions of temperature and climate, which are fulfilled partially in the montane, and completely in the sub-montane portions of Northern India, this resinous secretion develops narcotic properties. These properties are also found in an essential oil which is associated with the resinous secretion. The hemp plant grown under European conditions is of value only for its fibre, no narcotic property being developed even when the plant is raised from seed procured from India. Whereas in Bengal, on the contrary, the plant is cultivated for its resin; fibre is not developed to any extent commercially useful. There is an intermediate condition in Kumaun, where the climate more nearly resembles that of Europe, in which both a useful fibre and

a marketable narcotic resin can be produced; but the potency of the narcotic is said to be considerably less than that obtained elsewhere. The hemp plant presents, says Dr. Watt, "one of the most notable instances of the effect of climate in changing the chemical processes which take place in the structure and physiological peculiarities of a plant."

Pages 98—99

252. The narcotic of the hemp plant is utilized in three principal forms, of which special preparations, admixtures, and adulterations are numerous. These are *bhāṅg*, *ganja*, and *charas*, the order in which they are mentioned being that of their respective potency—a circumstance which depends entirely upon the proportion of resin and essential oil to inert substances in each preparation.

Narcotic
principle.

253. *Bhāṅg* consists, where carefully prepared, of the leaves of the hemp plant, usually of the spontaneous growth, collected while green and then dried, so as to resemble tea. A good sample of *bhāṅg* should contain the leaves only, as the narcotic principle is at its strongest just before the flowers develop. Where collection is a matter of experienced care, the large leaves at the base of the plant are rejected, the reason being that the narcotic principle is not present in the young plant, so that these leaves, which are the first to be put forth, are inert, or nearly so. But this degree of care is seldom exercised, and a common specimen of *bhāṅg* will usually be found to include everything that can be stripped from the stalk, leaves, flower-heads, seed, and small twigs indiscriminately.

Bhāṅg.

254. For ordinary consumption, *bhāṅg* is powdered and ground into a paste, of which an emulsion is made and drunk, usually with the addition of sugar and digestive condiments, more rarely with the admixture of certain dangerous excitants. *Bhāṅg* is also supposed to be the active ingredient in the medicated sweetmeats known as *mājum* and *halwa*, as well as by other names; but much of the effect popularly attributed to these preparations is due to the presence of other and more powerful drugs.

Consumption

255. In addition to these ordinary uses, *bhāṅg* may be smoked, and doubtless frequently is smoked when *ganja* and *charas* are not available, and it is also a probable adulterant of *ganja*.

Use of *bhāṅg*,
other than
ordinary.

Pages
99—100.
Ganja.

256. *Ganja* consists of the upper branches or twigs of the female plant only, divested of leaves, but with the flowering tops, consisting of the spikes or spikelets with their flowers and small flower-leaves or bracts, left attached. These bracts are covered with the glandular hairs, which, as has been already said, secrete the principal portion of the resin which contains the narcotic principle. The production of this resin, in such quantities and of such potency as to be commercially remunerative, is found to depend on two conditions: *first*, that the female flower shall remain unfertilized, so that it may be unable to set the seeds; and *second*, that the plant shall be grown under stimulating conditions. This is secured in the localities in which the manufacture of *ganja* is allowed, all of which are outside these Provinces, by eliminating, with the most minute care, all the male plants from the fields, and by the application of the most careful systems of tillage and manuring. Neither of these conditions being present in the case of the wild hemp plant, the spontaneous growth is not a source of *ganja*. The same remark applies to the cultivated hemp in the Farrukhabad district, where, the object being merely the production of *bhang*, fertilization is not prevented. The Kumaun hemp, which is capable of producing a certain amount of *charas*, might possibly be a source of *ganja* also; but, as a matter of fact, no *ganja* is there prepared. These Provinces are consequently dependent for their supply of *ganja* upon the imported drug—a circumstance which materially simplifies excise administration. It is an offence against the excise law to attempt to prepare *ganja* from the hemp plant in any part of the United Provinces.

Varieties of
ganja.

257. Imported *ganja* comes to these Provinces in various forms. There is first the broad distinction between the *baluchar*, or Bengal drug, and the *pathar* variety, which is imported from Khandwa in the Central Provinces, and from certain Native States in Central India.

Baluchar.

258. *Baluchar ganja* is, according to the methods of manufacture, subdivided into the following varieties:—

(1) *Flat (large twig)*. In this form the flower tops, having been trodden under foot until they assume a flattened shape and adhere together, are left on the branches, which are cut to a length of from two feet to two feet

six inches, and baled, heads inwards, in barrel-shaped packages a maund in weight, and about three feet long, one foot eight inches across, and five feet eight inches in girth.

(2) *Flat (small twig)*. This is the same article, but broken into twigs about a foot long, and with the larger branches rejected. It is tied loosely into small flattish bundles, whose girth is roughly equal to the grasp of both hands, weighing about a quarter of a seer. These are baled, heads inwards, in packages about one foot eight inches long, two feet across, and six feet six inches in girth, weighing one maund.

(3) *Round*. In this variety the flower heads are not trodden, but rolled under the foot, so that they are less adherent, and assume a rounded shape. Special care is taken in the production of this form, all leaves being carefully removed. After rolling, it is broken into twigs, which are trimmed to a length varying from six to nine inches. These twigs are tied, the short ones innermost, into neat round bundles weighing about a quarter of a seer, and the bundles are baled, heads inwards, in maund packages, about one foot one inch long, two feet two inches across, and seven feet six inches in girth.

(4) *Chur* or broken *ganja*. This consists of the flower tops only detached from the twigs. It is baled in maund packages three feet long, one foot six inches across, and five feet round.

259. *Pathar ganja* somewhat resembles the flat (large twig) variety of Bengal *ganja*, but it is less carefully manufactured and packed, and occurs in packages of all shapes and weights. It is regarded by those accustomed to the *baluchar* drug as a much inferior article.

Pathar.

260. *Ganja*, when administered internally, has been found to be from six to ten times more potent than *bhang*. It is seldom or never so taken, however, being almost invariably smoked. In estimating the consumption of *ganja* it is to be remembered that the narcotic principle forms a relatively very small part of the bulk of the commercial article. A series of careful estimations made with large quantities, and reported by Dr. Prain, showed that a maund of *ganja* yields only about 30 per cent. of the powder that is used by the consumer, and that, of this

Potency of
ganja.

Pages
100—102.

powder, only about 25 per cent. is resinous, the rest being inert vegetable matter.

Charas.

261. *Charas* is the resinous extract of the hemp plant in the most concentrated form commercially known. A pure sample should contain about 75 per cent. by weight of resinous matter, but that which reaches India is usually considerably adulterated. It is, in appearance, a dark green or brownish paste, and is generally imported in skin packages weighing from 10 to 56 seers. The details of the manufacture of *charas* are not accurately known. The most trustworthy accounts state that the Yarkand, or Central Asian, variety is collected by beating the flowering twigs over a coarse cotton cloth spread on the ground, the resin thus collected being worked up with linseed oil and powdered hemp leaves. In Kumaun, and probably also in Nepal, *charas* is collected by rubbing the flower heads by hand. Whether in the case of cultivation external to India the male plant is eliminated is not known. In the case of Kumaun, the male plant, known as *phul bhang*, which yields the best fibre, is cut a month or six weeks before the female plants (*gul bhang*) from which the *charas* is obtained; but the latter are evidently fertilized, since they produce seed, though possibly not as fully as would be the case were both sexes reaped together when the seed ripened.

II.—*Notifications and rules under sections 12, 13, 14, 15, 19, 20 and 65 of the Excise Act of 1896.*

A.—Cultivation of the Hemp Plant.

Places in which cultivation of the hemp plant permitted.
(Notification No. 301/XIII—317A, dated 23rd September 1896.
Amended by Notification No. 312/XIII—317A, dated 24th September 1897) and
Notification 286-XIII, No. 8—1906 dated 20th July 1906

267. The cultivation of the hemp plant is prohibited throughout the United Provinces except in the following places :—

(1) The districts of Almora, Garhwál, and Naini Tál, excluding the submontane tracts thereof known as the Bhábar and Taráí.

(2) The following villages of the Chibramau and Kanauj tahsils of the Farrukhabad district :—

(a) *Táhsil Chibramau.*

(1) Behta, (2) Kanpur, (3) Bhikampur, (4) Jalalpur,

(5) Roshanabad.

(b) *Táhsil Kanauj.*

(1) Gograpur Bangar, (2) Gograpur Kachoha, (3) Gograpur Katri, (4) Chandapur, (5) Chandapur Kachoha,

(6) Chandapur Katri Purbain, (7) Chandapur Katri Darmiyan, (8) Chandapur Katri Pachhim, (9) Baramau Kachoha, (10) Kusumkhor Kachoha (11) Firozpur Katri, and (12) Tararagi.

268. The cultivation of the hemp plant in the places specified in clause (2) of Rule 267 is prohibited, except under and subject to the conditions of a license granted by such officer as the Local Government may from time to time appoint in this behalf.

269. The special cultivation of the hemp plant in order to produce *ganja* is absolutely prohibited throughout the United Provinces.

270. No license to cultivate the hemp plant shall be given, except to a recorded occupier of land.

271. All *bhāng* prepared from the hemp plant so cultivated shall be stored by the owner in a secure place, apart from other crops, until it is disposed of to a person or persons duly authorized to purchase the same : and the place of storage shall, at all times be open to inspection by any Excise Officer or other person authorized by the Collector in this behalf.

272. Any recorded occupier of land in the villages mentioned in Rule 267 desiring to cultivate hemp in any year shall, before the last day of August, apply in writing to the Tahsildar of the tahsil in which permission to cultivate is desired, for a cultivating license.

273. The Tahsildar issues the license in Form No. 21, Appendix F.

274. A register of licenses shall be maintained at the tahsili in Form No. 1, Appendix F.

275. The patwaris of circles in which hemp cultivation is permitted shall maintain a complete copy of so much of the register of licenses as refers to their respective circles, and shall, at their periodical visits to the tahsili, make all such additions and alterations as may be necessary. They shall immediately report any cultivation of hemp in fields not covered by a license.

Pages
102—103.

Cultivation,
except for
production of
bhāng, prohi-
bited.

(Ditto).
and Notifica-
tion No.
286

XIII/3—1906
dated 20th
July 1906.
Special
cultivation of
production of
ganja
prohibited.

(Ditto.)
License to
other than
recorded
occupier
prohibited.
(Notification
No. 299/XIII
—675A, dated
8th Septem-
ber 1904.
Storage of
bhāng).
(Ditto.)

Application
for license to
cultivate.
(Notification
No. 308/XIII
—317A, dated
23rd Septem-
ber 1896).
Tahsildar to
issue license.
(Ditto.)

Register of
licenses.
(Ditto.)

Patwaris to
keep copy of
register of
licenses of
circle.
(Ditto.)

Pages
108-104
Name of
vendor and
purchaser to
be reported
to and re-
corded by
patwari.
(Ditto.)

279. The patwari shall enter in his diary the name of vendor and purchaser and the amount of *bhāng* sold, in the case of all sales by licensed cultivators reported to him, and shall report all such transactions to the Tahsildar, in Form No. 12, Appendix F, at his next periodical visit to the tahsil.

B.—Collection of the spontaneous growth of the Hemp Plant.

Collection of
spontaneous
growth
prohibited.
(Notification
No. 801/XIII
—317A, dated
23rd Septem-
ber 1896.)
Owners and
occupiers
may be
licensed to
collect and
store.
(Notification
No. 299/XIII
—675A, dat-
ed 8th Sep-
tember 1904.)
Produce to be
separately
stored.
(Ditto.)
and Notifica-
tion No.
286
XIII/3—1906
dated 20th
July 1906.

280. The collection by any person of the spontaneous growth of the hemp plant for storage as *bhāng* is prohibited, except in such manner and subject to such conditions as are next hereinafter prescribed.

281. In the districts of Saharanpur, Muzaffarnagar, Bijnor, Naini Tal, Bareilly, Pilibhit, Kheri, Bahraich, Gonda, Basti and Gorakhpur owners and occupiers of land on which the hemp plant grows spontaneously, and persons authorized by them in this behalf, are permitted, subject to the terms of a license, to collect and store the produce as *bhāng* only.

The produce, when collected and prepared as *bhāng*, shall be stored by the owner in a secure place, apart from other crops, until it is disposed of to a person or persons duly authorized to purchase the same, and the place of storage shall be, at all times, open to inspection by an Excise Officer or other person authorized by the Collector in this behalf.

Farmers and
licensed
vendors may
collect.
(Ditto.) and
Notification
No. 288/XIII
3-1906, dated
the 20th July
1906.

282. In the above named districts farmers and licensed wholesale vendors are permitted, under arrangements made with the owners and occupiers of land on which the hemp plant grows spontaneously, and subject to the terms of a license, in such form as the Chief Revenue Authority may, from time to time, prescribe in this behalf, to collect the produce as *bhāng* only and to remove it for sale under licenses granted under Chapter IV of the Act.

Form of
licenses.
Notification
No. 808/XIII
—317A,
dated 23rd
September
1896).

283. The license referred to in Rule 281, permitting owners and occupiers of land on which the hemp plant grows spontaneously, and persons authorized by them in this behalf, to collect and store the produce as *bhāng* only, or in Rule 282, permitting farmers and licensed wholesale vendors, under arrangements made with owners and

occupiers of land on which the hemp plant grows spontaneously, to collect the produce as *bhang* only and remove it for sale, shall be in Form No. 22, Appendix F. It is granted on application by the Tahsildar.

Pages
104—105.

Application
for license.
(Ditto).

284. The provisions of rules 274, 276, and 279 shall apply, as far as may be, to the grant of licenses for the collection of, and the record of sales of the spontaneous growth of the hemp plant.

Grant of
license and
record of sale
(Ditto)

C.—Production or preparation of intoxicating drugs.

285. The production, or preparation of *ganja* is prohibited throughout the United Provinces.

Ganja.
(Notification
No. 801/XIII
—817A,
dated 23rd
September
1896.)

286. The production or preparation, of *charas* is prohibited throughout the United Provinces.

Charas.
(Ditto)
as amended
by notifica-
tion No. 340/
XIII—71-
1908, dated
15th Septem-
ber 1906.

287. The preparation of intoxicating drugs from the spontaneous growth of the hemp plant is prohibited throughout the United Provinces, except in the manner and subject to the conditions prescribed in rules 281 and 282.

Intoxicating
drugs other
than *bhang*.
(Ditto.)

D.—Importation of intoxicating drugs.

288. The importation of *ganja* into the United Provinces is prohibited, except from the following places and subject to the following conditions, viz.:—

Ganja.
(Ditto.)

Places—

- (1) the Lower Provinces of Bengal;
- (2) the Central Provinces;
- (3) the Gwalior territories;
- (4) the Bundelkhand States of Dattia, Samphar, Chattarpur, and Kadarua (Baoni).

Conditions—

that the importation shall be under bond for payment of duty in the United Provinces; that importation shall be by railway only; and that importation shall be effected subject to the conditions laid down in rules 291 to 300,

Pages
105—107

Charas.
(Ditto.)
as amended
by notifica-
tion No. 340/
XIII—71-
1906, dated
15th Septem-
ber 1906.

or such other conditions as may, from time to time, be prescribed.

289. The importation of *charas* into the United Provinces is prohibited except from the Panjab and subject to the following condition:—

Conditions—

that the importation shall be under bond for payment of duty in the United Provinces; that importation shall be by railway only, and that importation shall be effected subject to the conditions in rules 291 to 298, or such other conditions as may, from time to time, be prescribed.

Bhang.
(Ditto.)

290. The importation of *bhang* into the United Provinces is prohibited.

Wholesale
vendors may
import.
(Notification
No. 299/XIII
—675A, dated
8th Septem-
ber 1904.)

291. All licensed wholesale vendors of *ganja* and *charas* may import *ganja* or *charas* into the United Provinces in bond, for deposit in some one of the bonded warehouses established for the purpose, from the localities from which importation has been permitted by rules 288 and 289, provided that a pass is obtained from the Collector or Officer in charge of Excise of the district in the bonded warehouse of which the *ganja* or *charas* is to be stored.

Consignments
to be by
railway to
Collector.
(Ditto.)
as amended
by notifica-
tion No. 342/
XIII—71-
1906, dated
15th Septem-
ber 1906.

292. All *ganja* or *charas* imported shall be consigned by railway direct to the Collector of the district in the bonded warehouse of which the *ganja* or *charas* is to be stored

Pass.
(Ditto.)

294. The Collector or Officer in charge of Excise shall, unless he sees reason to the contrary, grant a pass in triplicate in Form No. 13, Appendix F.

E.—Import of ganja from Rajshahi in Eastern Bengal.

Import of
ganja
from Raj-
shahi.

299. (1). *Ganja* shall not be imported into the United Provinces from Naugaon in the district of Rajshahi in

Eastern Bengal otherwise than in accordance with these rules. The *ganja* shall be taken to the Santahar Railway Station, and shall be consigned by railway direct to the Collector or Officer in charge of Excise of the district in the United Provinces in the bonded warehouse of which it is to be stored.

Pages
108—119.

Despatch of
ganja.

F.—Import of ganja from Patna in Bengal.

300. (1) *Ganja* shall not be imported into the United Provinces from Patna in Bengal otherwise than in accordance with these rules.

Import of
ganja from
Patna.
(Amended by
notification
No. 801/XIII
— 675A, dated
8th September
1904.)

(4). The *ganja* shall be taken to the Patna railway station, and shall be consigned by railway direct to the Collector or officer in charge of Excise of the district in the United Provinces in the bonded warehouse of which it is to be stored.

Despatch of
ganja.

G.—Transport of intoxicating drugs.

301. The transport of *ganja*, *charas*, *bharg* or other intoxicating drugs from one place to another within the United Provinces is prohibited, except in accordance with a pass granted under section 20 of Act XII of 1896. Officers in charge of Excise have been empowered to grant passes to persons desirous of transporting intoxicating drugs.

Transport to
be under pass.

302. All intoxicating drugs in excess of the maximum permitted by section 3, sub-section (1), clause (n), and section 18, sub-section (2) of the Act, brought into the limits of a district or part of a district in which the fees leviable on licenses for the retail sale of intoxicating drugs have been let in farm under section 25, sub-section (1), clause (a), of the Act, other than those obtained from a bonded warehouse, shall excepting in the case of *bharg* transported in accordance with the provisions of rule 302A be under cover of a pass granted by the Collector or Officer in charge of Excise of the district into which they are brought. This pass shall be in Form No. 15, Appendix F, and on expiry, shall be returned to the officer who granted it.

Passes for
transport of
intoxicating
drugs.

Pages
110—111.
Notifications
No. 306—
XIII/817A,
dated 23rd
September
1896, and
No. 284—
XIII/3-1906,
dated 20th
July 1906,
No. 288—
XIII/3-1906,
dated 20th
July 1906,
and No. 347—
XIII/3-1906,
dated 19th
September
1906.

302A. *Bhang* may be transported from Farrukhabad or from the districts mentioned in rule 281, in which the collection of the spontaneously grown hemp plant is permitted to any other of those districts or to any other district in these Provinces only in consignments of not less than one maund at a time, and under a pass in Form 15C, appendix F. Such passes will be granted by the following officers in respect of drugs transported from the districts mentioned in rule 281 :—

Districts.	Designation of officer.
Muzaffarnagar ... }	Officer in charge of any táhsil within the district situated on the railway.
Bijnor ... }	
Naini Tal ... }	
Pilibhit ... }	
Kheri ... }	
Bahraich ... }	
Farrukhabad ... }	As above, excepting in the case of the head quarters táhsil, where passes will be granted by the excise inspector.
Basti ... }	
Saharanpur ... }	
Bareilly ... }	
Gonda ... }	
Gorakhpur ... }	

Pass.
(Ditto.)

303. All intoxicating drugs brought into such limits from a bonded warehouse shall be covered by the pass required by Rule 326. The pass shall be in Form No. 14, Appendix F.

Transport
through the
Provinces.

305. The transport through the United Provinces of *ganja*, *charas*, *blang*, or other intoxicating drugs within the meaning of the Excise Act (XI of 1896) from one province to another, or from a province in British India to a Native State, or from one Native State to another, is prohibited, except by such routes and subject to such conditions as may, from time to time, be prescribed by rules made in this behalf.

Transport of
charas
through the
Provinces to
Bengal and
Rampur
State.

306. The routes by which, and the conditions under which, the transport of *charas* through the United Provinces from the Punjab to the Lower Provinces of Bengal, and from the Panjab to the Rampur Native State is permitted shall be as follows :—

(1) that the transport shall be covered by a pass granted by an officer duly empowered in that behalf by the

Government of the Panjab*, and shall be, as far as possible, by railway only, by the most direct route, which shall be specified in the pass covering the consignment: and that the package or packages containing the drugs shall in no case be retained in the possession of the consignor or any other person during transit, but shall be declared as such drugs and regularly booked under the bye-laws of the railway accepting them relating to goods or parcel traffic;

(2) that each package shall be securely packed and sealed; and that bulk shall not be broken during transit;

(3) that the consignment shall be booked to the railway station specified in the pass, and to no other;

(4) that, except as provided in clause (5) following, the consignment shall not be delivered up by the Railway authorities to any person whomsoever during its transit through the United Provinces;

(5) that the Collector of any district through which a consignment passes may, by order addressed to the Traffic Manager, direct the detention either of a specified consignment or generally of all consignments of intoxicating drugs, to enable him to examine the same with respect to the due observance of these rules: and that on receipt of such an order the Railway Administration shall afford all reasonable facilities to the Collector, or to any officer deputed by him by order in writing for the making of such examination, and shall detain such consignment or consignments until the Collector orders their release.

I.—Bonded Warehouses.

311. Bonded warehouses for the storage of *ganja* and *charas* have been established at the following places:—

(1) Allahabad.	(4) Lucknow.	(7) Agra.
(2) Benares.	(5) Cawnpore.	(8) Sahāranpur.
(3) Gorakhpur.	(6) Bareilly.	(9) Jhānsi.

* At present, passes from the Panjab are issued by the officer in charge of the bonded warehouse in the district from which *charas* is to be transported.

Pages.
113—116.
Ganja and
charas im-
ported to be
warehoused.

Pass book.
Notification
No. 304/XIII
—317A, dated
23rd Septem-
ber 1906, as
amended by
notification
No. 355
XIII—11,
1906.
dated 1st
October
1906.
Pass book to
be returned
on exhaus-
tion of stock
(Ditto.)

Application
for removal
of drugs.
(Ditto.)
Amended by
Notification.

Removal of
drugs.
(Ditto.)

Inspection
and
supervision
of ware-
houses.
(Ditto.)

313. *Ganja* and *charas* imported into the United Provinces shall be lodged in some one of the bonded warehouses named in Rule 311.

321. On the deposit of drugs in a warehouse, the depositor shall be furnished with a pass-book, free of charge, in Form No. 16, Appendix F. No drugs shall be subsequently received or withdrawn from the warehouse without the production of the pass-book. All entries in the pass-book shall be made by the officer in charge of the warehouse at the time of the deposit or withdrawal of drugs, and each entry of deposit or withdrawal shall be verified by his initials.

322. On exhaustion of the stock of drugs covered by the pass-book, it shall be retained by the officer in charge of the warehouse, and shall be re-issued on a further deposit being made, but not otherwise.

326. Before the removal of any package from the warehouse, the depositor or his authorized agent, or any licensed wholesale vendor purchasing his supply from a depositor, shall apply to the Collector or Officer in charge of Excise of the district for the supply of which the drugs to be removed are required, stating the description and quantity of the drugs, and the warehouse from which they are to be removed. On receiving such application, which may be sent by post, the Collector or Officer in charge of Excise shall, unless he sees reason to the contrary, grant a pass in accordance therewith, in Form No. 14, Appendix F.

329. On arrival at the warehouse, the pass-holder or his authorized agent shall present his pass to the officer in charge, who, after comparing it with the copy of the pass received direct from the district of issue of pass, and satisfying himself that the duty paid fully covers the full weight of the packages to be removed, shall allow their removal. He shall note on the reverse of both copies of the pass the registered number of packages and their weight, and the date of delivery, making over to the applicant his copy of the pass, and sending to the district of issue of pass the copy received direct.

335. The rules in force for the time being for the inspection and supervision of distilleries shall, so far as may be, apply to warehouses for the storage of drugs.

336. No person shall be admitted into the warehouse between sunset and sunrise without the written authority of the Collector.

Pages
116—118.
Admittance
to warehouse
(Ditto.)

337. No persons, except the following, shall be admitted into the warehouse at any time, and these only in the presence of the officer in charge of the warehouse:—

Persons to
be admitted
in the ware-
house.
(Ditto.)

- (1) depositors, purchasers, or their authorized agents, when storing or removing their stock ;
- (2) members of the sanctioned staff of the warehouse, including weighmen and carriers who may be engaged in the deposit or removal of drugs on behalf of depositors, and in such numbers only as the officer in charge may consider absolutely necessary.

338. If any depositor desires to remove, under section 17 of the Act, any package or packages from his stock of drugs in one warehouse to another, he shall apply in writing to the Collector of the district in which the drugs are deposited. If the Collector is satisfied that the removal is unobjectionable, he shall sanction the same.

Removal of
drugs from
one warehouse
to another.
(Ditto.)

339. The drugs to be removed shall then be consigned direct, by rail, to the Collector of the district in which the warehouse to which the drugs are to be removed is situated.

Drugs to
be removed
how
consigned.
(Ditto.)

J.—Farms and Licenses.

342. The Collector may farm to any person the right of retail vend of hemp drugs within his district or any portion of his district, for a period of one year. The farming lease shall be in Form No. 23, Appendix F.

Farms of
the right of
retail vend.

344. A farmer is entitled to receive, without fee, a license for the sale wholesale within these Provinces of intoxicating drugs, in Form No. 25, Appendix F, to be granted by the Collector.

Farmer's
wholesale
license.

345. A farmer must issue licenses, which shall be countersigned by the Collector or Officer in charge of Excise, to cover the retail sale of intoxicating drugs by each person placed in charge of a retail shop permitted to

Retail license,
granted by
farmer.

Pages.
118—130.

be established under his farming lease. Where such persons are sub-lessees, the license shall be in Form No. 24, Appendix F. Where the farmer elects to sell through his servants, the necessary alterations and omissions may be made, with the Collector's sanction, in the form of license.

List of
licenses to be
issued by
farmer.
(Ditto.)

346. On or before the fifth day of each quarter, the farmer shall file in the Collector's Office a list of all licenses granted by him under section 25(2) of the Act, in which shall be stated the locality of the shops and the names of the persons in whose favour licenses have been granted.

Farmer's
agents.
(Ditto)

347. The farmer may, subject to the approval of the Collector, appoint by instrument in writing one or more agents to act in his behalf in all or any of the matters connected with the farming lease.

Pass for drugs
to shops.
(Ditto.)

348. To cover the transfer of intoxicating drugs to shops within the limits of his farm, the farmer holding a wholesale license shall issue a pass in Form No. 15, Appendix F, for which purpose books of passes shall be issued to him free of cost. He shall fill in the counterfoil, and shall return each book when exhausted to the Officer in charge of Excise. Each package covered by such pass shall be securely packed, and shall have affixed to it a ticket bearing the number of the pass and showing the gross weight of the package.

Wholesale
licenses to
other than
farmers.

349. Persons, other than farmers, desiring to engage in the wholesale vend of intoxicating drugs must obtain licenses in Form No. 26, Appendix F, for *ganja* and *charas*, and in Form No. 27, Appendix F, for *bharg*. The first-mentioned licenses are granted by the Commissioner of Excise, the second by the Collector of the district in which the licensee carries on his business, with the previous sanction of the Commissioner of Excise. It should be noted that a farmer cannot sell *bharg* for export except he holds a license in Form No. 27, Appendix F.

Supply of
ganja and
charas to
Bundelkhand.

352. The following special rules have been framed for the purpose of facilitating the supply of *ganja* and *charas* to Bundelkhand :—

- (1) *Ganja* and *charas* may be imported into the districts of Banda, Jhansi, Jalaun, and Hamirpur, either under the rules applicable to bonded warehouses contained in this Chapter, or in the

manner, and subject to the conditions, hereinafter expressed.

Page 120.

- (2) Any licensed wholesale vendor in the district of Banda, Jhansi, Jalaun or Hamirpur may, with the previous sanction of the Collector, import *ganja* and *charas* direct into the district in which his license is current, on condition that the drugs shall be consigned to the Collector's office

Explanation.—For the purposes of these rules, the expression “Collector” shall include the Sub-Divisional officers of Karwi, Lalitpur and Mahoba.

CHAPTER XIII.A.

Cocaine.

353A.—The Local Government has declared cocaine and its derivatives to be included in the definition of intoxicating drugs in section 3, sub-section (1), clause (j) of the Act. In this and in the following rules the word cocaine includes the derivatives of cocaine.

Notification
No. 54—
XIII/26-1905,
dated the
30th January
1906.

353B.—Licenses for the sale of cocaine for medical purposes, issued by Collectors to pharmacists, shall be in Form No. 30, Appendix F, and shall in all cases expire on the 31st day of March following the date of issue.

No fee shall be payable for a license. The license shall not authorize the possession by the holder of more than one ounce of cocaine, without the previous sanction of the Commissioner of Excise being obtained to the raising of the limit.

Explanation.—"Pharmacist" means a person who deals in European medicines and drugs as a means of livelihood.

353C.—The provisions of section 18 (2) of the Act prohibiting the possession of cocaine do not apply—

Notifica-
tion No. 56-
XIII/26-
1905, dated
the 30th
January
1906.

- (i) to cocaine which has been purchased from a duly authorized vendor, for medicinal purposes, on the prescription of a person who practises medicine according to European methods; provided that the cocaine is in the possession of the person for whom it was prescribed, or of a person authorized to purchase or to possess it on his behalf; or
- (ii) to cocaine required for the exercise of his profession in the possession of a person who has been registered under an European or American Medical Act, or who has received a medical diploma from an Indian University or College and who practises medicine according to European methods.

CHAPTER XIV.

Opium.

In exercise of the powers conferred by sections 5 and 13 of the Opium Act, 1878, and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of the United Provinces of Agra and Oudh is pleased to make the following rules, namely :—

RULES.

354. On and from the 1st June 1907 the rules made under the Opium Act, 1878, and published with the Notification of the Government of the United Provinces No. ¹⁷⁷~~XIII-76~~, dated the 9th July 1887, as amended by subsequent Notifications, shall cease to have effect, except as regards anything done or any offence committed, or any fine or penalty incurred, or any proceedings commenced, before that day. Saving clause

A.—Definitions.

355. In these rules, unless there is something repugnant in the subject or context,— Definitions.

(1) "India" means British India, together with any territories of any Native Prince or Chief under the suzerainty of His Majesty, exercised through the Government of India or any Government or officer subordinate thereto, and includes the French and Portuguese Settlements enclosed within British Indian territory, or bordering on the Arabian Sea (east of Karachi) or Bay of Bengal. India.

(2) "United Provinces" means the territories for the time being administered by the Lieutenant-Governor of the United Provinces of Agra and Oudh. United Provinces.

(3) "Central India" means the territory included in the Central India Political Agency. Central India.

(4) "Rajputana" means the territory included in the Rajputana Political Agency. Rajputana.

(5) "Jaunsar-Bawar" means that portion of the pargana of Jaunsar-Bawar in the district of Dehra Dun which is outside the cantonment of Chakrata, or of such limits beyond the boundaries of that cantonment as the Jaunsar-Bawar.

Pages 121—122.	Lieutenant-Governor of the United Provinces may, by notification in the <i>United Provinces Government Gazette</i> , from time to time prescribe.
Board.	(6) "Board" means the Board of Revenue of the United Provinces.
Commissioner.	(7) "Commissioner" means the Commissioner of Excise.
Collector.	(8) "Collector" means the chief officer in charge of the revenue administration of a district, and includes any officer empowered by the Board, by name or in virtue of his office, to perform all or any of the functions of a Collector under these rules.
Officer in Charge of Excise.	(9) "Officer in charge of Excise" means any subordinate officer of his staff whom the Collector may place in executive charge of the excise administration of the whole or part of a district.
Tahsildar.	(10) "Tahsildár" means a Tahsildár appointed under the Land Revenue Acts of the United Provinces.
Tahsil.	(11) "Tahsil" means the local area in which a Tahsildár exercises jurisdiction.
Government treasury.	(12) "Government treasury" means the Government treasury at the headquarters of a district.
Sub-treasury.	(13) "Sub-treasury" means the Government treasury at the headquarters of a tahsil.
Treasurer.	(14) "Treasurer" means the cashier at a Government treasury.
Treasurer's agent.	(15) "Treasurer's agent" means the cashier at a sub-treasury, or any other agent appointed by the treasurer.
Opium.	(16) "Opium" means the inspissated juice of the poppy.
Intoxicating drug.	(17) "Intoxicating drug" includes <i>madak</i> and <i>chandu</i> and every preparation or admixture thereof, and <i>kafa</i> , and morphia and other medicinal preparations derived from opium, and every other intoxicating preparation of opium or of the poppy, but does not include poppy-heads.
Poppy-heads.	(18) "Poppy-heads" means the dry capsules of the poppy plant.
Tola.	(19) "Tola" means a weight of 180 grains, Troy.
Sér.	(20) "Sér" means a weight of 80 tolas.

Pages
122-123.
Retail and
wholesale.

(21) Opium or an intoxicating drug, not being morphia or any preparation thereof, when sold in any quantity not exceeding three tolas in weight, morphia and its preparations when sold in any quantity not exceeding 10 grains in weight, and poppy-heads when sold in any quantity not exceeding five sers in weight, shall be deemed to be sold by "retail;" and when sold in any larger quantity, shall be deemed to be sold "wholesale."

(22) "Farmer," used with reference to opium or to an intoxicating drug or to poppy-heads, means a person to whom the fees leviable in a district or in a part of a district on the retail sale of opium, or of the intoxicating drug, or of poppy-heads, as the case may be, have been let in farm by the Collector.

Farmer.

(23) "Licensed vendor," used with reference to opium or to an intoxicating drug or to poppy-heads, means a person to whom a license for the retail sale of opium, or of the intoxicating drug, or of poppy-heads, as the case may be, has been granted by the Collector or Officer in charge of excise, or by a farmer having authority to grant the same.

Licensed
vendor.

(24) "Licensed druggist" means a person to whom a permit for the retail sale of opium, intoxicating drugs, and poppy-heads for medicinal purposes has been granted by the Collector.

Licensed
druggist.

(25) "Import," "export" and "transport" have the respective meanings assigned to them in the Opium Act, 1878; and

Import,
export, and
transport.

(26) "transit" means the import, transport and export of opium passing through the United Provinces from one place to another outside such provinces without change of ownership.

Transit.

B.—Cultivation.

356. Opium may be cultivated in Jaunsar-Bawar during the term of the current settlement of the land revenue.

Cultivation
in Jaunsar-
Bawar
permitted.

357. Opium may also be cultivated elsewhere on account of the Government in such tracts as the Local Government may from time to time, by notification in the *United Provinces Government Gazette*, define in this behalf.

Cultivation
on account
of Govern-
ment permi-
tted.

Page 123.

*C.—Manufacture.*Manufacture
of opium.

358. Opium may be manufactured on account of the Government.

Manufacture
of intoxicat-
ing drug.

359. An intoxicating drug, other than a preparation or admixture of opium used for smoking, may be manufactured—

- (a) on account of the Government ; or
- (b) by a farmer or licensed vendor of the intoxicating drug, subject to the conditions of his lease or license ; or
- (c) by a licensed druggist for medicinal purposes from opium of which he is permitted by these rules to be in possession ; or
- (d) by any other person for his own domestic use, in any quantity not exceeding three tolas in weight, from opium bought from a farmer or licensed vendor of opium ; or
- (e) by the persons mentioned in rule 368 for use as specified in that rule, in any quantity not exceeding three tolas in weight at each operation, from opium lawfully in their possession :

Provided that nothing in clauses (d) and (e) shall be held to authorize the manufacture of morphia and its preparations by the persons therein referred to.

Manufacture
of intoxicat-
ing drugs for
use and not
sale.

360. Any intoxicating drug may be manufactured by the persons mentioned in rule 369 for their own use, in any quantity not exceeding three tolas in weight at each operation, from opium lawfully in their possession.

Manufacture
of prepara-
tions for
smoking for
private
consumption.

361. Any person may manufacture for his own private consumption, and not for sale, any preparation or admixture of opium used for smoking, in any quantity not exceeding one tola, from opium of which he is permitted by these rules to be in possession.

*D.—Possession.*Possession of
opium and
intoxicating
drugs not
used for
smoking by
public.

362. Any person may possess—

- (a) opium to the extent of three tolas, intoxicating drugs, not being preparations used for smoking, to the extent of three tolas, morphia and its preparations to the extent of 10 grains, and poppy-heads to the extent of five sérs :

provided that the said articles have been bought by retail from a farmer or licensed vendor having authority to sell them, or from a licensed druggist, or, in the case of intoxicating drugs, other than morphia and its preparations, that they have been manufactured from opium so obtained ;

- (b) preparations or admixtures of opium used for smoking to the extent of one tola : provided that such preparations have been manufactured by the possessor for private consumption and not for sale, under the conditions of rule 361.

Possession of opium or admixtures used for smoking by public.

363. Subject in each case to the conditions of his lease, a farmer of poppy-heads may possess them in any quantity ; a farmer of opium may possess any quantity of opium bought from the Government at a Government treasury or sub-treasury ; and a farmer of an intoxicating drug, not being a preparation or admixture of opium used for smoking, may possess any quantity of opium as above, and of the intoxicating drugs manufactured from such opium.

Possession by farmer.

364. Subject to the conditions of his license, a licensed vendor of opium or of an intoxicating drug, not being a preparation or admixture of opium used for smoking, may possess any quantity of opium bought from the Government at a Government treasury or sub-treasury, or from a farmer of opium, and a licensed vendor of poppy heads may possess the same in any quantity.

Possession by licensed vendor.

365. Subject to the conditions of his license, a licensed vendor of an intoxicating drug, other than a preparation or admixture of opium used for smoking, may also possess any quantity of the intoxicating drug bought from a farmer thereof, or manufactured from opium bought from the Government at a Government treasury or sub-treasury, or from a farmer of opium.

Possession by licensed vendors.

366. A person who has been a farmer or licensed vendor may, with the sanction of the Collector, possess any opium, intoxicating drugs, other than preparations or admixtures of opium used for smoking, or poppy-heads which he is authorized under the conditions of his farm or license to deal in, but which are left in his possession on

Possession ex-farmer licensed vendor.

Pages
124-125.

the expiration of his lease or license till such time as he has disposed of or surrendered the same under these rules.

Possession by
licensed
druggist.

367. Subject to the conditions of his license, a licensed druggist may possess opium which has been purchased from the Government at a Government treasury or sub-treasury, or from a farmer or licensed vendor of opium, and intoxicating drugs other than preparations, or admixtures used for smoking, which have been bought from the Government opium factory at Ghazipur or a farmer or licensed vendor having authority to sell them, or have been manufactured from opium bought from the Government at a Government treasury or sub-treasury, or from a farmer or licensed vendor of opium. He may also, subject to the conditions of his license, possess poppy-heads in any quantity.

A medical practitioner, chemist or druggist may possess, without a license, medicinal preparations containing opium imported from Europe.

Possession by
foreign horse-
dealers.

368. A foreign horse-dealer importing horses into India from a country outside India may, during the period of his sojourn in the United Provinces in pursuance of his trade as such, possess opium produced out of India, and intoxicating drugs, other than morphia and its preparations or preparations or admixtures of opium used for smoking, prepared therefrom, subject to the following restrictions :—

(a) The quantity of opium (exclusive of intoxicating drugs prepared therefrom) in the possession of any such person shall not exceed in weight 10 tolas for each horse for the time being in his possession.

(b) The quantity of intoxicating drugs in the possession of any such person shall not exceed in weight three tolas.

Possession by
person of
distinction
visiting
United
Provinces.

369. A person of distinction from a country outside India visiting the United Provinces may possess opium produced out of India, and intoxicating drugs prepared therefrom, for the personal use of himself and his attendants subject to the following restrictions :—

(a) The total quantities of such opium and intoxicating drugs shall be covered by a pass as provided in Rule 392(b).

- (b) The total quantity of opium and intoxicating drugs covered by such pass shall not, in ordinary cases, exceed two sers of opium for the whole party, and in addition thereto three tolas of intoxicating drugs for each member thereof.

Pages
125—126.

370. A cultivator licensed under Act XIII of 1857 may, till such time as delivery should in ordinary course be made under section 11 of that Act, possess opium which is the produce of land cultivated with poppy in accordance with his license.

Possession by
licensed
cultivators
(Notification
No 2-XIII—
79A., dated
6th January
1899.)

371. A cultivator licensed under Act XIII of 1857 may possess—

Possession by
licensed
cultivators.

- (a) poppy-heads, without limit of quantity, for one month after the delivery of his opium to the Opium Agent; and

- (b) poppy-heads containing seeds for sowing, from May to December inclusive.

372. A person to whom a pass has been granted for transport, transit, import or export under these rules, or who has been authorized by a special order in writing of the Collector* to possess opium, or an intoxicating drug or poppy-heads in quantities exceeding those specified in Rules 362 to 371, may possess the opium or intoxicating drug or poppy-heads covered by the pass or special order, as the case may be.

Possession by
pass-holders.

E.—Transport.

373. A farmer or licensed vendor of opium or of an intoxicating drug or of poppy-heads may transport opium, or the intoxicating drug or poppy-heads, as the case may be, as provided in Rules 374 to 383.

Transport by
farmer or
licensed
vendor.

374. Where a farmer or a licensed vendor desires to transport opium, or an intoxicating drug or poppy-heads (a) from one district to another, or (b) from one tahsil to another tahsil in the same district when the tahsils of the district are leased to different farmers, he must obtain a pass for each consignment. A pass will be granted in case (a) by the Collector or Officer in charge of Excise of the district, and in case (b) by the Tahsildar of the tahsil.

Transport
from one
district to
another
district, or
from one
tahsil to
another
tahsil.

* For the purposes of this rule, the Board of Revenue have directed that the officer mentioned in rule 27 (2) (a) and (b) shall exercise the powers of a Collector.

Pages
126-127.
Transport
pass.

375. The pass shall specify—

- (a) the time within which the transport must be effected;
- (b) the place from which the consignment is to be transported;
- (c) the name of the consignor;
- (d) the name of the person in charge of the consignment;
- (e) the name of the consignee;
- (f) the number of packages and the weight and contents of each; and
- (g) the place to which the consignment is to be transported.

Packages
transported to
be sealed.

376. Each package in the consignment shall be stamped in the presence of the officer granting the pass with his official seal.

Bulk not to be
broken in
transit.

378. (1) The bulk of a consignment shall not be broken during transport.

Transport
from treasury
or sub-treasury
or within
farm.

381. Where (1) a farmer or a licensed vendor wishes to transport opium purchased by him at a Government treasury or sub-treasury for sale at his shop, or (2) where a vendor holding a license from a farmer wishes to transport, within the limits of a farm, opium, an intoxicating drug, or poppy-heads purchased from a farmer for sale at his shop, he shall obtain an entry in a shop pass-book, in case (1) by the treasurer or his agent, and in case (2) by the farmer, for each consignment.

Pass-book.

382. The pass-book shall contain the following particulars, namely:—

- (a) date;
- (b) quantity of opium purchased;
- (c) signature of treasurer, of his agent or of the farmer.

Pass-book to
be supplied
to retail
vendors.

383. A pass-book shall be supplied by the Collector for every shop. This pass-book shall be brought to the treasury or sub-treasury by the farmer or licensed vendor, or to the farmer by the vendor holding a license from him, on each occasion on which he purchases opium, when the particulars of the various columns shall be filled up by the treasurer, his agent, or the farmer, as the case may be.

Preparations of opium purchased by a licensed druggist from the Government Opium Factory at Ghazipur, and opium, intoxicating drugs or poppy-heads purchased by a licensed druggist from a Government treasury or sub-treasury or from a farmer or licensed vendor of opium may be transported by him or on his behalf to his licensed premises without pass or permit.

Page 127.

Any person may transport medicinal preparations containing opium imported from Europe, in quantities not exceeding those which he is authorized under these rules to possess.

NOTE.—The transport of medical opium consigned from the Patna Factory to a Government Medical Store Depot or to the Administrative Medical Officer of any Local Government may not be interfered with, although such opium may not be protected by a pass. The Hyderabad and Mysore Medical Store Depots may be treated in this respect as if they were Government Institutions, and the free transport through British territory of medical opium consigned to them may be allowed.

Medical
Opium.

F.—Transit.

384. When accompanied by a pass issued by the Opium Agent at Indore or his authorized assistant, or by the Opium Agent at Ajmer or other officer authorized to grant passes at the Ajmer scales, certifying prepayment of the duty leviable at the scales, the transit of opium, intoxicating drugs or poppy-heads from Indore or Ajmer by rail through the United Provinces by such route as may be prescribed in the pass is permitted.

Transit of
opium from
Indore or
Ajmer
through the
United
Provinces.

385. When accompanied by a pass issued, if the destination of the consignment is any station on the railway line between Neemuch, Ujjain and Indore, by the Deputy Opium Agent in Malwa, or in any other case, by the Political Agent of the State for which the consignment is destined, the transit of opium, intoxicating drugs, or poppy-heads (a) from one Native State in Central India or Rájputána to another by the Rájputána-Malwa Railway through Agra, and (b) from one Native State either in Central India or in Rájputána to another Native State in the Central India Agency by the Indian Midland Railway, is permitted.

Transit of
opium from
one Native
State to
another in
Rajputana or
the Central
India Agency

When opium, consigned to a Native State in Bundelkhand, has to leave the railway at a station in British India, the Political Agent shall send a copy of the pass issued by him for the opium to the Collector of the district in which the railway station is situated.

Pages
127—128.
Bulk not to
be broken in
transit

Destination
of consign-
ment
not to be
altered.

Delivery of
opium not to
be taken
from railway.

Opium in
transit may
be detained
and examined

Transit to
Rampur.
Notification
(No. 61/XIII
- 22A,
dated 28th
March 1891.)

Import of
opium by
Government.

Import of
opium by
other per-
sons.

386. The bulk of a consignment shall not be broken in transit.

387. The destination of a consignment shall not be altered from that which has been specified in the pass.

388. Delivery of opium in transit shall not be taken from the railway authorities by the owner or consignor or consignee, or by any other person, without the written authority of the Collector.

389. Opium in transit may be detained and examined as to all particulars specified in the pass, or as to the prepayment of duty, or as to tampering in transit or change of destination of the consignment, or as to the due observance of these rules at any station at which the Collector may direct such detention or examination, either generally or specially. The Railway officials shall afford, at all times, all reasonable facilities to the Government official or officials authorized in writing by the Collector to make such general or special examinations, and on the requisition of such Government official or officials shall detain any consignment pending the orders of the Collector, and shall be indemnified for acting on such requisition.

390. The transit through the United Provinces of the opium which His Highness the Nawáb of Rampur is authorized to import annually is permitted.

G.—Import.

391. The Government may import opium or intoxicating drugs, other than preparations or admixtures of opium used for smoking, on its own account

392. Opium produced out of India, or intoxicating drugs, other than preparations or admixtures of opium used for smoking, prepared therefrom, may be imported by the persons described in Rule 368, and opium produced out of India, or intoxicating drugs of any description prepared therefrom, may be imported by the persons described in Rule 369 in quantities not exceeding those respectively specified in those rules: provided that—

(a) all opium and intoxicating drugs imported by the persons described in Rule 368 shall be subject to the payment of a duty at the rate of Rs. 2 per sèr on import into the United Provinces

unless the importer proves that he has already paid duty in British India ;

- (b) all opium and intoxicating drugs imported by the persons described in Rule 369 shall be covered by a pass granted by a Political Agent or other representative of His Majesty's Government in the State or country in which such persons reside, or by the Collector of the first district in British India into which such opium or intoxicating drugs are imported. The pass shall be produced whenever its production is demanded by the Collector of the district in which such persons may happen to be, or by an Excise Officer acting under a written authority from such Collector.

Any person may import medicinal preparations containing opium from Europe subject to the payment of duty at the tariff rate for the time being in force and in quantities not exceeding those which he is authorized under these rules to possess.

II.—Export.

393. The Government may export opium on its own account. Export by Government.

394. Any person may export opium or an intoxicating drug or poppy-heads, as the case may be, under a pass granted as provided in the following rules. Export by other persons.

395. When any person desires to export opium, an intoxicating drug, or poppy-heads from any part of the United Provinces, except Jaunsar-Bawar, whether into any foreign State or into any territory administered by another Local Government, he must obtain a pass for each consignment from the Collector or officer in charge of Excise of the district. He shall present to the officer empowered to grant such pass a written permission to apply for it (a) in the case of a consignment intended for a foreign State, from the Political Officer accredited to that State, and (b) in the case of a consignment intended for the territory administered by another Local Government from the Collector of the district to which it is to be exported. Export to foreign State or British territory.

Page 129.

Pass.

396. The pass shall specify—

- (a) the name of the consignor ;
- (b) the name of the person in charge of the consignment;
- (c) the name of the consignee;
- (d) the number of packages and the weight and contents of each ;
- (e) the place to which the consignment is to be exported.

Package to be sealed.

398. Each package in the consignment shall be stamped in the presence of the officer granting the pass with his official seal.

Bulk not to be broken.

399. The bulk of a consignment shall not be broken during export.

Consignment may be examined.

400. Any revenue officer not inferior in grade to a Tahsildar, or any Police officer not inferior in grade to an Inspector, may examine such consignment at any time. If any such officer finds on inspecting the consignment that the packages are fewer or their contents less (in the case of opium or an intoxicating drug by more than the dryage allowance of a quarter per cent.) than are specified in the pass, he shall detain the consignment and immediately report the result of his inspection to the Collector.

Opium imported may be exported.

401. Opium or intoxicating drugs produced out of India and imported into the United Provinces by the persons to whom such importation is permitted under Rule 392, may be exported by such persons in quantities not exceeding the amount of which the import is, in each case, permissible.

Export of opium produced in Jaunsar-Bawar.

402. Opium or poppy-heads produced in Jaunsar-Bawar, or intoxicating drugs prepared from opium there produced, may be exported to foreign territory:

Provided that opium, intoxicating drugs or poppy-heads exported under this rule shall be exported direct from Jaunsar-Bawar into foreign territory without passing through any British territory beyond the limits of Jaunsar-Bawar.

Any person may export medicinal preparations containing opium, imported from Europe, in quantities not exceeding those which he is authorised under these rules to possess.

SALE.

WHOLESALE.

403. Opium in quantities of not less than one sér in weight or with the special sanction of the Board in quantities of not less than half a sér in weight, shall be supplied on prepayment, at such rates as the Lieutenant-Governor may, from time to time, prescribe by notification in the *United Provinces Government Gazette*, from Government treasuries and sub-treasuries to the treasurer or his agent, in districts where he has a license to sell retail, or to a farmer, licensed vendor or licensed druggist.

Opium to be sold at treasuries and sub-treasuries. (Notifications Nos. 70/XIII—594A, dated 8th March 1901) and 186/XIII—594A, dated 25th June 1901.

The following preparations of opium may also be supplied by the Superintendent of the Government Opium Factory at Ghazipur to licensed chemists and druggists on prepayment at such rates as may from time to time be fixed by the Local Government in this behalf:—

Morphia hydrochloride,
 „ acetate.
 „ sulphate.
 Codia pure.

404. Subject to the conditions of his lease, a farmer of opium may sell wholesale to a licensed vendor of opium or of an intoxicating drug, or to a licensed druggist, any quantity of opium bought from the Government at a Government treasury or sub-treasury.

Sales of opium by farmer.

405. Subject to the conditions of his lease, a farmer of an intoxicating drug or poppy-heads, may sell wholesale to a licensed vendor of the intoxicating drug or of poppy-heads, as the case may be, or to a licensed druggist, any quantity of the intoxicating drug manufactured from opium bought from the Government at a Government treasury or sub-treasury, or any quantity of poppy-heads.

Sales of intoxicating drugs and poppy-heads by farmer.

406. Subject to the conditions of his license, a licensed vendor of opium may sell wholesale any quantity of opium to a licensed druggist. Subject to the conditions of his license, a licensed vendor of an intoxicating drug or of poppy-heads may sell wholesale any quantity of the intoxicating drug or poppy-heads, as the case may be, to a licensed druggist.

Sales of opium by licensed vendor. Sales of intoxicating drugs and poppy-heads by licensed vendor.

Pages 130—
181.

Sale of opium and intoxicating drugs by licensed druggists.
(G. O. No. 242/XIII—726A., dated 30th September 1901.)

Licensed vendor may sell opium, intoxicating drugs or poppy-heads on expiry of license.

Cultivator may sell poppy-heads to farmers and licensed vendors.

Farmer or licensed vendor may sell wholesale with special permission.

Retail sale to be made by farmer and retail vendors.

Cultivator may sell retail to farmer or licensed vendor.

Licensed vendor may sell poppy-heads by retail.

Licensed druggist may sell by retail.

407. A licensed druggist holding a special permit for wholesale vend may, subject to the conditions of the permit, sell wholesale any quantity of opium or intoxicating drugs to licensed druggists or medical practitioners only.

A medical practitioner, chemist or druggist may sell wholesale, without a permit, medicinal preparations containing opium imported from Europe.

408. A person who has been a farmer or licensed vendor may, with the sanction of the Collector or Officer in charge of Excise, sell wholesale to a farmer or licensed vendor any opium, intoxicating drugs or poppy-heads which he is authorised under the conditions of his farm or license to deal in, but which are left in his possession at the expiration of his lease or license.

409. A cultivator licensed under Act XIII of 1857 may sell poppy-heads whole-sale to a farmer or licensed vendor of poppy-heads.

410. A farmer or licensed vendor of opium or of an intoxicating drug, or of poppy-heads may, under a special order in writing of the Collector or Officer in charge of Excise, sell opium or an intoxicating drug or poppy-heads, as the case may be, wholesale to any person and in any quantity specified in the special order.

Retail.

411. A person to whom a license has been granted by the Collector or Officer in charge of Excise, or by a farmer having authority to grant the same, may sell opium or an intoxicating drug by retail, in accordance with the conditions specified in the license.

412. A cultivator licensed under Act XIII of 1857 may sell poppy-heads by retail to a farmer or licensed vendor of poppy-heads.

413. A person to whom a license has been granted by the Collector or Officer in charge of Excise, or by a farmer of poppy-heads, may sell poppy-heads by retail, in accordance with the conditions specified in the license.

414. A licensed druggist may sell opium, intoxicating drugs, and poppy-heads by retail in accordance with the conditions specified in his permit.

A medical practitioner, chemist or druggist may sell by retail, without a permit, medicinal preparations containing opium imported from Europe.

415. The Government treasurer of the district and his agents may, in districts where they are licensed to sell retail, sell opium by retail in accordance with the conditions specified in the license.

Government
treasurers and
their agents
may sell by
retail.

417. Opium, intoxicating drugs or poppy-heads shall not be sold by retail at any Collector's office.

Opium, &c.,
not to be sold
at Collector's
office.
Shops.

419. Such limited number of shops for the retail sale of opium or all or any intoxicating drugs as the Commissioner may, from time to time, determine shall be allowed in each district, and the exclusive right of selling opium or the intoxicating drug or drugs by retail at one of those shops, or at more than one of them, as the Board may direct, shall be sold by the Collector at the commencement of each official year* by public auction, or assigned in such other mode as the Board may, from time to time, prescribe.

K.—Farm of fees.

422. (1) The Collector may let in farm by public auction or in such other mode as the Board may prescribe, with the sanction of the Commissioner for any period not exceeding one year, and with the sanction of the Board for any longer period, the fees leviable in a district, or in a part of a district, on licenses for the retail sale of opium or of all or any intoxicating drugs, or of poppy-heads.

Farm of fees.

(2) When the fees so leviable are let in farm, the farmer may, subject to the conditions of his lease, himself sell by retail, and grant licenses under the countersignature of the Collector for the retail sale of opium, or all or any intoxicating drugs, or poppy-heads, as the case may be, within the local limits of his farm:

Provided that neither the farmer, nor a person to whom a license for retail sale has been granted by the farmer, shall sell any opium which has not been supplied from a Government treasury or sub-treasury, or any intoxicating drug in the manufacture of which any opium not supplied from a Government treasury or sub-treasury has been used.

*From 1st April to 31st March.

Pages
123-125.

(4) The farmer shall file in the Collector's office a list of all the licenses granted by him, in such form and on such day or days of the year as the Board may from time to time prescribe in this behalf.

M.—Disposal of articles remaining with farmer or licensed vendor after expiration of lease or license.

Disposal of
articles re-
maining with
farmers or
licensed
vendors after
cancellation
of lease or
license.

426. If any person who has been a farmer or licensed vendor has in his possession, after the expiration of his lease or license, any opium, intoxicating drugs or poppy-heads which he is authorised under the conditions of his farm or license to sell, but is unable to dispose of under Rule 408, he shall, on the requisition of the Collector or Officer in charge of Excise, surrender the same to such officer as the Collector or Officer in charge of Excise may appoint in this behalf

N.—Prohibition as to preparations or admixtures of opium used for smoking.

Prohibition
as to prepara-
tion or ad-
mixture of
opium used
for smoking.

427. Notwithstanding anything contained in the above rules, no person may sell, transport, import or export, for the purpose of sale, any preparation or admixture of opium used for smoking; nor may any person manufacture or possess any such preparation, save for his own use and under the conditions of Rules 360, 361, 362 (b), and 369, or under a special order for possession issued under Rule 372.

II.—GENERAL.

A.—Supply of opium.

Marking of
opium chests.

429. The Board of Revenue, Lower Provinces, have issued the following instructions to the Opium Agents regarding the marking of chests containing *abkari* opium :—

(1) Chests containing pure factory opium should be marked with the letter "P" (Patna) or "B" (Benares) after the number of the chest in the centre of one of the sides.

(2) Chests of ordinary Malwa opium should be marked with the letter "M" after the number of the chest in the centre of one of the sides. The letter "P" or "B" should be marked below the number to indicate whether the manufacture was at Patna or Ghazipur, thus $\frac{591M.}{B.}$

(3) Chests of special Malwa opium should have the letters "S" and "M" after the number in the centre of one of the sides, the letter "P" or "B" being stamped below, thus $\frac{647S. M.}{P.}$

(4) Chests of blended opium should bear the mark "P and M" or "B and M" over the number of the chest in the centre of one of the sides.

In every case each letter and figure should be of the uniform length of three inches with a width of half an inch in the down strokes.

B.—Custody and sale of Opium.

432. (3) Opium shall, whenever possible, be supplied to sub-treasuries under guard in the same manner as cash remittances. Opportunity shall be taken whenever possible of utilizing for this purpose the services of a guard which has brought a cash remittance to the sadr treasury.

All chests of opium intended for sub-treasuries should be examined by the Treasury Officer at head-quarters before despatch. For this purpose he should open all such chests and, after satisfying himself that the number and weight of the cakes are correct, he should have the chests closed and resealed.

(4) Except when sent in the original boxes as received from the Government factory, opium sent to sub-treasuries shall be packed in chests or boxes which shall be either locked, as required for cash remittances, or otherwise securely fastened and sealed. Inside each such chest or box, on the top of the consignment, shall be placed a memorandum showing the date of despatch, the quantity of opium, and the name of the person who has packed the box, and the Treasury Officer shall satisfy himself as to the contents of each chest or box before despatch.

F.—Forms of leases and licenses, &c.

436. With the sanction of the Local Government the Board prescribe the following forms for use under these rules :—

- (1) The lease of the fees leviable for the retail sale of opium, intoxicating drugs or poppy-heads shall be in Form No. 10, Appendix G.
- (3) The license for retail sale granted by the farmer shall be in Form No. 11, Appendix G.
- (4) The license for right of retail sale at a specified shop granted by the Collector shall be in Form No. 12, Appendix G.

Pages
137—140.

Custody and
sale of opi-
um at sub-
treasuries.

Forms of
leases,
licenses, and
permits and
counterparts
if any.
Notification
No. 177/-
XIII—76,
dated 9th
July 1887.

Page 140.

-
- (5) The license for retail sale at the treasury or sub-treasury by treasurers and their agents shall be in Form No. 13, Appendix G.
 - (6) The permits granted by Collectors to druggists shall be in Form No. 9, Appendix G.
 - (7) The pass for possession of opium produced out of India, or intoxicating drugs prepared therefrom, free of duty [Rule 392(2)] shall be in Form No. 8, Appendix G.
-

CHAPTER XVI.

Prosecutions.

I.—General.

456. Offences against the Opium Act may be tried by a Magistrate of the first class, or by a Magistrate of the second class especially empowered by the Local Government. Offences against the Excise Act may be tried by a Magistrate of the first or second class, or by a Magistrate of the third class specially empowered by the Magistrate of the district.

Magisterial
jurisdiction.

457. No complaint of an offence against the Excise Act can be entertained unless it be made within six months after the commission of the offence (section 57). No similar restriction exists in respect to prosecutions under the Opium Act.

Restriction
of prosecu-
tion.

458. Under section 10 of the Opium Act it shall be presumed, in respect of prosecutions under section 9, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under the Act. There is no similar presumption in respect to prosecutions under the Excise Act.

Presump-
tion.

460. It has been held by the High Court, in the case of *Queen-Empress versus Musammat Ganeshi* (the ruling in which is appended) that a Magistrate who, as Collector or Assistant Collector, holds administrative charge of the district excise, is not thereby disqualified under section 555 (now 556) of the Code of Criminal Procedure from trying cases under the Excise laws.

Excise Off-
icer not
precluded
from trial
of Excise
cases.

461. The annexed ruling of the High Court of Judicature for the North-Western Provinces, dated 26th February 1890, *in re* Ram Kishen, charged under section 42, Act XXII of 1881, in which it has been held that the licensee, and not his mere servant in charge of the premises, is responsible for breaches of conditions of his license, is important. This ruling applies to all similar cases under the Opium Act also. In all farming leases the position of

Responsibility
of Excise
contractors
for acts done
by their
servants.

Pages
150-161.

the actual shop keepers, whether sub-lessees or servants, should be made perfectly clear.

In the High Court of Judicature for the North-Western Provinces.

CRIMINAL SIDE.

Revisional Jurisdiction, dated Allahabad, the 26th February 1890.

By the Court.—This is a reference under section 42 of Act XXII of 1881, which imposes penalties on holders of licenses under the Act for breaches of conditions of license among other things. The Magistrate who tried the case rightly held that the licensee was responsible for breaches of the kind, and not his mere servant in charge of the premises. This view of the law is correct and the record is returned.

Benares : Ram
Kishen.

II — Opium.

A.—Act XIII of 1857.

Proceedings
against opium
cultivators

466. The following instructions have been approved by Government with respect to proceedings against opium cultivators found in possession of contraband opium :—

(1) Immediate notice shall be given by the Police to the local Opium Officer of any case in which the accused is an opium cultivator, and the date of the issue of notice shall be reported to the Collector of the district.

(2) In petty cases, that is, in cases in which the opium seized does not exceed three tolas, the prosecution should ordinarily be instituted under section 19 of Act XIII of 1857, and not under section 9, Act I of 1878.

(3) As an ordinary rule, the Collector's sanction should be obtained before a prosecution with respect to contraband opium is instituted against an opium cultivator. Before according sanction, he should allow 10 days to elapse to enable the Sub-Deputy Opium Agent to make any representations he may desire upon the subject. It will suffice if he delay his order with respect to prosecution until 10 days after the date of the notice by the police, which will, under clause (1), be reported to him.

(4) This procedure should invariably be followed in cases falling under Act XIII of 1857, and, as far as possible, in cases under Act I of 1878.

Opium smug-
gling by
cultivators.

467. In order to impose a check on opium smuggling, which prevails to a considerable extent in districts where poppy is cultivated, and which is known to be facilitated by the fact that cultivators are in the habit of keeping

back a portion of their produce and selling it on their private account, the following rules have been laid down in consultation with the Opium Agent, and should be observed :—

Pages
151—164.

(6) The most effective remedy against smuggling by cultivators will be found in the rigorous enforcement of the law against receivers of contraband opium. Such efforts as are usually made to suppress the illegal traffic are, for the most part, directed against the cultivator of the poppy. These men are ignorant and helpless. It is easy to find or to fabricate evidence against them, and there is a certain antecedent probability of their guilt which is apt to influence (perhaps unconsciously to himself) the Magistrate by whom the case is tried. The result is that the royt is ruined, the informer is enriched, the excise or police officer not only shares the reward but is commended and promoted, while the evil which the proceedings are intended to suppress continues as rife and as flagrant as before. The efforts of the authorities should be directed to a different quarter. It should be their object to put down the illicit traffic by tracing and punishing those who tempt the cultivator to violate his engagement. To carry out this policy successfully will require very different qualifications from those which are sufficient to secure a fair average of convictions under the system hitherto in force. But this evil will not be effectually checked until the principle is adopted that the receiver is not merely as bad as the seller, but a great deal worse.

B.—ACT I OF 1878.

469. The possession of any quantity of opium when not issued from the Opium Factory is illegal.

Possession
of opium not
issued by
Opium
Factory
illegal.
Evidence of
Opium
officials may
be taken.

470. If any Magistrate entertains doubt as to whether the opium produced is crude or Government opium, the evidence of the opium officials, who have been instructed by the Opium Agent to be present at prosecutions under the Act, should be taken.

So long as crude opium is not manipulated so as to change its appearance for illicit purposes, it retains its characteristics even if it rises in consistence to the level of Excise opium. A very large proportion of the contraband parcels received at the factory is composed of crude

Pages
154—155.

opium about which there can be no mistake or doubt. Excise opium has very different characteristics from ordinary crude opium. If we take Agency Excise opium, in which no Malwa drug has entered, we find that prolonged sun-drying has heightened the colour of the drug, and has altered the aroma by imparting a somewhat burnt odour. The fracture, too, is changed, and it will be found that generally when such Agency Excise opium is broken gently by the hand, instead of dull waxlike surfaces, the fractured portions will appear somewhat shiny and will adhere by fine silk-like threads, which will break as the pieces are pulled asunder. This abnormal appearance, as well as the generally shiny appearance of the cake, is due to the presence of a small portion of poppy oil used in manufacture. With the blended Excise opium in which the Malwa drug enters, the above characteristics are still more marked, the Malwa drug imparting besides a peculiar odour of its own. These are characteristics of the Government drug, but those who deal in the illicit drug are sometimes in the habit of so manipulating it as to try and make it resemble the Government article. As a rule the imitation is clumsy, but at times chemical tests alone can detect differences between them and true Government opium. Where the smallest manipulation has been attempted the Opium Officer's opinion is valueless and the parcel should be sent to the Opium Examiner at Ghazipur, who alone can decide whether the sample is of Government manufacture or not.

Unlicensed
saloons or
clubs for the
preparation
of *chandu*
and *madak*.

472. The following extract from a letter No. 285, dated 19th September 1896, addressed by the Government of these Provinces to the Government of India, embodies the views of the Local Government as to the policy to be at present pursued with respect to "clubs" and similar associations which are reported to have taken the place of the shops formerly licensed for the preparation and consumption of *chandu* and *madak*:—

"It does not appear from the information now before the Government that the total abolition of licenses for shops in which preparations of opium for smoking are sold, has seriously affected the habit of smoking, which is still indulged in in unlicensed saloons or clubs. The proposal now made is to place some restriction on these unlicensed premises by legislation; but the danger is that the

abolition of such premises might merely have the effect of driving the vice under the surface, and that it would be indulged in in the smokers' houses, with the danger of its spreading amongst their families. It may be said that the cost and trouble of manufacturing the necessary preparations for private consumption would prevent smokers from indulging in the vice at their homes; but the Lieutenant-Governor is by no means certain that they would not find means of overcoming such difficulties."

Pages
155—156.

"The policy of refusing to license shops for opium-smoking may, in His Honour's opinion, prove less effective in discouraging the vice than was hoped when it was introduced; but that policy has been adopted, and it is not certain what the results will eventually be. In this uncertainty, the Lieutenant-Governor accepts the opinion of the Board of Revenue, that no further steps should be taken to deal with the problem by legislation at present. The Government should, he considers, for the next year or two, take up an attitude of watchfulness and observe the result of its present policy. The experience gained in this way will facilitate a final decision as to the course which it is most expedient to adopt."

473. Special attention should be directed to the existence of such "clubs" or associations, to their tendency to extend or otherwise, and to the system on which they are worked.

Existence of
"clubs" to
be noticed in
the annual
report.

474. The mere calling of a *madak* or *chandu* den a "club" does not necessarily make the business carried on a legal one. All cases in which it can be shown that the existing law has been infringed, should be made the subject of prosecution, to be followed, in case of conviction, by adequate punishment. For instance, a case was reported, where the members of a so-called "club" were accustomed to subscribe a sum of money with which the keeper of the den bought opium, from which he prepared *chandu* as required by the subscribers. This is clearly an unlicensed sale of *chandu*. On the other hand, the case where, for convenience of preparation, members bring their own opium, in quantities such as they may lawfully possess, and have it prepared for smoking by their common servant, on private premises retained for the purpose, and proceed to smoke it there, is not one with which, in the present state

Convictions
to be followed
by adequate
punishment.

Pages
166—167.

of the law, interference is possible. Each case needs careful inquiry, so as to prevent the “club” becoming a cover for a public unlicensed smoking den.

III.—*Act XII of 1896.*

Smuggling of
outstill liquor
into the
distillery
tract.

475. Very light sentences—fines of a few rupees only—are frequently inflicted in cases of smuggling of outstill liquor into tracts administered under the distillery system. Such cases are most difficult to detect, and the interests of the Excise revenue require that, on conviction, the offenders should receive exemplary punishment, and that the persons who have been instrumental in securing the conviction should be substantially rewarded.

Dismissal of
chaukidars
who fail to
bring to light
illicit stills in
their beats.

476. As an ordinary rule of practice, a chaukidar who fails to detect the existence of an illicit still in his village, has, by such failure, shown himself to be unfit for his post, even though no direct proof of connivance on his part is obtainable. This rule of practice has been approved by Government in letter No. ⁴¹XIII-401A, dated 10th February 1896, to the address of the Inspector-General of Police. In all cases of illicit manufacture of country spirits, in which the chaukidar within whose beat the illicit still has been found is not himself the informer, the conduct of the chaukidar should be enquired into through the Superintendent of Police, and, except for very special reasons, dismissal should follow as a matter of course.

Liability of
owners and
occupiers of
land and their
agents for
conniving at
illicit
distillation.

477. The provisions of section 53, under which owners and occupiers of land and their agents are liable to punishment for conniving at illicit distillation, should receive the careful consideration of the District Magistrate, and the responsibility of such persons should, where possible, be brought home to them.

CHAPTER XVII.

Disposal of things Confiscated.

478. (3) Where the purchaser is not a license-holder and the article sold is more in quantity than what may be legally held in possession without a license, a pass in Form No. 15, Appendix H, shall be granted to the purchaser to enable him to retain possession of the article purchased. The pass shall be current for such period as the Collector may order, and shall be returned to the Collector as soon as its period of currency has expired. The pass will not enable the holder to sell any of the articles covered by it, but will only permit him to retain them for his own private use.

CHAPTER XVIII.

Rewards.

482. (1) When an offender has been convicted under sections 45, 46, 47, 48, 49, 51 or 53 of the Excise Act, 1896, or under section 9 of the Opium Act, 1878, or under sections 19, 20 and 21 of Act XIII of 1857, the Collector may grant to any person who has contributed in any way to the conviction a reward equal to the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Grant of
rewards.

(2) If the fine is not realized, or only realized in part, the Collector may, within a limit of Rs. 100, pay the full amount, or the unrealized balance, as the case may be, out of the permanent advance which has been allowed to him.

483. When a Magistrate or other officer has ordered the confiscation of anything under section 12 of the Opium Act, 1878, the Collector may grant to any person who has contributed in any way to the seizure of the thing, the whole or any portion of the value thereof.

Value of
confiscated
property
may be
granted.

485. If the Collector is of opinion that a larger reward than has been granted, or might have been granted, under the provisions of the rules above, ought to be given to any person who has contributed to the conviction, he may, with the previous sanction of the Commissioner of Excise, grant a reward not exceeding Rs. 500 in amount. He may also, under similar sanction, grant a reward when a conviction has been obtained, but no fine has been imposed, or when a prosecution has failed to result in a conviction.

Collector may
recommend
payment of
rewards.

487. The Board, or, with the sanction of the Board, a Collector, may incur expenditure not exceeding Rs. 500 in each case, for the employment of informers, or for any other purpose connected with the prevention or detection of offences against the Opium Act, 1878, or the Excise Act, 1896.

Employment
of informers.

488. All Revenue officers below the rank of Tahsildār and all Police officers up to and including Inspectors, and other Excise officials, except Gazetted Officers, are entitled to receive rewards.

Persons
eligible for
rewards.

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