Chapter III

SYSTEM OF MANAGEMENT
The practice of deriving revenue from liquor was a sound source of income. Hence the government decided to regulate the production and collection of taxes in a systematic way. For that it made many rules and regulations.

**Towards a New Abkári Administration**

The Governor in Council of Fort St. George passed a regulation for restricting and regulating the sale of foreign spirits and the manufacture and sale of country arrack in Tamil Nadu on the 9<sup>th</sup> February 1808. The Act provided that the annual rent of the exclusive privilege of selling foreign spirits and of manufacturing and selling arrack should be formed and that the places where distillation and sale take place as well as the retail prices at which the liquors should be sold, should be determined by the Collector for each district in communication with the Board of Revenue.

In 1820 AD, another regulation for rescinding the Regulation 1 of 1808 was passed by the Governor in Council of Fort St. George, on the 2<sup>nd</sup> June 1820. This Act removed the defects in the Act of 1808. The new Act

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1. Regulation I, 1808, Madras, p 1.
2. ASMP, p 2.
brought under a regular government monopoly both 'rum, arrack, or other spirits and toddy or other fermented liquors', by providing that the exclusive manufacture and sale of these liquors might be either be retained under the direct management of Government or be rented to farmers. It also permitted renters to sub-rent their farms and to recover their dues from the under-renters by summary process. It also gave powers to the Board of Revenue to frame rules, from time to time, as occasion might require, for regulating the sale of all spirits and of toddy or other fermented liquors, for determining the places at which stills and shops should be erected, the retail rates of sale to be established, and the measures to be used, and generally all matters relating to the detailed management and control of such distilleries and shops.4

There were radical changes in the Akbari administration after passing the Abkári Act of 1864,5 into law. The immediate cause for the enactment of the present Abkári Law was a ruling of the late Sudder Court to the effect that foreign imported wines or beer did not came within the scope of Regulation of 1820.6 This difficulty was met in the new enactment and a few other slight amendments of the law were made. Among others, powers were taken to levy tax on liquors as an excise duty on the quantity manufactured, and to suppers the home manufacture of toddy where the privilege was abused or likely to be used as a clock for illicit sales. The

4 ASMP, Madras, p 2.
5 Act No. III of 1864, Madras Code.
6 ASMP, Madras, p 2.
Abkári of the town of Madras was regulated by a special enactment, which provides for the direct management of this branch of the revenue by the Collector of the town under the orders of the Board of Revenue.

The main revenue had been for many years managed on the farming system. The exclusive privilege of manufacturing country spirits and of selling those spirits and the fermented liquor called 'toddy' was reserved by law to Government, and by Government transferred to contractors or renters on payment of a fixed annual sum. These contracts or revenue farms were disposed of by tenders up to 1850 and since that date at open auction sale.

For many years it was usual to form the districts by taluks, but about 1859-60 efforts were made to place the farms in the hands of large capitalists by selling entire districts. After ten years' trial, however, the old plan of taluk farms were reverted to, and this was in force in almost all districts.

The districts of South Arcot, North Arcot and Chengelped were sold as single farms up to 1872. The taluk farms, into which the other districts were divided, as a rule, were sub-rented, except in the Tanjore and Salem districts. In these districts 'Amani' or personal system of management was in force. Under this system the contractor or farmer of the taluk deals directly with the shopkeepers, making the whole of the spirits required for consumption within his farm at one or more control distilleries, and

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7 Act XIX of 1852.
8 ASMP, pp 2-3.
9 Ibid., p 5.
10 Ibid., p 6.
supplying the shopkeepers on fixed terms.\textsuperscript{11} It had been arranged that the supervision of Abkary should be transferred to the salt Department. The head of the Salt Department was denominated Commissioner of Salt and Abkári Revenue.\textsuperscript{12} The need for the better administration forced the British Government to create a separate department to looks after the Abkári administration.

**CREATION OF THE ABKÁRI DEPARTMENT**

An Abkári Committee was established in the year 1884 to recommend changes in the administration. Before the Abkári Committee the administration was poor. it would be sufficient to state that from the beginning of the 19\textsuperscript{th} century the practice of letting in farm the exclusive privilege of manufacturing and selling spirituous and fermented liquors in a district or subdivision was generally in force. The Board of revenue of those days explained that their object was to restrain and regulate the consumption of such liquors.\textsuperscript{13}

Regulations were passed for the administration of this branch of the revenue. In the year 1869, ‘excise system’ was experimentally introduced. Under this system the monopoly of manufacture and sale in a district was given to one person or farmer, who paid a fixed excise, i.e. a duty, determined worth reference to strength, on each gallon of spirits leaving the distillery and sold the liquor under the regulations and restrictions. That


\textsuperscript{12} C.D.Maclean, *op. cit.*, p 455.

\textsuperscript{13} ABKA, p 39.
system was better than the farming system as the system gave government
the means of ascertaining the exact quantity of spirit consumed, and
because, the amount consumed being taxed at fixed rate per gallon, the
inducement to increase consumption was lessened. But it was unsuited to
parts of the country, which were so thinly populated and inaccessible that
spirits, which had paid a reasonable to excise at a distant distillery, could
not be carried into them and sold at a remuneration rate.\textsuperscript{14}

This system was improved upon by the guaranteed minimum revenue
system, which was introduced in certain areas of Tamil Nadu from the 1\textsuperscript{st}
July 1875 on contracts extending to three years.\textsuperscript{15} By this new system, the
duty on spirits was fixed with reference to the actual selling price of spirits
in the districts concerned instead of being an arbitrary rate. The contractors
were not permitted to sell spirits beyond a fixed maximum price, in order to
prevent their securing to themselves a large profit on a small and easily
managed consumption to the detriment of the excise duty and the neglect of
the supply of outlying tracts of country. Provision was made also, as far as
possible, for the manufacture of all spirits at central distilleries subject to
Government inspection and control. This then was the guaranteed minimum
revenue system in Tamil Nadu. In Tamil Nadu, this system had been then
entirely abolished.\textsuperscript{16}

In the year 1882, the Local Government, in reviewing the Abkári
Administration Report for 1879-80, remarked that the low rate of

\textsuperscript{14} Ibid., pp 39-40.
\textsuperscript{15} CEAI, p 87.
\textsuperscript{16} ABKA, p 40.
consumption of country spirits in the districts, in which the Excise System had been newly introduced, joined with the fact that the duty imposed upon. The renters of maintaining sufficient preventive establishment was being much neglected afforded a very strong presumption of the extensive prevalence of illicit distillation and smuggling of liquor in those tracts. They directed, therefore that the subject should be very carefully examined when the renewal of the existing arrangements came under consideration on the termination of the current leases at the end of March 1884.\textsuperscript{17}

About that time a number of suggestions and questions connected with the Abkári Administration came before the Local Government. A committee was therefore appointed in March 1884 to advice on the whole subject, to draw up the necessary notifications, inviting tenders and to frame the considerations of the licences required to carry out their recommendations.\textsuperscript{18} In April 1884, the Committee recommended the following changes in the existing system of making and selling country spirits in the excise districts:

1. The sale separately of the privileges of manufacture and of sale.
2. The breaking up of districts vend farms into taluk farms, or ever smaller divisions in selected localities, in view to the eventual elimination of the middleman altogether.
3. The fixing a standard rate of excise duty on country liquor on issue, and differentiating the local taxation in respect thereof by licence fees,

\textsuperscript{17} Ibid., p 41.
\textsuperscript{18} CEAI, p 87.
or other methods of payment, for the right of vend, varying according to the circumstances of different localities.

4. The abolition of the surcharge system in municipalities where it existed, and the substitution in its place of the sale of shop licences by auction in all large towns.

5. The throwing open to competition, but subject to the payment of a moderate licence fee, only the manufacture or supply in certain selected areas where a total taxation on spirits might be expected to be realized approximating to the tariff rate.

6. The eventual abolition of the Madras town Abkári System and its assimilation to that proposed for excise districts generally.

7. The gradual extension of this system to all districts where the farming system prevailed, the first step in this direction being the concentration of manufacture.

The local Government accepted the recommendations of the committee and issued a series of notifications to bring changes required into effect from the 1st of October 1884.  

In July 1884, the Abkári administration was placed under the control of the Commissioner of Salt Revenue, and the Collectors were directed to report on all matters relating to Abkári revenue through the Commissioner to the Board. The local Government, when appointing the Abkári Committee in March 1884, recorded their opinion that experience had amply

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19 ASMP, pp 41-42.
demonstrated the necessity of Government taking upon itself directly the duty of protecting the Abkári revenue. They wrote:

This means, the organisation in some shape of a special Abkári Department such as exists in Bombay, and the appointment of a single officer to direct the administration in subordination to the Board of Revenue. Such as appointment has been frequently suggested, and the Government have little doubt that the increased revenue will prove the economy of the measure.\(^20\)

The Abkári Committee, in considering a Draft Abkári Bill referred to them, provided for the procedure and powers of Abkári officers from the point of view of the Commissioner of Salt Revenue being appointed to be also Commissioner of Abkári and thus working the Police Provisions of the Abkári law by the same men and under very similar rules to those in force for the guidance of the salt Preventive force, as otherwise there would be the anomaly of one set of officers working two somewhat cognate systems of prevention under different systems of procedure.\(^21\) The Madras Government passed the Abkári Act-I of 1886, by which the existing Abkári laws were consolidated and amended.\(^22\) It received the assent of the Governor on the 11\(^{th}\) January 1886 and of the Governor General on the 2\(^{nd}\)


\(^{22}\) CEAI, pp 87-88.
February 1886. The Abkári Bill became law on the 17th of February 1886.

The objects of the Act were, to improve the revenue and the administration, by the concentration on the subject of the attention of a single responsible officer of standing and experience, by the power, under the rules of varying its treatment as circumstances may require; and by the substitution, for the irregular and imperfect preventive action of the contractors, of the uniform and persistent pressure of a highly organized and well-paid Department of the State. To carry out the first of these objects, the Act conferred power on the local Government to place the administration of the Abkári Department under a Commissioner, who should exercise control either as a Member of the board of revenue, or subject to the orders of the board of revenue, or independently, as the Governor in council might direct. After the establishment of the Abkári Department, there was great improvement in the system of management.

ESTABLISHMENT AND CONTROL

Madras Act No.I of 1886 laid down various principles for the establishment and control. Following were the some of the important regulations:

a) The State Government might appoint an officer to control the administration of the Abkári Department.

23 Madras Act-I of 1886, p 211.
25 ASMP, p 43.
b) Appoint Special Collectors of Abkári revenue.

c) Withdraw Abkári powers from Board of Revenue or Collectors of land revenue.

d) Appoint officers to take action under certain Sections of the Act.

e) Appoint subordinate Officers of such classes and work such designations, powers and duties under this Act as the State Government might think fit.

f) Appoint any Government Officer or other person to act as above.

g) Delegate to any Abkári Officer all or any of their powers under the Act.²⁶

The State Government might from time to time make rules:

a) Prescribing the powers and duties under this Act to be exercised and performed by Abkári Officers of the several classes; and

b) Regulating the delegation by the Board of revenue, by the Commissioner, or by Collectors of any powers conferred by this Act or exercised in respect of Abkári revenue under any Act for the time being in force.

The State Government might by notification and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers, either by name or in virtue of their office, throughout the Presidency or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed before an Abkári officer having jurisdiction to inquire into the office for

which such person has been arrested, and might cancel or vary such notification.\textsuperscript{27}

The Governor in Council might from time to time made rules:

1. Prescribing the powers and duties under the Act to be exercised and performed by Abkári Officers of the several classes; and

2. Regulating the delegation by the Board of revenue by the Commissioner or by Collectors of any powers conferred by this Act or exercised in respect of Abkári Revenue under any Act for the time being in force.\textsuperscript{28}

The Commissioner might with the previous sanction of the Governor in Council:

a) establish a public distillery in which liquor or any kind of liquor may be manufactured under a licence;

b) discontinue any public distillery so established;

c) licence at or in connection with any licenced distillery or elsewhere a private warehouse wherein liquor and intoxicating drugs might be deposited and kept without payment of duty;

d) establish a public warehouse wherein liquor and intoxicating drugs might be deposited and kept without payment of duty; and

e) discontinue any public warehouse so established.\textsuperscript{29}

\textsuperscript{27} Ibid., p 216.


\textsuperscript{29} Ibid., p 14.
The Governor in Council might from time to time frame rules:

a) Regulating the mode in which toddy might be supplied to licenced vendors of the same or to persons who distil spirits from it, or who used it in the manufacture of bread;

b) for determining the number of licences of each description to be granted in any district or place;

c) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery;

d) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith;

e) prescribing the measures to be used for the sale of country liquor;

f) fixing for any local area the minimum price, below which any country liquor should not be sold;

g) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they were deposited for deposit in any other warehouse or for local consumption or for export.

h) for the inspection and supervision of stills, distilleries, private warehouses and breweries;

i) for the management of any public distillery or public warehouse;

j) for placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as might be deemed necessary for the purpose of this Act;
k) prohibiting the use of any article which the Government should deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug;
l) for the grant of batta to witnesses and of compensation for loss of time to persons released by any Abkári Officer under this Act on the ground that they had been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;
m) regulating the power of Abkári officers to summon witnesses from a distance;
n) for the disposal of articles confiscated and of the proceeds thereof;
o) generally to carry out the provisions of this act or of any other law for the time being in force and relating to the Abkári revenue.  

The control of the Madras Excise Administration was vested in the Commissioner of Abkári who was always a member of the Board of Revenue. Under him was a large force employed for the realization and protection of Abkári Revenue. The functions of those special establishments in matters of excise were the supervision of distilleries the prevention of illicit distillation of country spirit and of smuggling, the examination of shops, the marking of licenced palm trees under the tree-tax system, and the prevention of tapping from unlicenced trees in tracts to which that system applied.  

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It was the duty of collectors to watch closely the working of the schemes introduced with the approval of Government and to give the Commissioner and his subordinates the benefit of their local knowledge. For the prompt collection of the revenue they were solely responsible.\(^{32}\)

The Collectors must submit their annual excise administration reports accompanied by the prescribed forms of enclosures so as to reach the Board's Office not later than the 15\(^{th}\) May every year.

The arrangement of the subjects dealt with should, as far as possible, be the same as that adopted in the Board's preceding administration report which should be carefully studied to ensure that nothing important was overlooked and that the various details come to notice in due order when the information given in the statements called for no explanation or comment, details need not be repeated in the report itself. Repetitions should be avoided. Care must also be taken that matters of importance or interest not dealt with by the board in previous years were not overlooked.

Collectors would give their views on the manner in which the Abkári Acts were worked in their districts, the prevalence of Abkári offences with suggestions for improved working etc.\(^{33}\)

The Collectors, in consultation with the Abkári officials determine the approximate values of the shops, etc. For this due regard being had to past rentals, future prospects, the state of the season, etc. and these would be the reserve prices at or about which shops and rent areas would be allowed to

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\(^{32}\) Ibid., p 134.

\(^{33}\) Boards Proceedings (hereinafter referred to as BP) No.547, 6\(^{th}\) December 1890, p 134.
go. Though in confirming sales, collectors would, of course, exercise their discretion as to accepting bids that fall short of such values. The reserve prices should be furnished confidently to the selling officers, but should not be disclosed to the bidders.  

Collectors were required to submit their reports to the board as soon as possible after the sales were over, supplemental reports being furnished later as where necessary. Separate sales reports should be submitted for each of the several Abkári and opium privileges. The same procedure should be followed in the case of supplemental reports.

Throughout the Madras Abkári Act, the Collector was treated as the executive authority in which the powers given by the Act were vested, unless they were especially reserved for Abkári officers. A Collector had no Deputy Collector at headquarters in-charge of the Abkári Department. The Collector with the Commissioner for the most part personally discussed important matters of Abkári administration on his tours. Routine matters were of course disposed of in the Collector's office.

Collectors, Magistrates and Abkári Officers were given enormous powers to deal with offenders of Abkári Law. If any Collector or Magistrate upon information obtained and after such inquiry as he thinks necessary, had reason to believe that an offence under the Abkári Act had been committed, he might issue a warrant for the search for any liquor, materials,

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34 BP No.191, 2 Aug 1899, p 140.
35 BP No.93, 11 Mar 1894, p 142.
36 ABKA, p 59.
still, utensil, implement or apparatus in respect of which the alleged offence had been committed.

Before issuing such warrant, the Collector or Magistrate should examine the informant on oath or affirmation, and the examination should be reduced into writing in a summary manner and be signed by the informant, and also by the Collector or Magistrate.37

Whenever the Commissioner, or a Collector or any Abkári or Police Officer not below the rank of Sub-Inspector or a Police Officer had reason to believe that an offence under this Act had been committed and that the delay occasioned for obtaining a search warrant, he might, after recording his reasons and the grounds of his belief at any time by day or night enter and search any place and might seize anything found therein which he had reason to believe to be liable to confiscation under this Act; and might detain and search and, if he think proper, arrest any person found in such place whom he had reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this Section should be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before an Abkári-Inspector as the case might be.38

37 Madras Act-I of 1886, p 229.
38 Ibid., p 230.
The Commissioner, or a Collector, or any Abkári Officer, not below the rank of Sub-inspector, or any Police Officer duly empowered in that behalf, might enter and inspect, at any time by day or by night, any place in which any licenced manufacturer carried on the manufacture of any liquor or intoxicating drug or draws toddy, or stores any liquor or intoxicating drug or toddy, and might enter and inspect, at any time during which the same might be open, any place in which any liquor or intoxicating drug was kept for sale by any licenced person; any might examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, liquor or intoxicating drugs found in such place.\(^{39}\)

If any officer empowered to make an entry under the provisions of the act could not otherwise made such an entry it should be lawful for him to break open any outer or inner door or window and to remove any other obstacle to his entry into any such place.

Any officer of the Abkári or Customs Departments, and any other person duly empowered might arrest without warrant in any public thorough fare or open place other than a dwelling house any person found committing an offence punishable under the Act; and in any such thoroughfare or place might seize and detain any liquor, drug or other article which he had reason to believe to be liable to confiscation under this Act or any other such law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom or in or upon which he might had reasonable cause to suspect any such liquor, drug or other such article to be or to be concealed.

\(^{39}\) Ibid., p 231.
Provided that if the officer or person making the arrest was not empowered to admit bail, the person arrested should be forthwith forwarded to an officer so empowered.\(^{40}\)

All searches under the provisions of this Act should be made in accordance with the provisions of the code of criminal procedure:

Provided that the persons called upon to attend and witness such searches should include at least two persons neither of whom was an Abkári, police or village officer.\(^{41}\)

The District Police would aid the Abkári preventive force in the detection and punishment of breaches of the Abkári law by reporting all cases that come to their notice in the discharge of their ordinary police duties as well as by reporting the heads of any villages in which illicit distillation or other Abkári offences were known. It was not intended that the District Police should neglect their ordinary duties to hunt up Abkári cases, but that they should let it be seen and understood that they were ready and willing to cooperate with the Abkári officers as far as it was in their power to do so.\(^{42}\)

It should be lawful for the Magistrate of the district or in the town of Madras, for the Commissioner of Police by notice in writing to the licencee to require that any shop in which liquor was sold should be closed at such

\(^{40}\) Ibid., p 232.

\(^{41}\) Central Act V of 1898, p 230.

times or for such period as he might think necessary for the preservation of the public peace. If any riot or unlawful assembly was apprehended or occurred in the vicinity of any such shop, it should be lawful for any Magistrate, or for any police officer who was present, to require such shop to be kept closed for such period as may be necessary.\textsuperscript{43}

The State Government was given the right to frame rules for the purpose of carrying out the provisions of the Act.

In particular and without prejudice to the generality of the foregoing provision the State Government could make rules:

a) Regulating the mode in which toddy might be supplied to licenced vendors of the same, or to persons who distill spirits from it, or who use it in the manufacture of bread;

b) For determining the number of licences of each description to be granted in any district or place;

c) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery;

d) Prescribing the instruments to be used on the testing of liquor and the tables of corrections according to temperature to be used therewith;

e) Prescribing the measures to be used for the sale of liquor;

f) Fixing for any local area the minimum price below which any country liquor should not be sold;

\textsuperscript{43} Madras Act No.I of 1886, p 235.
g) For the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they were deposited for deposit in any other warehouse or for local consumption or for export;

h) For the inspection and supervision of stills, distilleries, private warehouses and breweries;

i) For the management of any public distillery or public warehouse established by the Act;

j) For placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as may be deemed necessary for the purposes of this Act;

k) Prohibiting the use of any article, which the State Government should deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug;

l) Regulating the cultivation of the hemp plant, the collection of those portions of such plant from which intoxicating drugs could be manufactured and the manufacture of such drugs there from;

m) i. Declaring the process by which spirit manufactured in or imported into the Presidency should be denatured;

   ii. For causing such spirit to be denatured through the agency or under the supervision of the excise officers;

   iii. For ascertaining whether such spirit had been denatured;

n) Regulating the bottling of liquor for purposes of sale;
o) Declaring in what cases or classes of cases and to what authorities appeals should lie from orders, whether original or appellate, passed under this Act or under any rule made there under, or by what authorities such orders might be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith;
p) For the grant of batta to witnesses, and of compensation for loss of time to persons released by any Abkári-officer under this Act on the ground that they had been improperly arrested and to persons charged before a Magistrate with offences under this Act and acquitted;
q) Regulating the power of Abkári-officers to summon witnesses from a distance;
r) For the disposal of articles confiscated and of the proceeds thereof.\footnote{Ibid., pp 227-228.}

Some changes in the Excise Administration took place in the succeeding years. In 1924-25, the Abkári Administration was replaced in the hands of the Excise Department. However, there was no basic change in the rules and establishments.

**Licences and Permits**

All persons who wanted to start liquor business were required to take licences and permits from the Government. All persons taking out licences were required to execute counterpart agreements in conformity with the tenor of their licences. The counterpart agreement would usually be printed on stamped paper with blanks for the names of individuals and places. The
licence should not be delivered to the licencee until he had executed the agreement.  

Particular attention should be directed to the expeditious issue of the necessary licences, which should be completed before the commencement of the lease. Where from any cause this could not be done, licences should be issued as early as possible before the end of the first month of the lease, temporary passes being issued in the meanwhile authorizing sales without licence.  

Collectors and distillers, warehouse-keepers and brewers by the Abkári Deputy Commissioner issued licences to arrack supply contractors. Divisional Officers could issue licences to renters of Abkári vend areas. The other kinds of licences might be issued either by a Divisional Officer or by a Tahsildar or Deputy Tahsildar in independent charge if the power had been delegated to officers of these classes by the Collectors. In the Madras Town Circle, the Deputy Commissioner, Central Division, himself issues licences.  

As soon as the Collector had confirmal the auction sales, or tenders had been accepted, the Divisional Officers and Tahsildars to whom the power of granting licences might be delegated, should be supplied with a list of the vend areas, shops, etc. with blank form of licences and counterpart agreements. Renters and shopkeepers should at once be supplied

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46 BP Abk No.914R, 28th May 1905, p 143.
47 BP No.330, 27th August 1894, p 142.
with the prescribed forms of agreements on payment of the stamp duty and should be required to execute them in the presence of the Tahsildar, Deputy Tahsildar and Taluk Head Accountant. These officers should not, however, affix their names to the agreements. Agreements appertaining to fixed fee licences need not be executed in the presence of a revenue officer, when the licence was granted to a well-known firm or person, or to an official of a railway company or other public body.\(^ {48}\)

To secure evidence of the execution of agreements, a register in the prescribed form should be opened in which the Tashildar should note the fact of execution of the documents in his presence. This register should be used to refresh his memory in the event of litigation. Deputy Tahsildars should keep similar registers also where the agreement was executed before them.\(^ {49}\)

For copies of licences and agreements in English and the vernaculars required for use in their districts, Collectors should indent on the Superintendent, Government Press. For the necessary stamp papers for printing the agreements, they should indent on the Superintendent of Stamps, Madras, who should be requested to forward the stamp papers to the former officer. Collectors should see that no more than the actual numbers of the forms required were indented for; should there be any unexpended balance at the end of the year which could not be utilized in the following

\(^ {48}\) BP No.51, 1\(^{st}\) February 1895, p 143.

\(^ {49}\) BP No.261, 13\(^{th}\) June 1895, pp 143-144.
year, they should promptly apply to the Board for instructions as to its disposal, submitting at the same time a sample form of each kind.\textsuperscript{50}

An agent need not obtain a licence and execute an agreement, provided he holds a power-of-attorney authorizing him to act under his principal's licence but, prior to the authorization, the Collector's approval of the agent should be obtained.\textsuperscript{51}

Every licence or permit granted under this Act shall be granted:

a) on payment of such fees, if any;
b) for such period;
c) subject to such restrictions and on such conditions; and
d) should be in such form and contain such particulars as the State Government might direct either generally, or in any particular instance in this behalf.\textsuperscript{52}

Clubs, other than those of a proprietary character, were not bound to take out licences to supply liquor to members.\textsuperscript{53}

The licences issued to depot-keepers and shopkeepers in a rent area remain in force only so long as the renters licence continues in force. In the event of a renter's area being taken under the management of Government,

\textsuperscript{50} BP No.38, 23\textsuperscript{rd} April 1887, p 144.
\textsuperscript{51} BP No.488, 7\textsuperscript{th} December 1896.
\textsuperscript{52} Madras Act No.I, 1886, p 225.
\textsuperscript{53} BP No.1478, 30\textsuperscript{th} June 1886, p 144.
the depot-keepers and shopkeepers were bound to continue to sell spirits on behalf of governments as long as they might be required to do so.\(^\text{54}\)

Collectors were required to submit to the Board before the close of April every year, a statement showing the particulars of fixed fee licences issued for that year under the Abkári Act. Information regarding the names of the licencees, the class of the licence, the date of issue and the fee charged should be given in a tabular form and the Board should be kept informed from time to time any additions and alterations to be made therein.\(^\text{55}\)

When the holder of a licence died during the currency of his licence and his heir applies for a fresh licence for the remaining period of the year, a second licence fee need not be collected from the latter, provided he satisfied the Collector that he was the proper representative of the deceased.\(^\text{56}\)

The Collector had the right to cancel or suspend any licence or permit granted under this Act:

a) if any fee or duty payable by the holder thereof be not duly paid; or

b) in the event of any breach by the holder of such licence or permit, or by his servants, or by any one acting with his express or implied permission on his behalf, or any of the terms or conditions of such licence or permit; or

\(^{54}\) BP No.1456, 29\(^{\text{th}}\) April 1884, p 144.

\(^{55}\) BP Sub-No. 2137, 28\(^{\text{th}}\) April 1893, p 145.

\(^{56}\) BP Mis No.558, 23\(^{\text{rd}}\) February 1891, p 145.
c) if the holder thereof was convicted of any offence against this Act or any other law for the time being in force relating to Abkári revenue, or of any cognizable and non-bailable offence; or

d) where a licence or permit had been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act, on the requisition in writing of such person; or

e) if the conditions of the licence or permit provide for such cancelment or suspension at will.\textsuperscript{57}

Considerable changes were introduced during the year 1885-86 in the system of granting licences for the sale of foreign liquor:

Till the passing of new Abkári Act, no licences were required in the town of Madras for the wholesale vend of foreign liquor. Now for the wholesale vend also licences were required.\textsuperscript{58}

Retail licences were divided into the following classes:

I. \textit{Retail licences for the sale of liquor not to be drunk on the premises}: These were issued on payment of an annual fee of Rs.100 in Madras or Rs.50 in the rest of the Presidency. The minimum quantity permitted to be sold in one transaction under these licences is one reputed pint.\textsuperscript{59}

II. \textit{Tavern licences for the retail sale of liquor to be consumed on the premises}: The number of these licences allowed in each places and

\textsuperscript{57} Excise Manual, Part-I, p 18.

\textsuperscript{58} ABK Report for 1885-86, p 25.

\textsuperscript{59} \textit{Ibid.}, p 26.
thesites at which taverns may be opened are fixed by the Collector, and
the right to take out licences sold by auction to the highest bidder,
subject to a reference to the police as to his personal character. The
minimum annual fee for which a tavern licence is granted is Rs.50 in
Madras and the Nilgiri district, and Rs.15 elsewhere. Under these
licences the sale of liquor at any one time to any one person for
removal from the premises in a quantity exceeding one reputed pint
was prohibited.  

III. Hotel licences for the supply of residents in hotels and boarding-
houses: In the year under report these were of three classes and were
issued on payment of annual fees of Rs.300, 200 and 100 in Madras and
in the Nilgiri district, and of Rs.150, 100 or 50 in the rest of the
Presidency, the classification being made by the Collector. No liquor
may be sold under these licences otherwise than to residents in hotels
and boarding houses for their own use and that of their guests.  

IV. Refreshment-room licences:–
a) For refreshment rooms maintained by, or under the supervision
and control of, railway companies and proprietors or managers of
lines of dâk carriages for the supply on the premises of passengers
by such railways or dâk lines – The annual fee payable for each
licence was Rs.25. Under these licences liquor might be sold in
passengers and persons served with eatables in the rooms for
consumption on the premises to any extent, provided that no more

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60 ABK Report for 1895-96, p 36.
than two reputed quarts or four reputed pints of each kind of liquor sold at the refreshment room may be sold at one time to any such passenger for removal from the premises.\textsuperscript{62}

b) For refreshment rooms in which the sale of liquor was ordinarily combined with the supply of meals or of eatable prepared and served in the European manner: – In 1885-86, the annual fee was the same as for an hotel licence, viz., Rs.300, 200 or 100 in Madras and in the Nilgiri district, and Rs.150, 100 or 50 in the rest of the Presidency. It was at all times optional with the Collector to withdraw licences of this description if it should appear that the sale of liquor to persons who had not par-taken of meals in the refreshment room is permitted to such an extent or so habitually that the refreshment room may fairly be classed as a tavern. No sale of liquor for removal from the premises was allowed under these licences. The premises to be used for the sale of liquor under these licences must be of the monthly rentable value of at least Rs.50 in Madras and in Ootacamund and Coonoor municipalities and of Rs.25 in the rest of the Presidency. This condition is requisite to ensure respectability.\textsuperscript{63}

V. \textit{Occasional Licences} – such as licences for the sale of liquor at refreshment stalls in connection with race meetings and public entertainments – These were granted by Collectors at their discretion for periods not exceeding ten days at one time and at such fees not

\textsuperscript{62} ABK Report for 1894-95, p 37.

\textsuperscript{63} ABK Report for 1885-86, p 26.
exceeding Rs.100 on each occasion as they might determine. No removal of liquor from the premises was allowed under these licences.\textsuperscript{64}

VI. \textit{Special licences} – were granted under the order of the board of revenue when the circumstances are such as not to allow of the issued licence of any of the above descriptions on such terms and conditions and for each periods as they might on each occasion determine.\textsuperscript{65}

The most important feature of the scheme was the sale by auction of tavern licences with the object of placing the arrack shopkeepers in towns in which the excise duty was equivalent to the tariff rate on an equal footing with vendors of ‘foreign liquor’, which then comprises spirits manufactured in the country from the same materials as the arrack sold in country liquor shops but excised at the rate of duty on imported spirits.\textsuperscript{66}

The Board of Revenue granted licences for the establishment of breweries at Hill stations to respectable applicants on payment of an annual licence fee of Rs.15. No Government establishments were stationed at breweries, but the accounts of the brewers in the form prescribed by the Government were systematically examined and duty was levied on all beer for consumption.\textsuperscript{67}

The number of licences increased every year. Three hundred and seventy seven retail licences were issued in the year 1890-91 against three

\begin{footnotes}
\item[64] ABK Report for 1895-96, p 37.
\item[65] ABK Report for 1885-86, p 26.
\item[66] \textit{Ibid.}, p 27.
\end{footnotes}
hundred and five in 1899-90. The increase was due to the issue of this class of licence in places where taverns were abolished or reduced.\(^{68}\)

The fee for the wholesale licence continued to be Rs.100, but the minimum limit below which sales could not be made was raised from one reputed pint to two imperial gallons, the limit in force prior to 1893-94. The holders of this class of licence were also allowed the privilege of issuing samples of liquor in quantities not exceeding one pint without extra charge, and separate licences for the issue of samples, the annual fee for which was Rs.25 were abolished.\(^{69}\)

Thirty-six special licences for Rs.510 were issued during the year 1895-96, against two licences for Rs.65 in the previous year. The increase was chiefly noticeable in Madras where special licences were issued to several respectable firms, to enable than to dispose of stocks of foreign liquor contained in bottles of less than a reputed pint in capacity which they could not sell inconsequence of the prohibition newly inserted during the year in the retail licences hold by them.

A new class of licences was issued for the first time during the year 1995-96 to chemists and druggists for the sale of rectified spirits in excess of 10 imperial gallons or such larger quantity as the board might specially authorize, and their sale for other than ‘bona-fide’ medical, industrial and

\(^{68}\) ABK Report for 1890-91, p 60.

\(^{69}\) ABK Report for 1894-95, p 35.
scientific purposes were prohibited. Twenty seven licences were issued in the year.\textsuperscript{70}

The principal change sanctioned for 1897-98 in connection with foreign liquor licences was the insertion of a condition requiring that liquor imported in bulk and bottled in the Presidency should bear a printed label showing clearly the country of manufacture, the name of the bottler as entered in his licence and the place of bottling.\textsuperscript{71}

There were no changes of importance introduced in the foreign liquor rules during 1899-1900. Regarding the number of tavern and fixed fee licences, there was little increase in the number of licences. In Act 790 licences were issued against 783 in the previous year. But there was fall in the rentals.\textsuperscript{72}

The total number of tavern and fixed fee licences issued for 1902-03 was 828 and the revenue derived there from was 828 and the revenue derived there from was Rs.286356 against Rs.269966 from 821 licences in the previous years. The increase was mainly due to a rise in the consumption of beer on the Nilgiris, which occasioned keen competition among the bidders for beer taverns there.\textsuperscript{73}

In Madras, bar licences under which all kinds of foreign liquor, except Columbo or Malabar arrack may be sold to anybody, subject to the

\textsuperscript{70} ABK Report for 1895-96, p 35.
\textsuperscript{71} ABK Report for 1897-98, p 26.
\textsuperscript{72} ABK Report for 1899-1900, p 29.
\textsuperscript{73} ABK Report for 1902-03, p 9.
same conditions and limitations as in taverns were granted to holders of hotel licences on payment of a monthly fee of Rs.25 for each bar.  

Special licences were granted under the orders of the Board of Revenue when the circumstances were such as not to allow of the issue of licences of any of the other kinds mentioned and were issued on such terms and conditions and for such periods as it might on each occasion determine. Three licences to compound locally made foreign liquor at Rs.250 each, for dining car licences at Rs.50 each and four canteen licences at Rs.12 each were issued during the year. A special licence for the manufacture of malt vinegar at Coonoor was issued free of fee.  

The system of issuing free licences to sweet juice tappers was in force in the tree tax areas of the Madras town circle. The sweet juice tapping industry in the Tirunelveli sub-division was not controlled by licences; but Special Assistant Inspectors were appointed for four months during the palmyra season to enquire into and dispose of cases of illicit tapping for fermented toddy or mixing sweet with fermented toddy and to protect tappers from harassment.  

In the mean time temperance teaching were started in the schools. As a result, there was reduction in the shops and also there was decrease in the issue of licences. However there were counter movements against the temperance and the British tried to increase the issue of licence, but not.

74 ABK Report for 1907-08, p 10.
75 ABK Report for 1908-09, p 14.
77 ABK Report for 1915-16, pp 4-5.
with much success. The number of licences for the sale of foreign liquor, beer shops and taverns decreased.\(^78\)

**DUTIES**

Duties were imposed on liquor certain basic rules were formulated for imposing duties, by the Act of 1886. According to Section-17 of the Act, an excise duty or countervailing duty of such amount as the State Government might prescribe should if they so direct, be levied on all excisable articles –

a) permitted to be imported under the provisions of the Act; or

b) permitted to be exported; or

c) permitted to be transported; or

d) manufactured under any licence; or

e) manufactured at any distillery; or

f) issued from a distillery or warehouse licenced or established; or

g) sold in any part of the said Presidency\(^79\)

of such amount the Governor in Council might from time to time prescribe.

Provided that it should be lawful for the Governor in Council to except any liquor or intoxicating drug from any duty to which the same might be liable under any of the provisions of the Act.\(^80\) Section-18 of the Act provided that such duty might be levied in one or more of the following ways–

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\(^78\) Administrative Report of the Madras Excise Department (hereinafter referred to as Excise Report) for the year 1940-41, p 8.

\(^79\) Madras Act-I of 1886, p 222.

a) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of a distillery, brewery or warehouse licenced or established under section 12 or section 14, as the case may be; or in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the State Government may prescribe;

b) in the case of intoxicating drugs by a duty to be rateably charged on the quantity produced or manufactured or issued from a warehouse licenced or established under section 14;

c) by payment of a sum in consideration of the grant of any exclusive or other privilege –
   1. of manufacturing or supplying by wholesale, or
   2. of selling by retail, or
   3. of manufacturing or supplying by wholesale and selling by retail any country liquor or intoxicating drug in any local area and for any specified period of time;

d) by fees on licences for manufacture or sale;

e) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as the State Government may direct; or

f) by import, export or transport duties assessed in such manner as the State Government may direct.

Provided that where there was a difference of duty as between two licence periods, such difference might be collected in respect of all stocks of
country liquor or intoxicating drugs held by licencees at the close of the
former period.\textsuperscript{81}

Section-19 of the Act provided that, when duty was levied by way of
tax on toddy trees under Sec. 18, the State Government might by notification
direct that the licence required under section 12 should be granted only on
the production by the person applying for it of the written consent of the
owner, or person in possession, of such trees to the licence being granted to
such person so applying for it; and when such notification had been issued
such tax should, in default of payment by the licencee, be recoverable from
the owner or other person in possession who had so consented.\textsuperscript{82}

When, in like case, trees were tapped without licence, the tax due
should be recoverable primarily from the tapper or in default by him from
the occupier, if any, of the land, or if the trees do not belong to the occupier
of the land, or if the land was not occupied, from the person, if any, who
owns or was in possession of the trees unless he proves that the trees were
tapped without his consent.\textsuperscript{83}

Section-20 of the Act provided that, all or any of the duties leviable
under this Act in any local area might, with the sanction of the State
Government, be farmed, subject to such payment and on such other

\textsuperscript{81} Madras Act-I of 1886, p 223.
\textsuperscript{82} Ibid., p 223.
\textsuperscript{83} Ibid., p 224.
conditions as the State Government should prescribe. Farmers of duties under this section should take out licences as such from the Collector.\textsuperscript{84}

Section-21 of the Act provided that when the exclusive privilege of manufacturing toddy had been granted, the State Government might declare that the written permission of the grantee to draw toddy should have, written the area to which the privilege extends, the same force and effect as a licence from the Collector for that purpose.\textsuperscript{85}

As per Section-22 of the Act, in the absence of any contract or condition to the contrary, any grantee of any exclusive or other privilege might let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee should exercise any rights as such unless and until the grantee or farmer, as the case might be, should have applied to the Collector for a licence to be given to such lessee or assignee, and such lessee or assignee should have received the same.\textsuperscript{86}

According to Section-23 of the Act, it should be lawful for any such grantee, farmer, lessee or assignee as aforesaid to proceed against any person holding under him for the recovery of any money due to him as if it were an arrear of rent recoverable under the law for the time being in force with regard to landholder and tenant:

\textsuperscript{84} Excise Manual, Part-I, p 17.
\textsuperscript{85} Madras Act-I of 1886, p 224.
\textsuperscript{86} Excise Manual, Part-I, p 17.
Provided that nothing contained in this section should affect the right of any such grantee, farmer, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

1) Until provision to the contrary was made by Parliament by law, the State Government might continue to levy any duty to which this section applies, which it was lawfully levying immediately before the commencement of the Constitution under this Chapter as then in force.

2) The duties to which this section applies were:
   a. any duty on any liquor or intoxicating drug other than an excisable article within the meaning of this Act; and
   b. any duty on an excisable article, or a medicinal or toilet preparation containing alcohol, produced outside India and imported into the State, whether the import was across any such customs frontier as was referred to in Section-3(15) or not.

3) Nothing in this section should authorize the levy of any duty which, as between goods manufactured or produced in the State and similar goods not so manufactured or produced, discriminates in favour of the former or which, in the case of goods manufactured or produced outside the State discriminates between goods manufactured or produced in one locality and, similar goods manufactured or produced in another locality.\(^87\)

\(^87\) Madras Act-I of 1886, pp 222-225.
RENTING SYSTEMS

Regarding toddy renting system, the tree tax system was the most popular one. The tree tax system was in force throughout the state. The shops were not sold by auction, but were divided into four classes according to the estimated extent of their sales and fixed annual licence fee of Rs.200, 150, 100 or 50 according to class was levied on each. Additional temporary shops outside the Madras city were also licenced as payment of Rs.50 during the palmyra season, the shopkeepers being responsible for the tree tax. 88

The sources of the tree tax system depends on the preservation of trees, because:

a) a tree well preserved would yield the full quantity of juice on which the tree tax had been based, and the licence would not be a loser,

b) there would be no want of trees for tapping,

c) the trees would not die by overtapping,

d) when the owners got more rent. They would pay more attention to the trees and they appreciated the tree tax system. 89

The shops in the Kanchipuram town and taluk were separately sold under the tree tax system, and those in the Chengelput, Tiruvallur,

89 A Report on the System of Abkári Administration with respect to the Taxation of Toddy in the Presidency of Madras (hereinafter referred to as ABKT), Madras, 1895, p 12.
Madurantakam and Ponneri taluks were sold separately under the ordinary system.\(^\text{90}\)

The shops in the Walajaped and Gudiyatam taluks were separately sold under the tree-tax system, those in the Arcot, Wandiwash and Vellore taluks were independently sold under the ordinary system.\(^\text{91}\)

The toddy shops in the Cuddalore, Chidambaram, Villupuram and Tindivanam taluks were sold separately under the tree-tax system, while those in Tiruvannamalai taluk were separately sold under the ordinary system. The rest of the district was divided into 20 small areas, the right of sale in each of which was leased by auction.\(^\text{92}\)

The taluks of Tanjore, Kumbakonam, Nagapatinam, Mayavaram, Shiyali and Nannilam and Mannargudi were under the tree-tax system with separate sale of shops while in the Tiruturaipundi taluk the shops were separately sold under the ordinary system. The rest of the district was divided into 4 rent areas, the privilege of sale in which was disposed of by auction.\(^\text{93}\)

In the Madras taluk and the Sivaganga, Tiruppattur and Timpavaram divisions shops were sold separately under the tree-tax system, while in the Periyakulam and Dindigul taluks and the towns of Palani, Ramnad,

\(^{90}\) ABK Report for 1891-92, p 10.
\(^{91}\) ABK Report for 1892-93, p 4.
\(^{92}\) ABK Report for 1891-92, p 10.
\(^{93}\) ABK Report for 1891-92, p 4.
Kilakarai, Pamban and Rameswaram, they were sold separately under the ordinary system. The rest of the district was divided into 20 rent areas.\textsuperscript{94}

The shops in the tenkasi, Tirunelveli, Ambasamudram, Srivilliputur and Tenkasi taluks and in Tuticorin town are separately sold. As regards the remaining portion of the district, Satur taluk was leased as one farm, while the remaining tracts were divided into 10 rent areas.\textsuperscript{95}

The shops in the Coimbatore, Erode and Palladam taluks were sold separately under the tree tax system, and those in the Pallachi, Palladam, Karur, Udumalapet, Dharapuram and Bhavani taluks under the ordinary renting system. The rest of the district was divided into 8 rent areas.\textsuperscript{96}

There were no toddy shops in the district of Nilgiris. The Salem, Namakkal, Hosur, Tiruchengode and Attur taluks were under the tree-tax system, the shops being sold separately. In the remaining taluks the shops were sold separately under the ordinary renting system.\textsuperscript{97}

Regarding the country spirits renting system, the exclusive privilege of manufacture and sale was disposed of by auction by the taluk or by the Revenue Inspector’s division.\textsuperscript{98}

\textsuperscript{94} ABK Report for 1892-93, p 11.
\textsuperscript{95} Ibid., p 11.
\textsuperscript{96} ABK Report for 1892-93, p 4.
\textsuperscript{97} ABK Report for 1891-92, p 11.
\textsuperscript{98} Government Order dated 4\textsuperscript{th} May 1890, No.3406.
PENALTIES

Sections 55 to 68 of the Madras Act No. 1 of 1886 emphasised various penalties for violating the rule.\(^9\)

According to Section 55 of the Act, whoever, in contravention of this Act, or of any rule or order made under this Act, or of any licence or permit obtained under this Act:

a) imported, exported, transported or possessed liquor or any intoxicating drug; or
b) manufactured liquor or any intoxicating drug; or
c) cultivated the hemp plant; or
d) tapped any toddy-producing tree; or
e) drew toddy from any tree; or
f) constructed or worked any distillery or brewery; or
g) used, kept, or had in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug; or
h) sold liquor or any intoxicating drug,
should, on conviction before a Magistrate, be punished for each such offence with fine which might extend to one thousand rupees, or with imprisonment for a term which might extend to six months, or with both.\(^1\)

It was difficult to lay down a general rule for determining, with respect to certain classes of offences. Having regard, however, to the

evident intention of the Legislature, viz., to deprive the officers of the department of those powers of summary arrest for minor, which were granted to them for serious offences, the Board of Revenue had issued the following instructions for the guidance of the departmental officers:

Offences might properly be treated under the one section or the other, according as (1) they were offences \textit{per se}, or (2) they were offences only by reason of the non-observance of some rule or condition not contained in the Act itself. Thus, the sale of spirits or the tappings of toddy trees without a licence were offences of themselves, irrespective of any accompanying circumstances. The sale of diluted liquor was not an offence \textit{per se}, but became so only where there was a provision in the licence forbidding it. In deciding whether to treat petty cases great care should be taken not to expose respectable people to the stigma of magisterial prosecutions under the idea that trouble was saved both to the Circle officer and to the accused by immediate prosecution, as compared with departmental inquiry. Where the offence was merely technical or of a nature not to injure the revenue, prosecutions should not be instituted until warnings had failed.¹⁰¹

Cases of so-called gift of toddy were really sales as the giver was almost invariably remunerated for his gift in some shape or form. If a case was of an unimportant nature, or if the evidence available with regard to remuneration was not such as would be sufficient to prove sale in a Court of law the accused person should be released departmentally with a warning. If the offence was repeated the case might be dealt with as a breach of a

¹⁰¹ BP No. 159, 3\textsuperscript{rd} May 1889.
condition of the licence not otherwise provided for by the Act. Unlicenced possession and sales in unauthorized places were serious offences. Where the seller or possessor was a licencee, and no fraud was intended it was undesirable that there should be any prosecution at all and the person should be released. But when punishment was considered desirable such offences should be prosecuted before a Magistrate and not compounded by the Assistant Commissioner.102

Drinking of toddy at the tree-foot by holders of licences was not an offence.103

Under Section 56, whoever, being the holder of a licence or permit granted under this Act,

a) failed to produce such licence or permit on the demand of any Abkári officer or of any other officer duly empowered to make such demand; or
b) did any act in breach of any of the conditions of his licence or permit not otherwise provided for in this act; or
c) willfully contravened any rule made under this Act; or
d) permitted drunkenness, riot or gaming in any place in which any liquor or intoxicating drug was sold or manufactured; or
e) permitted persons of notoriously bad character to meet or remain in any such place,

102 BP; ABK No. 1895-R, 17th October, 1903.
103 BP Mis. No. 3117, 10th July 1903
should, on conviction before a Magistrate, be punished for each such offence with fine which might extend to two hundred rupees, or with imprisonment which might extend to three months, or with both.\textsuperscript{104}

Where the licencee of a shop sub-rented it without the sanction of the revenue authorities, and the person appointed by the sub-renter was charged for infringement of the conditions of the licence, it was held that that person must be considered to had been acting for the licencee though appointed by the sub-renter.\textsuperscript{105}

In cases of petty breaches of licence, no action should be taken which could had the effect of interfering with sales at any shop, unless there was reason to believe that there had been some attempt to defraud Government.\textsuperscript{106}

The Commissioner had been empowered to authorise officers not being Abkári officers to demand the production of licences and permits by the holders thereof.\textsuperscript{107} Persons employed by licencees who committed breaches of licences were punishable under the Act.\textsuperscript{108} Breaches of tree-tapping rules should be dealt with departmentally and breaches of general Abkári licences involving no loss to Government or in which no fraud was intended should be reported to Divisional officers.\textsuperscript{109}

\begin{footnotes}
\item[105] BP, No. 293, 22\textsuperscript{nd} July 1887.
\item[106] BP, No. 216, 27\textsuperscript{th} June 1889.
\item[107] BP, No. 485, 13\textsuperscript{th} July 1896.
\item[108] BP, No.459, 4\textsuperscript{th} February 1898.
\item[109] BP, No.72, 7\textsuperscript{th} March 1898.
\end{footnotes}
In all cases of breaches of conditions of licences a copy of the licence held by the accused should invariably be formally filed and proved before the Magistrate by whom the case was tried.\textsuperscript{110}

Except in the case of old offenders, cases of illicit tapping after payment of tree-tax but before marking should not be prosecuted unless there was reason to believe that the offence had been committed deliberately and that there had been loss to the revenue or a clear intention to defraud Government.\textsuperscript{111}

Under Section 57 of the Act, whoever, being the holder of a licence for the sale or manufacture of liquor or of any intoxicating drug under this Act,

a) mixed or permitted to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under the Act, when such admixture should not amount to the offence of adulteration under section 272 of the Indian Penal Code; or

b) sold or kept or exposed for sale as foreign liquor, liquor which he knows or had reason to believe to be country liquor; or

c) marked the cork of any bottle or any bottle, case, package or other receptacle containing country liquor, or used any bottle, case, package or other receptacle containing country liquor, with any mark thereon or

\textsuperscript{110} BP Abk. No.1831-R, 8\textsuperscript{th} October 1903

\textsuperscript{111} BP Abk. No.144/1387-R, 26\textsuperscript{th} July 1905.
on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act should not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the Indian Penal Code; or

d) sold or kept or exposed for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act should not amount to the offence of selling goods marked with a counterfeit trade-mark under section 486 of the Indian Penal Code, should, on conviction before a Magistrate, be punished for each such offence with fine which might extend to five hundred rupees, or with imprisonment for a term which might extend to three months, or with both.112

However the admixture of stale with fresh toddy was not opposed to the Act or conditions of the licence. Section 57 (a) was applicable only to the admixture of foreign substances. Inspectors of the Salt, Abkâri and Customs Department had no authority to seize articles which they consider to be unfit for food; their proper course was to give information to the Police and direct their attention to the matter.113

113 BP No.384, 19th August 1887.
According to Section-58 of the Act, whoever without lawful authority had in his possession any quantity of liquor or of any intoxicating drug knowing the same to have been unlawfully imported, transported or manufactured, or knowing the prescribed duty not to have been paid therefore, should, on conviction before a Magistrate, be punished with fine which might extended to one thousand rupees, or with imprisonment for a term which might extended to six months, or with both.\textsuperscript{114}

As per Section-59 of the Act, any Abkāri officer or other person who, without reasonable ground of suspicion, entered or searched, or caused to be searched, any closed place; or vexatiously and unnecessarily seized the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or vexatiously and unnecessarily detained, searched, or had arrested any person; or in any other way vexatiously exceeded his lawful powers, should on conviction before a Magistrate, be punished for each such offence with fine which might extended to five hundred rupees, or with imprisonment for a term which might extended to six months, or with both.\textsuperscript{115}

According to Section-60 of the Act, any officer or person exercised powers under this Act who vexatiously and unnecessarily delayed forwarding to Abkāri Inspector or to the officer in-charge of the nearest Police station as required by this Act, any person arrested, or any article


\textsuperscript{115} Madras Act-I of 1886, p 237.
seized under this Act, should, on conviction before a Magistrate, be punished with fine which might extend to two hundred rupees.\textsuperscript{116}

As per Section-61 of the Act,

a) Any officer or person who unlawfully released or abetted the escape of any person arrested under this Act, or abetted the commission or any offence against this Act, or

b) Behaved in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act might be evaded or broken, or the Abkári revenue might be defrauded,

c) And any officer of any other department, who abetted the commission of any offence against this Act in any place,

should, on conviction before a Magistrate for every such offence, be punished with fine which might extend to five hundred rupees, or with imprisonment for a term which might extended to six months, or with both.\textsuperscript{117}

As per Section-62 of the Act,

a) Any Abkári officer who without lawful excuse should ceased or refused to perform, or withdrew himself from, the duties of his office, unless expressly allowed to do so in writing by the Commissioner, or unless he should have given to his superior officer two months' notice in writing of his intention to do so; or

\textsuperscript{116} Ibid., p 238.

\textsuperscript{117} Excise Manual, Part-I, p 31.
b) who should offer any unwarrantable violence to any person in his custody; or

c) who should be guilty of cowardice,

should, on conviction before a Magistrate, be punished with fine which might extended to six months’ pay, or with imprisonment which might extended to three months, or with both.\textsuperscript{118}

The Commissioner had been empowered to delegate to Deputy and Assistant Commissioners his power under this section to allow Abkári officers to cease to perform, or withdraw themselves from, the duties of their offices.\textsuperscript{119}

According to Section-63 of the Act,

whoever was guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, should, on conviction before a Magistrate, be punished for each such willful act or omission with fine which might extended to two hundred rupees.\textsuperscript{120}

Sub-Inspectors contravening any executive orders of the Board relating to Abkári should be dealt with departmentally and not prosecuted under this section.\textsuperscript{121}

\textsuperscript{118} Ibid., p 32.

\textsuperscript{119} Government Notification No.60, 15\textsuperscript{th} January 1890, p 53.

\textsuperscript{120} Excise Manual, Part-I, p 32.

\textsuperscript{121} BP Mis. No.265, 19\textsuperscript{th} January 1895.
According to Section-64 of the Act, in prosecutions under the Act, it should be presumed until the contrary was proved, that the accused person had committed an offence under that section in respect of any liquor or intoxicating drug, or any still, utensil, implement, or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as were ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he was unable to account satisfactorily;

and the holder of a licence or permit under this Act should be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under this Act, as if he had himself committed the same, unless he should establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

Provided that no person other than the actual offender should be punished with imprisonment except in default of payment of fine.\textsuperscript{122}

According to Section-65 of the Act,

a) In any case in which an offence had been committed under this Act the liquor, drug, materials, still, utensil, implement, or apparatus in respect of which an offence had been committed should be liable to confiscation.

b) Any liquor or intoxicating drug lawfully imported, exported, transported, manufactured, had in possession or sold or toddy lawfully

\textsuperscript{122} Excise Manual, p 32.
drawn or tapped along with, or in addition to, any liquor, intoxicating drug or toddy, liable to confiscation under this section, and
c) The receptacles, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, implement, or apparatus as aforesaid was or were found, and the other contents, if any, of the receptacles or packages in which the same was or were found, and the animals, carts, vessels, or other conveyances used in carrying the same, should likewise be liable to confiscation.\textsuperscript{123}

However grain taken in barter for liquor sold could not be confiscated.\textsuperscript{124}

All articles enumerated in this section as liable to confiscation were liable to seizure, and the Police were bound to take charge of, and keep in safe custody, all articles seized under the Act.\textsuperscript{125}

As a general rule, all tapping implements should be seized in illicit tapping cases, but when the accused was brought before the Inspector for enquiry, that officer might decide at his discretion whether the implements should be returned to the accused or not. Where the Inspector considers that they should be confiscated, they should not be returned. In other cases the implements might be returned, but an engagement should be taken from the accused to produce them before the Magistrate at the trial, if the case was

\textsuperscript{123} Ibid., p 33.
\textsuperscript{124} Proceedings of the High Court, 24\textsuperscript{th} November 1886
\textsuperscript{125} BP No.532, 3\textsuperscript{rd} October 1887.
charged. Inspectors charging cases should see that the accused were duly instructed in the matter.\textsuperscript{126}

Under Section 66 of the Act, when the offender was convicted or when the person charged with an offence under this Act was acquitted, but the Magistrate decided that anything was liable to confiscation, the Magistrate might order such confiscation.\textsuperscript{127}

Under section 67, of this Act, His Excellency the Governor in Council empowered the Commissioner; all Collectors; all Sub-Collectors; all Principal, ‘Senior, Special and Head Assistant Collectors; all Assistant and Deputy Collectors; and all officers of the Salt, Abkári and Customs Department not below the rank of Assistant Commissioner, to exercise the powers conferred by the said section.\textsuperscript{128}

In this way, the Madras Abkári Department laid down rules and regulations for the management of the Department.

In 1923, the name of the Abkári Department was changed into Excise Department. But there were no vital changes in the rules and regulations. The same system of management continued.

In 1937, another important Act was passed to regulate the administration. This Act was known as Madras Act-X of 1937.\textsuperscript{129} Even though the Act was passed with the intention of removing drunk evil, it was

\textsuperscript{126} BP No.213, 18\textsuperscript{th} May 1895.

\textsuperscript{127} BP No.153, 21\textsuperscript{st} April 1896.

\textsuperscript{128} Ibid., p 49.

\textsuperscript{129} The Act was also known as Prohibition Act of 1937.
TAMIL NADU

Showing the areas under the several systems of Toddy Administration in force

Tree Tax System
System of the Sale of Shops Separately
No toddy revenue
Renting system
Todd drawers licence fee system
not applicable to all districts. It repealed the Madras Abkári Act of 1886 in the areas in which prohibition was to be introduced but retained the Act in all other areas. The Act was split up into seven chapters and fifty seven sections. Even though chapter four of the Act dealt with Establishment and Control, there was no vital deviation from the Act of 1886. Hence the system of management was effectively implemented as per the rules of the Abkári Act of 1886.

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130 B.S. Baliga, 'Compendium on Temperance and Prohibition in Madras', Government of Madras, Madras, 1960, p 34.

131 Ibid., p 35.