

ACT No. XIII OF 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General 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.

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whereas it is also expedient that certain obsolete Regulations relating to the provision of Opium should be formally repealed, and that the laws for preventing the illicit cultivation of the Poppy, and for regulating the cultivation of the Poppy and the manufacture of Opium on account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 :—

I. Regulation XXXII. 1793, Regulation XXXII. 1795, Regulation LIII. 1795, Sections I to XL of Regulation XIII. 1816, and Clauses 1 to 5 Section XVIII and Sections XXIII and XXIV of Regulation VII. 1824, of the Bengal Code, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred, before the passing of this Act.

Poppy cultivation and Opium manufacture, except for Government, prohibited.

II. The cultivation of the Poppy and the manufacture of Opium within the territories under the Presidency of Fort William in Bengal, except on account of Government, are hereby prohibited.

III. The

III. The superintendence of the provision of Opium for Government shall be intrusted to Agents, or other Officers, being

To what Agents the superintendence of the provision of Opium shall be intrusted.

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. 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. 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.

IV. The Opium Agents, and their subordinate Officers of every

Opium Agents amenable to the Civil Courts.

otherwise herein

No suit to be brought unless application for redress first made to Agent.

description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as provided. 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.

V. The Opium Agents shall not in their official

Opium Agent not to sue without sanction of Board of Revenue.

capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

VI. In cases in which the Board of Revenue may judge it expedient,

Board of Revenue may in certain cases appoint an Officer to conduct or defend suits.

or in which they may be so directed by Government, they may take upon themselves, or intrust 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.

VII. The

ACT No. XIII OF 1857.

VII. 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. The price shall be fixed at a certain sum per seer of eighty tolahs 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.

VIII. 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. Every license shall specify the number of beegahs 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. A counterpart engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

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

X. 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

ACT No. XIII OF 1857.

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. 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.

XI. 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 Sudder Factory, as the Agent may direct. And no such Opium shall be liable to be distrained or attached by a Zemindar 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.

XII. All Opium delivered by the cultivators to the Sub-deputy Agent or other District Officer, shall, before it is forwarded to the Sudder 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. Any cultivator who may be dissatisfied with the classification of the District Officer, shall be at liberty either to take his Opium to the Sudder Factory, or to have it forwarded thither by such Officer separate from the Opium respecting which no dispute has arisen.

XIII. All Opium forwarded by the District Officers to the Sudder Factory, and all Opium delivered at the Sudder 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

ACT No. XIII OF 1857.

the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

XIV. When Opium delivered by a cultivator, either to a District Officer, or at the Sudder Factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator. 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.

Confiscation of adulterated Opium.

Adjudication of confiscation.

XV. The weights and scales made use of in the Sudder Factories, and at the District Kothees, shall be provided by the Board of Revenue. 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. The Agent shall make a similar examination of the weights and scales of the Sudder 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.

Weights and scales.

XVI. 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 muhto or intermediate manager, may be recovered by the District Officer by distress and sale of the property of the 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

Adjustment of cultivator's accounts, and recovery of balance by distress.

ACT No. XIII OF 1857.

Collector for the recovery of an arrear of rent or Revenue. 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.
XVII. 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.

Sum illegally exacted by land-holder from ryot on account of rent of Poppy land or illegal cess, may be recovered, together with a penalty, in summary suit before Collector.
XVIII. If any zemindar, or other proprietor of land, or any farmer of land, shall exact from any ryot on account of his Poppy land, any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the ryot, 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.
XIX. 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.
XX. 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

ACT No. XIII of 1857.

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

And for illegal connivance by an Opium Officer at embezzlement.

conniving in any way at the embezzlement or illegal disposal of any Opium, shall be liable 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.

XXI. 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 beegahs, in which case the fine may be at the rate of twenty-five Rupees per beegah ; and the Poppy plants shall be destroyed, or, if any Opium have been extracted from them, it shall be seized and confiscated. 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 beegah of land illegally cultivated.

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

XXII. All proprietors, farmers, tuhseeldars, gomashtahs, and other managers of land, shall give immediate information to the Police or Abkaree Darogahs, or Opium Gomashtahs, or to the Magistrates, Collectors, or Officers in charge of the Abkaree Mehal, 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, tuhseeldar, gomashtah, 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 Police and other Officers to give information of illegal cultivation.

XXIII. All Police and Abkaree Darogahs, and Opium Gomashtahs, and all native Officers of Government of whatever description, and all Chowkeydars, Pykes, 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

ACT No. XIII of 1857.

authority shall transmit the information to the Sub-deputy Agent, or other Officer superintending the cultivation of the Poppy, if in a District where the Poppy is cultivated on account of Government, or to the Collector or Officer in charge of the Abkaree Mehal, if in a District where the Poppy is not so cultivated. Every Police or Abkaree Darogah, Opium Gomash-tah, Native Officer, Chowkeydar, 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.

XXIV. Whenever a Police or Abkaree Darogah or Opium Gomash-tah 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.

XXV. Proprietors, farmers, tuhseeldars, gomash-tahs, 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 Abkaree Darogah, or Opium Gomash-tah, who shall thereupon proceed in conformity with the rules contained in the last preceding Section.

XXVI. 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 Abkaree Mehal; provided that no information of an offence against this Act shall be admitted unless it be preferred

ACT No. XIII of 1857.

preferred within the period of one year after the commission of the offence to which the information refers.

XXVII. 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 fines under this Act.

XXVIII. 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.

XXIX. 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 XVII, XX, or XXIII, shall be imprisoned in the Civil Jail.

Place of imprisonment under the last Section.

XXX. One-half of all fines and penalties levied from persons convicted of offences under Sections XIX, XX, and XXI 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.

Disposal of fines and forfeitures.

XXXI. The

ACT No. XIII OF 1857.

XXXI. The Governor General 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. 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 XIX 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.

Governor General in Council may allow free cultivation of Poppy and manufacture of Opium in any District.

Proviso.