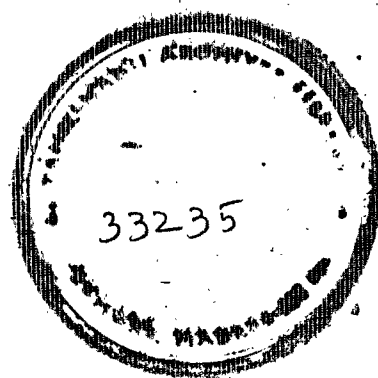


REPORT OF THE
SOUTH OF INDIA
PLANTERS
ENQUIRY COMMITTEE

1896



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REPORT OF THE SOUTH OF INDIA PLANTERS' ENQUIRY COMMITTEE.

CHAPTER I.

INTRODUCTORY.

THE resolution of the Government of India No. 465-17-7 (Emigration), dated 25th March 1896, appointing a committee to conduct an enquiry into certain matters forming the subject of a representation made to His Excellency the Viceroy by the United Planters' Association of Southern India at Madras in December 1895 is quoted at the commencement of this report for facility of reference.

In a memorial presented to His Excellency the Viceroy during his recent tour in Madras by the United Planters' Association of Southern India, the memorialists asked, among other things, for increased protection against 'loss from wilful breach of contract and dishonesty with regard to advances' made to coolies and maistries. They admitted that certain proposals put forward with this object had recently been disallowed by the Government of India; but expressed their belief that their rejection might be attributed, at least in part, to 'the fact that the radical differences existing between the conditions of labour as employed in Northern or Southern India had not been sufficiently explained,' and suggested that the appointment of a committee to inquire into the matter might lead to a clearer understanding of their difficulties.

2. In replying His Excellency pointed out that, as admitted by the memorialists themselves, the particular remedy which they had proposed, and which had been negatived by the Government of India, was opposed to the whole spirit of modern legislation, while the matter had often been under the consideration of Government, which was well acquainted with the broad facts. He reminded the memorialists that the origin of most of their difficulties lay in a system of advances, as to the necessity for and desirability of which they themselves were by no means agreed. He professed himself unwilling to refuse assistance to a great industry so long as there was room for doubt as to the material facts of the case; and while adhering to the views already enunciated by the Government of India on the subject of extending penal legislation to breaches of civil contract, and while reserving the fullest discretion as to future action, he expressed his willingness to institute, with the concurrence of the Madras Government, such an inquiry as would afford the memorialists the full opportunity which they desired of bringing out the whole state of their case.

3. Another matter with which the memorial in question dealt was the amendment and extension of the Coffee-stealing Prevention Act. Urging that parchment and cherry-dried coffee, for which protection was asked, were not articles of consumption and should not be found in the possession of any one other than the producer, the carrier, the curer and the *bonâ-fide* merchant, all of whom could afford proof of rightful possession, the United Planters' Association of Southern India prayed that an inquiry might be made into the correctness of their contention that the exceptional protection already given was inadequate unless the possession of parchment and cherry-dried coffee was placed under the same restrictions in section 9 as that of 'green-gathered coffee.' In replying His Excellency promised to consider whether there was sufficient evidence that parchment and cherry-dried coffee were not articles of retail sale, and that it was possible to discriminate between the produce in those stages and in the subsequent stage at which it does become an article of retail sale; and whether it was, in any event, necessary to treat coffee differently from other merchandise. In the event of there being any doubt in the matter His Excellency considered that the question might be inquired into simultaneously with the other matters referred to above.

4. In order to fulfil the promises thus made, the Government of India have decided to appoint a small committee to conduct an inquiry into the matters mentioned above. The President will be Mr. W. Mackworth Young, C.S.I., Resident in Mysore and Chief Commissioner of

Coorg. Two other members will be nominated by the Government of Madras and the United Planters' Association of Southern India, respectively. The questions into which they will inquire will be—

"I.—As regards the system of advances to garden coolies and 'maistries'—

- (a) the nature of the system as at present worked;
- (b) the necessity for its continuance;
- (c) the difficulties experienced in its operation; and
- (d) the best methods of removing them.

"II.—As regards the prevention of coffee-stealing—

- (e) whether the conditions under which coffee is produced and brought to market are such as to render it desirable (1) to extend to 'parchment' and 'cherry-dried' coffee the legislative provisions now applying by section 9 of Madras Act VIII of 1878 to 'green-gathered' coffee; and (2) to amend that section by substituting the word 'person' for the words 'cooly, maistry or other labourer employed on a coffee estate.'"

2. This resolution was forwarded to the Government of Madras for information with the request that the Government of India might be informed of the names of the two members of the committee appointed, respectively, by the Government of Madras and by the United Planters' Association of Southern India. In accordance with these instructions Mr. J. W. F. Dumergue, I.C.S., was nominated by the Madras Government, and Mr. J. Williams Hockin of Vayitri, South Wynaad, by the Planters' Association.

3. In a letter No. 477-17-9, dated 26th March 1896, the Government of India asked the Government of Madras to decide to what districts the enquiry should extend. It was noted in this letter that the enquiry would apparently include Coorg. The Madras Government was further requested to select a Secretary for the committee and to make arrangements for assembling it.

In pursuance of these instructions the Madras Government requested the committee to assemble at Ootacamund on the 15th April 1896, and set apart the Council Chamber on Stonehouse Hill for its use except on those days when it was required by the Government. The Madras Government directed that the committee's inquiries should extend to the marginally-noted districts* in the Madras Presidency and to Coorg, and further requested the committee to consider whether, in order to render the enquiry complete, it should not also invite evidence from Mysore, Travancore and Cochin. The Madras Government appointed Mr. A. L. Hannay, I.C.S., as Secretary to the committee.

4. Meanwhile the Government of India had addressed the Resident of Mysore and requested him to ascertain whether the Mysore Darbar wished that the enquiry should include the Mysore State. The proposal was cordially accepted by the Darbar, and Mysore as well as Travancore and Cochin was included in the enquiry. On the representation of the committee, the Madras Government subsequently added South Canara to the list of districts to which the enquiry was to extend.

5. In order to show clearly the scope of the committee's enquiry, it is necessary to refer to one more communication, copy of which has been furnished to the committee. The Madras Government on receipt of the Government of India Resolution, recommended that the following subjects should be added to those mentioned in the Government of India Resolution as within the scope of the committee's enquiry:—

- (1) Whether the protection enjoyed by coffee under Madras Act VIII of 1878 should be extended to tea.
- (2) The questions of reciprocal service of processes and warrants and of extradition of offenders.

The Government of India replied as regards (1) in the negative, and stated that no grounds had been put forward for re-opening the question, which was decided by the Government of India in June 1894, and that it was not referred to in the address presented to His Excellency the Viceroy by the Association. As regards (2) the Government of India communicated the following instructions:—

"The Government of India intend that the question of reciprocity in the execution of processes should be discussed under sub-head (d), but they regret that they cannot agree to any consideration of a proposal that breaches of contract which fall under Act XIII of 1859 should be made extraditable offences under section 11 of Act XXI of 1879 or that the procedure for extradition under section 14 of the same Act in the case of offences not ordinarily extraditable should be simplified. The delivery by Government of a person who is in its territories, and therefore under its protection, to be dealt with by courts, of which Government has no knowledge and over which it has no control, is an extreme measure, to be justified only when the offence committed is such that the general welfare would be endangered by the escape of the offender. This clearly cannot be alleged of the breaches of contract now in question, which are practically mere civil wrongs. Under the existing law an offence that is extraditable to one Native State is extraditable to all; and the Government of India are not prepared either to attempt to draw any distinction between Native States in this respect or to legislate so as to convert breaches of contract into extraditable offences."

6. Under the instructions above set forth we commenced our sittings at Ootacamund on the 16th April, and proceeded at once to consider our mode of operations. It seemed to us desirable in the first instance to have clearly before us the planters' case, and though we were supplied by the Madras Government with copies of past correspondence extending over a period of thirty years, and by the United Planters' Association with copies of their formal proceedings for the past three years, we felt unable to regard these papers as containing any full statement of that case. We determined, therefore, to frame a series of questions which should cover the whole ground of the enquiry, and send them out to the several Planters' Associations (14 in number), to the individual members thereof (466 in number) and to other persons who would be likely to give us trustworthy and useful information in regard to the matters coming within the scope of our deliberations. After receiving the answers to these questions, and in order to supplement and elucidate them where necessary we decided to examine orally such representative witnesses as might be nominated by the several Associations, and also other witnesses whose oral evidence might appear to us to be requisite.

7. The series of questions will be found at Appendix I of this report. It may appear, at first sight, that we have embodied in these questions matters beyond the scope of the enquiry entrusted to us. But we have found that the material collected is necessary to a full understanding of the problems we have to deal with, and we have no cause to regret having laid our foundations wide. For, in the first place, although the number of questions is somewhat formidable, the answers were not perceptibly delayed on this account. It has been represented to us that the time of year was not very favourable for collecting information, few of the maistries returning with their gangs to the estates till the months of July or August, and the enquiry was, no doubt, somewhat retarded from this cause; but considering this fact, the inevitable delays in the press, the large number of the witnesses and their dispersion over a large tract of country, we are of opinion that the answers were submitted with creditable promptitude. In the second place, we found that the available information in regard to the extent of the industry, the varied conditions under which it is carried on in different tracts, and the difficulties arising out of those conditions, was extremely imperfect, and that without an exhaustive enquiry into these matters, it would have been impossible to frame reliable conclusions. Lastly, although the wording of the Government of India Resolution appears to restrict the enquiry within narrow limits, it does not do so in reality, for the system of advances is at once the backbone of the planting industry and the cause of the principal difficulties attending it. Its discussion requires accurate knowledge of the history and conditions of the whole industry, and of the law applicable to it. And in opening out for

discussion the fourfold aspect of the question of advances detailed in paragraph 4, I. of their Resolution, the Government of India virtually imposed upon us the duty of considering the whole of the circumstances affecting the industry. We feel sure that if any useful results follow our labours, these will be due to the comprehensiveness of the enquiry and to the full opportunity granted to all those who are interested to explain their requirements and suggest their remedies.

8. The plan of operations as sketched in paragraph 6 was communicated to the Honorary Secretaries of Associations, and they were asked to give the number of their members and the names and addresses of any other persons, official or otherwise, whom the Association would desire to have examined. Separate sets of questions were framed for Association Secretaries, for Proprietors, Superintendents and Managers of Estates, for Residents and Collectors and other officials of the civil administration, and for employers of labour other than planters. In some cases the same questions were put to witnesses of the different classes, and the whole number of questions was formed into one series consecutively numbered. Reference was made to the Madras Government for the purpose of ascertaining if it was desired to put forward any witnesses, but His Excellency the Governor in Council was of opinion that the plan of the committee for obtaining evidence was sufficiently comprehensive.

The only Associations which furnished no answers through their Honorary Secretaries were the North Wynaad Planters' Association, the Honorary Secretary of which stated that he had only seven months' experience in that district, and was unable to give answers, and the South Mysore Native Planters' Association.

9. The following table shows, so far as we have been able to ascertain, the total number of planters belonging to each association and the number of answers received:—

Name of Planters' Association.	Total number of members.	Number of replies received.
Nilgiris	70	33
North Mysore	56	28
North Mysore, Native	55	18
South Mysore	41	23
South Mysore, Native	(a)	4
Coorg	64	12
Central Travancore	18	10
South Travancore	18	1
Kannan Devan, Travancore	21	9
Nellampathies, Cochin	13	4
Wynaad	41	11
North Wynaad	14 (b)	...
Shevaroy's	40 (b)	5
Lower Pulneys	15	7
Total	466	165

(a) Not reported.

(b) Not reported, but the Honorary Secretary asked for this number of copies of the questions.

Explanations as to the non-submission of replies by the remaining members of Associations were furnished by most of the Honorary Secretaries. And after considering these explanations we are of opinion that, with the exception of the South Mysore Native Association (which seems to be in a dormant condition) and the North Wynaad Association, which has been revived but recently, the replies received represent substantially the views of all the members. In several cases it was explained that the members who had not themselves replied accepted the answers furnished by the Honorary Secretary of the Association or by other members, and in some cases it was stated that all the leading planters had replied and that those who had refrained from sending in answers did so from youth or inexperience. We believe that every member who wished to bring forward his personal views had an opportunity of doing so.

10. An attempt was made, through the administrative officials, to obtain replies from planters not belonging to any Association. The Collectors of Districts were asked to furnish the

Evidence of other planters.

names and addresses of any such persons who might be relied upon to give trustworthy and useful information in regard to the matters coming within the scope of the committee's deliberations. Only 32 answers from such persons were received, although the number of unassociated native planters, especially in Mysore, is very large. In fact the number is so large that the average area of the estates held by such planters cannot be more than a few acres; and this may be the reason why the owners have not come forward.

11. There seems to have been some slight misapprehension on the part of some of the Association Secretaries in regard to the evidence of maistries. Some of the former in their oral examination have stated that they supposed the committee's intention was to examine maistries orally in the neighbourhood of the plantations. We could not have undertaken such a task; and we consider that the invitation given to the Honorary Secretaries to send in the names of any persons, official or otherwise, whom the Association would desire to have examined on the questions in issue afforded sufficient opportunity for their evidence being recorded. We expected the planters to bring forward their case, and if any considerable number of maistries had been named for examination we should have felt it our duty to ask the Association to formulate and abstract such evidence, otherwise the enquiry would have been indefinitely protracted. A few maistries were nominated, as a fact, in response to the committee's invitation and answers from fourteen were received, but the majority of them were not available for examination, as they had not returned to the estates when the series of questions was issued, and we are not disposed to think that the investigation has been less complete because the task of setting forth their whole case has devolved on the planters themselves.

The following answers were received:—

From Association Secretaries	12
From Proprietors, Superintendents and Managers of Estates	165
From Residents and Collectors and other officials of the civil administration	70
From employers of labour, official or otherwise	41
From non-association planters'	32
From maistries	14
Total	334

12. Twenty-three sittings were held for the oral examination of witnesses—five at Ootacamund from the 8th to the 16th of June, and eighteen at Bangalore from the 14th July to the 21st August. In accordance with the plan of operations publicly announced, we only issued invitations to attend for such examination to persons who had answered our questions, and whose answers seemed to require elucidation and amplification, and to specially selected witnesses. The meeting of the South of India United Planters' Association took place at Bangalore between the 17th and 20th of August, and we were able to suit the convenience of most of the Association Secretaries and some of the leading planters by fixing dates for their attendance at or about this time. But for this circumstance we should probably have lost a good deal of the most valuable and suggestive evidence. Many planters invited to attend at other times expressed their inability to do so, owing to press of work and other causes, although more than one opportunity was in most cases given. Out of seventy-five witnesses invited to attend for oral evidence, forty-nine were finally examined. We consider the oral evidence of these witnesses as of great value, and regret that more of those invited were not able to attend. But the time of year was a busy one, and the members who assembled at Bangalore for the United Planters' Association meetings were the duly elected delegates of the various Associations, and their opinions may be taken as fully representing the general sense of the community. Upon the whole we are satisfied with the evidence we have been able to collect.

CHAPTER II.

THE PLANTING INDUSTRY.

13. The following information regarding the introduction of coffee, tea and cinchona into South India is mainly derived from a Manual of the Nilgiri District by Mr. H. B. Grigg, M.C.S. (1880) and the official reports of the Madras Government. Coffee was introduced towards the end of the eighteenth century, probably by Arab merchants trading to the West Coast. Between 1820 A.D. and 1830 A.D. the first settlement of European planters took place in the Baba Budden Hills of Mysore, in the neighbourhood of Manjarabad further west in the same State, and in the Malabar-Wynnad of the Madras Presidency. Towards the close of 1829 the Madras Government received orders from the Court of Directors to adapt their policy to the rules and instructions laid down by the Supreme Government in their Resolution of 7th May 1824 and by the Court in the Despatch of 8th July 1829 "conceiving it expedient that the rules observed in granting permission to Europeans to hold lands in India should be, as nearly as circumstances will permit, uniform at the several Presidencies."

The immediate cause of the issue of the Resolution of the 7th May 1824 was the desire of Dr. Wallich, Mr. Gordon and others to obtain lands for coffee cultivation in Bengal, a project which Lord Amherst's Government were anxious to encourage. This document is interesting, and as the policy indicated in it was held to be applicable to the industry in South India, it is worth quoting.

"As far as a judgment can in such cases be formed until trial be made, there appears to be abundant reason to conclude that the cultivation of coffee may be successfully prosecuted in this country on an extensive scale, and that the article may indeed be produced at a cost considerably below that which the lowest prices hitherto known in the market would amply reimburse, while at the same time there is scarcely anything of which the consumption is likely to experience so large an augmentation in the event of any material reduction of price.

"The extension of the export trade of India is an object of the highest importance both to England and to India, and the introduction of a new branch of trade, such as that in question may eventually become, would be a great national benefit. The speculation appears, therefore, to be one which is in a high degree worthy of the support of Government. From the nature of the case it is indispensably necessary that those who undertake it should have an assured tenure in the lands appropriated to the cultivation for a considerable period of time; and, although it is to be expected and desired that the natives will before long enter on the speculation and be guided by the example set to them in the conduct of it, yet to its early and successful introduction on a large scale it appears to be essentially requisite to allow scope to European enterprise and intelligence."

The rules accompanying the resolution were designed, among other things, "for the protection of the ryots and the security of the real interests of the speculators."

In the Despatch of 1829, the Court of Directors extended these rules, which it is unnecessary to quote here, to the cultivation of indigo and other agricultural products.

14. Coffee planting rapidly extended under this fostering influence, the example of the British Government in Madras being followed in Coorg, and in the Native States of Mysore, Travancore and Cochin. The coffee zone now extends along the whole tract of the Western Ghâts from the North-West corner of Mysore to Cape Comorin, and the industry has extended to other suitable localities in the Shevaroy and Pulney

Hills, and in the Tinnevely and Coimbatore districts. The area under cultivation in the year 1895 was as follows:—

	ACRES.
Madras districts	63,953
Coorg	73,854
Mysore	1,38,670
Travancore	3,596
Cochin	3,359
Total	2,83,432

15. The history of tea cultivation dates from the year 1835, when some boxes of plants raised from China seed were sent from Calcutta to the Nilgiris, to Coorg, to Mysore and the Agri-Horticultural Society at Madras. The experiment seems to have been a failure on the whole, though a few plants seem to have survived in each locality; and between the years 1850 and 1860 the suitability of Coonoor and a tract in South Travancore for tea cultivation was established. The tea industry has not hitherto possessed the same interest in Southern India as coffee cultivation, and there are few plantations except on the Nilgiris, in the Malabar-Wynnad and in Travancore. In these tracts, however, the industry is developing, and tea has already largely taken the place of coffee in Travancore. The area under cultivation in 1895 was as follows:—

	ACRES.
Madras districts	6,797
Travancore	9,422
Cochin	58
Total	16,277

16. The cinchona industry is more recent. The experiment of introducing the plant into India was commenced under Government auspices in 1859. On the Nilgiris the plantations proved successful beyond all expectation. Still the industry is insignificant as compared with coffee and is apparently on the decline. The area under cultivation in 1895-96 was as follows:—

	ACRES.
Madras districts	8,903
Mysore	340
Coorg	26
Travancore	1,479
Total	10,748

17. With a view to ascertaining the extent of the industry involved in the present enquiry, we asked the revenue authorities of the different tracts to favour us with a return of the cultivated area under coffee, tea and cinchona. At the same time we asked the Honorary Secretaries of Associations for similar returns of the cultivation on estates held by members of the Associations; and also for an estimate of the total value of such estates, for the total annual working expenses of such estates, and for the number of maistries and coolies employed, with the amounts paid to them, respectively. The returns will be found at Appendix II and Appendix III of this report. The returns furnished by the revenue officers comprise the total cultivation including that held by members of Associations and others, and would naturally, therefore, be in excess of the Association returns; and this is actually the case except as regards Travancore, where the total cultivated area furnished by Associations amounts to 18,807 acres, while the State returns only amount to 14,497 acres. We have adopted the official figure. For Mysore the official returns are very largely in excess of the Association returns, the former amounting to 1,39,010 acres and the latter to 33,720 acres. The returns furnished by individual Deputy Commissioners are in excess of the official figures, amounting

to 1,54,123 acres. But here again we have deemed it safer to take the official returns. The large excess shown by these figures over the Association returns is sufficiently accounted for by the large number of small coffee gardens in Mysore held by natives who do not belong to any Association. As to the number of such plots we have no accurate information. From a speech made by a native member of the South Mysore Native Planters' Association during the planters' conference of 1893, we learn that in South Mysore alone there are nearly 16,000 native coffee planters. One witness in the present enquiry (319) states that "there must be several thousand native planters in the (North Mysore) district, all employing imported labour." Mr. R. H. Elliot in his book on "Gold, Sport and Coffee Planting in Mysore" (p. 18) says that in the whole of Mysore "the native plantations amounted to 27,180 in number in 1890-91 with an area of 96,814 acres; but many of these so-called plantations only consist of small patches of coffee."

18. The particulars as to the value of the estates, the working expenses, and the number and remuneration of maistries and coolies employed, which have been furnished by Association Secretaries in respect of estates held by members of the Associations, are not forthcoming in respect of plantations held by others who are not members of any Association; and the only way of arriving at these details for the whole plantation industry is by striking averages on the Association figures and applying these averages to the total area of cultivation. By adopting this process, which, though only approximate, gives the best estimate we can frame, we arrive at the results shown in the following table:—

Tract.	Total cultivated area in acres.	Total value of estates.	Number of maistries employed.	Number of coolies employed.	Annual payments to maistries.	Annual payments to coolies.	Total annual working expenses.
		Rs.			Rs.	Rs.	Rs.
Madras Presidency	79,653	5,04,20,349	3,186	79,653	6,13,328	42,05,678	87,61,830
Coorg ...	73,880	4,67,66,040	2,955	73,880	5,68,874	39,00,850	81,26,772
Mysore ...	1,39,010	8,79,93,330	5,560	1,39,010	10,70,377	73,39,728	1,52,91,100
Travancore ...	14,497	91,76,601	580	14,497	1,11,627	7,65,442	15,94,670
Cochin ...	3,417	21,62,961	137	3,417	26,311	1,80,417	3,75,870
Total ...	3,10,457	19,65,19,281	12,418	3,10,457	23,90,517	1,63,92,115	3,41,50,242

19. The sea-borne exports of coffee, tea and cinchona from the Madras Presidency, Travancore and Cochin, according to official returns for the year 1894-95 were as follows:—

						cwts.
Coffee	...	...	...	...	...	3,25,488
Tea	...	...	...	...	...	42,650
Cinchona	...	...	...	...	...	15,737

At a valuation furnished to us by experts the value of these exports amounts to Rs. 2,77,00,670. In order to show a profit on the plantation industry of 5 per cent. on the capital value as above estimated, the amount of produce consumed in the country must be 37 per cent. of the whole, a supposition by no means impossible, as no coffee is imported into Southern India and the consumption of coffee by the natives is very considerable. But our estimate of the working expenses is probably above the mark, because the Association estates on which it is based are undoubtedly more highly cultivated than the small native plantations which form the bulk of the non-association estates.

20. The statistics of the Assam tea industry and the imported labour employed on it, as given in the Assam Administration Report for 1894-95, are as follows:—

Area under tea cultivation, 1894	...	...	acres	2,68,796
Number of adult labourers employed in 1894	...	...	"	3,08,919
Total labour force including children	...	...	"	4,94,336
Value of tea exported	...	...	Rs.	4,96,00,000

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There is therefore no great difference in the extent of the planting industry in Southern India, and in Assam. The cultivated area is rather larger in the former; the labour force, if children are included, and the total value of the produce are greater in the latter. The great difference between the conditions of the two industries consists in the fact that in Southern India there is an annual immigration of about four-fifths of the whole labour force, while in Assam, owing to the greater permanence of the labour, due primarily to the distance from which it has to be brought, which has led to the legislation of contracts for a term of four years, the annual immigration only amounts to about one-tenth of the total labour force. As regards the administration of the two industries, the main difference is that Assam has its own special labour laws and Southern India has none. It may safely be stated that when special legislation was first undertaken in regard to the Assam Planting Industry in 1865, that industry had not, by any means, attained the dimensions of the present planting industry in Southern India.

CHAPTER III.

THE LABOUR SUPPLY.

21. The planting industry which originated in Mysore and extended first to the Wynaad and later on to the Nilgiri Hills, is now carried on not only in those tracts but also in the South Canara, Salem, Madura, Coimbatore, Tinnevely and Vizagapatam districts of the Madras Presidency, in Coorg and in the Native States of Travancore and Cochin, the total area under cultivation being as shown above about 3,10,457 acres.

22. There is little doubt that at first in Mysore, when the area cultivated was small, the estates were worked entirely by local labour, that is to say, labour obtained in the immediate neighbourhood of the estates or with labour imported from places at some distance but still within Mysore Territory. In the other localities, however, except Salem, Madura and Tinnevely, the supply of local labour and labour obtainable within the several districts to which the estates belong, does not appear ever to have been adequate and the Mysore Province where labourers were first trained to plantation work, was readily indented upon by planters in Wynaad and in the Nilgiris and in Coorg. Thus we find the Collector of the Nilgiris reporting in 1865 that four-fifths of the estate coolies on those hills came from Mysore, while in 1877 thirty-thousand Mysore coolies were employed in Malabar-Wynaad alone.

Mysore labour being thus extensively employed in districts of British India, Mysore planters found themselves unable to obtain the supply they required from Mysore itself and were consequently compelled to recruit their labour force from places beyond the Mysore State as shown by the fact that they represented in 1878 that many of them drew their labour from parts of British Territory. As one result of the great famine of 1876-77 there was, for a time, abundance of labour available for the plantations both in British Territory and Native States, but this period was followed by one of prosperity for the labourers belonging to Mysore who acquired independence chiefly through their earnings on estates and settled down to agricultural and other pursuits on their own account and in their own villages. The consequence was that Mysore labour became scarcer and scarcer and planters in all parts of Southern India except those in Salem, Madura and Tinnevely, have been obliged to try fresh fields for recruitment. We have not been furnished with details regarding the Coimbatore district where the total area under plantations is only 1,128 acres; in Vizagapatam the area is only 230 acres, all belonging to the Maharaja of Vizianagaram and in South Canara the whole extent does not exceed 88 acres, held apparently by petty proprietors. Excluding these tracts from consideration, the only estates which rely at the present time for their labour force on their own districts are those in Salem, Madura and Tinnevely. In these three localities, the conditions are altogether exceptional, as the three districts are densely populated and the estates are within a few miles of towns and villages. On the other hand, estates in all parts of Southern India besides those mentioned above recruit from the South Canara, Malabar, Coimbatore, Salem, Bellary, Anantapur, North Arcot, South Arcot, Chingleput, Tanjore, Madura, Trichinopoly and Tinnevely districts in the Madras Presidency, whenever and wherever possible from the Mysore Province, and, to a small extent in Mysore, from Hubli and Dharwar in the Bombay Presidency. In Travancore a certain amount of labour is imported to the estates from parts adjacent to the hills, but the Cochin planters do not obtain labour from any place within the State and neither does Travancore nor does Cochin furnish the Madras Presidency or Coorg or Mysore with labourers for plantation work.

23. The tabular statement given in Appendix IX which is based on the evidence we have collected, gives approximately the proportion of local labour, of labour imported from British India, and of labour imported from Mysore, employed in the several planting districts. This statement shows that the local labour available, even if preferable to imported labour, as is the opinion of some planters, is totally insufficient for maintaining the planting industry and that except in three cases, i.e., Salem, Madura and Tinnevely, planters in all the districts of Southern India are compelled to import the bulk of their labour from a distance. The evidence further shows that this imported labour is derived chiefly from places beyond the districts in which the estates are situated.

24. The evidence we have collected further shows that, although a gang of labourers sometimes includes a whole family or several members of a whole family, the number of labourers who settle permanently in the vicinity of plantations is extremely small and those who do thus settle, follow their own pursuits and are no longer available as ordinary estate coolies. One * of the witnesses whom we examined and who has had nearly 37 years' experience as a planter on the Nilgiris, stated that although he had repeatedly offered coolies land free of rent, they preferred to settle down in their own villages. This testimony as to the impossibility of persuading labourers to form colonies in the vicinity of plantations in Southern India is corroborated by other witnesses and altogether there does not appear to be any prospect of a permanent labour supply being established in the planting districts themselves. Another fact which must be taken into account as affecting the supply of labour for plantations in Southern India is that considerable emigration takes place every year from the Madras Presidency to other parts of India and to Mauritius, Natal, the Straits Settlements, Burma and Ceylon, no less than 1,23,975 persons having emigrated to Ceylon alone during the past year. Increased activity in the execution of public works has also increased the demand for labour and irrigation projects have led, or will lead, to the same result by bringing more land under cultivation. In addition to these circumstances, unmistakeable signs of further development in the planting enterprise itself are visible. In North Wynaad (Malabar) where the industry was almost defunct, it has been lately revived and the Planters' Association has been resuscitated. Planters from Ceylon are acquiring estates in other parts of Malabar-Wynaad, land on the Anamalai hills in Coimbatore has recently been purchased from Government by a company and Messrs. Finlay Muir and Co., well known in Ceylon and Assam, have within the past year opened about 1,000 acres in Travancore. Wages † for imported labour for plantations in Mysore were formerly 3 annas a day per man and 2 annas per woman, but they have risen to 4 annas and 2½ to 3 annas, respectively; in all other localities where the area of plantations is considerable and where labour has to be imported from other districts, there has also been a rise or a tendency to a rise in wages except in places, such as South Wynaad and Central Travancore, where the abandonment of some estates under coffee has set free labour for others. But even in such places tea is now being cultivated instead of coffee, it requires more labour and a more constant supply than coffee, and thus there is every prospect of the labour market being strained. Moreover, the rate of advance has increased considerably not only in those planting districts where wages have not risen appreciably within the last few years, but also in those where the wages are higher now than they were formerly. This state of things is not confined to the planting industry, because some Public Works Department contractors whom we examined state that they also found themselves compelled to give larger advances than before, without any decrease, and, in some cases with an increase, in wages. Altogether it appears to us that, notwithstanding the increase in the population of Southern India since the famine of 1876-77, the demand for labour is in excess of the supply and that the disproportion is likely to grow greater, not to diminish.

* General No. 23, Mr. Mallaly.

† See Appendix IV.

CHAPTER IV.

THE AGENCY FOR RECRUITING LABOUR.

25. In securing labour for their estates planters occasionally deal directly

Methods of obtaining labour.

with coolies, but these instances are very rare, being limited to engagements made with coolies who have worked for several years on the same plantations or with coolies living close to plantations. But even in such cases the practice is not universal and it may be said that in recruiting imported labour, maistries, who answer to the garden sardars of Assam, are invariably employed as the agents between the planters and the coolies. The maistry enters into a contract with the planter and the contract is generally reduced to writing. Such contracts are signed by the maistry, rarely by the planter and they are seldom, if ever, registered. In the case of old and trusted maistries, informal verbal agreements sometimes take the place of written contracts and in some places, for instance, parts of Travancore, a verbal agreement is supplemented by a promissory note executed by the maistry. Receiving a lump sum in advance, the maistry undertakes to supply a certain number of coolies for plantation work for a certain time. These engagements are made usually in March or April of each year, the time fixed for the commencement of work on the plantations being two or three months later. The period of the contract is usually nine months, sometimes less, and it never exceeds a year, except in very rare cases on the Nilgiris, where the maximum is said to be two years and in one case in Tinnevely where the term varies from one year to three years. The maistry then proceeds to the village or villages where he collects labour and generally returns to his employer's estate with his gang, though some maistries remain in their villages and send their gangs to the plantations in charge of their representatives as headmen. The average strength of a maistry's gang varies between 20 and 40 adult males, females and children; the average maximum is 100, but in some cases a maistry furnishes as many as 200 or 250 coolies.

26. When, as is usually the case, a maistry accompanies his coolies to the

Duties and remuneration of maistry.

estate, his duties are on the one hand to make the necessary arrangements for their journey, to look after their general welfare on the estate and to bring any complaints they have to make to the notice of the planter, and, on the other, to exact the due performance of work from them for the period of his contract. His remuneration and the form it takes vary in different districts. In some, he receives only commission, usually ten per cent. on the wages earned by his coolies, in others, both wages and commission and elsewhere, only wages. Wherever commission is paid, it is always paid in excess by the planter and is not deducted from the wages due to the coolies.

27. In 1884 certain remarks * were made by Mr. F. E. K. Wedderburn, the

Necessity for employing maistries.

* Madras G.O., Nos. 1911, 1912, Judicial, 1st August 1884, pp. 10 and 11.

† Questions Nos. 31, 32, 33 and 34.

Head Assistant Collector on the Nilgiris, which implied that the maistry was an unnecessary excrescence and an undesirable middleman. We consequently made † special enquiries with a view to ascertain whether the services of a maistry could be dispensed with, and the universal answer we have received is that it is impossible for planters to import labour without the intervention of a maistry. Individual planters have made the experiment and have failed and European agencies for supplying labour to estates have also failed. It is impracticable for planters to travel from village to village in different districts in order to collect the thousands of coolies they require and coolies insist on having a leader of their own race and class, conversant with their

manners and customs. Without discussing the system prevailing in countries beyond Southern India, we would only point out that in Southern India the practice of employing maistries to collect and supervise labour obtains in every industry in which large numbers of coolies are employed, and record our opinion that the employment of maistries for recruiting plantation labour is absolutely necessary. Moreover, there is no doubt that even after coolies have reached the estate, each gang requires a headman to supervise it and to look after its interests and the person best fitted for the office is the maistry or his own delegate. From every point of view, therefore, we consider that maistries are indispensable.

CHAPTER V.

THE COOLY.

28. An enquiry into the economic condition of the cooly, the circumstances attending his migration and his treatment on plantations was not included in the instructions given to us by the Government of India, but such an enquiry appeared to us to be necessary for the purpose of understanding the labour difficulties of which planters complain and we accordingly framed questions * with this object in view.

29. Leaving local labour out of the question, the answers we have received show that no precise rule can be laid down as to the composition of a gang of coolies. Such gangs are sometimes collected from one village alone and sometimes from several villages in the same locality according to the influence and resources of the maistry; they are sometimes formed of one caste only and sometimes comprise several castes, an element which depends greatly on the caste of the maistry; and coolies of one caste or one district bring their families with them, while coolies of another caste or of another district do not. No special arrangements are made for the transport of imported coolies from their homes to the estates, the matter being left to the maistry and travelling expenses by road usually form part of the advances given and subsequently recovered from the wages earned, but when a journey has to be performed partly by train, the trainage one way is generally allowed if the cooly has performed his contract.

30. When recruited, coolies are, with extremely few exceptions, in debt in their villages, a fact proved by their own statements, by the statements of the maistries who engage them and by the appearance on the estates of creditors about the time when accounts between planters and coolies are settled. As an almost invariable rule coolies never bring money with them to an estate, but depend for their subsistence on the planter who gives them, besides a blanket and money to buy cooking utensils, a sum of money weekly according to their requirements, such sums being debited against their wages. The balance of the wages earned every week is, as a rule, held in deposit by the planter though coolies are at liberty to draw against it, due regard being had to the deductions yet to be made for the recovery of their original advances. This arrangement is made at the express desire of the coolies whose object is to have a lump sum of money in hand when accounts are finally closed and they return to their villages.

31. The present average rate of wages for each day's work performed, though it differs in different districts, may be computed at 4 annas for a man, 2 annas 8 pies for a woman, and 1 anna to 2 annas for a child capable of working, but considerable increments can be earned in piece work, such as weeding, performed out of the regular working hours and days, and especially by women in picking flushes of tea and gathering coffee crops. The rates prevailing in the several districts will be found in Appendix IV, which will at the same time show that in many planting districts, as already observed, wages have risen during the last fifteen years. This increase is unanimously ascribed by planters to the greater demand for labour caused by the expansion of the planting industry itself and of other cultivation, and by competition between the planting industry and employers of labourers for public works.

32. With regard to savings, an adult male cooly can save on the average in the working season Rs. 24 to 33, and an adult female cooly, Rs. 12 to 18, if they work regularly, but South Canara and Tamil coolies are as a race improvident, and many of them save nothing. Mysore coolies and the Lumbianies on the other hand are thrifty, but all savings

made by them and any other classes, if they are not already in debt, appear to be spent in clothes or jewels or marriages or to be invested in land and ploughing cattle, and thus the cooly seems never to have money at his command for current expenses.

33. On all estates owned by planters belonging to the several Associations, good lines are built and maintained for coolies. In cases of illness, ordinary medicines are administered on the estates. In Malabar, Wynaad, Coorg and North Mysore the planters subscribe to medical funds, out of which qualified European doctors, hospital assistants and dispensaries are maintained; the North Mysore planters have also subscribed towards a hospital to be built by the State; on the Nilgiris as well as in Coorg and Mysore one or two large estates keep an apothecary of their own, and in all planting districts except Tinnevely where the sources of labour are close to the plantations, the ordinary hospitals or dispensaries are within reasonable distances of the estates. But coolies prefer, as a rule, to return to their homes when they are seriously ill, and in such cases they are conveyed thither at the expense of the estate. If they consent to remain on the estate they are nursed by their relations or friends, any particular diet they require being supplied. They are given subsistence money while they are ill, and unless the illness has been caused by an accident in the service of their employer, the amount thus paid is generally recovered from their wages. In times of scarcity, grain and condiments are in some cases sold to the coolies on the estate at cost price, but there are few estates which have no bazaars within half a day's march, and the coolies prefer going there every week for their supplies.

34. The check roll shows the number of coolies on an estate. On some estates deaths due to natural causes are not reported to any authority, but in others all deaths are reported either to the headman of the village or to some other official, who enters them in his register of vital statistics. There is no uniformity of practice. Epidemic diseases on plantations are almost unknown. No planter and, with two exceptions, no official whom we have examined was able to give any particulars or statistics of deaths among imported coolies either on their way to a plantation or on their way home, or any statistics which point to starvation or insanitary conditions among plantation coolies. One of the exceptions to which we refer was the Superintendent of Police in Malabar, and he stated in oral evidence that the mortality on the road among coolies returning to Malabar from Coorg was 'fearful.' But the particulars he gave subsequently show that since 1892, only 109 destitute persons have been picked up on the road dead or in such a condition as necessitated their being sent to hospital. This figure represents a very small percentage of the number of Malabar coolies employed on estates outside their own district. The second exception is the civil apothecary in charge of the hospital at Gudalur, in the Nilgiri district, who recommends, among other things, the introduction of Pasteur filters and a liberal supply of food containing an abundance of carbo-hydrates. But his own figures show that in five years only 221 plantation coolies have died in the hospital, or 44 a year in a district where about 10,000 coolies are daily employed. In Coorg, however, the Commissioner stated in a report to the Chief Commissioner, dated the 2nd May 1894, that no less than 1,061 coolies had been found dead or dying on the roads in three years. The Commissioner also said "I gladly place on record my opinion that the planters generally in Coorg both treat and house their coolies well, but there are exceptions, and instances have occurred of native employers of labour turning sick coolies out of their lines to die on the road of starvation and exposure." The Commissioner was absent on leave when we collected evidence, no one else was in a position to give us further information, and if we had pursued the subject after the Commissioner returned, there would have been greater delay in the submission of this report than we felt justified in incurring, especially in view of the instructions of the Government of India mentioned above.

35. As we have already stated, planters rarely enter into contracts directly with coolies. When they do, the contracts are sometimes written and sometimes verbal. Contracts between maistries and coolies are usually written if the amount involved is large, otherwise

they are verbal; if they are written they are usually signed by the cooly alone, and are seldom registered. The period of the contract varies from a few weeks in the case of local labour to some months in the case of imported labour, and never, according to all the answers we have received except four, exceeds one year. Very few coolies—not more than 5 to 10 per cent.—work on a coffee estate all the year round, such as do, being employed as cattlemen or on some other special work; but on tea estates on the Nilgiris and Travancore, the proportion of coolies who work all the year round is 50 to 75 per cent. In such cases the coolies are allowed to return to their homes annually for a holiday. On old established estates 50 to 75 per cent. of the coolies return year after year, but many planters say that only 20 to 30 per cent. return regularly, the coolies coming back after an interval during which they have worked on other estates. The only tangible instance we have discovered of deception practised by maistries on coolies, occurs in South Canara, where, since contracts made in British Territory to work in a Native State cannot be enforced under Act XIII of 1859, some maistries who supply labour for Mysore estates take advantage of a cooly's ignorance and induce him to sign a contract for work in South Canara under the delusion that it is a contract to work in Mysore. This artifice enables the maistry to prosecute the cooly before a South Canara Magistrate, if the cooly refuses to go to, or runs away from, Mysore.

36. The points to which we would draw particular attention in the information

Conclusions.

we have elicited regarding the cooly are, firstly, the care taken of him and the attention bestowed on his health and comfort by planters whose estates are worked with organized labour systematically collected; secondly, the mortality among estate coolies in Coorg; and, thirdly, the chronic impecuniosity of the cooly so long as he is a cooly.

As to the first point, planters not only obey the dictates of humanity, but also consult their own interests in taking care that their labourers are well housed, well cared for and kept contented. Neither in the records with which we have been supplied, nor in the evidence we have taken, nor in our own experience of planting districts, have we met any instance in which coolies have been ill-treated by planters who organize their labour, or by the maistries employed by such planters. The only specific case of deception practised on coolies which has been brought to our notice, is the one, referred to in the last paragraph, in which they are engaged by some maistries in South Canara to work in Mysore, and being illiterate, sign contracts for work in South Canara, and this fraud has grown out of the impunity, under the present state of the law, with which fraudulent coolies in British India can take advances for work to be done in Native States and break their contracts.

But with regard to the second point, there are thousands of petty proprietors, especially in Mysore and Coorg, some of whom make no provision for the labour they require, and either entice coolies away from their neighbours, or trust to the chance of getting together a few coolies who, being out of work in their own villages, or for some other cause, come up promiscuously from the plains in search of employment on the roads or on the estates. No expense is incurred in obtaining such labour; a sick cooly is merely a burden in whom the employer has no interest, and there is no maistry bound to look after him and send him either to a hospital or to his village. We have already stated that we consider the employment of a maistry is a necessity of the planter's position, and the facts we have now discussed indicate that his employment is also necessary in the interests of the cooly.

Lastly, the chronic impecuniosity of the cooly is a matter directly connected with the system of advances which we proceed to deal with in the next chapter.

CHAPTER VI.

THE SYSTEM OF ADVANCES.

37. We now approach the main subject of our enquiry as defined by the Government of India Resolution. We have been directed to enquire as regards the system of advances to garden coolies and maistries into the following questions:—

- (a) the nature of the system as at present worked,
- (b) the necessity for its continuance,
- (c) the difficulties experienced in its operation, and
- (d) the best methods of removing them.

The two first heads (a) and (b) will be treated in this chapter.

Brief description of the system of advances.

38. The system may be thus briefly described. A lump sum is advanced by the planter to a maistry generally in the month of March or April, when imported coolies return to their homes, in consideration of which the latter engages (generally in writing) to bring a certain number of coolies in the following June or July to work on the estate till the following March or April. The amount of the advance varies according to the number of coolies whom the maistry contracts to bring, to the distance of the recruiting ground and the class, sex and age of the coolies. The maistry proceeds to the recruiting ground and makes advances to coolies, entering into contracts with them (sometimes in writing, but more often not) and he brings the coolies whom he has collected to the plantation. When the cooly arrives at the plantation, the planter generally gives him a blanket, and until wages are due to him, 'subsistence allowance.' These amounts are recovered from his wages. The planter recovers his advance from the maistry by deductions from his pay, from the commission on the coolies' pay which he receives, and, in not a few cases, when the cooly admits having received an advance, from the coolies' wages, though the theory is that the wages due are paid to the cooly in full, and the maistry is left to recover from the cooly the advances made by him, out of which he refunds the advance made to him by the planter. The cooly is generally held to be at liberty to leave his work when he has repaid his advance; but the maistry is generally bound by his contract to keep up his gang to the number specified, for the whole working season.

39. The manner in which the system is worked is extremely diverse. The rate of advance varies from about Rs. 2 to Rs. 20. In exceptional cases, where the cooly is a tried workman, Rs. 50 or more will be paid. If he brings his family, even larger sums are given. The maistry will often advance out of his pocket larger sums than he has received from the planter, to get specially good men or swell the number of the gang for which he receives commission. The largest advances are given for Mysore labourers owing to the fact that this labour is most prized. The amount is largely determined by competition, and the rate of advance is said, in the case of Mysore and Tamil labour, to have risen largely of late years. One Travancore witness (39) says that the rate has been reduced 30 per cent. because planters have done their best to cut down the advance system, and this is corroborated by another witness (283); but no other mention is made of this attempt and no similar reduction is spoken of elsewhere. The general outcome, of the evidence is that there is a tendency for the advances to increase in amount, though several witnesses say that there has been no material alteration in the rate for the last 15 years. We interrogated several of the witnesses whom we examined orally as to whether advances were not given recklessly, but the general impression gained was that the

amount of advance depends on various circumstances and that it is out of the power of the planter, when a supply of labour is necessary for the working of his plantation, to dictate what the amount shall be. Most planters say that the maistry, if honest, does not make a profit out of his advance, or demand interest on it unless it is unduly kept back by the fault of the cooly. Interest is never charged to the maistry by the planter in respect of the advance made to him, nor in the cases in which the planter advances money to the cooly direct.

40. The most important contributions relating to the origin, history and necessity of the advance system are contained in memoranda attached to the evidence of the Honorary Secretary of the Nilgiri Planters' Association (38) and of the South Mysore Planters' Association (284). The second of these was written by Mr. J. G. Hamilton, President of the Association (174). Some interesting information is also given in the paper sent in, before his departure to England, and before receiving the Committee's questions, by Mr. Graham Anderson, C.I.E. (324), and also by Mr. A. Krishnaswami Iyengar, Deputy Commissioner of Hassan, Mysore (138), and by Mr. Malali Kalapa (228).

41. The system of advances is mentioned in Dr. Buchanan's book * on Mysore Canara and Malabar as prevalent in many industries as early as 1800 A. D. It was a common custom for a 'Gowda' or farmer to advance money to an agricultural labourer on condition of his working for him on his lands for a definite term. The wages were barely sufficient for the labourer's maintenance, so that advances were often made by the employer for marriages and other needs. The labourer was not free to go until he repaid the debt; and, as this in most cases became impossible, a state of servitude ensued which became hereditary. Such serfs were called Jithadars in Mysore Jummat in Coorg, Padiyals in Coimbatore and Chingleput, and Gothis in Vizagapatam. In return for their services they were housed, fed and clothed while they and their families worked only for their employer.

42. When labour was required for the development of the planting industry in Mysore, the planters had to pay off the debts of these labourers in order to secure their labour. A large emancipation of serfs took place, and complaints were made to Sir L. Bowring by the Gowdas of the Malnaad in Mysore against the Europeans in the early days of the planting industry. There can be no doubt that the introduction of this industry contributed mainly to break down the system of agrestic slavery which prevailed and that that system has practically ceased in Mysore whence labour for plantations in all parts of Southern India was at first drawn. The condition of the labourers improved; they began to buy lands of their own and by degrees the Mysore labour supply proved inadequate to meet the demand and recruitment began in other tracts. As has been shown above, the condition of the lower classes of agricultural labourers in these tracts did not materially differ from that of the Mysore Jithadars. They were generally in a depressed and indebted condition, and it was necessary to free them from debt before they could be got to leave their villages and undertake plantation work. To the present day this serfdom practically continues in Malabar and Canara. The demand for plantation labour and the transfer in many cases of the labourer's debt from the hereditary landholder to the planter or the planter's agent, have effected a partial emancipation, but many are still held in thralldom. Thus the advance system originated in the indebted and depressed condition of the labourer, which it has contributed to ameliorate.

43. The question then arises whether the system of advances has, as a fact, generally continued as a condition of plantation labour and if so, whether the system has been maintained out of necessity or only as a matter of custom. As to the fact of its continuance there is no difference of opinion. Local labour is sometimes obtained without advances; but as has been shown in the earlier portions of the report, the supply of local labour is quite insufficient in the case of every plantation district to meet the demand. The evidence we have taken is practically unanimous

that no estate is worked by imported labour without advances, and that there has been no material exception to this rule from the beginning of the planting industry. Nor can we find any trace in the official correspondence at our disposal, of a different state of things. One officer Mr. F. E. K. Wedderburn (already referred to), whose opinion on the subject of planters' grievances has occupied a prominent position in the various discussions of the subject, stated in that opinion "it is an undeniable fact that coolies are working at present in Wynaad in some estates without advances"; but there is nothing to show that this sentence refers to coolies imported from a distance and with the evidence before us we are unable to attach any importance to this single statement. One of the witnesses (14) claims to be an exception to the general rule, but, according to his own statement, he employs only about 35 imported coolies. The forms of contract which he appends to his written evidence as specimens of those usually adopted by him are framed on the supposition that advances are given; he admits having worked on the advance system up to June 1895, and only abandoned advances from the current year, and his evidence shows that he takes on coolies from day to day as they come for labour, from which it is clear that his system is not one which is applicable to the planting industry generally. He admits moreover that the advance is generally prevalent and states that it cannot be obviated by a higher rate of wage, because the cooly in that case "would become still more independent all the sooner and would need greater inducements probably to come to work on estates." We wished to examine this witness further and invited him to attend and give oral evidence, but he was unable to come owing to press of business. His evidence stands alone, and we are unable to attach any importance to it.

44. The next question is whether the continuance of the advance system is necessary and here also the evidence is practically unanimous in regard to imported labour. Apart from the witness above mentioned, there is only one planter whose evidence in any way favours the possibility of dispensing with the system. This witness (83) considers that the system is maintained, as far as the planter is concerned, of necessity; but he adds "I fancy custom as much as necessity induces the maistry to insist on getting advance. Where custom has made it necessary, the planter must conform to what may be only a custom but from years of usage has assumed the semblance of a necessity. Were all planters united in the wish to do away with advances and were they resolutely to combine with that end in view, I feel sure advances might become an evil of the past. But I fear that owing to the fact that local circumstances and requirements are so varied, such a combination could not at least for some time be effected." This can perhaps hardly be taken as an opinion against the necessity of advances, and every other planter who has given any evidence holds decidedly the opinion that the system cannot be dispensed with. In holding to this opinion it should be recognised that planters have every inducement from a pecuniary point of view to desire the change which they feel to be impracticable. The money which they advance bears no interest, and is sometimes lost, in some districts frequently and to an enormous extent. No one would give advances if he could get the labour he required without them. The consensus of evidence is therefore the more remarkable.

45. The reasons for this belief in the necessity of advances are summed up in the memoranda which have been mentioned in paragraph 40, and are repeated with more or less variation by a large number of witnesses. The most obvious cause lies in the history and character of the labourers. They belong to a depressed and indebted class. They have to be redeemed in the first instance from a condition of agrestic slavery by the payment of debts which are incidental to this condition. Their habit is to look to their employer for coming to their assistance in all cases of extraordinary expenditure. The custom of giving advances to such labourers in Southern India is universal; it is impossible for one industry to shake it off, so long as others recognise it. Even at the gold mines which have been quoted as an instance of work carried on without advances, advances are actually made by maistries to the coolies they engage, although wages amount to 8 annas a day. Hence apart from the initial necessity there is a chronic demand for accommodation in the shape of

advances on the part of all plantation labourers, which demand the planter is powerless to resist. These circumstances exist even in the case of local labour, and accordingly we find that for such labour, advances are very common, though not universal. But in the case of imported labour, the necessity is much more apparent. A labourer who leaves his family in his native village needs to leave something for their maintenance while he is away. If he is in debt to the money-lender (and few are not), he must pay off this debt. He needs expenses for his journey, and an inducement to migrate to a different climate, unknown surroundings, and all the other deterrents of expatriation which to the humbler native of this country appear very formidable. For these purposes a high rate of wage is not so great an inducement as hard cash, and for him it is insufficient. Then there is the important consideration that the planter must have his labour at a fixed time and for a fixed period, and without some guarantee for these conditions being fulfilled he cannot afford to depend on imported labour. He must have a hold on his labour or it is of no use to him, and this hold can only be obtained by a consideration, and that in the shape of an advance. Finally the labourer requires on his part a guarantee for his employment, and for him the only practical guarantee is the passing of earned money.

46. A few official witnesses, in answer to our special enquiries, have quoted the Periyár project as affording an instance of labour

The advance system as applied to other works.

having been obtained on a considerable scale without advances for works not connected with plantations. But the evidence of the Executive Engineer Mr. A. T. Mackenzie (11), who was employed on the works for nearly seven years, shows how completely unfounded is the belief that the Periyár project formed an exception to the general rule; and as this evidence throws a side light on the advance question quite apart from the planting interest, while the conditions of the labour, the locality and the class of labourers employed on work other than that performed by skilled artisans were precisely the same as those obtaining on plantations some of which are in close proximity to the project, it is quoted *in extenso*; Mr. Mackenzie says:—

“For nearly seven years I was employed on the Periyár Project and had to organize the greater part of the labour utilized there. The number of coolies on the works was latterly over 3,000, and there was also a good deal of more or less skilled labour, such as carpenters, masons, drivers, &c. All labour had to be imported from Madura, Tinnevely, Coimbatore and Travancore. Advances are universal in my experience, unless labour is available on the spot, and generally even then. I only know of one instance of labour in any quantity being obtained without advances. When the Periyár Works were started advances were not permitted. In order to attract labour a daily wage of 6 annas was offered for men, 4 annas for women and 3 annas for boys, being about double the customary rate in the Cumbum valley, Madura district, which was the nearest source of supply. Between 1,000 and 1,500 people were induced to come up and were employed on daily labour, chiefly on earthwork. A short trial showed that the work was costing over 500 per cent. more than the estimate, and an effort was made to substitute task work. The result was that all the coolies left except about 200, who were unavoidably employed on a daily wage. These coolies were the idlest and most troublesome I ever knew.”

“Finding it impossible to collect labour and get work done without advances, and sanction for advances being still refused, I began to give small sums out of my own pocket to ‘kanganies’ or heads of gangs of 20 or 30. These men procured coolies and took up piece-work on a very small scale. The sub-division of tasks was very inconvenient, and though the kanganies were selected with care and generally endeavoured to be honest, there were certain unavoidable losses which I could not afford. I accordingly pressed the question of Government advances and eventually obtained the necessary sanction. The alteration was very marked, and the supply of labour and the stamp of piece-worker were gradually much improved. By degrees the piece-worker took the place of Government in giving advances, and towards the end of the work the outstandings due to Government became much smaller and indeed almost ceased except in one or two special cases involving skilled labour. The piece-workers, however, made large advances and recouped themselves when the work done was paid for. The rates for work were liberal, and with proper management they ran little risk of loss. There was always, however, a certain number of incompetent and unsubstantial men who took up small speculative jobs and, failing to make proper profit out of the work, recouped themselves at the expense of their labourers. These men always secured the floating scum and riff-raff among the coolies and were always in difficulties either from cheating or being cheated. The ultimate result was of course a rise in rates and an expense to Government.

“I am sure there was not a single contractor or piece-worker at the Periyár who did not make large advances. It was, however, noticeable that those with some capital who were able (and inclined) to pay their coolies frequently, even if the work done had not been paid for, always

secured the best coolies with the least difficulty. It was a common saying among the maistries and subordinates that coolies would sooner go for nothing to a certain contractor than to others for any advance whatever. The contractor in question is at present doing a term of rigorous imprisonment for conspiring to forge bills and defraud Government, or his evidence might have been of value. The dictum was of course an exaggeration. It is certain, however, that prompt and just payments to coolies not only diminish the difficulties of securing labour, but also reduce materially the amount of advance necessary. Coolies are creatures of habit and are always suspicious of the unknown.

“All the reasons that go to form the advance system are impossible to detail, except after a very close study of the inner or village life of coolies; but having been brought into rather close contact with coolies for a good many years, I give such causes as have come under my observation.

“(i) A cogent reason for advances, at any rate at the Periyár, was that coolies hate the hills. The Periyár, being about 3,000 feet above sea-level and in an uninhabited tract of country among pathless jungles, meant to them cold, fever, rheumatic complaints and wild beasts, besides imaginary dangers so vague as to have no real shape in their minds; but the actual disabilities were quite enough to induce a very natural reluctance. Fever in particular was very bad at the Periyár, and the ratio of attendance at hospital per mille per month was sometimes as much as 700 or 800. It is comprehensible that a considerable temptation would be required to overcome these drawbacks.

“(ii) In addition to this, nearly all coolies are, to a certain extent, indebted to landowners, generally for advances of rice in time of scarcity, sometimes of rice for seed, sometimes for money. Many of the coolies at the Periyár insisted every year, in spite of every kind of persuasion, on going down to the plains at harvest time in order to work off their obligations to landowners—and this, though there was never any compulsion so far as I saw. It seemed as much a matter of course as the migration of birds. As soon as harvest was over, most of them returned. It is evident from this that to secure coolies for a clear year their indebtedness to the landowner must at any rate be discharged.

“(iii) Then there is the money-lender. Nearly all coolies are in debt to money-lenders for money advanced for marriages or ceremonies or purchases of jewelry, or for pawn of jewelry. The latter often at an enormous interest. Two hundred and fifty per cent. per annum is a rate that can hardly be said to be uncommon. A bond of this kind is very difficult to get rid of, especially for so improvident a creature as a cooly, and the money-lender is said to exercise every art to prevent its complete discharge. Consequently he has a hold over the cooly which entirely prevents the latter from permanently changing his residence. Many coolies are indebted to money-lenders in sums which it would be ruinous for any labour-contractor to advance, and the utmost he can afford is a payment on account which shall induce the money-lender to allow the cooly to go away for a brief period. Many coolies pass their whole lives in debt and die both young and old, without property of any kind, so that the money-lender does not realize the utmost of his profit, but his exactions are reported to be such that on the whole I believe him to be the principal obstacle to the free circulation of labour.

“(iv) Another small reason I have heard, but cannot vouch for, and it can in any case be of inferior force. Certain coolies do, I believe, rise so far as to sub-rent land from puttahdar and cultivate it. They are willing to go to other districts on condition of an advance being given to other members of the family who are left behind to attend to the land. They also apply part of such sums to the maintenance of their sick and aged during their absence. In such a case their motive for going would merely be the certainty of a sum in hand and the prospect of better wages in distant and difficult localities.

“(v) There are also other considerations, the effect of sentiment. The cooly is very Swiss in his regard for his village. It is there he loves to live and it is thither he is carried if he expects to die, or if medicine does not cure him in sickness. Particularly in the hot months does he look forward to the family life at home. It is the idle season, it is warm, it does not rain, and life is a long blissful siesta. In his more active moments he furbishes up old family feuds, takes sides in the parochial dissensions, arranges for the transplantation of landmarks, and spends long hours in the shade discussing the most minute affairs of the country side under every aspect and with endless repetitions. The hot weather is also the season for marriages and other tamashas and a cooly may be said to look forward to it in much the same way as a schoolboy to the summer holidays. To anyone who has made a study of the cooly, all this is of much more weight than would be supposed, and alone, without other circumstances, would, in my opinion, prevent 8 coolies out of 10 from making a home in a strange country, particularly in the hills, in a district unknown to them, sparsely inhabited, without a bazaar, exposed to cold and fever, and among surroundings utterly uncongenial.”

But Mr. Mackenzie's evidence does not stand alone. The necessity of advance for imported labour is practically affirmed by the whole mass of official and non-official evidence, which treats of the subject apart from the planting industry. The Chief Engineer of the Nilgiri Railway (12), the Chief Engineer to the Madras Government (29), the Chief Engineer, Mysore State (139), the Chief Engineer Travancore State (265), the Chief Engineer, Arsikere-Mangalore Railway Survey

(320), head the list; and these are followed by all the Executive Engineers, District Engineers, Civil Engineers and contractors whose evidence was taken by the Committee.

47. In answer to the question whether the advance system on plantation can be obviated by payment of a higher rate of wage, the evidence of the witnesses is equally unanimous. The attempt has been made in some cases, but has not been successful; many witnesses say that even if it were possible the rate of wage would be prohibitive, and would ruin the planter; but there is a general consensus that advances would be demanded whatever rate of wage was offered. The necessity of the advance is founded on the considerations given above, many of which are independent of the rate of wage; the present rate is sufficient to enable the labourer to save considerably, yet he refuses to come without advances; labour paid higher than cool labour is not obtainable without an advance. One witness (192) says that in time an increase in the rate of wages might bring in labour but time cannot be granted. As this witness is the only one who admits even this much, his remarks on the necessity of advances are here quoted. He says "There can be no doubt that the advance system has been for so long *customary* that it is *necessary* for most districts and to stop it suddenly would involve the ruin of the industry. It might be done, under exceptional circumstances, in a few of the places which are best supplied. In most cases coolies would not come in of their own accord, or in any case would turn up so late that ruinous damage would be done. There would besides be no *distribution* of labour. The districts easiest to reach might be flooded with labour, most of which would have to return in want and destitution. Other far off places would be left bare, and in a short time, ruined. In time the thing might right itself, and the ordinary law of demand and supply assert itself; but in a case of this sort, it is impossible to grant *the time*, for even one season's delay in labour supply would be fatal. Were there a large supply of *local* labour the case would be different; but as nearly all the required coolies have to be brought from a distance, some expenses or advance (call it what you will) must be given."

48. We find, therefore, that however much planters would be benefited by the abolition of the advance system, its abolition is impossible under existing circumstances, and that this method of meeting the planters' difficulties cannot be regarded as practicable. On this subject we find that there is a practical consensus of opinion among the planters themselves and that this opinion is corroborated by the testimony of other employers of labour.

49. With this finding we should have been prepared to dismiss this portion of our subject, but for the statement made by His Excellency the Viceroy in replying to the Planters' Memorial, that not only the desirability but also the

necessity of the system of advances was a matter as to which they themselves were by no means agreed. We find that they are now practically agreed as to its necessity, but we have thought it our duty to refer to the records at our disposal to ascertain, if possible, the grounds of this statement. Our information is probably not complete, but we have failed to find any

To Secretary to Government of India, Revenue and Agricultural Department, No. 1458, Judicial, dated 10th August 1892.

record of such an opinion. The Madras Government in paragraph 3 of the letter marginally noted remarked that "the system of advances is admitted by many of the planters themselves to be objectionable," but it was added "they defend it on the ground of necessity." Mr. Wedderburn, whose opinion has been previously alluded to, stated in the course of the correspondence which led to the above-quoted letter of the Madras Government, that "many planters profess themselves to be averse to the advance system and say they would gladly see it done away with; only if one planter refuses the advance, the maistry would go to another who would give it." The only planter quoted by Mr. Wedderburn is Mr. J. Ryan whose remarks imply that the advance system was worked objectionably under Act XIII of 1859, but cannot be taken as an opinion that advances can be entirely dispensed with; and Mr. Wedderburn himself in the same letter says "It is very

difficult to say whether advances can be altogether done away with, or to say positively what will happen if they are done away with, and I wish especially to avoid theorising." The only other planter's opinion on record in the official correspondence in the possession of the Committee which can in any way be quoted against the advance system is that of Mr. Teare, mentioned in a letter from the Officiating District Magistrate of the Nilgiris in the same correspondence. But Mr. Teare, while stating that the system is bad, adds that it cannot be entirely done away with. Our attention has been drawn to Mr. Chisholm's letter in the *Madras Mail* of 2nd August 1893, in which the following words occur "We want to abolish totally the pernicious and demoralising practice of advances. This may not be possible at first. I think it may, but probably few planters agree with me. At any rate, if it is a necessary evil we should try and reduce it to a minimum." This view, which was controverted by Mr. Romilly in the *Madras Mail* of the 9th August 1893, hardly amounts to an opinion that advances are unnecessary, and we find that Mr. F. W. Gerrard (58) who is Mr. Chisholm's manager, holds the opinion that the advance system on plantations cannot be obviated by a higher rate of wage, and states "I have offered as high as 6 annas per man" (*i.e.*, fifty per cent. more than the average rate given by this witness) "for coolies without advance and have failed to get any." It is stated in the enclosure to witness No. 38, that Mr. Elliot advocated a limit being placed on the amount of advance, and in his book on "Gold, Sport and Coffee Planting in Mysore," page 317, he says that he drew up a draft of a proposed Act which he laid on the table for the consideration of the Mysore Government when he attended the Representative Assembly in 1891. This Bill had for its object the registration of advances and limitation of their amount and was referred (page 62) to the Planters' Association for consideration. This latter subject has been discussed by the United Planters' Association during the last two years, but such a proposal does not involve an admission that advances are totally unnecessary. We are unable, therefore, to ascertain that any planter has put forward, in any official or public document, the opinion that advances can be entirely dispensed with; and there is nothing on record before us to controvert the evidence which has now been accumulated, that advances are absolutely necessary for imported labour.

CHAPTER VII.

THE LAW RELATING TO THE MIGRATION OF LABOUR AND THE ENFORCEMENT OF LABOUR CONTRACTS IN SOUTHERN INDIA.

50. Before proceeding to discuss the difficulties experienced in the operation of the system of advances as at present worked, and the best methods of removing them, we must give some

Scope of the chapter. account of the law bearing on the subject, of the representations of the planters made from time to time in regard to its operation, and of the manner in which those representations have been disposed of by Government. The first consists of two parts, viz., the law relating to the migration of labour, and that relating to the enforcement of labour contracts. These matters will form the subject of the present chapter.

51. It will be seen from the previous chapters that migration of labourers to work on plantations takes place—

- Migration of labourers.
- (i) from one district to another within the territorial limits of the Madras Presidency;
 - (ii) from districts within the territorial limits of the Madras Presidency to Coorg;
 - (iii) from districts within the territorial limits of the Madras Presidency to the Native States of—
 - (1) Mysore,
 - (2) Travancore, and
 - (3) Cochin;
 - (iv) from Mysore to districts within the territorial limits of the Madras Presidency and to Coorg;
 - (v) between districts within the Mysore State; and
 - (vi) between districts within the Travancore State.

No such migration obtains from Travancore and Cochin to any of the planting districts in Southern India or within the Cochin State itself.

52. The official returns show further that numbers of labourers go annually from the Madras Presidency to other parts of India, and to Ceylon and at one time the Madras Government proposed to control the whole of this migration by a special law. This was in 1865 when an application had been made by the planters of South Wynaad for the enactment of a law between master and servant, and when certain facts had been brought to notice in connection with the uncontrolled recruitment of labour in the Madras Presidency for employment in the Bengal Presidency, and the Madras Government made the following observations * :—

* G.O., No. 261, Legislative, dated 12th July 1865, paragraphs 2 and 3.

“As the law now stands, the Madras Government has no power to exercise any check or supervision over the emigration of coolies proceeding to other parts of India or to Ceylon. It is clearly very desirable that they should be empowered to exercise a check and control over such operations, similar to that which is now exercised by the Government of Bengal, under the provisions of Act III of 1863 and Act VI of 1865; and should the Government of India see no objection, and at the same time not be disposed to pass a general law on the subject applicable to the whole of India, the Governor in Council would be prepared to introduce a Bill into the local council for this purpose, in the scope of which should include the recruitment of labourers for employment in the coffee districts of this Presidency, with the view of affording that protection which the Bengal Act gives both to the labourers and employers of labour,

and which is much needed in Wynaad and the other coffee districts. But it appears to His Excellency in Council that the subject is one which, like emigration to the Colonies, may be more fitly dealt with by an Act passed by the Council of the Governor-General, inasmuch as in the case of emigration from one Presidency to another, the emigrants would be brought under the supervision of the authorities of two different Presidencies. An Act comprising the provisions of the Bengal Act, but applicable to any part of India to which the Local Administration may deem it proper to apply it, is all that is wanted. The Governor in Council is disposed to think that such an Act might, with advantage, be applied to Wynaad and the other coffee districts in this Presidency and that it would, to a certain extent, meet the object sought by the planters of South Wynaad in that part of the addresses presented by them last year to His Excellency the Governor in which they urged the want of a good law between master and servant. It would secure for the employers of labour protection against breaches of contract by labourers whom they have brought from a distance at their own expense and would, on the other hand, ensure proper treatment for such labourers at the hands of their employers.”

53. Before, however, making a reference to the Government of India, the Madras Government consulted the Collectors of certain districts and the planters of South and North Wynaad and the Nilgiri Hills. On considering the reports received, the Governor in Council found * that they concurred “on one point, viz., that the two objects—first, of protecting and regulating the recruitment and transport of labourers from one district to another, and second, of protecting the interest of the labourers and of the employers of labour in the planting districts—should be kept distinct and should be provided for in separate enactments,” and was “clearly of opinion that the measures to be taken for controlling emigration and transport of labourers from any part of this Presidency to any other part of India should form the subject of a separate enactment, but it seems scarcely necessary that the transport of labourers from one district to another by land should be regulated by legislation or that any further restrictions than are at present provided for in

Decision of the Madras Government on the proposal.

* G.O., No. 542, Public, dated 30th May 1866, paragraphs 2 and 3.

Act XXV of 1859 † should be imposed on the emigration of labourers from the continent of India to Ceylon.” Thus the original proposal that Government should take power to superintend the emigration of plantation labourers from one district to another within the territorial limits of the Madras Presidency, was abandoned and has never been revived. The question does not seem ever to have actually arisen with regard to the emigration of labourers from the Mysore Province to districts in the Madras Presidency, although the Wynaad Planters' Association were apprehensive ‡ that restrictions would be placed on such emigration by the Mysore Government after the rendition in 1881. Hence the movements of plantation labourers within the territorial limits of the Madras Presidency itself and from Mysore to districts in the Madras Presidency are, and always have been, entirely free from legislative or administrative control.

† Now Act X of 1887.

‡ Letter from Chief Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Home Department, dated 16th August 1880, No. 1989, Judicial. Letter from Secretary to the Government of India, Foreign (Judicial) Department, to the Chief Secretary to the Government of Fort Saint George, dated 10th January 1881, No. 18-1.J.

54. But Madras Act V of 1866 was the result of the deliberations of the Madras Government to which reference has already been made. This Act was intended “to regulate the manner of engaging and contracting with Native inhabitants within any of the districts subject to the Government of Fort Saint George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras;” the definition of the word ‘contractor’ in section 1 includes planters and plantation maistries; section 2 makes contracts for labour in any part of India beyond the territorial limits of the Madras Presidency unlawful unless entered into in conformity with the provisions of the Act; power is given to the Madras Government by section 3 to appoint protectors of labourers, whose duties are indicated generally in section 4, and, as regards emigration by sea, in section 14; rules for licensing contractors and recruiters of labourers, for the registration of labourers, for the payment of fees, and, if considered necessary by the protector of labourers, for the establishment of depôts are laid down in

Madras Act V of 1866 and its provisions.

sections 5, 6, 7, 8, 9, 10, 11, 13 and 15; penalties for breaches of the rules are provided in sections 16, 17, 18 and 19; section 20 lays down the procedure to be adopted in prosecutions under the Act, and by section 21 the Act came into force on the 1st November 1866. In pursuance of this Act * the several District Magistrates in the Madras Presidency and, in their absence, their Senior Assistants were, under section 3, appointed protectors of labourers by G.O., No. 1206, Public, dated 22nd November 1866, the Protector of Emigrants being similarly appointed for the town of Madras.

55. In 1867 the Madras Government prohibited the recruitment of labourers in the Madras Presidency for the tea estates in Bengal and Assam, but withdrew † the prohibition in 1889, on the strong representations made by the Governments of India and of Bengal and allowed emigration to take place from the districts of Ganjām and Vizagapatam under Madras Act V of 1866, the Collectors of these districts being re-appointed protectors of labourers. We have no information as to the necessity for such reappointment, as the appointments originally made do not appear to have been ever cancelled, but considerable ‡ advantage was taken of the new arrangement in the following year, when 3,501 labourers emigrated to Assam from the Ganjām district, only nine emigrating from Vizagapatam. The system continued throughout 1891, but the Inland Emigration Act I of 1882 was extended § to the Ganjām district with effect from the 1st April 1892. The Madras Government now states, in reply to a reference made by us, that Madras Act V of 1866 "was practically superseded by the extension of Act I of 1882 to the Ganjām district," but we venture to think that this statement is too wide. The Inland Emigration Act, 1882, relates exclusively to emigration to the labour districts of Bengal and Assam, and although it has taken the place of Madras Act V of 1866 so far as emigration to those provinces from the single district of Ganjām is concerned, it cannot, as we think, be held to have superseded, even practically, the Madras Act with regard to emigration from any Madras district to any part of India, other than Bengal and Assam, beyond the territorial limits of the Madras Presidency.

56. The question as to the parts of India which the legislature intended to include in the scope of Madras Act V of 1866 was settled in the following manner || by the Select Committee, appointed to report on the Bill. "It has appeared to us desirable that the provisions of the Bill should be made applicable, not only to cases in which labourers may be engaged for employment in such places beyond the territorial limits of this Presidency as are under the direct Government of Her Majesty, but also to cases in which the engagements may be for labour to be performed in any Native State or foreign dependency in India—such as Travancore, Cochin, Mysore, Hyderabad and the French Settlement of Pondicherry. We have, therefore, substituted the word 'India' for 'British India' throughout the Bill, and inserted an interpretation clause defining the former term as including all Native States and foreign dependencies within the territories vested in Her Majesty by the Statute 21 and 22, Victoria, Cap. 106."

57. Hence it is clear that Madras Act V of 1866 is the law which ought to regulate emigration from all districts of the Madras Presidency to Coorg and to the Native States of Mysore, Travancore and Cochin. But none of the witnesses, residing in those parts of India and employing labour obtained from districts subject to the Government of Fort Saint George, whom we examined orally, had ever heard of Madras Act V of 1866, while the Madras Government ¶ "is not aware of any cases in which the penal provisions of sections 16, 17, 18 and 19 of Act V of 1866 have been put in force as regards the recruitment of labour in the Madras

* List of appointments forwarded with Madras Government Memorandum No. 1655, Public, dated 15th August 1896.

Extent to which the Inland Emigration Act I of 1882 affects Madras Act V of 1866.

† G.O., Nos. 718-719, Public, 28th October 1890.

‡ G.O., Nos. 489-490, Public, 19th June 1891.

§ G.O., No. 44, Public, dated 21st January 1892.

The scope of Madras Act V of 1866.

|| Paragraph 2 of the report of the Select Committee appointed to report on Madras Bill I of 1866 (V of 1866).

Madras Act V of 1866 practically a dead letter as regards plantations in Southern India.

¶ Memorandum No. 1655, Public, dated 15th August 1896.

Presidency for employment in the Native States of Mysore, Travancore and Cochin" and has not "any information as to the cause of this." The reports on the administration of criminal justice in the Madras Presidency for the last five years show that 16 persons were convicted in three cases in 1890 of offences punishable under the Act, but these prosecutions were in connection with emigration from the Ganjām district to Bengal, prior to the introduction into that district of Act I of 1882. As regards emigration from the Madras Presidency to Coorg and the Native States of Mysore, Travancore and Cochin, the Act has been a dead letter since the date on which it was declared to come into force, and such emigration has, therefore, in practice been as free from control as emigration from one district to another in the Madras Presidency and from Mysore to districts in Madras.

58. We now come to the second head, viz., the law relating to the enforcement of labour contracts. Besides the ordinary civil law, the only machinery available for enforcing labour contracts in Southern India is that contained in India Act XIII of 1859, in section 492 of the Indian Penal Code, in section 12 of Madras Act V of 1866 and in the corresponding enactments in the Native States of Mysore, Travancore and Cochin.

The ordinary civil law, under which suits can be instituted in the appropriate courts either of British India or of the Native States and in fulfilment of which the service of processes and the execution of decrees are matters of reciprocity, requires no remarks at present, but the particular legislation to which reference has been made in the last paragraph must be examined in detail in respect of the territory in which it prevails.

59. With regard to plantations within the Madras Presidency, India Act XIII of 1859 was extended to the districts of the Madras Presidency beyond the Presidency Town by a notification of the Local Government, dated the 23rd August 1859.* Its object, according to the preamble, is to punish artificers, workmen and labourers who have received money in advance on account of work which they have contracted to perform and are guilty of "fraudulent breach of contract," the word contract being declared by section 4 to include "all contracts and agreements, whether by deed or written or verbal and whether such contracts be for a term certain or for specified work or otherwise." Under section 1, a master or employer may complain to a magistrate of breach of contract on the part of any artificer, workman or labourer whom he has engaged and if it is proved that the artificer, workman or labourer has received money in advance on account of any work and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, then under section 2, the magistrate shall, at the option of the complainant, either order such artificer, workman or labourer to repay the money advanced or such part thereof as may seem to the magistrate just and proper, or order him to perform or get performed such work according to the terms of his contract. Thus it will be seen that, notwithstanding the express object of the Act, a workman or labourer proved to have committed even fraudulent breach of contract is not punished, but is merely liable to an order directing him to fulfil his contract or to repay, in whole or in part, the money he has received in advance. His conduct becomes criminal only if he disobeys the magistrate's order, in which case he is subject to the punishment provided in section 2 and altogether, therefore, so far as this Act is concerned, a breach of contract, which is described in the preamble as fraudulent, is not a penal offence. Notwithstanding this, the Act has come to be called the Criminal Breach of Contract Act, it has been described as a lenient law of penal contract, and processes issued under its provisions have always been regarded as and classed with processes issued under the criminal law.

60. The next point which presents itself to notice is that the operation of the Act may be extended under section 5 by the Governor-General of India in Council or by the Executive Government of any Presidency or place only to places "within the limits of their respective jurisdictions."

Processes under Act XIII of 1859 issued by British Courts recognized and respected by Mysore and Coorg Courts.

Nevertheless in 1877, while Mysore was directly under British administration, the Wynaad planters, who then appear to have drawn four-fifths of their labour from the Mysore Province, represented in a memorial to the Viceroy * "that much loss and inconvenience to their industry was caused by the cumbrous formalities attendant upon the extradition of criminals from Mysore to the Wynaad," their object as shown in paragraphs 4 to 6 of their letter † to the Madras Government, dated the 29th August 1877, being to insure the performance of contracts made with Mysore labourers. In consequence of this memorial the Government of India instructed the Chief Commissioner of Mysore to "issue an executive order in Mysore directing that processes issued by Wynaad courts and claims for the surrender of accused persons to Wynaad magistrates shall be treated and respected by the magistrates and the police of Mysore and Coorg just as if such processes had issued or such claims had been made by magistrates of a neighbouring Mysore district." Since Coorg is part of British India, it is not clear why Coorg should have been mentioned, but an order to the above effect was issued by the Chief Commissioner in notification No. 201, dated the 2nd October 1877, and, at the instance of the District Magistrate of the Nilgiris, the Madras Government, in a letter to the Chief Commissioner, dated the 4th March 1878, requested an extension of the order "so that the Nilgiri district, equally dependent on Mysore for its planting labour, may be included in the concession in question." On this the Government of India, under the advice of the Chief Commissioner, issued ‡ a general instruction for the observance by all magistrates and police officers in Mysore of processes issued by all British criminal courts and a notification, No. 111, Criminal, was published accordingly by the Chief Commissioner on the 23rd July 1878.

* Letter from Officiating Secretary to the Government of India, Foreign Department (Judicial), to Chief Commissioner of Mysore, dated 20th September 1877, No. 3 C.J., printed with Madras G.O., No. 2447, Judicial, dated 15th October 1877.

† Printed with Madras G.O., No. 2206, Judicial, dated 14th September 1877.

‡ Letter from Under Secretary to Government of India, Foreign Department, to Chief Commissioner of Mysore, No. 84 J., Judicial, dated 25th June 1878.

61. This notification, promulgated under the authority of His Excellency the Viceroy and Governor-General, had the force of law and in view of the impending restoration of the Mysore country to native rule, the Wynaad planters prayed in 1880 § that the privilege granted them as regards the execution in Mysore of processes from courts in British India might not be withdrawn. At first the Government of India thought || that it might "be difficult so to arrange matters that the existing procedure should not be in some degree affected by the termination, in Mysore, of the present system of administration." On this resolution being communicated to the Wynaad Planters' Association, they ¶ repeated their request, pleading the enormous interests at stake, the great extent to which they had for years given employment to the surplus population of Mysore at remunerative rates of pay, the large advances outstanding and particularly that, having been fostered for many years by the Government of Madras and by that of Mysore represented by the Government of India, they had made their engagements, and risked their money in the full faith and belief that whatever changes might occur in the Government of the Mysore Territory, their interests would be protected by their own Governments. In the end, ** the Government of India caused the Association to be informed that it had been made part of the law of the Mysore State that processes issued by courts in British India should continue to be executed in Mysore in the same manner as if they had emanated from courts in Mysore. Thus the planters in the Madras Presidency, possessing as they do the right to demand extradition from Mysore of persons accused under Act XIII of 1859 of breach of contract have, so far as the execution of processes is concerned, the same security in regard to the performance of contracts entered into with Mysore labourers as they have in regard to contracts entered into with labourers belonging to the Madras Presidency itself.

§ See Madras G.O., No. 1988, Judicial, dated 16th August 1880.

|| Foreign No. 18 I.J., dated 10th January 1881.

¶ Madras G.Os., Nos. 526 and 527, Judicial, dated 12th March 1881.

** Foreign No. 225 I.J., dated 9th November 1881.

62. Attention must here be drawn to the fact that this demand for the extradition of defaulting labourers from Mysore is altogether outside the Extradition Act XXI of 1879, because breaches of contract cognizable under Act XIII of 1859 are not offences included in the schedule to the Extradition Act, and it is worthy of note that such a demand cannot be made on Travancore or Cochin. No labourers from either of those States appear at present to be employed in the Madras Presidency, but in 1883 the District Magistrate of the Nilgiris solicited sanction for the execution of processes under Act XIII of 1859 in Cochin Territory, so that the procedure might be similar to that obtaining in the Mysore Territory and the Madras Government * negatived the proposal pointing out that "persons accused in Mysore under that Act" (XIII of 1859) "who may escape into British Territory, cannot be handed over to the Mysore authorities, the offence not being mentioned in the schedule attached to the Extradition Act (XXI of 1879)" and remarking that they were "not prepared to ask for the extradition of persons committing offences under the Act, XIII of 1859, from the Government of Cochin when the Magistrates in British Territory are unable to reciprocate the procedure on their part."

The system not sanctioned by the Extradition Act, not in force with regard to Travancore and refused by the Madras Government with regard to Cochin.

* G.O., No. 2156, Judicial, dated 15th August 1883.

63. Concurrently with Act XIII of 1859, section 492 of the Indian Penal Code, which came into force on the 1st May 1861, provides a remedy against breach of contract by enacting that any person who, being bound by a lawful contract in writing to work for another person as an artificer, workman or labourer, for a period not more than three years at any place within British India to which, by virtue of the contract, he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, is liable to be punished with rigorous or simple imprisonment for a term which may extend to one month or with fine not exceeding double the amount of such expense or with both, unless the employer has ill-treated him or neglected to perform the contract on his part.

64. It will be observed that as in Act XIII of 1859, so in this section of the Penal Code, the contracts in question are contracts made with artificers, workmen or labourers and that the employer must have incurred some expense in respect of those contracts. But at this point the similarity between these parallel provisions of the law ceases. Under Act XIII of 1859, a contract need not be written, it may be for a term certain or for specified work "or otherwise" and a breach of contract is not immediately visited with punishment, but entails in the first instance such an order as might be passed by a Civil Court, whereas according to section 492, Indian Penal Code, every contract for work must, as required by the English Statute of Frauds, be in writing, the period must not exceed three years and the breach of contract itself is punishable, no power to order performance of the contract being allowed. Another point of difference is that, unlike Act XIII of 1859, under which it is immaterial whether the contract is to be performed at the place where the labourer resides or at a distant place, section 492, Indian Penal Code, only applies to cases where the labourer has been or is to be conveyed to a place within British India, distant from his abode. Subject to these distinctions, planters in the Madras Presidency are at liberty to avail themselves either of this section or of Act XIII of 1859.

65. This however is not all, because no change was made in the words of the section when the Indian Penal Code was adopted by the Mysore Government at the rendition, and Mysore labourers are therefore liable to be prosecuted under its terms for breaches of contract to serve at places within British India, though they are not so liable for breaches of contract to serve at places in Mysore Territory. We understand that the Mysore Government contemplate substituting the words "Mysore Territory" for the words "British India," but the actual state of the

The corresponding section of the Mysore Penal Code as affecting British India plantations.

law at present is what we have described. Thus it has hitherto been open to planters in the Madras Presidency to take action under section 492 of the Indian Penal Code not only against labourers belonging to British India, but also against labourers belonging to the Native State of Mysore.

66. The law contained in Act XIII of 1859* and in section 492, Indian Penal Code, generally with regard to labour contracts prevails in the Province of Coorg as it does in the Madras Presidency, and moreover since Coorg is part of British India, Coorg planters are in precisely the same position as Madras planters in respect of extradition from Mysore of persons accused under Act XIII of 1859, in respect of the inability to demand extradition of such persons from Travancore and Cochin and in respect of the scope of section 492, Indian Penal Code, as in force at present in Mysore.

67. But with regard to labour recruited from the Madras Presidency in particular, Madras Act V of 1866, of which we have given the history in paragraph 54 of this report, is legally applicable to Coorg, and section 12 of this Act provides that if any labourer shall, without good and sufficient cause, refuse or neglect to proceed to the place at which the contract is to be performed, it shall not be lawful to compel him to proceed to or to detain him at any place against his will, but that nothing in the section shall be taken to diminish or affect in any way the legal liabilities, civil or criminal, of such labourer incurred by him by reason, or in respect, of his refusal or neglect aforesaid. Then after providing that every case in which a labourer is charged before a Magistrate of the Town of Madras with refusing or neglecting to proceed as aforesaid shall be heard and determined by such Magistrate in a summary manner, the section directs that every such labourer shall on conviction be punished in the manner provided in section 492 of the Indian Penal Code for the punishment of offences under that section.

68. In considering this section of Madras Act V of 1866, it will be observed, in the first place, that the only Magistrate mentioned as having jurisdiction to try cases of breach of contract is a Magistrate of the Town of Madras, although under section 20 "all prosecutions under this Act shall be instituted, on information laid at the instance of the protector of labourers, before a Magistrate of Police or before a Magistrate of the district, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the Town of Madras." Prosecutions under the latter section, however, would seem to be prosecutions for illegal recruiting dealt with in sections 14, 16, 17, 18 and 19, and it is open to doubt whether a protector of labourers can be expected to protect employers by laying information of breaches of contract punishable under section 12. If the intention of the legislature was that a Presidency Magistrate alone should try cases of breach of contract by labourers, the difficulty, if not the impossibility, of working section 12 with regard to plantation labourers for Coorg recruited from the districts of the Madras Presidency and not from the Presidency Town, is too obvious to need comment, and it can only be regretted that the intention of the legislature was not made clearer.

69. In the next place, section 12 of Madras Act V of 1866 coincides with section 492, Indian Penal Code, in merely prescribing a punishment for breach of contract and in failing to provide means by which an employer can have the work for which he has contracted, performed, and fails further to provide any penalty for desertion from service, which, under section 492, Indian Penal Code, is an offence equally with refusal or neglect to proceed to the place of service. The Madras Act is thus less comprehensive than the Penal Code so far as the interests of the employer are concerned, and on the other hand it does not protect the labourer to the same extent because, even if registration under section 10 is considered to take the place of the written contract required by the Penal Code, a contract made under it may be for an indefinite term of years instead of being limited, as it is by the Penal Code, to three years. The importance of this point will be apparent when it is remembered that the extension of the statutory period

of contract from three years under Bengal Act VII of 1873 to five years under the Inland Emigration Act I of 1882 was regarded* by the Secretary of State in Council with much misgiving and that the maximum was reduced to four years by section 5 of India Act VII of 1893.

* Secretary of State's despatch, dated 11th February, 1892, Public (Emigration), No. 13.

70. Turning now to the Mysore State, we find that since section 492, Indian Penal Code, which was one of the enactments included in the schedule attached to the Instrument of Rendition, 1881, applies, as we have already remarked, to contracts for work to be done at places within British India and not to contracts for work to be done at any place within Mysore Territory, the only laws of which Mysore planters can avail themselves for the purpose of securing performance of contracts are Act XIII of 1859, which was also one of the scheduled enactments, and section 12 of Madras Act V of 1866. We have nothing to add here to the observations we have made on the Madras Act, but Act XIII of 1859 demands further notice in connection with the position occupied by Mysore planters under it with regard to their control over labour for their estates.

71. In paragraphs 60 and 61 of this report, we have pointed out that, at the instance of the Wynaad planters and the District Magistrate of the Nilgiris and independently of the Extradition Act, 1879, orders having the force of law were issued under the direction of the Government of India by the Chief Commissioner of Mysore in 1877 and 1878 for execution in Mysore of all processes issued by British Courts in the same manner as if they had emanated from courts having jurisdiction in Mysore, that processes under Act XIII of 1859 are included in such criminal processes and that the law on the subject has remained the same since the rendition of the Mysore State to native rule. But when this arrangement was first sanctioned, the idea† was also enter-

† Absence of any arrangement by which processes issued by Mysore Courts under Act XIII of 1859 can be enforced by British Courts.

† From Government of India, Foreign Department, to Government of Madras, No. 4-C.J., dated 20th September 1877.

tained of establishing thorough reciprocity in the matter of criminal processes between Mysore and Madras districts so long as Mysore was governed by British officers under the Criminal Codes of British India, and the Madras Government were requested to state their views on the possibility and expediency of establishing such reciprocity. The question was referred to the Advocate-General of Madras, and meanwhile the Mysore Planters' Association, in a letter addressed on the 15th January 1878 to the Secretary to the Chief Commissioner of Mysore, pointed out "the injustice and hardship to Mysore planters of their being unable to get warrants issued by Mysore officials acted upon in British Territory, whilst the Chief Commissioner of Mysore had given orders that all summonses and warrants issued by Magistrates in the Wynaad district should be acted upon by officers in Mysore in the same way as if the processes had been issued by Mysore Magistrates," requested the Chief Commissioner to "support them in their claim to reciprocity in this important matter, as many of them drew labour from parts of the British Territory, but warrants issued by Mysore Magistrates were of no avail" and urged that they had "every right to demand the same privileges as were granted to their brethren resident in British Territory." This communication was forwarded by the Chief Commissioner of Mysore to the Madras Government for consideration, and after receiving the Advocate-General's opinion on the reference made by the Government of India, the Madras Government expressed themselves thus:† "On the question of complete reciprocity between the two countries, this Government feel it difficult to advise any steps for ensuring that reciprocity. As legislation appears to be necessary to allow of the recognition of Mysore process in British India, it seems a question whether such action should be taken, especially in view of the contingency of the country of Mysore being restored at no distant date to native rule. Such legislation would necessarily be a foundation for general reciprocity between the adjacent Native States and this Government—in effect placing British subjects very much at the mercy of the magistracy of the surrounding Native States. The policy is extremely doubtful and this Government do not recommend it." This

† G.O., No. 466, Judicial, dated 4th March 1878.

view was accepted by the Government of India who informed the Chief Commissioner of Mysore that they considered it doubtful whether complete reciprocity was attainable without legislative action which they were not prepared to take under the existing circumstances, that in future the criminal processes of British Courts would be respected in Mysore exactly in the same manner as processes of Mysore Courts, the criminal processes of Mysore Courts being respected in British India to the extent and in the manner provided for by the Extradition Act. This system, they observed, failed to give the exact reciprocity which had been contemplated, but they were of opinion that the slight advantage conferred on British Courts by the difference of procedure was of no material consequence. We shall see hereafter that so far as the relative position of the British India and the Mysore planter is concerned, the disadvantage to the latter has been considerable.

72. No further proposals on the subject appear to have been made until 1887,

The proposal to include Act XIII of 1859 in the schedule of the Extradition Act negatived.

when the Resident in Mysore informed the Madras Government that, if they saw no objection, he would be prepared to suggest to the Government of India that offences punishable under the Criminal Breach of Contract Act should be added to the list of offences given in the schedule annexed to the Foreign Jurisdiction and Extradition Act, 1879. To this suggestion the Madras Government demurred,* stating that in their opinion the effect of a notification issued under section 11 of the Extradition Act could not apparently be confined to the Mysore State, but must necessarily apply to all States in India in alliance with Her Majesty, and that for this reason alone they considered the issue of such a notification as that suggested very undesirable. They also thought that even if this view was incorrect or even if the difficulty were overcome by legislation, it would still be objectionable to include such an offence as breach of contract within the schedule of the Extradition Act, because, strictly speaking, it was not an offence at all and because the endless trouble and difficulty which the application of the provisions of the Extradition Act would entail upon officers of the British Government and the Mysore Government by labourers absconding after being ordered to fulfil their contracts would be wholly incommensurate with any advantages which might be gained. In conclusion, they observed that the question of reciprocity was fully considered in 1878 when it was decided that complete reciprocity was impossible. The matter was re-opened by the Planters' Associations in 1892, 1893 and 1895, but on each occasion, of which the details will be recounted hereafter, the proposal for extradition in one form or another, from British India of persons accused in the Courts of the Native States of breaches of contract has been negatived.

Hence the result of the orders which have been passed from 1877 to 1895 is that while planters in British India have, for nearly twenty years, been able to obtain the extradition from Mysore of labourers accused under Act XIII of 1859 of breach of contract, there is no reciprocity of procedure in the case of defaulters from estates in Mysore, and Mysore planters are therefore disabled from making use of the Act against any labourers who are recruited from, or take refuge in, places beyond Mysore Territory.

73. The only planting districts in which the legal position of planters with

The Law in Travancore and Cochin.

regard to the enforcement of labour contracts has still to be considered are situated in the Native States of Travancore and Cochin. To both these States, section 12 of Madras Act V of 1866 is applicable in the same manner that it is applicable to the province of Coorg and the State of Mysore; section 492 of the Indian Penal Code has been re-enacted with the substitution of the word 'Travancore' and of the word 'Cochin' for the words 'British India,' and Regulation No. I of 1040 Malayalam Era (1865) in Travancore and Regulation No. II of 1041 Malayalam Era (1865) in Cochin correspond to Act XIII of 1859.

The position of Travancore and Cochin planters under Madras Act V of 1866 and under the Penal Law of each State does not appear to call for any remarks. With regard to the regulations corresponding to Act XIII of 1859, they are in the

same case as Mysore planters, in that, as already indicated, labourers accused under those regulations of breach of contract and living in or escaping into British India are not liable to extradition; but it is worthy of note that those regulations apply only to contracts in writing and not, like Act XIII of 1859, to verbal contracts as well as to written contracts.

74. The examination we have now made of the law provided for the enforcement of labour contracts in the several planting districts included in the scope of our enquiry shows—

Summary.

- (1) that if Madras Act V of 1866 had ever been enforced, planters in Coorg and in Mysore, Travancore and Cochin could have proceeded in certain Courts of the Madras Presidency against labourers belonging to the Madras Presidency, although planters in the Madras Presidency could not have availed themselves of this remedy;
- (2) that planters in the Madras Presidency and Coorg can prosecute defaulting labourers in British Courts under section 492, Indian Penal Code, that they have hitherto been at liberty to institute similar prosecutions under the same section in Mysore Courts, that they can enforce the provisions of Act XIII of 1859 in British Courts, and that they are able to demand the extradition from Mysore of persons accused under this Act, although they do not possess this privilege with regard to Travancore and Cochin;
- (3) that Travancore planters and Cochin planters can prosecute defaulting labourers in the Travancore and Cochin Courts, respectively, under the provision of law corresponding in each State to section 492, Indian Penal Code, and under the enactment in each State corresponding to Act XIII of 1859;
- (4) that Mysore planters have until now been unable to resort to section 492, Indian Penal Code, inasmuch as it is applicable only to contracts to work at places within British India and that, therefore, although an amendment of section 492, Indian Penal Code, in Mysore is now contemplated, the only law giving them a remedy against breaches of contract is Act XIII of 1859; and
- (5) that processes issued by the Courts in Mysore, Travancore and Cochin under Act XIII of 1859 have no force in British Territory, the consequences being that except as provided in Madras Act V of 1866, which has never been put into force with regard to plantations in Southern India, planters in the Native States have no remedy against defaulting labourers who refuse to leave, or escape into, British Territory.

CHAPTER VIII.

REPRESENTATIONS OF THE PLANTERS MADE FROM TIME TO TIME IN REGARD TO THE OPERATION OF THE LAW.

75. The present chapter deals with the representations of the planters made from time to time in regard to the operation of the law which we have considered in the foregoing chapter, and the manner in which those representations have been disposed of by Government.

76. Of the enactments* which we have discussed in detail, Madras Act V of 1866 is shown to have been always a dead letter so far as plantations in Southern India are concerned, and its provisions therefore have in no way affected the planters either by the restrictions imposed on recruitment, in respect of which every planter in Coorg, Mysore, Travancore and Cochin, who has employed Madras coolies (and all appear to have done so), has apparently rendered himself liable, under section 16 read with section 363, Indian Penal Code, to imprisonment for seven years, or by the limited remedy afforded by section 12 against breaches of contract.

Similarly we have been unable to find any instance in which a labour contract has been framed with express reference to section 492 of the Indian Penal Code, which has been re-enacted in the Native States, or any instance in which a labourer has been prosecuted under it.

77. Hence, besides the ordinary civil law on which we shall have to offer remarks later on in this report, the only law dealing with breaches of contract which is practically in force is Act XIII of 1859, and it has been the subject of constant complaints* on the part of planters since 1865. In that year the planters of North Wynaad and of South Wynaad presented memorials† to the Governor of Madras, the former bringing to notice "the unsatisfactory state of the law of contract between employer and servant as embodied in Act No. XIII of 1859," and the latter pleading for a new law in the following terms: "In common with our brother planters in other districts, we feel greatly the want of a good law between master and servant—a law which, while it ensures good and fair treatment to the servant in sickness and in health, will, at the same time, protect the employer from the serious losses which he has now too frequently to bear through the dishonesty, extortion or caprice of the labourer. This is a subject of great practical importance to us and to all large employers of labour in India. It has occupied much of the attention of the Ceylon Government and as we cannot, on an occasion like the present, enter as fully into the discussion of this question as its merits demand, we will satisfy ourselves by referring Your Excellency to the last 'Labour Ordinance' laid before that Government (a copy of which we beg to hand Your Excellency herewith), which embraces what we consider is wanted here." Due consideration of these representations was promised, and, as shown in paragraph 52 of this report, the

Memorials from North and South Wynaad in 1865 regarding the inadequacy of Act XIII of 1859 and the want of a good labour law.

* Madras G.Os.

12th July 1865,	No. 261,	Legislative.
30th May 1866,	" 542,	Public.
5th May 1876,	" 851,	Judicial.
19th July 1877,	" 1692,	"
29th January 1878,	" 190,	"
21st May 1878,	" 1072,	"
18th January 1879,	" 98,	"
11th June 1879,	" 1371,	"
5th July 1879,	" 1533,	"
20th August 1879, Nos. 2103, 2104,	"	"
16th December 1879, No. 3193,	"	"
16th March 1880,	" 615,	"
13th March 1884,	" 676,	"
1st August 1884, Nos. 1911, 1912,	"	"
4th December 1890, No. 7463, Misc.,	Revenue.	
28th January 1891,	" 60,	Revenue.
10th August 1892,	" 1458,	Judicial.
17th June 1893,	" 1238,	"
28th November 1893,	" 2482,	"
27th June 1894,	" 1595,	"
4th July 1894,	" 1652,	"
31st January 1895,	" 198,	"
19th June 1895,	" 1309,	"
4th April 1896,	" 664,	"

† G.O., No. 261, Legislative, 12th July 1865.

Madras Government were prepared, in the event of the Government of India declining to legislate, to resort to local legislation, not only to control the emigration of labourers to other parts of India and Ceylon, but also to control the recruitment of labourers for the coffee districts of the Madras Presidency "with the view of affording that protection which the Bengal Acts (III of 1863 and VI of 1865) give both to labourers and employers of labour and which is much needed in Wynaad and the other coffee districts." The Collectors of

Steps taken by the Madras Government.

enactment embodying the provisions of the Bengal Acts to the Nilgiri Hills and Wynaad, and it is important to note the opinions given* by the officers who had the best means of appreciating the state of affairs even at that early stage of the

* G.O., No. 542, Public, 30th May 1866.

agitation which the planters have carried on for thirty years. The Collector of Coimbatore, Mr. P. Grant, pointed out that, as the whole Northern frontier of Wynaad and the Nilgiris is bounded by Mysore, a foreign State from which it was estimated that four-fifths of the labour on the plantations was drawn, the application of any law to affect the introduction of labour was difficult and considered it questionable whether any law was required for the purpose, as the planters did not complain much of the difficulties experienced in procuring labour. But he proceeded to state that planters in the Nilgiris were much annoyed at times by the desertion of coolies and thought that if Act XIII of 1859 were recast and sections

33 to 41† of Bengal Act VI of 1865 embodied with it, little room would be left for complaint and most cases of fraudulent breaches of contract, wilful negligence or indolence and enticing away labourers would be met, adding that "it is necessary to have the power of punishing fraudulent contractors and deserters and the very fact that the power exists tends to keep them straight."

Mr. Grant's view, therefore, was that an amendment of the existing law was necessary to prevent fraudulent breaches of contract for labour on plantations,

although he did not think it necessary to legislate for the recruitment of labour, but Mr. Ballard, the Collector of Malabar, was of opinion that legislation regulating the recruitment and transport of labourers in other places than their own districts and legislation for the due fulfilment, by employers as well as employed, of their contracts were both 'urgently required.' In his opinion, the former ought to be undertaken by the Government of India, but the latter by the local Government, and he considered that, for the local Act, a modification and amalgamation of the provisions of Bengal Act VI of 1865 and the Ceylon Labour Ordinance would efficiently meet all requirements. The conclusion on which Mr. Grant and Mr. Ballard agreed, that a law enforcing the due fulfilment of labour contracts was necessary, was naturally endorsed by the planters on the Nilgiri Hills and in Wynaad, and Mr. Ouchterlony, whose experience as a planter extended over a period of nearly twenty years and who employed in the busy season as many as 2,000 coolies on his estates, deprecated the introduction of the Bengal Acts into Southern India, where the circumstances are totally different from those obtaining in the Bengal planting districts, but urged that what was needed was a law, on the lines of the Ceylon Labour Ordinance, to secure that each party, employer and employed, should do his duty to the other under a contract of service. The Superintendent of the Government Cinchona Plantations on the Nilgiri Hills stated that an Act to enforce on labourers the diligent and faithful performance of their work and to bind employers to the correct and punctual payment of their labourers was much to be desired, and the Board of Revenue gave a general opinion in favour of the proposed legislation. Thus, as a matter of fact, the officers of Government consulted and the private individuals interested concurred not only upon the point of keeping legislation for the recruitment of labour distinct from legislation for protecting the

† Section 33.—Penalty on labourer for absenting himself without sufficient cause.

Section 34.—Penalty for wilful negligence or indolence.

Section 35.—Labourer deserting may be apprehended without a warrant, with proviso.

Section 36.—Labourer, when made over to the police, to be taken before nearest Magistrate.

Section 37.—Penalties for desertion and wrongful apprehension.

Section 38.—Provisions regarding desertion and unlawful absence to apply to desertion in transit.

Section 39.—Penalty for enticing away, harbouring or employing labourers under contract to another person.

Section 40.—Portion of sentence may be cancelled, if employer apply for return of labourer.

Section 41.—Conviction not to operate as a release, but on expiry of sentence labourer to be made over to employer.

interests of labourers and employers of labour in the planting districts, but also upon the point that legislation for the latter object was necessary. Nevertheless

* G.O., No. 542, Public, 30th May 1866.

Orders of the Madras Government, resulting in Act V of 1866.

in their Order* on the subject, the Madras Government, while still admitting that labour difficulties did undoubtedly exist, considered that special legislation was not needed for the planting interests in the Wynaad and on the Nilgiri Hills, because cultivation with exotic products was expanding, because no conspicuous examples had been adduced of losses caused by the wholesale desertion of labourers at critical periods of the year, and because any law which might be passed would probably prove in the end more onerous to the planters than the caprices of their labourers, and determined that a brief Act to prevent the recurrence of irregularities such as those which had occurred in connection with emigration to the tea districts in Bengal was all that was necessary. In the Act which was thereupon passed, Madras Act V of 1866, the only section providing penalties for breaches of contract is section 12. This section has, with the whole Act, always been inoperative in respect of South India planting districts beyond the limits of the Madras Presidency, and since the Act applied only to labourers recruited for those districts, gave no assistance to the planters within the Madras Presidency who had at first been admitted by the Madras Government to be in need of legislative assistance.

78. The first attempt made by planters to obtain a remedy in suitable legis-

Second attempt to obtain legislation by the Wynaad Planters' Association in 1876. The difficulties complained of.

lation against the difficulties of which they complained in maintaining and expanding the planting industry was thus unsuccessful, and a second was made in 1876. The Wynaad Planters' Association then submitted a memorial to the Madras Government in which they maintained that they were entitled to a careful consideration of their grievances, because the large amount of capital employed in the planting industry, the amount of wages which found its way through that industry to otherwise impoverished classes and the material addition to the wealth of the province effected by the reclamation of waste or forest lands for the purpose of coffee planting rendered the position and prospects of the planter a matter of more than mere class interest and represented that their difficulties arose primarily from the defective condition of the law regulating the subject of labour contracts. These difficulties they explained in the following manner:—

"3. The contracts with which the planters are concerned are made either between the planter and the maistry for the supply of coolies by the latter, or between the planter and coolie direct. Both classes of contract are constantly evaded with impunity.

"4. An ample supply of labour is at all times essential to successful coffee cultivation and there is this additional risk and difficulty in the case of coffee, that, at particular seasons of the year, there are periods when a failure in the labour supply for which a planter may have contracted, and upon which he is relying, will be absolutely disastrous. It is at these periods that the breaches of contract, of which your memorialists have to complain, are usually committed and for which we submit that the present law affords no adequate remedy. In the first place Act XIII of 1859 is so worded as to render it applicable exclusively to cases in which an advance has been made by the employer. The effect of such a state of things is that in order to bring himself within the remedial provisions of the Act, an employer is obliged to make an advance and thereby to hold out a serious temptation to fraud to the coolie, who receives payment in advance and to provide him with an easy means of cheating his employer, if he chooses to do so. It has as a fact, grown up to be a practice in many places for coolies to engage with successive maistries and then to absent themselves just as the gang is starting for Wynaad, and when it is impossible for the maistry to stay to institute proceedings against them for the breach of the contract."

79. They also complained that the procedure under Act XIII of 1859 was so

The unsuitability of Act XIII of 1859.

cumbrous and expensive and necessitated such repeated applications to Magistrates before defaulting labourers could be punished that the law failed in its object, while Magistrate themselves felt considerable uncertainty as to what their duties under the Act were. At the same time, and in proof of their allegations, they forwarded a statement showing that on 127 estates there had been 357 cases of breach of contract in one year, that proceedings had been taken under Act XIII of 1859 in 110 cases only as an appeal to the law was generally found to be useless, that even in those 110 cases only 28 defaulters were imprisoned or compelled to pay back the

advance, as the other defaulters who were ordered either to repay their advances or perform their contracts absconded, and that the amount lost in advance in two years was put down at Rs. 75,022, but was believed to far exceed that sum. On these grounds the memorialists prayed, in the first place, for such an amendment of Act XIII of 1859 as would make its provisions applicable to breaches of contracts made without advances and, in the second place, for such an amendment as, without imposing any hardship on labourers and without exposing them to oppressive and high-handed action on the part of their employers, would render breaches of contract by labourers more promptly punishable and less easy and advantageous to the defaulter.

80. This memorial elicited the following expression of opinion from the Madras

Orders of the Madras Government.

Government* :—

"10. The Governor in Council fully appreciates the importance to the country of the planting interest and would gladly remove any remediable obstacles to its development or well-working. He can readily believe that the planters are exposed to much fraudulent misconduct on the part of coolies and coolie maistries which the law in its present form is inadequate to reach and punish, and he is very willing to accept the assurance of the memorialists that they have no desire to inflict hardship on the labouring class or to expose them to oppression or high-handed action on the part of their employers. Their manifest interest is to encourage and attach labour to the district."

But, since it was not easy to devise a suitable remedy for the evil complained of and the memorialists were not very explicit in the expression of their wishes, the subject was again referred to them through the Collector of Malabar with the request that they would draw out and submit, for the consideration of the Government, a draft of the Bill which they would wish to see enacted.

81. On this reference the Wynaad Planters' Association professed themselves

The remedies proposed by the planters.

unable to draft a Bill and now stated that a special law like the Ceylon Labour Ordinance (No. 11 of 1865) would be inappropriate to this country, explaining that

all they wanted was that the existing law should be made intelligible and should be strictly enforced by efficient Magistrates and Police. They supplemented this explanation with certain proposals of which those relevant to the subject of this report were that the punishment under Act XIII of 1859 should be increased, that breaches of contract made without advances should be brought under the operation of the Act, that contractors and maistries entering into contracts with or without advances should be compelled to register themselves at public offices and that greater facilities should be given for the extradition of defaulters from Mysore. In submitting the Association's letter to the Madras Government, Mr. Logan, the Collector of Malabar, deprecated any increase in the punishment provided by the Act, but premising that employers of labour should be liable to punishment for breaches of contract no less than labourers, recorded the following opinion as to the necessity for amending the law in the interests of the planting industry:—

"The law of India has hitherto recognized the necessity of criminally punishing breaches of contract, first, where the master is more or less at the mercy of his servant, and, second, where a breach of the contract by the servant leaves the master without adequate compensation for the wrong suffered. Both of these sets of circumstances apply with peculiar force to the case of a coffee planter in Wynaad who is deserted by his coolies at the time of year when he most requires their services. Other employers of labour are no doubt in more or less the same position and subject more or less to the same ill-consequences, but then in the case of the coffee industry it must never be forgotten that it has been the policy of Government throughout to encourage this industry in a locality where one of the most essential elements of success is wanting, viz., a permanent and sufficient supply of labour. It may often be good policy on the part of a Government to encourage some industry under otherwise unfavourable circumstances and where that (as in this instance) has been done, it behoves the Government to come to the assistance of those who would not, but for such encouragement, have embarked their capital in such a doubtful enterprise."

When writing thus of the encouragement which the Government had given to the planters, Mr. Logan probably referred to the instructions which had been given to the Madras Government by the Court of Directors and the Governor-

G.O., No. 1692, Judicial, 19th July 1877.

General and which have been mentioned in paragraph 13 of this report and in pursuance of his opinion, he especially recommended, in the first place, that the

provisions of Act XIII of 1859 should be extended to cases of breach of contract made without advance, all labour contracts being reduced to writing and certain sections of the Ceylon Labour Ordinance (No. 11 of 1865) being incorporated in the Indian Law, and, secondly, that the registration of contractors and maistries who supply labour to coffee estates should be made compulsory by law. As to extradition from Mysore, Mr. Logan wrote :—

"I should be glad to see some mutual understanding come to on the subject of a less cumbersome, less expensive, and less difficult mode of obtaining the extradition of defaulters from Mysore Territory. This is a matter which, as the Chairman says, has been already before Government, and as it involves principles of the greatest importance as regards the mutual relations of the two Governments I fancy it will not be easily disposed of; meanwhile the coffee industry is suffering severely, and I can only commend the matter again to the consideration of Government."

82. Before any orders were passed on these matters, Mr. Logan again addressed the Madras Government and while adhering to the views he had already expressed, made two additional suggestions, one that the burden of proving that an advance of money had been properly spent should be thrown on the defaulter, and the other that the Government should take power to enforce the proper treatment of labourers in sanitary matters and in the matter of medical attendance during illness. The latter suggestion was made in consequence of the fact that forty-six labourers who had been discharged from estates in Wynaad had been picked up on the roads—ten of them in a dying condition—between February 1876 and February 1877. Shortly afterwards, Mr. Logan forwarded to the Madras Government a number of propositions, some of them new and some of them repetitions of former requests, framed at a Planters' Conference held at Manantoddy. Of these propositions the following are now material :—

"(i) That Act XIII of 1859 be enlarged and amended to meet the official requirements of the planting districts of Southern India.

"(ii) That enhanced powers be given to Magistrates.

"That a person contracting to labour or to supply labour, and committing a breach of such contract, shall be presumed *prima facie* to have done so wilfully.

"(iii) That second and subsequent offences be recognised as more heinous offences than first ones, and be visited with severer punishment.

"(iv) That neglect to obey the order of the Court to carry out a contract be regarded as a second, or subsequent, offence, and punished accordingly.

"(v) That a maistry or cooly, having received an advance under an agreement, found working upon an estate other than the one upon which he is under contract to work, be presumed to have taken the advance with the intention of cheating, and be liable to prosecution under section 415, Indian Penal Code.

"(vi) That when a person convicted of breach of contract under the Act shall have given security to the Court for the fulfilment of the work or repayment of money due on account thereof within a period fixed by the Court, and when such work has not been completed or such money repaid in accordance with the order of the Court, the Court be empowered to attach the property or person of the parties who have become sureties for the fulfilment of the work or repayment of the money, in the same way that recognizances are recovered in other criminal cases, and that it be left to the discretion of the Court to award all, or any part, of these moneys to the complaining party.

"(vii) That processes issued under the Act, being either summons or warrants, be served by the Police authority, and that a warrant once issued shall remain in force until the apprehension of the offender.

"(viii) That a person convicted of a fraudulent breach of contract shall, on the expiration of his sentence, be required to carry out his contract, or repay the advance, at the option of the complaining party, and that neglect or refusal to do so be treated as a second or subsequent offence.

"(ix) That a form of contract and sub-contract be appended by way of schedule to the Act proposed, which shall have the force of a binding contract when produced before a Magistrate.

"(x) That written agreements for service, or for the performance of work, when the advance given does not exceed twenty rupees, be charged with stamp duty not exceeding one anna.

"(xi) That a breach of contract made without advance may be equally punishable with one in which money has been given.

"(xii) That all maistries or contractors be obliged by law to register themselves at the cutchery of their district and to carry a book or certificate in which their engagements must be entered.

"(xiii) That, before all things, it is necessary for the coffee-planting districts that some cheaper, simpler and more effective method of extradition with the Province of Mysore should be devised."

83. Subsequently, that is to say, on the 29th August 1877, the Wynaad Planters' Association represented the urgent necessity for improved arrangements for extradition from Mysore by pointing out that some 30,000 Mysore labourers were annually employed in South and South-East Wynaad and that in those two planting districts alone a sum equal to £200,000 sterling was expended each year in wages and other disbursements and laying stress on the cost and trouble involved in getting a run-away cooly returned from Mysore. They anticipated that when the famine which then prevailed was over, there would be more difficulty than usual in getting contracts carried out and, disclaiming any wish to take advantage of the helpless condition of the people, stated that the only chance of doing those people good without subjecting themselves to great ultimate loss lay "in the instituting of some system of extradition which would guarantee to the planter the final recovery of the capital expended."

84. On receiving these papers the Madras Government, after alluding to the abandonment in 1866 of the proposal which had been made for special legislation for the planting interests in the Wynaad and on the Nilgiri Hills, made the following remarks* :—

"The reports now before Government show that the planting industry in the Wynaad is suffering from a substantial grievance in the absence of a simple and complete remedy as regards breaches of contract caused by desertion of labourers or fraudulent practices on the part of maistries. The season for gathering the crops is a critical moment, and the planters are liable to heavy loss for which an adequate remedy is difficult. The Government are therefore now disposed to give the planters all the assistance in their power consistent with adequate protection to the employes."

Before giving any definite orders, however, for preparing a draft law to suit the requirements of the Wynaad planters, the Madras Government referred all the papers, together with the correspondence relating to coffee-stealing to the Advocate-General, in view to his reporting whether the proposals contained in them were within the ordinary principles of British Indian Law and whether an enactment such as that contemplated was open to objection.

85. In reply to the reference made to him, the Advocate-General advised the Madras Government that the law relating to breaches of contract was as stringent as it ought to be. In his opinion, Act XIII of 1859 provided sufficiently for breaches of contract made with advance, and although the repeal of this Act was then contemplated, its provisions were to be substantially reproduced by section 34 of the Bill to define and amend the law relating to master and servant, which was then before the Council of the Governor-General, while by section 16 of the same Bill, a master was to be entitled to compensation from any person who knowingly enticed away his servant. As to cases where the servant has not received an advance but has merely failed to fulfil his contract, the Advocate-General considered that the breach ought to be treated as only entitling the master to recover damages in a civil suit and that, if the breach was to be treated as a criminal act, a breach by the master ought in fairness to be dealt with in the same way. The Advocate-General was further opposed to the proposal for throwing upon a servant the burden of proving the absence of a dishonest intent, and pointed out that if it was thought proper to amend the law in the direction suggested by the Planters' Association, this would probably have to be done by the Council of the Governor-General. With regard to the compulsory registration of servants employed on coffee estates, the Advocate-General thought that such protection ought, if possible, to be given to the planting interest, but doubted whether it would not entail upon planters duties and obligations which might outweigh its advantages. On the question of improving the method of extradition from Mysore, the Advocate-General expressed no opinion.

86. Having thus ascertained the views of the Advocate-General, the Madras Government * directed that a draft "Bill to prevent Coffee-stealing," which had been prepared by him, should be referred to the Legislative department with a view to its immediate publication, but passed no order on the other matters concerning which the planters had complained and on which the Advocate-General had been consulted. Soon afterwards the Wynaad Planters' Association sought for information as to the action which had been taken, and were † informed that "the steps taken in pursuance of G.O., No. 1692, 19th July 1877, which admitted the expediency of special legislation for the protection of the coffee industry in the Wynaad, resolved themselves into a Bill to prevent thefts of coffee," and that the difficulties in the matter of extradition from Mysore had been removed by the Chief Commissioner's notification mentioned in paragraphs 60 and 61 of this report. This reply, however, left untouched, the other points which had been under consideration, and the Wynaad Planters' Association again, in June and December 1878, moved the Government to pass orders. The Advocate-General's opinion on the suggestions which had been made for an improved labour law and for the compulsory registration of maistries and contractors was then communicated to the Association with the following decision ‡ "The Government sharing the opinion that the present laws are strong enough for the protection of the planting interests in common with other industries and that further legislation is not required, do not deem it necessary to move the Government of India for any alteration of the general laws relating to contracts. If so advised, the Association may themselves address the Government of India in the Legislative department, before whom the question of the law relating to Masters and Servants is now pending."

87. This order, which certainly indicated a complete change of opinion on the part of the Madras Government with regard to the same facts which led them, only in July 1877, to conclude that the planting industry in Wynaad was suffering from a substantial grievance in the absence of a simple and complete remedy as regards breaches of contract and to promise the planters all assistance in their power, drew forth an expression of regret from the Wynaad Planters' Association, who resolved to address the Supreme Government on the subject and informed the Madras Government that having considered the Advocate-General's remarks they still considered the compulsory registration of maistries and contractors necessary. On this the Madras Government § repeated the opinions they had already recorded that further legislation was not required and that a system of compulsory registration of maistries and contractors was inexpedient. With regard to the

latter subject, they said "If a law were enacted on the lines above suggested, it is as likely as not that labour would hardly be obtainable at all. The limitation which would place the labourers in the hands of a few persons—for compulsory registration would necessarily entail the punishment of any one who supplied labour without registration, and thus in fact constitute a monopoly—would increase, instead of diminishing, the difficulties already existing. Planters would be unable to get labourers save through these certificate-holders; competition would ensue; and persons wanting labour would be hampered by the very arrangements which they now seek to establish." They also declared that they were not prepared to enter upon legislation which would, in its details, be an interference with the law of contracts and of the general freedom of contracting and which would, if undertaken on behalf of coffee planting, have to be undertaken in respect of any crops habitually tilled or harvested by hired distant labour.

88. The Wynaad Planters' Association then addressed the Government of India and after pointing out that they had not ceased for twenty-five (*sic*) years past to urge on the Government of Madras the various disadvantages under which

Steps taken by the Madras Government.

* G.O., No. 190, Judicial, 29th January 1878.

† G.O., No. 1072, Judicial, 21st May 1878.

‡ G.O., No. 98, Judicial, 18th January 1879.

Resolution of the Wynaad Planters' Association to address the Supreme Government.

§ G.O., No. 1371, Judicial, 11th June 1879.

The proposal as to the compulsory registration of maistries and contractors again negatived by the Madras Government.

Representations made in the memorial to the Government of India.

they suffered in the absence of an efficient law controlling the relations between planters and labourers, explained that their difficulties arose from the facts that, as local labour was practically unobtainable, they were forced to import labourers from Mysore and various districts of the Madras Presidency, and that a system of heavy advances was necessary for collecting such labourers. They then sought to justify their demand for protective legislation by referring to the fact that such legislation had been found necessary for importers of Indian labourers into Ceylon as well as the Mauritius and other British Colonies and by arguing that, if such legislation is necessary in countries beyond the seas, a greater necessity exists in the planting districts in Southern India, where the facilities for absconding are so much greater and where a few days, in some cases a few hours, enable the defaulter to return to his own village. Their sole remedy against breaches of contract lay, they said, in the provisions of Act XIII and in asserting that this Act failed in affording adequate protection to their industry they relied upon the opinion expressed by the Madras Government in 1877, that the planting industry in the Wynaad was suffering from a substantial grievance in the absence of a simple and complete remedy. They then proceeded to bring forward again the propositions which were framed at the Coffee Planters' Conference held at Manantoddy in 1877 and which have been referred to in paragraph 82 of this report, urging that breaches of contract had increased to an alarming extent concurrently with the increase in coffee cultivation, that very large sums of money were annually lost in advances, besides the still heavier losses incurred indirectly from the non-fulfilment of contracts, that the legal remedy by civil process was totally inadequate, as defaulters were for the most part men of straw, that since punishment under Act XIII of 1859 operated as a release from the terms of a contract, so far as that Act was concerned, many an employé of coffee estates would not hesitate to incur imprisonment for three months, knowing that at the end of that period, he would still be the richer by the advance he had received, amounting probably to many hundreds of rupees and that the law consequently put so high a premium on dishonesty that even honest men very soon lapsed into fraudulent practices. In a subsequent memorial to the Government of India, the Association dealt with the question of the compulsory registration of maistries and contractors, contending that the system would, so far from interfering with the supply of labourers as apprehended by the Madras Government, very materially improve the relations between planters and their servants by weeding out those contractors who made a living out of planters by simultaneously receiving advances from two or three different estates to fulfil work which was never performed and by facilitating the arrest of such absconding defaulters as were then easily enabled to evade justice.

89. In submitting * these representations to the Government of India, the Madras Government adhered to their view that further legislation was not required and with these arguments and opinions upon the subject, the specific proposals which came before the Government of India for consideration were the thirteen which have been set out in paragraph 82 of this report.

90. As regards propositions I, II (clause 1), III, VII, IX and XI, the Government of India † regretted that they could not take into consideration any proposals for a new Labour Law to amend Act XIII of 1859, while the Master and Servant Bill was still before the Council of the Governor-General. Propositions IV and VIII, they considered, involved repeated punishments for the same offence and could not be entertained. But it may be observed in passing that these propositions as well as proposition III, on which orders were deferred pending the disposal of the Master and Servant Bill were almost identical, in respect of a second conviction and the effect on a contract of any conviction, with the provisions of sections 33, 34 and 41 of Bengal Act VI of 1865, which were re-enacted in sections 175 and 181 of India Act I of 1882, the penalties on a second and subsequent conviction being made by section 175 even more severe than they were under the Bengal Act. As to the suggestions made in proposition II, clause 2, and

Views of the Madras Government thereon.

* Letter to Government of India, Home Department, dated 5th July 1879, No. 1584 and 20th August 1879, No. 2104, printed in Madras G.O.s., Nos. 1583 and 2103 of the same dates.

Orders of the Government of India.

† Letter to Madras Government from Government of India, Home, Revenue and Agricultural Department, dated 21st November 1879, No. 462, printed in G.O., No. 3193, 16th Dec. 1879.

proposition V, the Government of India remarked that they would necessitate an alteration in the Evidence Act and they were unwilling, as then advised, to propose legislation in this direction. Propositions VI and XII could not be carried out without an enactment of the local legislature and the Government of India were not prepared to question the soundness of the decision arrived at by the Madras Government, but with reference to proposition X, the Government of India forwarded copies of two notifications reducing to one anna the stamp duty payable on agreements for service or performance of work on the coffee plantations in Coorg, the Madras Presidency and Mysore, when the advance given under agreement does not exceed Rs. 20. As to proposition XIII, the Government of India drew attention to the correspondence on the subject between themselves and the Madras Government and enquired whether the delay complained of in the matter of extradition from Mysore still continued.

91. A copy of this letter from the Government of India was communicated to the Wynaad Planters' Association and with reference to extradition from Mysore, the Madras Government observed that the Chief Commissioner of Mysore had reduced the fee for the service of warrants issued under Act XIII of 1859 from British Territory from Rs. 7 to Rs. 5 and had intimated his willingness to effect further reductions should circumstances admit of the same, but requested the Association to bring to notice any facts as to still existing delays, if such continued. It may here be noted that the concession made by the Chief Commissioner of Mysore in reducing the fees for the execution in Mysore of warrants issued by British Courts had been made * at the request of the Wynaad Planters' Association supported by the Madras Government.

92. On receiving the orders passed by the Government of India on their memorials, the Wynaad Planters' Association declared in a letter † addressed to the Madras Government that, remembering the repeated promises both on the part of His Excellency the Governor-General and of the Madras Government that their grievances should be redressed, it was impossible for them to accept the present answers of the Governments of India and Madras as final. Hence, representing that if the situation in July 1877 called for remedial measures, as the Madras Government allowed that it did, the position of affairs had been daily becoming worse, that such action as was then admitted to be necessary was therefore more imperatively called for and that not a single step had been taken towards the controlling of the relations between the planters and their labourers, they expressed extreme regret and surprise that the promises made by the Madras Government had so long remained unfulfilled, pressed for a reconsideration of their proposals, enquired when the Master and Servant Bill, which they understood had been under discussion for several years, would be disposed of and requested the Madras Government to forward a copy of their letter to the Government of India.

In reply, the Madras Government expressed surprise at the complaint that nothing had been done in pursuance of their resolution of July 1877, seeing that the Coffee Stealing Prevention Act had been passed in 1878 solely for the protection of the interests of planters, observed that propositions VI and XII which had not been approved either by them or by the Government of India must be considered as disposed of, stated that they had no information as to the Master and Servant Bill and remarked that the Association's letter would be recorded in the proceedings of Government, copies of which are regularly furnished to the Government of India.

93. The planters did not pursue the subject of their grievances further until 1884, when Mr. G. L. Yonge, Resident Manager of the Ouchterlony Valley Estates on the Nilgiris, ‡ complained that Act XIII of 1859 was inoperative as then interpreted in the courts of the Nilgiris and South-East Wynaad. This complaint was communicated § to

Observations made by the Madras Government with reference to extradition from Mysore in its order communicating the Supreme Government's order to the Association.

* Vide G.O., No. 1182, Judicial, dated 20th May 1879, and G.O.s, Nos. 2495-96, Judicial, dated 27th September 1879.

Dissatisfaction among the Wynaad Planters in regard to the steps taken.
† G.O., No. 615, Judicial, dated 16th March 1880.

Complaint by Mr. G. L. Yonge as to the inoperativeness of Act XIII of 1859.

‡ Letter dated 18th February 1884.
§ G.O., No. 676, Judicial, dated 13th March 1884.

the Honourable the Judges of the High Court and all District Magistrates, who were requested to submit their opinions on the question of amending Act XIII of 1859. After receiving the opinions called for, the Madras Government passed the following order * "The Government observe that many of the objections which have been raised to the method in which the Criminal Breach of Contract Act has been worked, have arisen from a misconception of the rulings which have been issued from time to time by the High Court; after a careful consideration of all the foregoing papers, they see no ground for amending the Act in the interests of the employer, and determine to take no action in the matter."

94. Up to this stage and with the exception of one unsuccessful representation made by the Mysore Planters' Association in 1878 of the hardship entailed on them in consequence of their being unable to have processes issued by Mysore Courts executed in British India, complaints of difficulties emanated from the Wynaad and Nilgiri planters alone, but in 1890 the North Mysore Planters' Association moved the Collector of South Canara, the district whence by that time they drew a large proportion of their labour, to pass an order similar to an order issued by the Dewan of Mysore sanctioning the voluntary registration of maistries. In submitting their request to the Madras Government, Mr. Brodie, the Collector of South Canara, explained their difficulties thus:

"As Act XIII of 1859 does not apply to contracts to perform labour in Mysore and the Extradition Act does not apply to breaches of contracts when entered into in Mysore and the defaulter escapes into British Territory, unlike the Coorg planter, the Mysore planter has only a civil remedy against cooly maistries contracting to supply labour from this district and is without question frequently taken in by men who represent that they possess property, when they apply for a contract, but declare that they possess none when they fail to perform it. For the planter himself to ascertain by inquiry whether such representations are true or false, is almost impossible, owing to the peculiar laws of property prevailing in this district. What is *personal* property, according to the applicant for a contract, his friends and relations when a contract is undertaken, is family property according to the same persons when the planter whom he has defrauded institutes, or threatens to institute, civil proceedings against him."

Under these circumstances Mr. Brodie thought it reasonable that persons desirous of plying the trade of cooly maistry should be allowed to register themselves and obtain certificates, after verification of their statements, to the effect that they were possessed of certain property which could be proceeded against in the event of their failing to perform their contracts. The Madras Government ‡ resolved to give the system a trial in the Madras Presidency, but, it may at once be stated, § directed its discontinuance in 1894, because it was not taken advantage of, cooly maistries objecting to it on account of the inconvenient scrutiny it involved into their character and means and planters declining to bind themselves to employ none but registered maistries. The scheme has not been formally abandoned in Mysore, but we understand that it has practically never been made use of.

95. The planters in the Madras Presidency having thus failed in their efforts to secure an amended labour law, the request made by the Mysore planters in 1878 to be placed on the same footing in regard to extradition as planters in British Territory, having been rejected and the system of voluntary registration of cooly maistries suggested by the North Mysore Planters' Association in 1890 having proved useless, all the Planting Associations in the provinces of Mysore, Coorg and Travancore and in the Madras Presidency combined in 1892 in submitting a memorial to His Excellency the Viceroy on the subject of the administration of Act XIII of 1859. Five proposals were made in this memorial for the amendment of the Act itself by the enactment of—

- (i) a clause to make it clear that contracts between maistries and coolies for work to be done upon coffee, cinchona and tea estates are within the Act;

* G.O., No. 1911, Judicial, dated 1st August 1884.

Registration of cooly maistries in South Canara.

† G.O., No. 60, Revenue, 25th January 1891.

‡ G.O., No. 1652, Judicial, 4th July 1894.

Memorial from the combined Planting Associations of Mysore, Coorg, Travancore and the Madras Presidency regarding Act XIII of 1859, to the Viceroy in 1892.

- (ii) a clause to provide that a person who has committed a breach of his contract shall be liable to the punishment provided and to do the work which he contracted to do after the expiry of the term mentioned in the contract;
- (iii) a clause to provide that every labourer whose name shall be entered in the check roll of an estate and who shall have received an advance of a cumbly or money from the employer, shall be deemed to have entered into a contract of hire and service for one month to be renewable from month to month;
- (iv) a clause providing that the Police should undertake the apprehension of the offender;
- (v) a clause to provide that the defaulting maistry should be treated on exactly the same footing as a defaulting bankrupt is treated in the insolvent courts.

Besides making these proposals the memorialists requested that arrangements might be made "with all Native States in the Madras Presidency making offences under Act XIII of 1859 extraditable." These words would appear to exclude Mysore, but this was not really the intention of the memorialists, because one point to which they referred was the inability of Mysore planters to obtain warrants against defaulters in British Territory.

96. The memorial was referred to the Madras Government for the favour of a report and an expression of opinion. In their reply*

Report of the Madras Government on the memorial. Views on the first proposal in the memorial.

* G.O., No. 1458, Judicial, 10th August 1892.

the Madras Government appear to have been under an initial misapprehension when they alluded to the memorial as one "from certain planters in this Presidency," because, as shown above, it was a combined memorial from the Planters' Associations in Mysore, Coorg and Travancore and in the Madras Presidency. Then in dealing with the proposals made for the amendment of Act XIII of 1859, the Madras Government translated the first proposal thus: "That Act XIII of 1859 should be extended so as to cover contracts between maistries and coolies." This, they said, required the following explanation: "There are two systems on which coolies are engaged to work on estates—in the one an advance is given, in the other this is not the case. The latter system does not call for remarks. The former has two forms—in the one the planter contracts with a maistry to supply a number of coolies and grants him an advance which he binds himself to pay back at the end of the period of service, and in the latter the planter contracts direct with the coolie. The Madras High Court has held (Proceedings, dated 9th January 1880, No. 39 and Criminal Revision Case 773 of 1883 printed on pages 455 to 457 of the third edition of Weir's Criminal Rulings of the Madras High Court) that advances of this kind made to coolies are not advances of money 'on account of work to be performed' and that therefore the receipt of such does not render a coolie obnoxious to Act XIII of 1859. It is to these rulings that the planters object." With regard to these remarks, we do not know what evidence the Madras Government had before them as to the usual form of labour contracts, but the correspondence shows that the memorialists made no reference to the rulings quoted by the Madras Government, and we think the Madras Government lost sight of the fact that the only question they were dealing with was the question of contracts between maistries and coolies, not of contracts between planters and maistries or planters and coolies. All that the memorialists asked for was the removal of doubts believed to exist as to the applicability of the Act to contracts made (with advance) between the maistries who supplied them with labour and the labourers, and although the Madras Government's statement of the law was undoubtedly correct, so far as it went, the Chief Justice and the Judges of the Madras High Court had already shown most distinctly in 1884† that the Act did apply to a contract made between a maistry and a coolie when the circumstances were such as to bring the case within the Act and when the contract admitted of

† G.O., Nos. 1911 and 1912, Judicial, 1st August 1884, pp. 13 to 15.

enforcement. On that occasion they pointed out* that the Act cannot be enforced in cases where the employer, instead of giving an advance on account of work to be performed, gives in reality money in deposit or a loan (which it is almost certain the servant will never be able to repay) on condition of service for the duration of the loan, but that if a coolie receives from a maistry an advance "on account of any work which he shall have contracted to perform or get performed by other coolies," then such a contract is within the Act. Hence the request actually made by the memorialists, though unnecessary and due to misapprehension, was not for any extension of the Act, but for such a declaration of its meaning as was really in accordance with the highest judicial opinions and decisions.

97. With regard to the second proposal also, the Madras Government adverted to certain rulings of the Madras High Court to the effect that a man who definitely contracts to work in one year cannot be compelled to perform the contract in a different year and also to the rulings by which if a contract be so drawn as to bind the coolie to perform so many months' work between unspecified dates, such a contract would be enforceable within any reasonable time. The conclusion which the Madras Government drew was that the planters have the remedy in their own hands, consisting, as it does, in a revision of the form of contract. They also remarked that they were entirely opposed to the proposal that the coolie should be made liable both to perform the contract after the contract time has expired and also to repay the advance he has received. But we are unable to find that the planters made any such proposal. What they said in support of their suggestion, which had originally been made by the Advocate-General in 1884, was this "It seems to be unfair to the planter that a coolie absenting himself without leave during the period of his contract can practically deduct the time of his absence from the time he has to serve. It also seems to be unfair to the coolie that if on arrest after the expiry of the term of his contract, he is willing to work, and the planter to accept his service, the court cannot pass an order to that effect. The court at present can only order him to repay the advance and imprison him if he refuses or neglects." Clearly, therefore, the planters did not propose that the coolie should be made liable both to perform his contract and to repay the advance, but, on the contrary, that he should have the opportunity of performing his contract instead of being ordered to repay the advance and imprisoned in default of payment. Hence on this point also there would appear to have been a misconception on the part of the Madras Government, while the suggestion which was put forward by the memorialists, but for which the Advocate-General was really responsible, finds a precedent in section 23 of the Ceylon Labour Ordinance No. 11 of 1865, and as to enforcing performance of a contract after punishment for its breach and after the expiry of its term, the proposal made by the planters of Southern India had already been passed into Law for Bengal by sections 181 and 182 of the Inland Emigration Act I of 1882, the former section, to which reference has already been made, enacting that a conviction is not to operate as a release, and the latter that the time of unlawful absence or of imprisonment for such absence "shall be added to the term" for which a labourer has contracted to serve, and the same provision is contained in section 24 of the Ceylon Labour Ordinance No. 11 of 1865.

98. The third proposal made by the planters was disposed of by the Madras Government with the remark that it had never been made before, that it was not supported by any arguments, and that it was most objectionable as it would destroy all freedom of contract and leave the coolie entirely at the mercy of his employer. The Madras Government was hardly correct in saying that the proposal was not supported by any argument, because the memorialists stated as their reason for making it that "at present in the absence of the contractor, the employer is powerless to restrain or recover absconding coolies" and referred to an opinion expressed by Mr. Justice Brandt in 1884. Unfortunately the language used by the memorialists throughout was obscure, but a comparison of Mr. Justice Brandt's opinion with the assertion that an employer has no control over coolies in the absence of the contractor who engaged them makes the proposal intelligible. Mr. Justice Brandt observed that "the master could sue the labourers who have received advances made for

him by a maistry as his agent if the coolies were aware that the real principal was the owner of the estate." This view of the law, they said, "does not seem to be generally recognized" and what they really wanted was a definite provision enabling a planter who had supplied the money advanced to labourers to proceed against such labourers independently of the intermediate contractor. The effect of the proposed clause would have been to give a planter direct control over labourers without the necessity of proving that they knew him to be the real principal in the contract they had entered into with his maistry. With regard to the view taken by the Madras Government that the proposal was most objectionable as it would leave the cooly entirely at the mercy of his employer, if the word 'rice' is substituted for the word 'cumbly' it corresponds precisely with the first clause of section 5 of Ceylon Ordinance No. 13 of 1889, an Ordinance amending the law relating to Indian coolies employed on Ceylon estates.

99. The fourth proposal commended itself to the Madras Government, so far as it could be met by an executive order; but the fifth proposal which was in effect that the burden of proving innocence should be cast on the person accused was opposed as contrary to every principle of justice.

100. Lastly with regard to reciprocity of extradition from British India and from Native States of persons accused under Act XIII of 1859 of breaches of contract, the memorialists dwelt especially on the difficulties experienced by planters in Mysore and by planters in Cochin. They pointed out the disparity between the situation occupied by Mysore planters and that occupied by planters in British India and with regard to planters in Cochin Territory stated that half the European estates on the Nelliampathi Hills were in Cochin Territory and half in British Territory, a situation which rendered it easy for a defaulter to escape a warrant by crossing the boundary and taking service on an estate beyond the jurisdiction of the court which issued the warrant. In dealing with these representations the Madras Government drew attention to the occasions, already mentioned in this report, on which the proposal regarding extradition for offences under Act XIII of 1859 had been considered and rejected by them, forwarded to the Government of India a copy of their letter,* dated 31st January 1887, to the Resident in Mysore and stated that they were still of opinion that offences under Act XIII of 1859 should not be rendered extraditable. But they added that "the complaint that planters residing in Mysore cannot obtain warrants against defaulters in British India is not without weight." They therefore pointed out that special arrangements had been made for the service in Mysore of processes issued by British courts under Act XIII of 1859 and expressed their willingness to make similar arrangements for the service of processes issued in Mysore if any enactment of the nature of Act XIII of 1859 existed in that State and if it were otherwise unobjectionable in character. But they considered that such a concession should be restricted to the service of summonses and the execution of bailable warrants and were not prepared to permit arrests to be made under ordinary (apparently non-bailable) warrants issued in Mysore. Finally they suggested that reciprocal arrangements of this character might with advantage be made with the States of Travancore and Cochin also and observed that "if such arrangements are made for the execution of bailable warrants, it is proposed that in all cases where bail is not forthcoming the person named in the warrant shall be taken under arrest before the court issuing the warrant, so that the practical effect of the above proposal will be to render the offence of breach of contract under Act XIII of 1859 extraditable to such an extent."

101. The Government † of India in reply were unable, in view of the opinion ‡ already expressed both by themselves and the Secretary of State for India regarding the operation of Act XIII of 1859, to agree to any extension or amendment of the provisions of the Act in the manner suggested in clauses I, II, III and V of the memorial, though they approved, with regard to clause IV, of the transfer of the execution of processes under the Act from Revenue peons to the Police. As to extradition they

Order of the Government of India.

† From Government of India, Revenue and Agricultural Department, Emigration, dated 19th May 1893, No. 1206-40, printed in Madras G.O., No. 1238, Judicial, dated 17th June 1893.

‡ Despatch No. 77, dated 5th October 1891.

Despatch No. 13, dated 11th February 1892.

considered that grave inconvenience was likely to arise if the States of Mysore, Travancore and Cochin were exceptionally treated in the matter and declared themselves to be in any case averse to the introduction of the proposed concessions in connection with mere breaches of contract falling under Act XIII of 1859.

102. This resolution was communicated * to the Planters' Associations with the result that delegates from all the Planters' Associations in Southern India assembled at Bangalore on the 28th August 1893, and determined to pray for a re-consideration of their memorial at the hands of His Excellency the Governor-General in Council. In their letter, dated 21st September 1893, with which they forwarded their memorial to the Madras Government for resubmission to the Government of India, they reiterated their objections to Act XIII of 1859 on the ground that owing to the indefinite nature of its clauses and the conflicting rulings of the High Courts of Madras and Bombay, it frustrated the very objects for which its provisions were "specially extended to the planting districts." With regard to extradition from British India to the Native States, they urged that as the supply of labour in the Native States of Mysore, Travancore and Cochin is insufficient to meet the demand, planters in those States draw much of their labour from the neighbouring districts of British India, that the laws which control the relations between employer and labourer in British India have been adopted by the Native States concerned, that as most of the offences which involve the necessity of legal action (notably those coming under Act XIII of 1859) are not extraditable, the offenders have only to return to their homes in British India to escape prosecution and that, consequently, planters in the Native States are involved in considerable difficulty in securing themselves against loss from breaches of contract and dishonesty with regard to advances. For these reasons and because the Government of India had declined to include offences under Act XIII of 1859 in the schedule to the Extradition Act, they proposed that certain special magistrates should be appointed in the States of Mysore, Travancore and Cochin and that processes issued by such magistrates under Act XIII of 1859 should have the same validity as those issued by British courts. In addition to these matters, the proposal made so far back as 1877 that registration should be made compulsory on all maistries by law was renewed. The Madras Government †, however, expressed its inability to support the proposal made on the subject of extradition, because, even assuming that the Native States were willing to appoint the special magistrates, the scheme "would involve the necessity of legislating in order to give legal force to their processes." With regard to the proposed amendments of Act XIII of 1859, the Madras Government furnished the Secretary of the Planters' Conference with a copy of their letter to the Government of India, dated 10th August 1892, and requested him to state more definitely the precise object of the various amendments suggested. As to the compulsory registration of maistries they pointed out that one consequence would be a penalty imposed on planters who employed an unregistered maistry and they enquired whether the planters were prepared to accept such a provision.

103. These proceedings, so far as the question of compulsory registration of maistries was concerned, were answered by the United Planters' Association of Southern India, which was formed in 1894, in their letter, dated 15th October 1894. In that letter the planters admitted the justice of and necessity for a penal clause prohibiting the employment of unregistered maistries and stated their opinion that the legislation prayed for was most necessary and that while it would act as a deterrent to defaulting maistries, it would materially improve the status of those who, by honest attention to their calling, deserved the assistance which a well-regulated system of licenses would confer on them. This letter was referred ‡ to the Advocate-General who was requested to prepare a draft of a Bill to render the registration of maistries compulsory.

Resolution of the United Planters' Associations' Conference at Bangalore, 1893, on the order of the Government of India. Result thereof.

* G.O., No. 1238, Judicial, dated 17th June 1893.

† G.O., No. 2482, Judicial, dated 28th November 1893.

Compulsory registration of maistries.

‡ G.O., No. 198, Judicial, dated 31st January 1895.

104. With regard to the proposed amendment of Act XIII of 1859, the answer sent by the planters took the form of a draft Act, forwarded with a letter, dated 31st October 1894, to provide for the punishment of breaches of contract by labourers on coffee, tea and cinchona estates and by contractors for supplying labourers to work on such estates. This draft was referred to the Honourable the Judges of the High Court and the Advocate-General for the favour of opinion.

105. Meanwhile the United Planters' Association of Southern India had renewed the representations on the subject of extradition and had obtained from the Travancore Government an expression of opinion that their request for facilities in the matter of executing in British India processes issued by magistrates in Native States in cases of breach of contract was very reasonable. Thereupon the Madras Government again * addressed the Government

of India "on the subject of providing means for the extradition of persons guilty of criminal breach of contract," stating that there was no doubt as to the magnitude of the interests involved and the gravity of the loss to which planters are exposed in consequence of the present condition of the law. They also observed that "the mischief does not end with the loss by the planters of sums which amount in the aggregate to an enormous total; the facility for fraud which the contiguity of British and Foreign Territory provides must unquestionably have a most demoralizing effect upon the large cooly population employed on the various estates" and, urging that the condition of the three States of Mysore, Travancore and Cochin is certainly such as to justify concessions which could not safely be granted to all the territories under native rule, alluded to the theory that the remedy for existing evils lies in the discontinuance of the advance system, expressed their conviction that advances are, and must long continue to be, a necessity and made two alternative proposals. The first, based on the facts that enactments corresponding to Act XIII of 1859 are in force in Mysore, Travancore and Cochin and that in Mysore the processes of British courts possess the same validity as those of the courts of the State, was that reciprocity of processes should be established between British India and each of the three States concerned by means of a special law empowering the British Police to serve summonses and execute warrants (if necessary bailable warrants only) which have been issued in respect of criminal breaches of contract by courts in Mysore, Travancore and Cochin, such service and execution being restricted, if a safeguard was considered necessary, to the processes of certain courts in the three States approved by the Government of Madras, with a further provision that no process should be served or executed unless endorsed by a British Magistrate. The second proposal was that "offences against Act XIII of 1859" should be notified to be extraditable offences within the meaning of the Extradition Act when committed within the States of Mysore, Travancore and Cochin. But this latter method appeared to the Madras Government less suitable than a special law to meet the special and peculiar circumstances of the case.

106. In their reply, † the Government of India remarked that the Madras Government had clearly and forcibly indicated, in 1887, the objections to declaring offences against Act XIII of 1859 to be extraditable offences within the meaning of the Extradition Act XXI of 1879 and that these objections still existed. As to the existence in Mysore, Travancore and Cochin of enactments similar to Act XIII of 1859 and the validity in Mysore of processes issued by British courts under Act XIII of 1859, they again drew attention to the despatches of 1891 and 1892 which contain the views of the Government of India and of Her Majesty's Secretary of State respecting the operation of the Act, observing that in the opinion of the Secretary of State "the Act was never intended to be applied to such contracts as are made on tea and coffee estates with coolies and contractors, and that it is generally admitted to be objectionable in principle. It is a dangerous instrument, capable of being worked most oppressively. The working of any similar provisions calls for the closest scrutiny and

* G.O., No. 1309, Judicial, dated 19th June 1895.

† From Government of India, Department of Revenue and Agriculture, Emigration, dated 1st May 1895, No. 592-32-1.

the Government of India are not prepared to lend themselves to any proposal which would facilitate the execution of processes issued in Native States under such a law and by courts the operation of which they cannot watch or in any way control." For these reasons the Government of India declined to reconsider the orders they had passed in 1893 and to sanction either of the alternative proposals put forward by the Madras Government.

107. On receipt of this resolution, the Madras Government * considered from the attitude of the Government of India that it would be useless to proceed any further with the draft Breach of Contract Bill, and therefore felt itself reluctantly compelled to relinquish the idea of legislation in this direction, as desired by the planting community. By this time the Advocate-General had prepared a Bill for the compulsory registration of maistries and this was referred to the United Planters' Association for such remarks as they might wish to offer.

108. The last step taken by the planters was the presentation to His Excellency the Viceroy of the memorial in consequence of which this Committee was appointed. †

* Abandonment by the Madras Government thereupon of the draft Breach of Contract Bill.

† G.O., No. 664, Judicial, dated 4th April 1896.

The last step taken by the planters, resulting in the appointment of the Committee.

CHAPTER IX.

THE DIFFICULTIES EXPERIENCED IN THE OPERATION OF THE SYSTEM OF ADVANCES AS AT PRESENT WORKED.

109. We now come to the third head in the fourth paragraph of the Government of India Resolution, viz., the difficulties experienced in the operation of the system of advances as at present worked.

Scope of the chapter.

110. The complaints of which we have given the history in the last chapter indicate these difficulties as represented by the planters in Southern India for the past thirty years and substantially the same complaints have been repeated in the evidence which we have collected. These difficulties began as soon as the planting industry developed to any considerable extent and the local labour by which it was worked at first proved unequal to the demand.

* P. 291.

In illustration of this fact, it may be observed that, according to the * Madras Manual of Administration, the first coffee estate in British India was opened at Manantoddy in the Wynaad in 1840 and for 10 or 15 years the cultivation made little progress. In 1862 there were 9,932 acres under coffee in the Wynaad, but in 1865 there were 200 estates covering 14,613 acres, and it was in 1865 that the planters first complained of difficulties and the Madras Government recognized the fact that planters were dependent on labour imported from a distance. The origin of the difficulties lies in the system of advances, but that system was established in the country long before planters came to it, and we are convinced that no imported labour can be obtained without advances. The main difficulty of all the planters throughout Southern India, except those on the Shevaroy Hills, the Pulney Hills and in Tinnevely, who draw their labour almost entirely from the district in which their estates are situated, is that they are not adequately protected by Act XIII of 1859, which they consider alone gives them any assistance against dishonest maistries, and that they and honest maistries are not adequately protected against dishonest coolies.

111. Eliminating various proposals which time and experience have proved to be impracticable, inexpedient or unnecessary, and which have now been abandoned as well as those which have been accepted and carried into effect, the past and present objections urged by the planters against Act XIII of 1859, stated briefly, are—

- (i) that the language of the Act is so vague as to cause uncertainty of interpretation and application;
- (ii) that no limit is placed on the amount of advance;
- (iii) that it leaves on the employer the burden of proving that a defaulter has misapplied money advanced to him;
- (iv) that the punishment provided for a first offence is too small to be deterrent;
- (v) that it contains no provision for enforcing a contract after a defaulter has once been punished;
- (vi) that it contains no provision for enhanced punishment for repeated offences; and
- (vii) that it contains no provision for enforcing a contract in the first instance if a defaulter is brought before a Magistrate after the time mentioned in the contract has expired.

112. The last objection may be dismissed from consideration with the remark that, as pointed out by the Madras Government in 1892, and by the Madras High Court in 1884, the

Unsoundness of the last objection.

remedy lies in the planters' hands. A contract can be enforced only according to its terms, the terms are matters of agreement between the parties, and if a planter wishes to bind a coolie to work in one year if default is made the previous year, he has only to insert in the contract a special provision to that effect.

113. As to the first objection the planters are supported by the minute of the Chief Justice of Madras who admitted in 1884 that the language of the Act is vague and might be improved. The Government of India observed in 1891 that the Act was of doubtful applicability to contracts for tea-garden labour and that the courts not unfrequently hesitated to administer it in such cases, while the Secretary of State declared in 1892 that the Act was certainly not passed with any view to such contracts as those which now prevail in tea-gardens and that neither in its form nor in its system of penalties is it conveniently adapted to contracts for labour on tea-gardens. Hence as to the unsuitability of the Act for labour contracts on plantations there

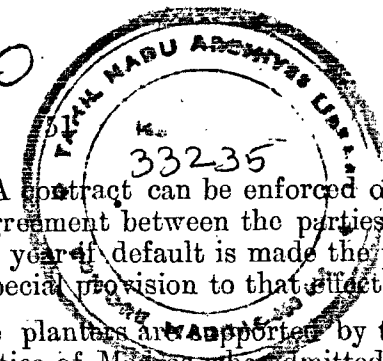
can be no doubt, but judicial decisions* of the High Courts of Madras and Calcutta have set at rest any question of its general applicability to such contracts and the difficulties which survive are difficulties in the working of its details. We do not consider it necessary to take title of mint and cummin by discussing complaints founded on mistake or misapprehension or on the erroneous decisions of inferior courts which are open to revision, and the weightiest matter which has come to our notice is

a † ruling of the Mysore Chief Court that, if subsequent to a contract of service entered into in consideration of a particular sum advanced, any payments are from time to time made to a labourer, they should not be tacked on to the amount first advanced so as to keep up a running account against the labourer, that the contract must be held to be separate and distinct in respect of each advance, and that it is not within the province of a criminal court to examine complicated running accounts and to ascertain what amount is due by the labourer to the employer and to apply the provisions of a penal enactment like Act XIII of 1859 to balances that may be found due on examination of accounts. Many Mysore planters complain that in consequence of this decision they are refused processes against a defaulter, if the amount of subsistence money paid weekly to the defaulter is added to the amount of the original advance and that if they omit the former amount, they never have the chance of recovering it in any form. But it is obvious that, as pointed out by the Mysore Chief Court, a system of running accounts of advances would, in the hands of an unscrupulous employer, mean life-long slavery for the labourer. The decision

is in accordance with principles laid down by the High Courts of Madras ‡ and Bombay. In our opinion the reasons given by the Chief Court of Mysore for its decision are conclusive, and we are decidedly opposed to any change in the law which would extend the meaning of the words "money advanced on account of work to be performed" to subsistence money paid from time to time.

114. With regard to the second objection, the proposal that a statutory limit should be placed on the amount of an advance is comparatively recent, having apparently been first discussed by the planters in 1894. A draft Bill on the subject was, we understand, submitted to the Government of India by Mr. Elliot to whom we have referred in chapter II (paragraph 17) in 1893, and at present the balance of opinion among planters is in favour of a limit being imposed. The reasons generally given for such a measure are that the formation of large companies, of which there is an indication in Travancore, where 1,000 acres of land have lately been opened by one company, will increase competition, that such companies can afford to be lavish or reckless in the matter of advances, which will rise beyond the means of poorer and individual planters and that maistries and coolies will grow even more demoralized than they are at present. It is, however, admitted that any system of limiting advances by law would be easily evaded. This is no doubt true and the obvious remedy would be combination among planters, but this we believe to be impossible because there are great numbers of Native planters who do not belong to any

Remarks on the second objection.



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Association. Then, on the one hand, while the demand for estate labour and competition among employers, not only in Southern India itself but in places outside Southern India, have increased very greatly of late years, and will doubtless continue to increase, we are compelled by the facts before us to think that the present state of the law gives great facilities for fraud to labourers in the matter of selling their services to the highest bidder without the slightest regard to any previous contract they may have made and without the slightest intention of refunding the advance received in such contract. But, on the other hand, there is great force in the argument that legislation in the direction desired would prevent the labourer from taking the best advantage of the labour market and would seriously interfere with freedom of contract, and on the whole we think the way out of the dilemma lies not so much in imposing a statutory limit on advances as in such measures as will prevent labourers from committing fraudulent or wilful breaches of contract with comparative impunity.

115. The third complaint in the summary we have given involves a suggestion that the burden of proof should be cast on an accused person. This proposal has been frequently rejected on the ground that it is contrary to a fundamental principle of the laws of evidence and Criminal Procedure and for this reason we think it ought to be rejected now.

116. With regard to the fourth complaint, the punishment provided by Act XIII of 1859 for a first offence is the same as is provided not only in the Ceylon Labour Ordinance 11 of 1865 and in the Inland Emigration Act I of 1882, but also in the enactments relating to emigration to such colonies as Mauritius and Natal and the Straits. The imprisonment under the Act must be rigorous, but, as a matter of fact, the severity of the law on the point has been diminished in Travancore and Cochin where it is left to the discretion of the court to award simple imprisonment or imprisonment with hard labour, the same relaxation was proposed in section 34 of the India Master and Servant Bill, 1877, and we certainly do not consider that the stringency of the law on this point should be increased.

117. As to the fifth objection, however, we think that the planters have a just grievance and that they are right in saying that the Act fails in its object partly for want of a provision by which the performance of a contract can be enforced after the defaulter has been punished. Speaking on the subject of legislation for specific performance, Sir Henry Maine once said that the English Master and Servants Act* amounted only to a far reaching law of specific performance ultimately enforced by three months' imprisonment. This was because under the English law, † although an advance of money is not essential for a contract of service, a servant who breaks his contract is convicted and imprisoned and is held guilty of a second offence, if, while the contract continues, he refuses to return to service at the expiration of his imprisonment. In India, however, it has been expressly ruled ‡ that a conviction for breach of contract of service under section 2 of Act XIII of 1859 is a bar to any subsequent conviction on the same contract for not returning to service. Specific performance therefore cannot be ultimately enforced under Act XIII of 1859, nor can repayment of the advance, which is necessary for all contracts made under it, be ultimately enforced if a defaulter has once been punished for refusing to refund, and the employer is left to the vain remedy of a civil suit. In Bengal and Ceylon the difficulty has, as we have pointed out in paragraph 97 of this report, been removed by a provision to the effect that punishment for a breach of contract is not to operate as a release, but that the labourer shall be compelled to return to service after conviction and imprisonment, the period not only of his absence from service but also of his imprisonment being added to the term for which he has contracted to serve. But the planter in Southern India, who has practically no remedy beyond the provisions of Act XIII of 1859, remains liable to lose both the labour for which he has contracted and the money he has advanced on account of that labour.

* Statute 30 and 31 Victoria, C. 141, now 38 and 39 Victoria, C. 86.
† Cf. *Unwin v. Clarke*, L.R.I., Q.B., 417, and *Cutler v. Turner*, 9 *ibid.* 502.

‡ 2 B. J. and p. 24, L.L.R., 21 Cal., 262.

118. The sixth complaint is akin to the one we have discussed in the preceding paragraph, but we are not sure that we apprehend its exact object. If that object is that a labourer who breaks his contract with one employer should be liable to enhanced punishment for a subsequent breach of contract with another employer, then we can find no precedent for such a provision in any labour law, and we do not consider that breaches of contract should be placed on the same footing as offences punishable with not less than three years' imprisonment. But if what is meant is that repeated breaches of one and the same contract should be dealt with more severely than the first breach, then there is a precedent in section 175 of the Inland Emigration Act, 1882, by which desertion from service itself is punishable and enhanced punishment is provided for subsequent acts of desertion. We are, however, not prepared to recommend that enhanced penalties should be attached to breaches of contract under such an Act as Act XIII of 1859, though they might be necessary in a definite labour law for plantations in Southern India as they have been found to be in the labour law for plantations in Assam.

119. In addition to these objections to Act XIII of 1859, there is one which has not been urged upon us, but which we think of considerable importance. This is that, as pointed out by the Government of India in their despatch of 1891 to the Secretary of State, the Act contains no provision specially directed against the desertion or enticement from one estate to another of labourers under contract. We have no reason to believe that deliberate enticement from one estate to another, or as it is called 'crimping,' is at all common among planters belonging to the various Associations; but there are thousands of small native planters who do not belong to any Association, and there is ample evidence to show that maistries and coolies who are already under advance to one estate and are refused further advance betake themselves to another estate and concealing their previous obligations, receive fresh advances and enter into fresh contracts. There is also reason for believing that maistries seduce coolies already engaged by other maistries. By section 183 of the Inland Emigration Act, 1882, every person is liable to fine or imprisonment or both if knowing that any labourer is bound by his labour contract to labour for any employer, he voluntarily entices or attempts to entice such labourer to leave such employer or harbours or employs any such labourer who has, in contravention of the terms of his labour contract, left his employer. The Ceylon Labour Ordinance No. 11 of 1865 goes even further, because by section 20 it imposes on employer of labour the duty of taking reasonable precautions to ascertain that labourers whom he takes into his service are not bound by contract to serve another employer.

120. The absence of any such provision from Act XIII of 1859 constitutes, in our opinion, a serious defect but we are also of opinion that the operation of any clauses of the nature indicated would be incomplete without the compulsory registration of maistries, a point on which the Madras Government instructed the Advocate-General, at the request of the United Planters' Association, to frame a bill, but on which the opinions given by planters before us are not unanimous. The evidence before us shows that in many instances proceedings cannot be taken against defaulters or if taken, fail because the defaulters cannot be traced and that the practice on the part both of maistries and of coolies of fraudulently taking advances from more than one employer, which was complained of in 1876 by the Wynaad Planters' Association, is increasing. According to the official return of the Mercara taluk alone in Coorg, the accused were not traced in 922 cases out of 2,565 cases filed under Act XIII of 1859 during the past five years. The maistries employed in Southern India usually belong to the same locality as the coolies they enlist and have therefore comparatively little difficulty in tracing defaulters, but planters who deal as a rule with maistries and of necessity make them large advances are, we consider, at a decided disadvantage through the want of compulsory registration of maistries. Opposition to legislation on the subject comes chiefly from the planters in Travancore, and the reason for it appears to be their fear that, as they

recruit labour from the same ground as the Ceylon planters, they will be placed at a disadvantage if their recruiters are compelled to register themselves or take out licenses while recruiters for Ceylon are free from such control. The recruiting agent of the Ceylon Government, who is stationed at Pámban in the Madura district of the Madras Presidency, has refused to give us information regarding the system of recruitment for Ceylon on the plea that he has no authority to do so from his Government, but it appears to us that if registration is made compulsory on any recruiters of labour it ought to be made compulsory on all.

121. It will now be seen that in our opinion the planters generally throughout

Conclusions.

Southern India labour under substantial difficulties in the absence of any provision by which specific performance of contracts can be ultimately enforced under Act XIII of 1859, in the absence of any provision against the seduction of labour, and in the absence of any provision for the compulsory registration of maistries. In 1865 the Madras Government were disposed to think that a Labour Act which would secure protection for the employers of labour against breaches of contract by labourers was necessary in planting districts, but they abandoned this opinion in 1866, because the industry was expanding and because no conspicuous examples had been adduced of losses caused by the wholesale desertion of labourers at critical periods of the year. There is nothing to show that the planters were then given the opportunity of adducing such examples, and in 1876 the Madras Government admitted that the planters were exposed to much fraudulent misconduct on the part of coolies and cooly maistries which the law in its present form is inadequate to reach and punish, and in 1877 that the planting industry in the Wynaad was suffering from a substantial grievance in the absence of a simple and complete remedy as regards breaches of contract, while in 1879 the only reason given by the Government of India for refusing to consider the proposals for an amended labour law was that the Master and Servant Bill, 1877, was under consideration. Subsequently, upon the same facts, the Madras Government considered that the existing law was sufficient and this assurance was accepted by the Government of India, but from 1893 the Madras Government has shown a tendency to revert to its original opinion, and we have no hesitation in saying that we think that opinion was right. The law is the same now as it was when the necessity for its amendment was recognized by the Madras Government. No amendment has been made, and the difficulties of the planters have increased.

122. That the planters have failed to discover the means of protecting them-

Planters' losses.

selves against heavy losses is shown by the evidence we have now collected. Thus, eleven witnesses say they have lost in the aggregate Rs. 30,750 through the wholesale desertion of labourers, two state that they each lost six tons of coffee (valued at Rs. 18,480) in one year from the same cause, while the total amount of loss incurred by the planters belonging to the Associations, for which returns have been furnished, is given at no less a figure than Rs. 4,64,625 under the head of irrecoverable advances apart from indirect losses. It must be remembered that this figure represents only the loss of certain associated planters, no statistics being available in regard to the losses of unassociated planters or of maistries, who are said to have lost much more than the planters. This, as it seems to us, is a most serious state of affairs, but there is one feature in connection with these losses which demands particular attention, viz., the great disproportion between the amounts lost in different planting districts. They are far larger in the Native States than in British India. The cultivated area held by planters belonging to Associations in the Madras Presidency and Coorg is 1,23,971 acres; the losses incurred by these planters amount to Rs. 79,885, or about two-thirds of a rupee per acre. The cultivated area held by planters belonging to Associations in the Native States of Mysore, Travancore and Cochin is 55,874 acres; the losses incurred by these planters amount to Rs. 3,84,740, or nearly Rs. 7 per acre. North Mysore alone accounts for Rs. 3,03,450 of this sum with a cultivated area of 13,160 acres. The incidence of losses here is therefore about Rs. 23 per acre.

123. The cause of this exceptional state of things is amply established by the

The reason for the far larger amounts lost in Native States than in British India and the necessity for a remedy.

evidence. North Mysore plantations are only able to secure three per cent. of local labour. Their chief recruiting field is South Canara, from which they derive 61½ per cent. Over this labour the planter has no control, owing to the fact that he cannot make use of Act XIII of 1859 against defaulting maistries and coolies who abscond to their homes. On the other hand, owing to the position of the estates, other labour can hardly compete with the South Canara labour. The South Canara maistry and cooly have become aware of the state of the law and of their immunity from arrest in British Territory for breaches of contract to work in Mysore. Besides the injury to the planting industry, the grave demoralisation of the South Canara emigrant is strongly indicated by official and non-official evidence, and some remedy is manifestly required.

CHAPTER X.

THE BEST METHODS OF REMOVING THE DIFFICULTIES
EXPERIENCED IN THE OPERATION OF THE SYSTEM
OF ADVANCES.

124. We have shown in the previous chapters of this report the importance of the planting industry in Southern India, the extent to which it is carried on respectively in the Madras Presidency, in Coorg and in the Native States of Mysore, Travancore and Cochin, the sources from which and the manner in which labour is obtained, and the impossibility of contemplating the abolition of the system of advances within any measurable distance of time, if ever, in respect of imported labour which forms 81 per cent. of the total labour supply. We have also shown the difficulties experienced by planters in the operation of the system of advances and we have now to consider in compliance with the orders of the Government of India, the best methods of removing the latter. The difficulties in question are—

- (1) The inability of the planter in any planting district in Southern India to obtain effectual redress for fraudulent breach of contract on the part of maistries and coolies, under the existing system, and to guard himself against serious loss.
- (2) The special disability under which the planting interest in the Native States labours, in the absence of any provision for pursuing defaulting maistries and coolies into British India.
- (3) The increasing demoralisation of British India maistries and coolies employed in Native States.

We regard these evils as extremely serious, both as regards the planter's enterprise and the labour employed on it, and we have no doubt that it is the duty of the Government to provide a remedy.

125. The first point for consideration is whether the remedy is to be found in existing legislation, that is to say, whether the planter has failed to make use of any enactment available to him, which might meet his need. We have shown that the Madras Act V of 1866 has been practically a dead letter ever since it was passed, and that no use is made of section 492 of the Indian Penal Code. And we have first to consider whether we can advise the Government that the existing law adequately meets the planter's case, and whether its more effectual application will meet the difficulties calling for a remedy.

126. To this enquiry we feel bound to reply in the negative. Act V of 1866 cannot be utilised in regard to the labour employed on plantations within the Madras Presidency, and its rigid enforcement, as regards the labour employed in Coorg and the Native States of Mysore, Travancore and Cochin could only result in disaster to the planting interest in those tracts, unless it were also made applicable to the labour employed in the Madras Presidency itself and to the labour exported from the Madras Presidency to Ceylon, the planting interest in which enters into competition with the tracts mentioned. Further, its provisions would scarcely give any relief inasmuch as the penal provision of section 12 only applies to the case in which a labourer without good and sufficient cause refuses or neglects to proceed to the place at which the contract is to be performed, and does not reach the labourer who having proceeded to such place, subsequently breaks his contract or otherwise deals fraudulently with his employer. Finally, several of its provisions as they stand, are inapplicable to the mode of recruiting in force for the tracts in question.

127. Section 492 of the Indian Penal Code also constitutes an inadequate remedy, because it provides no means of enforcing the contract and the fact that it is not resorted to illustrates the representations often made by the planters to the effect that what they desire is the enforcement of the contract rather than the punishment of the defaulter. This representation is corroborated by the fact that they always take action under Act XIII of 1859, the only law, besides the civil law, which gives a Court power to order performance of work contracted for. It is further corroborated by the fact that while the Act gives the employer the option of demanding fulfilment of a contract or repayment of the money advanced, planters appear generally to choose the former alternative. Thus, for instance, during the past five years in the Court of the Taluk Magistrate of Mercara, Coorg Province, 89 defaulters were ordered to do the work while 61 were ordered to repay the money advanced, in the Manjerabad taluk of the Mysore Province, 93 orders for performance of work were passed against 45 orders for the repayment of advances and in the Kadur district of Mysore, orders to perform work were passed in 522 cases, while orders for repayment of advance were passed in 63 cases only. Similar returns have not been furnished by other Magistrates, but, seeing that the necessity for the fulfilment of contracts is paramount in all the planting districts alike, there can be no doubt that throughout the courts in the planting districts of Southern India, orders for the performance of work considerably exceed in number orders for repayment of advance.

128. As regards the civil courts we consider that they do not afford the remedy. As was stated in the debates in the Legislative Council on the passing of Act I of 1882 with respect to the labour recruited for Assam, a civil suit is useless in most cases of this kind. Planters virtually have no remedy at civil law against coolies and maistries who run off with advances. In such cases the remedy of pecuniary damages through the civil courts is but a barbarous and illusory remedy. The return of civil suits for the recovery of advances or of damages for breach of contracts made with advance furnished to us by the civil courts in the planting and labour districts and tabulated in Appendix VI establishes the truth of these remarks. The provisions of the Specific Relief Act at first sight appear to be more appropriate to the case, and when legislation on this basis was first proposed by Sir Henry Maine in 1864 in the shape of an addition of four sections to the Civil Procedure Code, it was intended, * in event of the measure becoming law, to take steps for the repeal of nearly all the petty criminal contract laws in India, including section 492 of the Penal Code and Act XIII of 1859. These amendments of the Civil Procedure Code proposed by Sir Henry Maine never became law, but the law on the subject is now contained in the Specific Relief Act, 1877, which, however, repealed none of the enactments above mentioned. A decree under the Specific Relief Act will not however ordinarily avail the planter, even if it be worth his while to go through the procedure necessary to obtain it, for if a defaulter is arrested in execution of a decree and imprisoned, the imprisonment is not felt as a disgrace in the class to which he belongs, and the additional burden of maintaining the defaulter in the civil jail is imposed on the planter.

129. Nor can we say that Act XIII of 1859 adequately meets the planters' case. Some reasons for this have been fully given in paragraphs 113, 117 and 119 of the foregoing chapter, where we have endeavoured to show that the language of the Act is vague, that it does not enforce the ultimate performance of the contract, and that it does not protect the planter against the enticement of his labour by other persons. Moreover, as has been often said, it never was intended to be applied to contracts for agricultural labour, still less to coolie emigration, and it contains none of the provisions which have since been introduced into enactments on the latter subject with the object of protecting the emigrant and controlling the recruiter. On the other hand, with all its faults Act XIII of 1859 has remained on the statute book as the sole, though imperfect, sanction in Southern India of estate labour contracts, and no one in India acquainted with the relations of employers and employed has

ventured to advocate its repeal without substituting some other enactment controlling those relations. To the planting industry the Act has been a useful handmaid. The extent to which it is used as evidenced by the statistics contained in Appendix VII shows that the planters in carrying on their enterprise frequently have recourse to its provisions.

130. The fact is that one of the many difficulties with which the Indian Legis-

Necessity for a penal law of contract.

** Introductory note to Sir Henry Maine's Speech on breaches of contract committed in bad faith.*

ature has had to cope arises from the tendency of the Natives to break their contracts with Europeans after having received payments in advance or other consideration.* In 1861 a Breach of Contract Bill applying to agricultural contracts was introduced into the Council of the Governor-General of India, because the ordinary civil remedy by the award of damages was in most of these cases utterly useless and because Act XIII of 1859 was intended to apply only to artificers, workmen and labourers and its local extent was limited. This Bill was vetoed by the Secretary of State and a modified Bill, subsequently introduced, which attempted general legislation on the subject, was dropped. When this was done, so great an authority as Sir Henry Maine expressed himself as follows: "He did not understand the Secretary of State to object to particular legislation. He meant by particular legislation legislation directed to the enforcement, by the authority of the Magistrates, of a certain class of contracts, or of contracts between persons belonging to a particular class. There were, he believed, samples of such legislation in the jurisprudence of every country. . . . Of course such legislation must always be sparingly resorted to and only on the clearest grounds. . . . But still in spite of all its disadvantages he confessed that he infinitely preferred particular to general legislation on that subject," because "in particular legislation you have this compensating advantage that you know where you are going to. You can measure the consequences of the steps you take, and you can retrace them if they disappoint you." Moreover he was of opinion that if exceptional measures had to be resorted to, they could secure what, no doubt, was one of the most efficient means of moral education—the exact performance of contracts. We quote two other authorities on this subject. Mr. Whitley Stokes in the debate on the Indian Emigration Bill, which took place on the 20th July 1881, remarked that "breaches of certain contracts are proper subjects for penal legislation when committed by persons from whom it is impossible to recover damages." Nothing short of a penal law is sufficient for the protection of employers of labour who advance money for the emigration of labourers without property and with a small sense of responsibility. Sir Charles Turner, Chief Justice of Madras, in writing on the proposal for amending Act XIII of 1859 made by the planters of Southern India in 1884, while expressing the view that ordinarily the general law sufficiently protects the relations of master and servant, recorded an opinion that special legislation on this subject of a penal character should be confined "to cases which contain an element of fraud and are not sufficiently met by the general law, viz., where advances have been received for labour or materials, and the work has not been executed." This passage possesses all the greater force as it is followed by a strong protest against any amendment of the law which would have the effect of converting contracts for service into obligations amounting to a qualified form of slavery.

131. We are aware of the objection which is felt to legislation of the character

Objection to penal legislation met.

which we have been advocating, viz., that it is against the spirit of modern legislation to convert the breach of a civil contract into a penal offence, and we wish to express our full concurrence generally with this sentiment. But we venture to think that the exceptional circumstances entirely remove the present case from the general category, and the security of property and prevention of fraud are undoubtedly among the objects of all legislation. In the first place we have to deal with a system of advances which we have shown to be necessary, and the rights of property cannot be efficiently protected unless these advances are secured by special enactment. There is, we apprehend, a great difference between the obligation which rests on a person who has taken an advance of money as an earnest that he will perform his contract, and that arising out of the mere engagement to serve. Finally, the want of

proper facilities for enforcing labour contracts has, as we have seen, resulted in an extensive practice of fraud which is demoralising the class furnishing the labour. When to all these considerations is added the fact that in no similar case, so far as we are aware, in India, Ceylon or the colonies has it been found possible to dispense with a penal labour law, we hold that there is ample justification for the view that the Southern India planting industry needs such protection. We are wholly unable to see why the planting industry in Southern India, where the estates represent a capital of Rs. 19,65,19,281 and where 3,22,875 maistries and coolies are annually employed at a cost of Rs. 1,87,82,632 in wages, should any longer be made an exception. We find that native planters join the European planters in an urgent prayer for an improvement of the labour law in Southern India, we are of opinion that the time has not yet come when legislation controlling the relations between employers of labour and labourers, giving adequate protection to the employers against fraud and wilful breaches of contract amounting to fraud, and at the same time safe-guarding labourers against oppression, can be dispensed with, and we venture to think that the time when special legislation on labour contracts can be abandoned will be indefinitely postponed in Southern India unless the necessary measures are now taken by the Government. And as we have shown that the necessary protection of the planting industry in these tracts is not afforded by existing legislation, our next duty will be to indicate the mode in which it should be provided.

132. We are not in favour of the amendment of Act XIII of 1859 so as to

Amendment of Act XIII of 1859 not recommended.

meet the case of the Southern India planting industry. The Act was not designed for such a case and could not be made applicable to the planting industry without being thoroughly recast, whereas it has a certain sphere of operation all over British India, and its amendment in regard to any particular locality for a special industry would be inconvenient.

133. Our opinion is that the Madras Act, V of 1866, should be made the basis

Amendment of Act V of 1866 recommended.

of the needed legislation. In respect of this Act, it is abundantly clear that matters cannot remain as they are. The law is stringent, but it is a dead letter. It imposes the most serious penalties for its breach to which every planter and maistry in Coorg and in the Native States of Mysore, Travancore and Cochin who recruits labour from the Madras Presidency is liable; and there are few who do not. Its provisions nevertheless are in many particulars unsuitable for such recruitment. So far as any advantage has been derived from them, it might at once be repealed in respect of such recruitment, as it has already been repealed (by Act III of 1876) in respect of engagements in the Presidency of Madras for labour to be performed in Lower Burma. But we consider that it may be so amended as to answer all requirements. In the first place, the principles, though not the actual provisions, of the Act are precisely such as appear to us to be needed in respect of labour exported from the Madras Presidency. The number of such emigrant coolies is very large, and in the case of one importing centre there is considerable mortality among them. In the second place, we have stated above that the registration or licensing of maistries or recruiting agents should be prescribed by law, and that if this is done at all it should be done in respect of all labour recruited in the Madras Presidency for any of the planting districts or for Ceylon. We are of opinion that this can more conveniently be brought about by an amendment of the Madras Act V of 1866 than by a separate enactment.

134. Finally, on a review of the whole history of the case and of the progress

Special law required for the planting industry in Southern India.

of legislation in regard to the Assam Planting Industry, we are convinced that a special enactment relating to the supply of labour from the Madras Presidency to the planting districts in Madras, Coorg and the Native States of Mysore, Travancore and Cochin as well as to Ceylon, is absolutely required in order to put an end to the confusion which now exists, and to the evils which threaten the planting industry and those who are affected by it. The recruitment of labour from the Madras districts for all the tracts mentioned is larger than that which has been met by special legislation in the case of emigration to Assam, and there is no prospect of

its diminishing. The fact that a considerable emigration takes place to Native States, was recognized in 1866 as a reason for legislation and an Act was passed which was, however, primarily designed to meet the case of irregularities in emigration to Bengal and Assam and was not made applicable to emigration to Ceylon. In regard to emigration to the Native States and Coorg, that enactment has failed of its purpose, but the need for legislation has been amply proved by subsequent developments. We have shown that Act XIII of 1859 has only partially met the need. It does not cover all the ground, nor can it be applied to any case except the supply of labour to the districts of the Madras Presidency and to Coorg. We are of opinion that the subject should be taken up where it was left in 1866, and that the Madras Act V of that year, which is no longer needed for regulating emigration to Assam should be revised so as to meet the case of labour supplied under a recruiting system from the Madras Presidency for planting districts within the Presidency, in Coorg, in Ceylon and in the Native States of Mysore, Travancore and Cochin.

135. The main features of the proposed law have already been indicated. Provision is required for the registration or licensing of recruiters, for the formal execution of contracts and for the enforcement of such contracts on the lines of legislation more recent and more applicable to the circumstances than Act XIII of 1859 or section 12 of Madras Act V of 1866. The provisions of the latter Act, of the Ceylon Labour Ordinances and of Act I of 1882 will form a useful guide in regard to such matters, as well as the responsibilities and obligations of the recruiters. The objects in view would be, first, to preserve to planters in British Territory the facilities they at present enjoy under Act XIII of 1859 for enforcing their contracts; second, to add to these facilities such corresponding obligations as have been deemed proper in the more recent enactments; third, to provide for the control of the recruiting agency; and fourth, to lay the foundation for the introduction of a procedure whereby planters out of British India who obtain their labour from the Madras Presidency may have reasonable control of such labour. We think it beyond the scope of our duties to frame such an enactment, and were we to attempt to do so, our labours would be considerably further protracted, but we are convinced of the propriety of such a measure and of the need of simplifying and systematising the present law on the subject.

136. We are not prepared to say whether, if such an enactment were passed, it would be advisable to repeal, so far as the planting industry of Southern India is concerned, the provisions of Act XIII of 1859. Judging from the analogy of Assam legislation, such a repeal would probably be found unnecessary and undesirable. But it would be premature to pronounce on the question until the precise lines of the new enactment were settled.

137. When the labour law for the planting industry in the British districts of Southern India and for recruitment of such labour in Southern India and Ceylon is settled, the next step will be to secure the introduction of similar measures into the Native States of Mysore, Travancore and Cochin, and to arrange for the necessary procedure, with a view to giving reasonable facilities to planters in these States as well as in Ceylon for controlling their labour and enforcing their contracts. We now proceed to deal more particularly with this latter aspect of the question.

138. In regard to the Native States of Mysore, Travancore and Cochin, which contain an area of cultivation under coffee, tea and cinchona nearly as large as the total area of such cultivation in the Madras Presidency and Coorg, Act XIII is practically of no assistance, though Regulations corresponding to it have been adopted by these States, for the intervention of the boundary line between British and Foreign Territory and the want of reciprocity in processes and warrants under the respective enactments deprive the planter within the territories of these States of any remedy under the Act against defaulting maistries or coolies belonging to British India, who constitute the bulk of his labour supply. For this reason we feel strongly that a remedy is required. It is impossible to contemplate with any

complacency the present state of affairs. The planting industry in Southern India is an imperial concern. The capital has been furnished, in the first instance, by British planters who held under British guarantees. Mysore was under British administration when the planting industry developed, and the industry in Travancore and Cochin was not started without the cognizance and approval of the British Government, and we consider that the paramount power is morally bound, especially in the case of Mysore, to extend to the planting industry in Native States as full a measure of its consideration and protection as in the case of British Territory. This duty seems to us to rest on a threefold basis—the claims of the States concerned, the claims of the planters, and the necessity for removing from the recruiting tracts in British India a temptation which is found to be creating a special class of crime. We consider the circumstances of the case exceptional; we are not aware of any other instance in India, in which, as is practically the case here, the conditions of a special and important industry extend over a large tract of country comprising British and Native State Territory, and in which those conditions are interdependent. Formerly the British planting industry was mainly dependent on Mysore labour, and all that was necessary to the planter in regard to the control of such labour was secured by the intervention of the British Government. It is true that the planter in British Territory never had any facility for controlling labour obtained from Travancore and Cochin, but he never employed such labour and the disability was nominal. The conditions have now changed. A small amount of Mysore labour is still employed on plantations in British India, and this labour is specially valued; but the bulk of the labour imported to British plantations is now taken from British districts. The change has not been accompanied by any practical alteration in the planters' remedy. He has the same control over all the labour employed by him, whether from Mysore or from British districts. Since 1891 (Appendix V), the number of warrants under Act XIII of 1859, issued from British Courts and executed in Mysore amounts to 1,400, which, considering the limited number of Mysore labourers employed in British India plantations, is a considerable figure. In the case of Mysore the conditions have also changed. The Mysore industry, at first, depended mainly on local labour, and control over this labour was secured by local enactment. The planter is now unable to obtain the required supply from Mysore Territory, and the bulk of his labour is derived from British districts. To him the change is momentous. In respect of British labour he is cut off from his remedy. He cannot even proceed against an absconding maistry or cooly under the only enactment which has ever been found of any avail (Act XIII of 1859), for his contracts are for work in Mysore, and the British Magistrate has no jurisdiction and the Mysore Magistrate is precluded from asking for the extradition of the defaulter, as even if fraudulent breach of contract under the Act were a criminal offence it would not be extraditable under Act XXI of 1879. His only remedy is to wait until the defaulter again ventures into Mysore, which he occasionally does, taking care, however, to conceal his former connection and to keep at a distance from his former employer; then, if he can find him, and if he can forestall a second elopement, to proceed against him under the corresponding enactment in force in the State. This is obviously no remedy at all, and the planter rarely attempts it. The device adopted by some of the maistries employed in Mysore to bring their absconding coolies within the scope of the law, which has been described in paragraph 35 of this report, is a strong commentary on the impossibility of the employers' position in Mysore. The gradual disappearance of the chief difficulties under which the British planter laboured, and of which he complained for a long series of years from 1865 downwards, is, in our opinion, due to his power of enforcing Act XIII of 1859, imperfect as it is, in all the tracts from which he draws his labour, while the inability of the Mysore planter to enforce the Act in British India from which he draws nine-tenths of his labour has correspondingly been the source of his ever-increasing difficulties and the just cause of his complaints.

139. The state of things which prevails in Mysore is already threatening Travancore and Cochin. It will be remembered that the surrender of defaulters by these States under Act XXI of 1879 on warrants issued by British Magistrates has never been insisted on, the Madras Government intimating in the case

of Cochin that it was "not prepared to ask for the extradition of persons committing offences under the Act XIII of 1859, . . . when the Magistrates in British Territory are unable to reciprocate the procedure on their part." So in these two cases there is complete reciprocity in the absence of all control of labour derived from British districts on the one hand and from the States on the other. But as practically no planter in British Territory takes labour from these two States, whereas the States concerned obtain the bulk of their labour from British districts, the results of this reciprocal non-interference are very different. And, as the state of the law becomes better known and the demand for labour in these States increases, it may be anticipated that the same evils will become prevalent here as in Mysore, viz., loss to the planter and demoralisation of the labour market.

140. We are of opinion, therefore, that while all planters in Southern India have a just complaint owing to the short-comings of the law, the complaint of the planters in Native States rests on an especially solid foundation. Many of the former regard the labour laws as insufficient and unsatisfactory, but the Native State planter, except in so far as he is able to obtain local labour (a small proportion of his total supply), has no labour law at all. This fact has, we think, been somewhat obscured by the feeling on the part of the planters that, in order to bring their wants to the notice of Government, it was necessary for them to combine and show a united front. We have shown that British planters have difficulties to contend with, which may be remedied by an amendment of the labour law; but the case of the planting industry in the three Native States of Mysore, Travancore and Cochin calls far more urgently for consideration, and constitutes a real grievance, requiring an effectual remedy, which it is the duty of the Committee now to try and suggest.

141. We are deeply sensible of the difficulty of suggesting such a remedy. The simple and obvious one is to allow complete reciprocity in the service and execution of warrants under Act XIII of 1859 between British Territory and the three Native States concerned under such safeguards as may be deemed necessary. But we are precluded under the terms of our instructions from recommending that breaches of contract under Act XIII of 1859, or rather disobedience to an order under section 3 of that Act, should be made an extraditable offence under Act XXI of 1879. At the same time the Government of India signified their intention that the question of reciprocity in the execution of processes should be discussed by the Committee. As we had considerable difficulty in understanding the scope of the intention thus expressed, we asked for an interpretation of it, pointing out that the sole object of the proposal made by the Madras Government relating to reciprocity of processes was to provide means for the extradition to the three Native States of persons guilty of criminal breach of contract under Act XIII of 1859. We understand that the Government of India only intended the question of reciprocity in the service of such processes to be discussed, and that we are not to infer from the words "execution of processes" that we are invited to discuss the question of arrest and extradition even under bailable warrants. This being so, we do not think the discussion of the question will lead to any result. Processes without any means of enforcement, except the realization of the pecuniary penalty, will not avail the planter at a distance any more than the procedure of the civil courts which we have already pronounced to be unsuitable to the case.

142. But, before quitting this part of the subject, we wish to place before the Government of India a suggestion which has occurred to us and which, although it is open to some of the objections which, from time to time, have been taken to the planters' proposals, appears to us to be free from the most serious obstacle involved in them, viz., the enlargement of the schedule of Act XXI of 1879. Under section 1 of the Act "the provisions of any law or treaty for the time being in force as to the extradition of offenders" are not affected by anything contained in the Act, and "the procedure provided by any such law or treaty shall be followed in every case to which it applies." A treaty or convention between the British

Government and the three Native States in regard to reciprocity of procedure under a labour law would, we apprehend, under this clause, be independent of the provisions of the Extradition Act. Viewing the subject apart from technicalities, such a convention for the purpose of regulating the supply of labour to the plantations in Southern India would, in our opinion, be at once effectual and appropriate. The interdependence on each other of the planting and recruiting districts in British Territory and in the Native States respectively has been shown. Their interests in the planting industry are commingled; simplicity and uniformity in the law applicable to them in regard to these interests are desirable and, we are inclined to say, almost indispensable. The obstacles to this simplicity and uniformity are technical, and could be entirely obviated by a convention either embodying a labour law and the procedure for working it or referring to the existing law and laying down a procedure for giving effect to its provisions with a view to reciprocity between the courts of the various tracts concerned. We do not conceal the fact that, without some form of extradition, such a measure would be of no avail, just as a labour law without a penal provision would be useless. But the measure would be a special one, not involving other States, and it would be based upon special justification. Every precaution could be taken to prevent its improper use. The States concerned would, we are convinced, object to no guarantee which the British Government might think necessary to require for the proper constitution of courts possessing jurisdiction. Under the terms of the Instrument of Rendition and the explanatory correspondence which took place regarding it, the Mysore State recognises the propriety of appointing a European as Deputy Commissioner of the largest coffee-growing district in Mysore, and we can see no objection to extending this requirement, or to the adoption of any other precautionary measure necessary for the proper working of a labour convention. In Travancore and Cochin, European Magistrates are also employed. The convention itself might be so framed as to have temporary force, and might be subject to reconsideration after a term of years.

143. Such a measure seems to us the best practical method of putting an end to the inequitable disadvantages under which the Native State planters at present labour. We are aware that the proposal is opposed to the general policy of the Government, and we are unable to quote any precedent for a treaty engagement in such a matter. The great importance of the industry and its exceptional circumstances, combined with the fact that under the restrictions imposed upon us, we do not see our way to making any very satisfactory proposals, seem to us to justify the course we have taken. Our proposal appears to us to afford the best solution and we have, therefore, ventured to put it forward. The other alternatives we have to propose are not wholly satisfactory to us, and we only offer them because we feel that it is impossible to allow the matter to rest as it is, and if the Government does not see its way to accepting our suggestion, we must still deal with the existing anomaly in the best manner open to us.

144. The second alternative which we have to propose is an extension of the principle of section 229-B of the Civil Procedure Code, which empowers the Governor-General in Council to declare that the decrees of courts in Native States may be executed in British India as if they had been made by the courts of British India. An order under Act XIII of 1859 is not a decree of a civil court, but as observed by the Government of India on more than one occasion, the breaches of contract to which it refers are not, properly speaking, offences at all, but practically mere civil wrongs; and the order of the Magistrate primarily amounts to no more than a decree for specific performance or discharge of the money debt. There seems to us to be no objection to embodying a provision in the law relating to such breaches of contract to the effect that orders for the performance of the contract or the repayment of the advance issued under that law or any corresponding enactment in the three States shall be executed by British Magistrates subject to a restriction similar to that provided in section 229-B of the Civil Procedure Code. The order for imprisonment in case the original order is disobeyed would be issued by the British courts, not by the

Native courts. As above explained, we believe there will be no difficulty in securing that the Magistrates in planting districts in the Native States shall be such as to justify the measure, which would be liable to rescission at any time.

145. But though such a provision may be of some use in enabling the planters in Native States to follow into British Territory cases in which the maistry or cooly has been adjudged to have committed fraudulent breach of contract in the Native States, it will not avail to check the most common kind of fraud, viz., cases in which the labourer never goes to the place where he has contracted to work, or absconds into British Territory after doing so without completing his contract. In default of the adoption of our suggestion for a convention between the British Government and the Native States concerned, we offer the following proposal by way of partial remedy for the planters' present inability to deal with such cases.

146. The principle of allowing British Magistrates to take cognizance of the refusal or neglect (without good and sufficient cause) of a person who has contracted in British India to render service in a Native State, to proceed to the place where the contract is to be performed, has been embodied in the Madras Act V of 1866, section 12. We conceive that the reason for limiting the action of the Magistrate to this failure lies in the fact that the Act was framed primarily for the regulation of emigration to a distance from the Madras Presidency and that there is no objection in principle to allowing the Magistrate to take cognizance of failure to complete the contract or of desertion prior to its completion, should the labourer be found in his home having made such default. We have made enquiries from several of the most experienced planters from Native States who were present at Bangalore during our sittings for oral examination of witnesses, as to the advantage of an enactment upon these lines, and we find that in default of some measure of extradition, they would be glad to see the law so amended. We apprehend that such an amendment would not go beyond the principles accepted by the Government in passing Act I of 1882, while we are of opinion that the plantation labour of Southern India needs, as much as that of Assam, legislative control. And provided that the Native States concerned would be prepared to pass a similar regulation, we think that, as between British India and those Native States, a symmetrical and intelligible basis would be provided for dealing with breaches of contract. The Magistrates under such an arrangement would deal with persons found within their jurisdiction who commit fraudulent breach of contract across the border in the same manner as they now deal with such breaches of contract committed within their jurisdiction. Breaches of contract would at the same time be amenable to the ordinary law if committed in the tract where the labour is employed, whether the labour law is amended or no. Steps would have to be taken to prevent two sets of proceedings for the same failure, but this would not be difficult if a system involving substantial reciprocity were introduced.

147. We desire to draw special attention to the arrangement under which the British Government demands of the Mysore State that Her Magistrates and Police officers shall respect all processes and execute all warrants of British Magistrates exactly as if they had issued from corresponding courts in Mysore. We have nothing to do with the policy of making such a general demand, but in so far as it relates to the surrender of persons accused of a fraudulent breach of contract, its unilateral character appears to us to be objectionable, on the ground that it gives to planters in British Territory a hold on Mysore labour and thus facilitates the employment of such labour in British plantations in a manner to which there is no counterpart at the disposal of the Mysore planter and for which there is, we believe, no precedent in any other Native State. And it seems to us that the abolition of the practice referred to might set free some Mysore labour for employment on Mysore plantations, and thus diminish the inequality of treatment which has been brought out in this report. But, to the credit of the Mysore planters, they absolutely decline to take up the idea, and all the evidence we have received from

Proposal to extend jurisdiction of Magistrates in British Territory and Native States, so as to enable them to deal with fraudulent breaches of contract wherever committed by persons who reside and are found within their jurisdiction.

The exceptional arrangement under which British processes run in Mysore State.

them is against the suggestion. They will not admit that such a measure would benefit them, partly because they consider that the labour which has become used to emigrate from Mysore to British plantations would continue to go there, partly because the Mysore planting districts are at a greater distance from such labour than the British plantations, but mainly because they hold that the absence of control over Mysore labour in the case of British plantations would bring about the same demoralization of the cooly as has taken place in the case of British labour imported into Mysore, in respect of which no extradition is permitted if the defaulter absconds into British Territory. And feeling strongly, as they do, this want of control in their own case, they are very reluctant to advocate any measure which will place the British planter under the same disability. Notwithstanding, we cannot help feeling that the disparity in regard to control of labour between the Mysore and the British planter is most undesirable and, under the circumstances, indefensible. And in the event of either of the suggestions made in paragraphs 142 and 146 being accepted, we think that the system should be abandoned. As above explained (paragraph 139), no such practice exists in regard to the States of Travancore and Cochin, and we believe that it is opposed to the general practice in regard to all Native States.

Summary of recommendations.

148. The recommendations we have made in this chapter may thus be summarised:

- (1) That Madras Act V of 1866 should be amended so as to provide a suitable labour law for all the planting districts in Southern India.
- (2) That the question of declaring Act XIII of 1859 to be inapplicable to contracts for labour governed by the amended Act should be reserved for consideration.
- (3) That the Native States of Mysore, Travancore and Cochin should be invited to adopt the amended law.
- (4) That the execution of the amended law should be made reciprocal between the Madras Presidency and Coorg on the one hand, and the Native States of Mysore, Travancore and Cochin on the other, by a convention or mutual agreement.
- (5) In default of a convention—
 - (a) that British Magistrates should be empowered to give effect to orders of certain Magistrates in Native States in respect of fraudulent breaches of contract under the amended law, or if there is no amendment under Act XIII of 1859, or preferably
 - (b) that Magistrates in British India and in the Native States of Mysore, Travancore and Cochin should be empowered by their respective Governments to deal with persons found within their jurisdiction who commit fraudulent breach of contract (as above explained) across the border.
- (6) That in the event of either of the above suggestions 4 or 5 (b) being accepted, the Mysore State should no longer be exceptionally treated in respect of British processes in breach of contract cases.

CHAPTER XI.

COFFEE-STEALING.

149. The last subject into which the committee have to enquire is (as regards the prevention of coffee-stealing) whether the conditions under which coffee is produced and brought to market are such as to render it desirable (1) to extend to 'parchment' and 'cherry-dried' coffee the legislative provisions now applying by section 9 of Madras Act VIII of 1878 to 'green-gathered' coffee; and (2) to amend that section by substituting the word 'person' for the words 'coolie, maistry or other labourer employed on a coffee estate.' Before proceeding to consider the views expressed by the planters and other witnesses examined by the committee on these amendments, and the evidence adduced in support of them, it may not be out of place to state briefly the circumstances under which the Act was passed and its history from that date up to the present.

150. In the latter part of 1874, the Wynaad and North Wynaad Planters' Associations presented addresses to Lord Hobart, the then Governor of Madras, chiefly on the subject of the appointment of an additional European Magistrate in the Wynaad, but they mentioned incidentally that the crime of coffee-stealing was 'increasing terribly' and prayed that a special law might be passed to cope with it similar to the Ceylon Ordinance on the subject, as the existing law was inadequate. The Madras Government in G.O., No. 35, Judicial, dated 7th January 1875, stated that the planters were in error in supposing that a Coffee-stealing Ordinance had passed the Ceylon Legislature, but admitted that there was a Bill on the subject before the Council at Colombo. If this was passed and proved satisfactory, the planters were permitted to again address Government on the point, but till then the Government was averse to entertaining a project for legislating in that direction. The proposal then appears to have been shelved for about two years.

151. At a conference of coffee planters, representing nearly the whole planting industry of Southern India, held at Manantoddy in the Malabar district in the beginning of 1877, the subject was re-opened and a resolution was passed to the effect that, "considering the prevalence of coffee-stealing and the inadequacy of the existing laws to check or suppress it, the Government be solicited to pass an Act similar to the Ceylon Act entitled 'an Ordinance to check Coffee-stealing' "(Ceylon Ordinance 8 of 1874). In addressing Government in support of this proposition, the Honorary Secretaries of the Wynaad and North Wynaad Planting Associations (Messrs. J. W. Ditmas and H. B. Winterbotham) made the following remarks:—

"There can be no doubt that coffee-stealing in Wynaad is assuming very large proportions. Situated as are the estates with a jungle boundary of miles, it is clearly impossible to guard ourselves from direct robbery from the trees at night, and a great deal doubtless is lost in this way. The value of our staple is so great compared with its bulk that a small quantity easily concealed about the person of a labourer during the day, and taken off at night to the nearest bazaar, will make a coolie comparatively rich during the season. The temptation to this kind of robbery is very strong, and the light sentences passed by the district courts on the few offenders who have been caught have greatly increased the practice.

"We have strong grounds for believing that almost every way-side bazaar or arrack shop-keeper is now a receiver of coffee stolen in this way, and towards the end of the season carts may be seen openly loading up with coffee (pounded out clean, so as to escape any chance of identification) from these way-side places, where a few dozen coffee trees are grown as an excuse in case of enquiry. And not only is the European's estate plundered by night and day, and the native population demoralised by the ease and impunity with which such robbery can be effected, but a system of stealing, changing, and mixing with rubbish the estate produce in transport to the curing houses on the coast is now being carried out on a large scale by the

men and their connexions on the line of road in the low country. Owing to the difficulty of identifying any particular sample of coffee, it is almost impossible to obtain satisfaction in cases, and unless the parties found in possession of coffee can be called on to prove that it is honestly obtained, we greatly fear our industry will be seriously crippled. With a far greater proportion of small native holdings, any one of which can at any time be utilized to set up a stolen coffee-receiving establishment, there is even greater need than in Ceylon of special legislation of the description which has been found to work so satisfactorily in that colony. "The Government of Madras in G.O., No. 35 of 1875 (before referred to) promised to seriously consider this matter 'if the Ceylon Ordinance to check coffee-stealing was found to be satisfactory.' This is so far the case that not only was the Ordinance re-enacted when its time had expired, but it was declared absolutely necessary for the protection of the coffee industry."

In support of the latter statement, an extract from a speech made by Sir Liam Gregory on leaving Ceylon was quoted, in which he testified to the necessity for and efficacy of the Ordinance. Mr. Logan, who was then Collector of Malabar, in forwarding the planters' petition, supported very strongly the proposal made. He stated that coffee-stealing was the regular occupation of certain classes, and that the law in its then state could not deal effectually with the matter.

152. On the strength of these representations the Madras Government obtained from Ceylon copies of the Ordinance then in force and a Bill was drafted, which the Collector of Malabar and the Planting Associations most concerned were invited to criticize. The main provisions of the Bill as originally drafted were as follows:—
 (1) certain localities to be notified: it was to be declared unlawful for any person to deal in coffee without a license from a Magistrate, who could refuse to grant one if he was not satisfied that the applicant was a fit and proper person to be so licensed; every licensed dealer was to be bound to keep books and accounts, showing details of every transaction in coffee made by him. Breaches of these provisions were made penal. Penalties were attached also to—

- (1) the dealing in coffee by any person other than a licensed dealer;
- (2) the selling or bartering coffee to any person other than a dealer;
- (3) the buying of green coffee from any other person than a licensed dealer or owner of a coffee estate or some person duly authorized in writing to act for him;
- (4) the possession of green coffee by a labourer employed on a coffee estate, who fails to account satisfactorily for such possession;
- (5) the removal of coffee from any premises without the express permission in writing of the owner or his authorized agent; such permission to specify the quantity, number, description and marks of the packages, date of removal, destination and names of consignor and consignee; and
- (6) the gathering, removal, or loading and unloading of coffee on any estate between sunset and sunrise.

It was provided that flogging should be awardable on second conviction for certain of the offences above specified; saving clauses were inserted to exempt from the operation of the Act the purchase of coffee for purely private or domestic consumption from a licensed dealer, and the receiving, carrying or delivery of coffee by or to any officer or servant of a Railway Company in the course of employment as such.

These provisions were much wider than those contained in the Ceylon Ordinance and as will be seen later on, the Select Committee to whom the Bill was submitted finally recommended that the Act for Madras should practically be in the same form as that for Ceylon.

There was considerable difference of opinion as to the suitability of the system of licenses proposed in the Bill as a means of stopping the offence of coffee-stealing. The Planting Associations were in favour of it, and wished that the fee to be charged for each license should be sufficiently heavy to prevent the cultivation of small coffee estates by persons who would thus become entitled to licenses and would "take advantage of any defect in the Act on the working of it by the police which might afterwards appear." But, as Mr. Logan pointed out, there were in the Malabar

district hundreds of small cultivators whom such a provision would compel to throw up their lands, which would be both unjust and impolitic.

153. With reference to the section* now under discussion, the Associations considered that the word 'green' should be altogether omitted. "The coffee berry, as taken from the tree, may be red, black or green, and after having been dried is of a grey colour, and coffee is stolen by estate coolies and other natives of the neighbourhood in every state and condition—parchment, 'tails,' 'cherry-dried' or 'clean.' It may safely be assumed, they said, that whenever coffee of any description is found on estate coolies, or any other persons who cannot satisfactorily account for it, such has been taken for dishonest purposes.

It was proposed further that, to protect coffee in transit, a provision should be made, that on proof of short delivery at the curing works, or that the quality of coffee received did not agree with the sample sent, the carrier may be taken to the nearest Magistrate and compelled to pay the value of the amount short delivered, or tampered with, together with a fine of at least equal amount. Mr. Logan considered the omission of the word "green" in section 9 to be necessary and was in favour of adopting the addition suggested by the Association and described above. In reference to the preamble to the Bill, he proposed to omit the words "in the neighbourhood of coffee plantations or estates" on the ground that the Act, if it was to be of any use, "would have to take effect in all but one of the taluks of the district and in places 50 miles from the nearest estate." The worst receivers, he alleged, were located in the towns on the coast.

Other criticisms and suggestions were offered, but it is unnecessary to do more than refer to them, as they in no way affect the matter now under consideration.

154. After considering the views of the Collector of Malabar and the Planting Associations, and consulting with the Executive Government, the Select Committee arrived at the decision that the "special protection which the coffee-planting industry might fairly demand could not properly extend beyond the crop on the ground and the harvested crop in transit through the coffee-growing districts." They were unable to see any reason why, after the crop had been garnered or had reached the regions of regular trade, coffee should be given greater protection than any other product of the soil. The provisions as to licensing were therefore omitted, and the provisions of the Ceylon Ordinance substituted, prohibiting the receiving of coffee from any labourer on an estate, and regulating the purchase of coffee from any other person, specially providing for purchase from carriers. The provision in the original Bill making penal the possession of "green" coffee by any labourer employed on an estate was retained with a slight alteration, viz., "green" was altered into "green-gathered."

155. The Select Committee's report and Bill were taken into consideration at a meeting of the Council of Fort St. George on 16th August 1878, the Hon'ble Mr. W. Hudleston being in charge. A few alterations, not affecting section 9 as drawn up by the Select Committee and as it now stands, were made and the Bill was then passed. The Act received the assent of the Governor-General, which was communicated to the Madras Government in letter No. 1269, dated Simla, 3rd October 1878, from the Secretary to the Government of India, Legislative Department, to the Assistant Secretary to the Government of Madras, Legislative Department.

G.O., No. 168, Legislative Department, 18th October 1878.

156. The Act was at first extended to the Nilgiri district and the Wynaad portion of Malabar.† In November 1878 the Wynaad Planters' Association ‡ expressed to Government their regret that the Act had not been extended to the whole of Malabar, and asked that as the estate produce was still unprotected between the ghâts and the coast, the Act might be extended accordingly. Thereon the Madras Government directed the Collector of Malabar to report on the proposal, stating that they were

The Act first extended to the Nilgiris and the Wynaad portion of Malabar. The Wynaad Planters' request for an extension of the Act to the whole of Malabar refused by the Madras Government in 1878.

† G.O., No. 2119, Judicial, 18th October 1878.

‡ G.O., No. 2288, Judicial, 12th November 1878.

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prepared to extend the Act wherever special facilities might exist for tampering with the produce and beyond the owners' power of protection, but not elsewhere.

The Collector of Malabar reported that he agreed entirely with the Wynaad planters. The distances over which the coffee had to be conveyed were so great that carts could not reach their destinations in one day. Wherever they halted at nights, Moplah receivers made a practice of levying small quantities of coffee; a process known as 'sweating' was resorted to by which the bulk of the coffee left in the bags from which coffee had been abstracted was increased so as to make it up to the original bulk. Besides these Moplah receivers, there were on the coast a number of dealers who were not particular whence the coffee, which they were in the habit of buying, came, and the law in the state in which it then was, was powerless to touch such persons.

The Madras Government, however, were unable to accept the proposal and held that what the Collector described was ordinary theft which might occur similarly to all goods in transit, and for which the ordinary law and the precautions taken by owners themselves must and should suffice.

157. The question was again raised in January 1879 by Messrs. Parry and Co. of Madras. They stated that when the Act was first introduced into the Wynaad, the native receivers had imagined that its operation extended to the whole of Malabar, but that since they had discovered that this was not the case, they had returned to their systematic robberies with increased confidence. The Madras Government* referred Messrs. Parry and Co. to the reply they had given to the Wynaad Association. Messrs. Parry and Co., in reply, pointed out † that, if special facilities existed for tampering with coffee in any place more than another, it was while the coffee was in transit from the ghâts to the coast; while in the coffee-growing districts, the carrier was constantly liable to supervision by Europeans, but not so once he had descended the ghâts. This letter was recorded by the Madras Government with the observation that nothing in the statement now made took the case out of the category of ordinary theft.

The same request made by Messrs. Parry & Co. refused by the Madras Government in 1879.

* G.O., No. 133, Judicial, 22nd January 1879.

† G.O., No. 171, Judicial, 29th January 1879.

158. The Wynaad Planters' Association in January 1879 made another attempt to have the Act extended to the low country in Malabar, but the Madras Government ‡ again referred them to the answers already given. The Association then informed § the Madras Government of its intention to address the Government of India which it did in a petition, dated 26th June 1879. In this petition, after recapitulating the facts stated above, it was pointed out that the mere fact that the special protection granted by the Act to the foot of the ghâts was from that point suddenly withdrawn, was only calculated to foster a feeling of security among the low-country thieves and bazaar-men and thereby embolden them in their operations, and that the ordinary law in the opinion of the Police authorities of Malabar was insufficient to meet the requirements of the case. The Government of Madras || in forwarding this petition said that they had already informed the Association that they saw no necessity for further extension of the Act. In replying to the Madras Government on this petition, the Government of India ¶ remarked that a strong case had been made out for the extension of the Act and that if, after a further year's working, the Collector of Malabar still thought the extension of the Act necessary, the decision of Government conveyed in G.O., No. 2587 of 21st December 1878, might perhaps be reconsidered. Accordingly, the Madras Government directed the Collector of Malabar to report after the expiry of one year on the working of Act VIII of 1878.

Petition to the Government of India by the Wynaad Planters' Association and order thereon resulting in the Madras Government's calling for a report from the Malabar Collector on the working of the Act.

‡ G.O., No. 233, Judicial, 5th February 1879.

§ G.O., No. 1371, Judicial, 11th June 1879.

|| G.O., No. 1583, Judicial, 5th July 1879, pp. 4 and 5.

¶ G.O., No. 3193, Judicial, 16th December 1879, page 3.

Report of the Collector supporting the request for the extension of the Act.

* G.O., No. 1982, Judicial, 16th August 1880.

"5. There is a consensus of opinion among the officers of the district that the Act in its restricted application to Wynaad only has been of little practical advantage. Its object is to prevent coffee stealing, and stealing and wetting the coffee to make bulk occur where the Act is not in force. The operation of the Act was simply to pass the bulk of the coffee crop down one or other of the three main outlets to the coast under cover of a pass. Between the heads of the ghâts where the constables were stationed and the coast there was, of course, no special check of any kind, except as against ordinary crime. The result was, as the agents at Calicut and other places can abundantly testify to, that an enormous quantity of coffee was tampered with before reaching its destination, and not so much its quantity diminished as its quality destroyed. For mere short deliveries, the contractors are held liable; but the planters have no practical remedy for the market value of their crop having been so seriously affected. No matter what precautions the planters take to see that their coffee is carefully packed and despatched in the most favourable weather, their agents, as a rule, characterize the consignments on arriving at the coast as 'musty,' 'discolored,' 'damp,' 'not equal to sample,' &c., &c., all owing to its having been doctored or tampered with on the road between Wynaad and the Coast."

Mr. McWatters asserted that a host of receivers of stolen coffee was springing up on the main line of road whom the ordinary law was powerless to touch. Only five cases out of probably hundreds had been detected during the year. Out of the 36 cases actually tried under the Act, not one had been under section 9.

The Government took the opinions of the Advocate-General and the Inspector-General of Police on the Collector's report, but, on considering them, still adhered to its original view, and refused to extend the Act to the low country. The Act, it was ruled, was intended to guard against the offence of stealing and tampering with coffee in the coffee-growing districts, because there special facilities existed for its commission. It was pointed out that it was the owner's business to take special precautions for protecting his produce in transit, either by sending trustworthy persons in charge, or providing safe receptacles, such as locked carts or boxes.

160. In the latter part of 1880, Mr. C. M. Grant of the Hope Estate in the Ouchterlony valley addressed the Government of Madras on the unsatisfactory working of the Act (VIII of 1878). He asserted that depôts were established at Nilambur, Eddiwanai, Mumbat and Areacode (in Malabar) by receivers of stolen coffee, and large traffic in coffee was carried on between native dealers and bandymen at these places. He urged the advisability of extending the Act to the districts between the Wynaad and the Coast.

The Government observed that the state of things described by Mr. Grant was not creditable to the local authorities and desired the District Officers concerned to show better results in future.

161. In view of the repeated refusal of Government to extend the operation of the Act, the Malabar Collector reported in January 1881 that, if the offence of coffee stealing was to be suppressed at all under the ordinary law, the efficiency of the police supervision in the parts not covered by the Act must be increased and that by an increase in the police force, involving an additional annual expenditure of over Rs. 14,000 at least. When the matter was thus stated, the Government of Madras appears to have thought it advisable to reconsider the decisions it had passed and adhered to since the commencement of 1879; it was decided to extend the Act to the roads leading from the Wynaad to the Coast. As however the Collector pointed out that there were many bye-paths also used by receivers and thieves for removing their booty as well as the main roads to which the Government now proposed to extend the Act, the Madras

Report of the Malabar Collector in 1881, change of opinion on the part of the Madras Government and extension of the Act to certain taluks of Malabar.

† G.O., No. 2087, Judicial, 11th October 1881.

Government agreed to extend the Act to the taluks of Chirakal, Kóttayam, Kurumbanád, Calicut and Ernád. The grounds on which this change of opinion on the part of the Government was based are not stated.

162. The history of the extension of the Act to the lowland tracts of Malabar has been gone into at length to show that it was the intention of the Madras Government in framing the Coffee Stealing Prevention Act, merely to afford to the coffee industry protection against thefts of coffee while the crop was still on the ground, or in the coffee-growing tracts in transit, because while in those stages, special facilities existed for the commission of thefts, which necessitated or rendered justifiable special provisions to enable the planter to protect himself from loss. Once passed through these stages, the coffee was to be regarded as any other product of the soil, which it was the owner's business to take adequate steps to protect.

163. The Act was extended to the Upper and Lower Palnis and Sirumalais in the Madura district in October 1878; to portions of the Tinnevely district in January 1879; to the South Canara district in April 1882; to portions of the Salem district in March 1884; and to parts of Coimbatore district in September 1887.

Extension of the Act to portions of the Madura, Tinnevely, Salem and Coimbatore districts and to the South Canara district.

164. It was not till 1893, that the question of amending the provisions of section 9 of the Act was raised. It has been pointed out above that when the Bill was under consideration, the Wynaad Associations and the then Collector of Malabar were in accord as to the inadvisability of restricting the kind of coffee to which the section was to be made applicable to 'green' or 'green-gathered,' and limiting the class of offenders to 'cooly, maistry or other labourer employed on an estate,' and that at the same time it was suggested that clauses rendering the carrier liable to certain penalties for short delivery or tampering with coffee entrusted to him should be embodied in the Act. These proposals, however, appear to have been negatived, probably after due consideration (though the grounds for rejecting the proposals are not expressly stated), inasmuch as the section of the Ceylon Ordinance (8 of 1874) on which the Madras section was based runs as follows:—

"5. When green-gathered coffee shall be found in the possession of any person, such person may be presumed to have stolen such coffee or unlawfully received it, knowing it to have been stolen, unless such person shall satisfactorily account for his possession thereof."

It will be seen therefore that besides retaining the expression 'green-gathered coffee,' the Select Committee introduced a further restriction by limiting the applicability of the section to 'a cooly, maistry, or other labourer employed on an estate' unable satisfactorily to account for such possession.

165. In a petition, dated 18th March 1893, the Nilgiri Planters' Association pointed out that cases of theft by persons outside the class above defined could only be dealt under the Indian Penal Code, and as in these cases the *onus probandi* lay on the prosecutor, conviction was almost impossible of attainment unless the accused was caught in the Act. A case was quoted in which a railway cooly was detected with freshly-gathered coffee in his possession near the edge of a field of coffee. The case could not be dealt with under the Act, and the accused was acquitted. It was proposed therefore that instead of the words 'labourer employed on a coffee estate' the words 'person found with' should be substituted. They proposed also to omit the words 'green-gathered' before the word 'coffee,' as the expression 'green-gathered coffee' would prevent the other and much more abundant forms of the produce, such as red cherry, dry cherry, parchment coffee, &c., from inclusion in the section. The District Magistrates of the Nilgiris, Malabar, South Canara, Madura, Tinnevely, Salem and Coimbatore were directed to report on these suggestions.

Proposal by the Nilgiri Planters' Association to amend section 9 of the Act, Steps taken by the Madras Government thereon.

G.O., No. 806, Judicial, 20th April 1893.

166. The District Magistrate of the Nilgiris * (then Mr. Wolfe-Murray) alone was in favour of adopting in their entirety the proposals of the Nilgiri Association. The others considered that the amendments suggested were too wide and would give room for serious abuse, but at the same time made various suggestions for extending the operation of the section in a less degree. The proposals made were as follows :—

Views of the District Magistrates consulted by the Madras Government on the proposal and the drafting of a Bill by the Madras Government to amend the section.

* G.O., No. 1722, Judicial, 24th August 1893.

(1) To extend the section by substituting 'any cooly, maistry, or other person found with' for 'any cooly, maistry, or other labourer employed on an estate, while retaining the restriction to 'green-gathered' coffee, meaning thereby to include all coffee freshly gathered, irrespective of the precise tinge of colour (District Magistrate, Coimbatore).

(2) To omit 'green-gathered' and add after 'any cooly, maistry, or other labourer employed on a coffee estate' the words 'or any person in any locality to which the Act applies, and which the Governor in Council may, from time to time specify by notification published in the official Gazette' (District Magistrate Salem).

(3) To accept the amendments suggested by the Nilgiri Planters' Association but limit the operation of the section to persons found within a certain radius of coffee estate (District Magistrate, Tinnevely).

(4) To substitute 'any person' for 'any cooly, maistry, or other labourer employed on an estate,' but limit the kind of coffee to 'green-gathered or red cherry' (District Magistrate, Malabar).

(5) To read the section as follows:—"Any person found with freshly gathered coffee in his possession within ten miles of a coffee estate and failing, &c." (District Magistrate, South Canara).

The Madras Government remarked that the Nilgiri Planters' Association appeared to put an unduly restricted meaning on the phrase 'green-gathered coffee in section 9, but that its meaning might no doubt be made clearer and in pursuance of the consensus of opinion that the section was unduly restricted in its operation prepared a Bill to amend it by including all coffee in parchment and substituting 'any person' for 'any cooly, maistry, or other labourer employed on an estate. The new section read as follows :—

"Any person, who is found with freshly-gathered or parchment coffee in his possession and who fails to account satisfactorily for such possession, &c."

167. When, however, the Bill was submitted to the Government of India for sanction in reference to the penal clause, the Governor General in Council was of opinion that the existing provisions should not be enlarged. It was observed that the coffee industry already had very exceptional protection, and any further legislation in its interest seemed undesirable.

Bill vetoed by the Supreme Government.

Letter from Government of India, Home Department, dated 1st June 1894, No. 587.

168. In 1895, the United Planters' Associations of Southern India asked the Madras Government to press the Government of India for a reconsideration of the decision above quoted. The grounds on which the Madras Government supported the request were that the Act failed to reach the receiver, and did not protect coffee *en route* to the curing houses or the coast. To deal with the receiver, as well as the professional thief who habitually loitered about coffee estates, the substitution of the word 'person' for the words 'coolly, maistry, or other labourer employed on an estate' was necessary, and as coffee was not generally in its green or freshly-gathered state while in transit, the inclusion of 'parchment' coffee was proposed. The Madras Government did not attach much weight to the theoretical objections urged against throwing the burden of proof on the accused in these cases, as it was alleged that 'parchment' coffee was not commonly, or indeed ever, possessed by any one but the grower and the curer. Hence if such possession was not accounted for, the presumption of dishonesty was overwhelming.

The second attempt to get the section amended also a failure.

† G.O., No. 564, Judicial, 13th March 1895.

The Government of India were however unable to alter their previous opinion. They considered that while the straining of the ordinary principles of the law in regard to the burden of proof as against plantation coolies might be justifiable, the same could not be said of the proposal to place the whole public under the same special provisions.

169. The questions therefore on which we are now to submit a report have been twice laid before the Government of India, and on each occasion, the proposed extensions of the section have been declared to be undesirable.

Nature of the decisions of the Government of India on the questions to be dealt with by the Committee.

170. Dealing now with the questions on which we have been desired to submit a report, the first is whether or not it is desirable to amend section 9 of the Act by extending to 'parchment and cherry-dried' coffee the legislative provisions now applying by that section to 'green-gathered' coffee.

The proposal to include parchment and cherry-dried coffee in section 9.

171. In order to a clearer understanding of the case, we think it necessary briefly to describe the processes through which the coffee berry passes before despatch from the estates. To produce parchment coffee (in which condition coffee is generally despatched from European estates) the berry is not gathered while green, but is allowed to ripen on the trees. When ripe the berries assume various tinges of red, and in this state coffee is known as 'cherry.' It is then gathered in successive pickings, as sufficient quantities of the crop ripen, passed through a 'pulper' to get rid of the outer covering of the berry and washed to remove mucilage. The produce is then spread out in barbecues, often an acre or more in extent, to dry—a process which lasts from 4 to 8 days. The result is parchment coffee.

Explanation of the terms 'parchment' and 'cherry-dried.'

A point is always reached on the estates which resort chiefly to this process, where it is not worth while to wait for what is left of the crop to ripen in order to convert it into parchment. The whole of the crop remaining is, in this case, collected, green or ripe, and dried as it is, without being passed through the pulping machine. The result is known as 'cherry-dried' coffee. This latter process is almost invariably adopted by native estates, few of which possess pulping machines. To convert green or cherry coffee into cherry-dried the process of drying takes from 2 to 3 weeks (perhaps 5 to 6, if the weather is wet or cloudy) during the whole of which period the produce has to be left on the barbecues night and day. Of the two kinds of coffee (parchment and cherry-dried) the former when cured, *i.e.*, cleaned or pounded, produces the more valuable coffee as it consists of the ripe berry entirely, whereas cherry-dried contains both the ripe and unripe berry dried.

In these stages coffee is not fit for consumption, nor does it become an article of consumption until it has been cleaned. To reach the curing houses, it has in every case to be transported over considerable—and in some cases great—distances.

172. It is under these circumstances that planters urge there are as great facilities for stealing 'parchment and cherry-dried' coffee on the estate as for stealing 'green-gathered' coffee, and that while in transit also, coffee in these forms is liable to theft and requires special protection. There is no doubt that, as contended by planters, parchment coffee and cherry-dried coffee are not articles of retail sale and that they can only rightfully be possessed by certain distinct classes, *viz.*, the grower, the carrier, the curer and the *bona fide* dealer, all of whom can account for their possession. This being so, it is said, the unexplained possession of parchment and cherry-dried coffee by persons outside these classes is a matter which justifies a demand for explanation. But we think that when the produce has once been stored, it is within the owner's power to protect it and that it is no longer in the same category as 'green' coffee. So far, therefore, no alteration of the section is necessary. It has been pointed out, however, that green-gathered coffee can easily be converted into parchment or cherry-dried, so that even estate employes, unless actually caught in the act of stealing green coffee, can easily evade the provisions of the section, for within a short time the stolen green coffee becomes cherry-dried or it can be reduced to parchment by the simple process of treading on it and then the burden of proving his title to possession no longer lies on the guilty person.

The arguments and evidence adduced in favour of the amendment.

On this ground we are inclined to attach some weight to the representation that the section as it stands does not adequately protect planters against thefts by their own employés. As against estate employés therefore we think that, the principle having been admitted that special protection is justifiable in the case of green-gathered coffee, the extension of that special protection to parchment and cherry-dried coffee also is not only free from objection, but also justifiable. We recommend the amendment of the section by the addition of the words 'parchment and cherry-dried' coffee.

Conclusion.

173. The second question which we have to discuss is whether or not it is desirable to substitute in section 9 the word 'person' for the words 'coolly, maistry or other labourer employed on a coffee estate.' The reason for the amendment proposed by the planters is that the section does not throw the burden of proof either on thieves or receivers who are not employés of an estate. But in the first place we have no evidence (beyond vague statements) of substantial losses incurred through thefts of green coffee by persons other than estate employés, and certainly no evidence of any such acts of theft which cannot be reached by the ordinary law. In the next place, we have remarked that, when once coffee has been gathered, it is, or ought to be, well within the power of the planter to protect it by suitable arrangements. Then as to the existence of thieves and receivers on the road, coffee in transit is no doubt exposed to danger, but we are not prepared to say that the danger is greater than in the case of other harvested produce. It is argued that coffee is an article of great value in small bulk and that the offences of theft and receiving are at once easy and remunerative. But one argument against any alteration in the law, giving special protection to coffee in transit is that although general complaints of short delivery and tampering with coffee *en route* to the curing yards have been made, very few specific instances of such malpractices have been given. Another argument is that contractors can always be got who are willing to take the risk of losses and bind themselves to pay at penal rates the value of coffee short delivered or of a quality inferior to the sample, which is almost invariably sent with each consignment. But the strongest argument of all is to be found in the fact that the Nilgiri and Wynaad planters, who were loudest in their complaints of coffee theft, now declare that owing to the efficient arrangements made by the present Superintendent of Police in Malabar, Mr. Fawcett, such thefts are reduced to a minimum.

Page 25, United Planters' Association of Southern India Proceedings, 1895.

At the United Planters' Association meeting in 1895, the following passage was read aloud from Mr. Fawcett's report to the Inspector-General of Police, Madras, dated 10th January 1895, No. 832:—

"The planters have it in their power, it may be added, to prevent all thieving on the road, a kind of thieving by which they have always lost very largely and which the police can never cope with quite successfully unless the planters do more to help themselves."

Question 105.

As to this, Mr. Fawcett says in answer to our question regarding the precautions taken by planters to prevent thefts of coffee in transit.

"Some take none, sending coffee in carts in bulk just as if it were gravel; some seal the bags, common gunny bags easily broken into; and some few use the seamless bags sealed and packed within other bags, a plan which renders theft without discovery impossible. Some send part of a consignment thus, part in ordinary gunny bags, that in the seamless bags being available for check for the rest."

As to the methods by which he has put down coffee thefts, Mr. Fawcett stated as follows in his oral evidence:—

"The measures we have taken are as follow:—Before the picking season begins, the police open a register in each police station in the form which I produce.

Question 100.

In this there is recorded the name of estate, owner, number of trees, and probable crop. A watch is kept by the police in their ordinary beats. They ascertain when the coffee is plucked and what the amount is; and this is recorded in the register. The final disposal of the crop is also ascertained and noted, the amount sold and the purchaser's name being entered. Before such registers were opened, it was never possible to ascertain how much each man grew. This enables us to know with tolerable exactness how much each grower has produced. The register is used for purposes of check. The check goes

on from the time coffee is gathered in until all the coffee has been sent to the coast. With the facts in our possession, it is possible to check effectively the books of the people who deal in coffee. I refer to the books ordered to be kept under section 5, and which the police can examine under section 6 of the Act. We can also thus verify the correctness of passes in transit given under section 10.

"These registers were started by me in 1894-95. Previous to that there was nothing of the kind. They are kept, although there is a very large number of small gardens in Malabar-Wynaad."

This system has, to quote Mr. Fawcett again, resulted in the disappearance of an immense swarm of thieves and receivers.

174. The conclusion at which we arrive, therefore, on this question is that the evidence adduced is not sufficient to justify the extension of the provisions of the section to all persons.

Decision of the Committee thereon.

175. Nevertheless, it cannot be said that receivers of stolen coffee have altogether disappeared, and Mr. Fawcett's remarks, of course, only apply to the Malabar district. There is evidence to show that receivers of coffee almost always have a few trees, which they use as a screen under cover of which they can carry on illicit trade. Mr. Fawcett himself quotes the following instance:—

Amendment suggested by the Committee.

"A man in Vayitiri in the season 1893-94 possessed coffee which he said was the produce of his garden. According to his account the rate of production would have been 1½ tons per acre. His garden was a very small one (about 1/10th of an acre) and the trees were in bad condition. I remember the assessment on his garden was 3 annas. The police were unable to do anything in this case."

Question 100.

Hence to enable the police to deal with cases of this kind, we recommend that the provisions of sections 5, 6 and 7 of the Act, which apply only to purchasers of coffee, should also be made applicable to sellers. Then all growers who also deal in coffee would be bound to keep registers showing particulars in reference to sales of coffee corresponding to those now required for purchases, and it would be easy to ascertain the amount said to have been obtained by the dealer from his own garden or by purchase, and its disposal. But in order to give full efficacy to such provisions it would also be necessary to ascertain the amount really produced in the dealers' garden. At present under Regulation XXIX of 1802, Madras (Office of Karnam) section 11, sub-section 9, karnams are required to keep registers of the land cultivated in gardens, but there is, so far as we are aware, no provision of law empowering karnams or other officials to enter coffee gardens, and ascertain the probable outturn of such gardens—many of which are mere backyards attached to the owners' houses. To obviate this difficulty we propose that a section should be added to the Madras Act (VIII of 1878) similar to section 155 (e) of the Punjab Land Revenue Act (XVII of 1887) by which the Madras Government may take power to prescribe forms for such books, entries, statistics and accounts as it may think necessary to be kept, made or compiled in Revenue offices or submitted to any authority, and by which also provision may be made for compelling the owners of all coffee gardens to submit returns of coffee crop and to afford all reasonable facilities to karnams and others properly empowered for verifying such estimates and obtaining the information required in the forms referred to above.

BANGALORE,
14th October 1896.

W. MACKWORTH YOUNG,
President.

W. DUMERGUE.
J. WILLIAMS HOCKIN.

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APPENDICES.

APPENDIX I.

QUESTIONS FOR GENERAL WITNESSES.

INSTRUCTIONS TO WITNESSES.

The accompanying questions form the complete set framed by the South of India Planters' Enquiry Committee. It is not expected that the witnesses to whom they are furnished will be able to give answers to the whole series. Some of the questions have been specially framed for persons possessing special qualifications and can only be answered by them. The witness is therefore requested to confine his replies to the questions which relate to matters of which he has personal knowledge.

2. When the answer to a question is short, it is intended that it should be written in the blank space opposite the question. If the space is insufficient for the answer the Committee request that the answer may be written on a separate sheet and the fact noted in the margin opposite the question. The Committee will be obliged if, in answering clauses of questions, the witness will prefix to his replies the corresponding number or letter of the question in the printed list.

3. Wherever it is possible, the witness should indicate his source of information and the facts and experiences on which he bases his opinions and statements.

4. If a witness desires to say anything in addition to what he has stated in reply to the questions asked, he should append a note at the end of his evidence. No relevant evidence should be withheld merely because it is not indicated by the questions.

5. The witness has been furnished with two sets of questions. It is requested that one of these, with the answers recorded in it or accompanying it, may be sent direct to the Secretary, South of India Planters' Enquiry Committee, Ootacamund, not later than
and as much earlier as possible.

QUESTIONS.

Name of witness—

Occupation—

Residence—

PART I.—CHAPTER I.

THE PLANTING INDUSTRY.

1. What is the present total value of estates held in your district by members of your Association

- (a) in British India,
- (b) in Native States?

2. Give the total area of the land cultivated and uncultivated in such estates

- (a) in British India,
- (b) in Native States.

3. Give separately the area in acres of land in such estates

- (a) in British India,
- (b) in Native States
actually cultivated with
 - (i) Coffee,
 - (ii) Tea,
 - (iii) Cinchona

during the past 5 years.

4. (1) What have been the total actual working expenses during each of the past five years on such estates
- in British India,
 - in Native States
- for
- Coffee,
 - Tea,
 - Cinchona?
- (2) How much of this expenditure consists of payments to
- Maistries,
 - Coolies,
- and how many of each have been employed?
5. Give separately the total area for the past five years of land cultivated with
- Coffee,
 - Tea,
 - Cinchona
- in the State of which you hold political charge or in your district.

PART I.—CHAPTER II.

THE LABOUR SUPPLY.

6. (1) In what capacity, for what length of time and in what localities have you had experience in the recruitment and management of labour on coffee, tea, or cinchona estates?
- (2) Give the total area of the land cultivated and uncultivated in the estates under your control.
7. Give as nearly as you can for the last five years the number of coolies employed on your estate
- from the immediate neighbourhood (Local),
 - from a distance (Imported), distinguishing between those recruited from British India and Native States.
8. (1) For what purposes is Local Labour usually employed?
- (2) Is it usually employed throughout the year?
- (3) If not, for what period?
9. Is Local Labour when obtainable preferable to Imported? Give reasons for your opinion.
10. If it is preferable, what is the obstacle to employing Local Labour exclusively?
11. From what localities is Imported Labour recruited? Distinguish between British Districts and Native States.
12. (1) For what purpose is imported Labour usually employed?
- (2) Is it usually employed throughout the year?
- (3) If not, for what period?
13. (1) Give your opinion in regard to the quality of the labour imported from the different localities mentioned in your answer to Question 11.
- (2) From what castes is it principally recruited?
- (3) Which are the best working castes?
14. (1) Is Imported Labour always obtainable
- in sufficient quantities,
 - at the times required,
 - of the best working caste?
- (2) If not, give instances, detailing the results.
15. Have you had any experience in regard to tapping a new Labour district? If so, with what result?
16. (1) Is there a tendency towards the formation of large companies for planting purposes?
- (2) If so, what effect has it had, or is it likely to have, on the supply of labour?
17. (1) Has the state of the labour market changed during the last 15 years?
- (2) If so, what changes have occurred, and what causes have operated to bring about these changes?

18. (1) Do imported coolies ever settle in the planting districts for which they have been recruited?
- (2) If so, to what extent?
- (3) To what extent are such persons available for plantation labour?
19. (1) Are coolies ever lent by one estate to another?
- (2) If so, under what circumstances?
20. (1) Have you had any experience in regard to the supply of labour for large contracts, industries or works in Southern India unconnected with the planting industry?
- (2) If so, what?
21. (1) Was such labour available locally or was it necessary to import it?
- (2) If the latter, from what localities was the labour imported?

PART I.—CHAPTER III.

THE AGENCY FOR RECRUITING LABOUR.

22. In securing
- Local Labour,
 - Imported Labour,
- * Includes Kángany and Daffadar. does the planter deal direct with the cooly or through a maistry? *
23. (1) If through a maistry, does the maistry receive
- monthly wages as a servant of the estate, or
 - only commission on his coolies' wages, or
 - wages and commission, or
 - any other form of remuneration?
- (2) In each case give the average rates.
24. In cases where commission is paid, is such commission deducted from the cooly's wages or paid in excess thereof by the planter?
25. What are the duties of the maistry while his coolies are employed on the estate, and what is his responsibility in such matters as
- the due payment of the cooly's wages and his proper treatment,
 - the due performance of work by the cooly?
26. (1) What is the average number of coolies brought to an estate by a maistry?
- (2) Give some idea of the maximum and minimum numbers of his gang.
27. (1) Do planters enter into formal contracts with their maistries?
- (2) If so, are such contracts usually written or verbal?
- (3) Are they signed by both parties or by the maistry only?
- (4) Are they ever registered?
- (5) Please append a copy of the form of contract you usually adopt.
28. If formal contracts are dispensed with, under what circumstances does this occur?
29. (1) What is the usual duration of contracts between planter and maistry?
- (2) Does it differ according to the caste or race of the cooly furnished?
- (3) At what time of year are these contracts usually entered into?
- (4) What time is usually fixed in the contract for the commencement of the work?
30. Is it essential that the maistry should bring his coolies on the date fixed, and maintain his gang at its full strength during the period of his contract? Give reasons for your answer.
31. (1) Is the employment of a maistry to recruit labour for plantation work, in your opinion, necessary?
- (2) If so, why?
- (3) Would the enhancement of the coolies' wages by the amount paid to the maistry as commission enable the planter to dispense with the maistry?
32. (1) Have you any experience of any agency for recruiting labour other than that of the maistry?
- (2) If so, describe it and its results.
33. (1) Do you know of any instances in which Imported Labour has been obtained to any appreciable extent for plantation work without the intervention of a maistry or other recruiting agent?
- (2) If so, why cannot labour be generally so obtained for this work?
34. (1) Is the emigration of coolies from the Madras Presidency to Ceylon, Burma, the Straits or other places carried on under a system of recruitment by agents or is it spontaneous?
- (2) If the latter, why should recruiters be employed for supplying labour to the estates in Southern India?

PART I.—CHAPTER IV.

THE COOLY.

35. Is the gang of coolies brought by a maistry usually composed of
 - (a) the inhabitants of a single village, or of several villages?
 - (b) persons of one caste or race, or of several?
36. (1) Are coolies usually in debt in their villages when recruited?
(2) On what information is your answer based?
37. (1) Do coolies usually bring their families with them?
(2) What is the proportion of men, women and children employed?
38. (1) What arrangements (if any) are made
 - (a) for the transport of imported coolies from their homes to the estate?
 - (b) for their expenses on the way?
 (2) Are such expenses recovered from them?
39. (1) Are many coolies when they reach the plantation in a state unfit for work?
(2) If so, what cause can you assign for this?
40. Do the coolies usually bring money with them, or is the planter obliged to maintain them till their wages are due?
41. Give the average rate of wage of a plantation cooly, distinguishing between
 - (a) the different castes and races of coolies,
 - (b) men, women and children.
42. (1) Has the average rate of wages on estates materially altered during the last 15 years?
(2) If there has been any material alteration, how do you account for it?
43. What are the average savings of a male and female adult cooly respectively on the season's work?
44. What arrangements (if any) are made for
 - (a) the housing of coolies on estates and, when they are ill, for
 - (b) their hospital accommodation,
 - (c) medical treatment,
 - (d) nursing?
45. (1) Is maintenance or subsistence allowance given to a plantation cooly during sickness?
(2) Is such allowance usually debited against his wages?
46. If a cooly is totally disabled by sickness, is he provided with funds to enable him to return to his home?
47. Is a register maintained showing the number of coolies employed on an estate?
48. (1) Is any record of deaths and births maintained on estates for plantation coolies?
(2) Are deaths reported to any official authority?
(3) What is the average death rate of coolies on the estate or estates under your charge?
49. Are epidemic diseases reported to any official authority?
50. Give any particulars or statistics you are able of deaths among imported coolies in the planting districts
 - (a) while on their way to a plantation,
 - (b) while on their way home.
51. Give any statistics obtainable from the hospitals or dispensaries in your charge, which point to
 - (a) starvation,
 - (b) insanitary conditions among the plantation coolies.
52. What arrangements are made for supplying coolies with food
 - (a) when the plantation is at a distance of five or more miles from the nearest bazaar?
 - (b) when the price of grain is high?
53. Have you any ground for believing that coolies are in any considerable number of instances deceived or ill-treated by maistries
 - (a) before they arrive on the estate?
 - (b) on the estate?

54. (1) Are formal labour contracts usually entered into
 - (a) between planters and coolies?
 - (b) between maistries and coolies?
 (2) If so, are such contracts written or verbal?
(3) Are they signed by both parties or by the cooly only?
(4) Are they ever registered?
(5) Please append a copy of the form usually adopted in either case (a) or (b).
55. If formal contracts are dispensed with, under what circumstances does this occur?
56. (1) What is the usual duration of contract between
 - (a) planter and cooly?
 - (b) maistry and cooly?
 (2) Does it differ according to the race or caste of the cooly?
(3) At what time of year are these contracts usually entered into?
(4) What time is usually fixed in the contract for the commencement of the work?
57. (1) Is it essential that the cooly should begin his work on the date fixed and continue to perform it during the period of his contract?
(2) Give reasons for your answer.
58. (1) Do imported coolies ever work on an estate all the year round?
(2) If so, what proportion does so?
(3) Do the same coolies return to the same estate year after year?
(4) If so, what proportion does so?

PART I.—CHAPTER V.

THE SYSTEM OF ADVANCES.

59. How did the system of advances for plantation labour originate?
60. (1) Are advances invariably given by planters to obtain
 - (a) local labour?
 - (b) imported labour?
 or are there any estates worked wholly or partially without advances?
(2) If the latter, under what circumstances?
(3) Will a cooly, who has completed his contract and received his wages and been well treated on an estate, return without a fresh advance?
(4) If not, why?
(5) Does a trained cooly expect a larger advance than a new cooly?
61. (1) What is the usual rate of advance per cooly, made by the planter to the maistry?
(2) Does it differ according to the caste or race, sex or age of the cooly to be furnished?
(3) If so, give the rate in each case.
62. (1) Has the average rate of advance per cooly materially altered during the last 15 years?
(2) If there has been any material alteration, how do you account for it?
63. (1) After the maistry has brought up his gang, are any payments made to him by the planter by way of advance?
(2) If so, what and for what purposes?
64. Does the maistry make any profit out of his advance
 - (a) by keeping back part of it from the coolies?
 - (b) in any other way?
65. (1) Does the maistry ever advance to coolies more than he has received from the planter by way of advance?
(2) If so, why?
(3) What return does he expect to receive for this outlay?
(4) Are the maistry's losses usually made good by the planter?
66. (1) Does the planter ever make an advance to the cooly direct in order to secure his labour?
(2) If so, under what circumstances?
(3) What is the usual rate of such advance?
(4) Does it differ according to the caste or race of the cooly?
(5) If so, give the rate in each case.

67. (1) Is interest ever charged on advances made
 (a) by planters to maistries?
 (b) by planters to coolies?
 (c) by maistries to coolies?
 (2) If so, under what circumstances?
 (3) At what rate?
68. (1) How are advances recovered
 (a) when made by the planter to the maistry?
 (b) when made by the planter to the cooly?
 (c) when made by the maistry to the cooly?
 (2) Does the planter ever recover his advance to the maistry from wages due to the maistry's coolies?
 (3) Does the maistry ever recover his advances to coolies direct from the planter by intercepting wages due to the cooly?
69. Are maistries and coolies considered to be at liberty to cancel their labour contracts at any time
 (a) by repaying in full advances received by them on such contracts?
 (b) when they have worked off the advance?
70. (1) Is the system of advances maintained merely because it is customary, or of necessity?
 (2) If the latter, give your reasons.
71. (1) Can you say whether advances are customary for the purpose of obtaining labour for large contracts, industries or works in Southern India, unconnected with the planting industry?
 (2) If so, has the average rate of advance per cooly materially altered during the last 15 years?
 (3) If there has been any material alteration, how do you account for it?
72. Give any instances within your knowledge of labour obtained for such purposes
 (a) without advances,
 (b) with advances,
 and assign any reason you are able for the difference in the system
73. (1) Can the advance system on plantations be obviated by payment of a higher rate of wage?
 (2) If not, why?

PART I.—CHAPTER VI.

THE DIFFICULTIES EXPERIENCED IN THE OPERATION OF THE SYSTEM OF ADVANCES.

74. (1) What is the amount now outstanding in your district of advances made
 (a) by planters to maistries?
 (b) by planters to coolies?
 (c) by maistries to coolies?
 (2) How much of this amount is considered to be irrecoverable in each case?
75. (1) Of the total amount shown in your answer to the previous question as irrecoverable, state how much is due from maistries or coolies
 (a) belonging to British India who contracted to work on plantations in British India,
 (b) belonging to Native States who contracted to work on plantations in British India,
 (c) belonging to British India, who contracted to work on plantations in Native States,
 (d) belonging to Native States, who contracted to work on plantations in Native States.
 (2) Give briefly any reasons you can for the results shown in each case in your answer.
76. (1) Are there any conspicuous examples of losses caused by wholesale desertion of coolies at critical periods of the year?
 (2) If so, give instances?
77. Are there any particular periods of the year at which breaches of contract usually take place? If so, what?
78. What are the usual causes of breach of contract
 (a) by the maistry?
 (b) by the cooly?

79. (1) Have breaches of contract increased in number within the last five years?
 (2) If so, is it specially noticeable in any particular caste or race?
 (3) Quote facts in support of your answer.
80. What has been the number during the past five years of breaches of contract on your estate
 (a) by maistries?
 (b) by coolies?
81. (1) What has been the number of complaints under Act XIII of 1859 made to Magistrates in the past five years
 (a) by planters against maistries?
 (b) by planters against coolies?
 (c) by maistries against coolies?
 (2) State separately for (a), (b) and (c)
 (i) the number of cases in which the accused has been brought to trial,
 (ii) the number of convictions,
 (iii) the number of cases in which the accused has admitted the contract and receipt of advance.
82. (1) When a Magistrate passes an order under section 2 of Act XIII of 1859 for fulfilment of contracts, is such order usually obeyed or not?
 (2) When the order is for the repayment of the advance, is it usually obeyed or not?
 (3) Give instances in either case.
83. (1) Is complaint under Act XIII of 1859 made for every breach of contract?
 (2) If not, why?
84. If contracts are ever made with maistries or coolies without advance, are breaches of such contracts common?
85. (1) In cases under Act XIII of 1859 brought
 (a) by planters against maistries
 (b) by planters against coolies
 (c) by maistries against coolies
 is it common for the accused to set up as a defence breach of contract by his employer?
 (2) Distinguish in your answer between the three cases.
86. Can you give any instances in which Act XIII of 1859 has operated harshly on
 (a) the maistry?
 (b) the cooly?
87. (1) In how many cases in your experience during the past five years has it occurred that
 (a) a maistry,
 (b) a cooly,
 without having fulfilled the contract in respect of which he has taken an advance from one employer, has fraudulently taken an advance for a contract with another employer?
 (2) Give a brief account of any glaring cases and of the action taken upon them with the result.
88. (1) Give any instances within your knowledge during the past five years in which maistries or coolies under contract have deserted or have been enticed from one estate to another.
 (2) Are such cases common?
89. (1) How many cases have been instituted during the past five years in the Civil Courts within your charge by
 (a) planters,
 (b) maistries,
 for recovery of advances or of damages for breach of contracts made with advance?
 (2) In how many of such cases has the suit been successful?
 (3) What proportion of the amount claimed has been realized by the plaintiff?
90. (1) Do
 (a) planters
 (b) maistries
 often attempt to recover advances by civil suits?
 (2) If so, with what results?
 (3) If not, why?
91. Mention any difficulties you have experienced in working Act XIII of 1859
 (a) when the maistries or coolies employed on plantations in British India are drawn from British India,

- (b) when the maistries or coolies employed on plantations in British India are drawn from Native States,
 (c) when the maistries or coolies employed on plantations in Native States are drawn from British India,
 (d) when the maistries or coolies employed on plantations in Native States are drawn from Native States.

PART I.—CHAPTER VII.

REMEDIES FOR EXISTING DEFECTS.

92. (1) Is the present agency for the recruitment of labour, in your opinion, satisfactory?
 (2) Can you suggest any improvement in the existing system?
93. Are you in favour of legislation for
 (a) controlling the recruiting agency,
 (b) the protection of the imported cooly, in regard to his recruitment, transport and treatment on the plantation,
 (c) affording security to the planter for the due fulfilment of labour contracts?
94. If not unreservedly in favour of such legislation, would you nevertheless be prepared to accept it, if by this means only provision can be made for dealing effectually with the difficulties experienced in the operation of the system of advances?
95. (1) Are you in favour of
 (a) compulsory registration of recruiting agents,
 (b) licensing of recruiting agents,
 (c) compulsory registration of imported coolies?
 (2) If so, sketch the lines on which you consider that legislation for this purpose should be undertaken.
96. (1) Are you in favour of limiting the amount of advance per head of cooly?
 (2) If so, why?
 (3) to what amount?

PART II.

COFFEE STEALING.

97. (1) Has section 9 of the Madras Coffee Stealing Prevention Act (VIII of 1878) succeeded in preventing or diminishing the theft of green-gathered coffee from plantations?
 (2) If not, why?
98. (1) Do you recommend that the word 'person' should be substituted for the word 'cooly, maistry or other labourer employed on a coffee estate' in that section?
 (2) If so, on what grounds do you justify the amendment?
99. (1) Do you consider that section 9 of the Act should be amended so as to include parchment and cherry-dried coffee?
 (2) Give your reasons.
100. (1) Are thefts of parchment and cherry-dried coffee common
 (a) on the estate?
 (b) in transit to the coast?
 (2) Give facts in support of your answer.
101. Is there any special difficulty in preventing thefts of parchment or cherry-dried coffee which does not apply to any other harvested produce?
102. How many complaints of
 (a) coffee theft
 (b) receiving stolen coffee
 have been made to the Police within your charge during the past five years?
103. (1) How many prosecutions have been instituted under the Madras Coffee Stealing Prevention Act during the past five years?
 (2) How many convictions have been obtained?
104. (1) How many prosecutions have been instituted under the Indian Penal Code during the past five years
 (a) for theft of coffee?
 (b) for receiving stolen coffee?
 (2) How many convictions have been obtained under each class?
105. What precautions are taken by planters to prevent theft of coffee in transit?

APPENDIX II.

Return of the cultivated area under Coffee, Tea and Cinchona, according to the Revenue authorities.

No.	Tracts.	Total area cultivated (coffee, tea and cinchona).*	Remarks.
		<i>Revenue Board's figures.</i>	
1	Vizagapatam	230	No reply from Collector.
2	Anantapur	1	Do. do.
3	Madura (General No. 269) ...	8,964	Collector's figure is almost the same.
4	Tinnevely „ „ (148) ...	1,313	Collector's figure is 1,274.
5	Coimbatore „ „ (288) ...	1,128	Not answered by Collector.
6	Nilgiris „ „ (310) ...	38,911	Collector's figure for 1894-95 is 38,996.
7	Salem „ „ (89) ...	10,775	Deputy Collector's figure is 11,156.
8	South Canara „ (307) ...	88	Collector's figure is almost the same.
9	Malabar „ (244) ...	18,243	Collector's figure is 17,442.
	Total ...	79,653	
		<i>Resident's figures.</i>	
1	Travancore	14,497	Resident's figure is the same.
2	Cochin	3,417	Do. do.
			<i>Coffee. Cinchona.</i>
3	Mysore	1,39,010	{ Deputy Commissioner, Kadur ... 98,167 99
			{ Do. do. Hassan ... 55,843 ...
4	Coorg	73,880	{ Do. do. Kolar ... 14 ...
	Total ...	2,30,804	
	Grand Total ...	3,10,457	

* The figures for coffee and tea are for the Calendar year 1895; those for cinchona (in Madura, Nilgiris, Malabar, Travancore, Mysore and Coorg) are for the official year 1895-96.

APPENDIX III.

Return of the value of estates, the area cultivated, &c., according to the answers furnished by Honorary Secretaries of Planters' Associations.

Tracts.	Total value of estates.	Total area cultivated.	Total working expenses.	Average number of maistries.	Annual payments to maistries.	Average number of coolies.	Annual payments to coolies.	Remarks.
1	2	3	4	5	6	7	8	9
British India.								
1 Malabar— Wynad (Gen. No. 263) Nelliampathy B.I. (113) Nilgiris (38) Shevaroy (52) Pulneys (74) Coorg (77) Total	Rs. 55,00,000 2,30,000 1,66,00,000 40,00,000 to 45,00,000 10,75,000 4,70,00,000 to 5,10,00,000 7,50,05,000 to 7,89,05,000	ACRES. 11,000 310 37,381 4,000 1,280 70,000 1,23,971	RS. 11,00,000 27,900 30,81,520 1,00,000 70,00,000 to 91,00,000	300 per diem. 8 1,000 55 per diem. 1,500 to 2,000	RS. 50,000 1,395 2,00,000 6,500 10,50,000 to 13,65,000	8,000 per diem. 232 30,000 1,180 per diem. 50,000 to 60,000	RS. 5,50,000 13,950 20,00,000 57,500 83,00,000 to 45,50,000	Details not given for columns 4 to 8.
Native States.								
1 Mysore— North Mysore (210) South Mysore (284) North Mysore, Native (325) Travancore— South Travancore (34) Central Travancore (157) Kannan Devan (277) Total	Rs. 1,25,40,000 90,00,000 42,00,000 35,42,024 22,19,480 31,15,012 20,00,000	13,100 12,060 8,500 7,613 5,135 6,039 3,347	16,77,011 * 6,03,000 to 18,09,000 6,00,000 8,22,810 5,47,050 15,05,276 † 2,99,350	658 * 482 200 380 to 456 291 82	81,400 30,150 to 1,08,540 1,00,000 57,097 18,220 14,967	16,450 * 12,060 35,000 9,516 to 11,419 28,873 2,510	5,50,775 2,11,050 to 9,04,500 3,00,000 5,70,875 1,64,063 1,49,075	* Proportionate figures. † Proportionate figures. Rs. 1,79,007 paid to maistries and coolies.
3 Cochin. &c., Nelliampathies, Native State (113). Total Grand Total	20,00,000 3,66,22,516 11,16,27,516 to 11,55,27,516	55,874 1,70,845	..... .....	..... .....	..... .....	..... .....	..... .....	.....

APPENDIX IV.

Rates of Daily Wages of Ordinary Plantation Labourers in the Planting Districts of Southern India.

District.	Men.		Women.		Children.
	Present rates.	Rates in last 15 years.	Present rates.	Rates in last 15 years.	
Wynad	4 annas	4 annas	2 annas 8 pies to 3 annas.	2 annas 8 pies.	1 anna 4 pies to 2 annas.
Nilgiris	3 annas 8 pies, 4 annas, 4 annas 2 pies, 4 annas 3 pies, 5 annas.	3 annas 8 pies, 4 annas.	2 annas 6 pies, 2 annas 8 pies, 2 annas 9 pies, 3 annas.	2 annas 6 pies to 2 annas 9 pies.	1 to 2 annas.
Shevaroy	3 annas	Slightly lower.	2 annas	Slightly lower.	1 to 2 annas.
Pulneys, Lower	4 annas	4 annas	2 annas 6 pies.	2 annas 6 pies.	1 to 2 annas.
Pulneys, Sinamalay Hills	2 annas 8 pies, 3 annas 6 pies.	2 annas 8 pies, 3 annas 6 pies.	2 annas, 2 annas 6 pies.	2 annas, 2 annas 6 pies.	1 to 2 annas.
Coimbatore, Anamalays	4 annas	4 annas	2 annas 6 pies.	2 annas 6 pies.	1 anna 6 pies to 2 annas.
Vizagapatam	3 annas	...	1 anna 6 pies.	...	.....
Coorg	4 annas, 4 annas 2 pies.	3 annas 8 pies, 4 annas.	2 annas 6 pies, 2 annas 8 pies, 3 annas.	2 annas 6 pies.	1 to 2 annas.
Mysore	4 annas	3 annas, 3 annas 8 pies.	2 annas, 2 annas 4 pies, 2 annas 6 pies, 2 annas 8 pies, 3 annas.	2 annas	1 to 2 annas.
Travancore, Tamils	4 annas 6 pies, 5 annas.	4 annas, 4 annas 6 pies.	3 annas, 3 annas 6 pies.	3 annas	2 to 3 annas.
Do. Malayalis	4 annas, 4 annas 6 pies.	4 annas, 4 annas 6 pies.	.....	.....	.....
Cochin	5 annas	5 annas	3 annas	4 annas	1 to 2 annas.

Note.—5 annas are only paid to men in the Nilgiris who do 25 per cent. more work than men earning 4 annas.

APPENDIX V.

Statement showing the number of British warrants received and executed in Native States.

Districts.	Number of warrants received.						Number of warrants executed.						Remarks.
	1891.	1892.	1893.	1894.	1895.	Total.	1891.	1892.	1893.	1894.	1895.	Total.	
<i>Mysore State.</i>													
Bangalore District	29	38	34	33	24	158	22	32	27	26	13	120	
Kolar "	4	...	...	5	5	11	...	...	...	2	5	7	
Tumkur "	25	31	45	41	34	176	25	31	45	41	30	172	
Kadur "	...	2	4	16	13	35	...	...	3	6	7	16	
Mysore "	243	176	251	335	270	1,275	139	112	144	208	180	783	
Hasan "	104	107	94	85	96	486	66	69	59	52	56	302	The figures are for the official years 1891-92, &c.
Shimoga "	...	...	...	...	...	...	...	...	...	...	...	...	
Chitaldurg "	...	...	...	...	...	...	...	...	...	...	...	...	
Total	405	354	428	512	442	2,141	252	244	278	335	291	1,400	
Travancore and Cochin	...	...	...	...	...	...	...	...	...	...	...	...	
Grand Total	405	354	428	512	442	2,141	252	244	278	335	291	1,400	

APPENDIX VI.

Return of Civil Suits filed by Planters and Maistries, with results.

No.	District.	Instituted.			Successful.			Percentage of amount realised to amount claimed.	Remarks.
		By planters.	By maistries.	Total.	By planters.	By maistries.	Total.		
1	Kadur, Mysore	124	...	124	106	...	106	7.2 per cent.	
2	Kolar	...	...	...	...	...	...	...	Information not available.
3	Hasan	56	28	84	52	20	72	5 per cent. by planters, 10 per cent. by maistries.	
4	Chenroyapatna Taluk, Mysore	...	...	...	...	...	...	...	Not known.
5	Coorg	55	12	67	...	...	51	12.63 per cent.	
6	Travancore	43	9	52	...	...	44	In six cases 50 per cent.; in others nothing, or execution not applied for.	
7	Cochin	...	...	...	...	...	...	...	Figures not given.
8	Nilgiris { Sub-Court	113	...	113	102	...	102	25 per cent.	
		26	14	40	...	...	35	30 per cent.	
9	South Canara	18	26	44	17	15	32	23 per cent. realised by planters.	
10	Madura	...	...	...	...	...	...	...	No such cases.
11	Malabar	2	2	4	...	...	...	...	
12	Salem	...	...	...	...	...	...	...	Not known.
13	Coimbatore	2	...	2	2	...	2	Nothing realised.	
14	Tinnevely	...	...	...	...	...	...	...	No such cases.
	Total	439	91	530	...	...	444		

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APPENDIX VII.

Return of cases instituted during the past five years by Planters and Maistries under Act XIII of 1859, with result.

Number	District.	Cases by planters against maistries.				Cases by planters against coolies.				Cases by maistries against coolies.				Total number of cases.	Remarks.
		Insti- tuted.	Number in which accused were brought to trial.	Number of con- victions.	Number in which accused contract and re- ceipt of advance.	Insti- tuted.	Number in which accused were brought to trial.	Number of con- victions.	Number in which accused contract and re- ceipt of advance.	Insti- tuted.	Number in which accused were brought to trial.	Number of con- victions.	Number in which accused contract and re- ceipt of advance.		
1	Kodur	117	18	13	12	3,474	1,687	652	645	1,402	669	104	102	4,993	Information not available; almost no plantations.
2	Kolar	...	...	...	...	...	...	...	...	...	...	...	...	...	(a) Information not avail- able.
3	Hassan	...	83	32	(a)	...	280	145	...	...	70	27	(a)	435	Not known.
4	Chenroyapatna	...	...	...	...	...	...	...	...	...	...	...	...	...	
	Total for Mysore	...	101	45	12	...	1,997	797	645	...	739	131	102	5,423	
5	Coorg	1,236	...	...	...	2,052	...	...	...	3,409	...	...	...	6,037	{ Brought to trial. 3,613 Convictions ... 156 Admitted con- tract, &c. ... 1,857 Brought to trial. 100 Convicted ... 49 Admitted con- tract, &c. ... 302
6	Travancore	50	...	...	...	46	...	...	...	656	...	...	...	732	
7	Cochin	...	...	...	...	2	...	...	...	20	...	...	...	23	No cases relating to coffee planting.
8	Nilgiris	548	432	280	372	235	170	111	184	2,446	1,550	531	11	3,229	
9	Malabar	143	55	30	30	187	634	36	43	862	634	32	861	1,192	
10	Coimbatore	...	...	...	...	...	...	...	...	...	...	...	...	94	
11	Salem	...	...	...	...	...	...	...	...	...	...	...	...	336	
12	Madura	...	...	...	...	...	...	...	...	...	...	...	...	80	
13	Tinnevely	...	...	...	...	...	...	...	...	...	...	...	...	1	
14	South Canara	...	...	...	...	...	...	...	...	...	...	...	...	...	
	TOTAL	...	607	343	424	...	2,406	1,010	942	...	3,187	864	1,134	17,832	

APPENDIX VIII.

Statement showing amounts of Planters' advances outstanding and amounts considered irrecoverable.

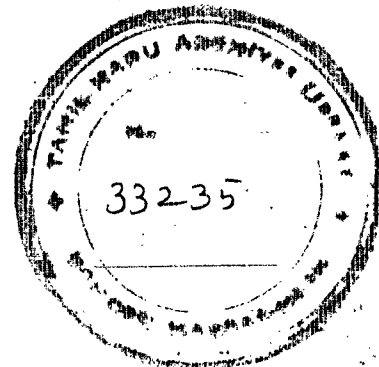
Number.	Name of Association.	Amount outstanding of advances made by planters.	Amount considered to be irrecover- able out of advances outstanding.
		Rs.	Rs.
1	Malabar ... { Wynad ... (General No. 263)	55,000	13,750
2	Nilgiris ... { Nelliampathy-British India. (" 113)	1,695	1,271
3	Shevaroy ... (" 38)	Not given.	Not given.
4	Pulneys ... (" 52)	Very small.	Very small.
5	Coorg ... (" 74)	12,000	9,864
	Coorg ... (" 77)	5,50,000	55,000
	Total for Madras Presidency and Coorg ...	6,18,695	79,885
1	Mysore ... { North Mysore ... (General No. 210)	5,19,924	3,03,450
	South do. ... (" 284)	1,12,300	32,300
	North do. , Native ... (" 325)	Not given.	Not given.
	Total for Mysore ...	6,32,224	3,35,750
2	Travancore. { South Travancore ... (General No. 94)	Not given.	20,440
	Central Travancore ... (" 157)	Not given.	6,000
	Kannan Devan ... (" 277)	64,283	8,821
	Total for Travancore ...	64,283	35,261
3	Cochin, i.e., Nelliampathy, Native State ... (General No. 113)	18,305	13,720
	Total for Native States ...	7,14,812	3,84,740
	Grand Total ...	13,33,507	4,64,625

APPENDIX V

percentage of local labour and of labour imported from British India and from Mys employed on the plantations in Southern India.

District.	Local.	Imported from British India.	Imported from Mysore.
naad	20	54	26
giris	17.5	44.5	38
varoys (Salem)	50	50	...
ver Palneys (Madura)	86	14	A few.
nevelly	80	20	...
rg	20	53	27
th Mysore	3.5	70.75	25.75
th Mysore	25.5	62.5	12
vancore	20	60	20
thin	4	96	A few.

321.5 524.75 1487.5



21m966

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