

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	213	Press
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Dated	9. 4.	1859

B. No. 13-14

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Fort Saint George, Financial Consultation, 12th April 1859.

No. 13. Extract from the Proceedings of the Government of India, in the Financial Department, under date the 11th March 1859, No. 1869.

Read the following letter from the Sub Treasurer, Fort William; to the Secretary to the Government of India, Financial Department,—(No. 308, dated the 21st January 1859.)

Sir,

I have the honor to state that much inconvenience and risk is experienced at this office, from the constant tender of plugged and counterfeit Rupees in payment of money by the public into the General Treasury, and that as the practice of allowing such Rupees, after they have been tendered, to be returned to the holders, leads to the same base coins being brought to the Treasury over and over again, I have the honor to solicit, that you will be so good as to obtain the orders of Government, should Government consider with me that such orders are necessary, empowering the Sub Treasurer to mutilate and divide into two all plugged and counterfeit Rupees that may be tendered in the General Treasury, in the same manner as the Collectors of Land Revenue are empowered under the Circular of the Accountant, Revenue Department, No. 431, dated 14th July 1832, issued in compliance with the orders of the Sudder Board of Revenue, to mutilate all base coins found in remittances from one Government Treasury to another.

2. In connection with the above subject, I have the honor to state, for the consideration of Government, that a large number of light-weight Rupees are in circulation in Calcutta, and which are frequently tendered by the public for payment into the General Treasury. These Coins have been either clipped or filed and silver taken from them, or from the recent system of electroplating, a considerable quantity of silver is extracted from Rupees by means of chemical process, without this being so apparent as to admit of ready detection. Under the above circumstances, I would submit that it is desirable that the matter should receive the consideration of Government with a view to very stringent rules being enacted for the preservation of the integrity of the coin, and the safety of the public.

No. 906, FINANCIAL DEPARTMENT, FORT WILLIAM, THE 12TH FEBRUARY 1859.

FORWARDED to the Government Solicitor, with a request that he will obtain the opinion of the Advocate General as to what powers the law confers upon the Government in dealing with the coins referred to by the Sub Treasurer, and with the parties who tender them at the General Treasury.

Original paper to be returned.

Read the following Opinion of the Advocate General, Mr. W. RITCHIE,—(dated the 19th February 1859.)

I think the law now in force in India with reference to false coins is defective, and that application should be made to the Legislature to pass an Act corresponding in substance with the Statute 2 W. 4 C. 34, which has never been introduced into this country and which provides for several cases wholly omitted by the 9 Geo. 4 C. 74. S. 73, 74 and 75, and Act XXXI of 1839, the Acts now in force here with respect to offences against the Mint.

2. The Act 2, W. 4 C. 34 (S. 13) provides expressly for the course to be adopted with reference to coin counterfeit or diminished otherwise than by reasonable wearing in the possession of innocent persons, and authorizes the teller of Her Majesty's Exchequer and Receiver of revenue as well as other persons to break and deface such coins. Such provision, as well as that contained in S. 14, authorizing the seizure of counterfeit coin in the mode therein pointed out, would be extremely useful in this country.

3. Moreover, the provisions in the English Act as to impairing, diminishing and lightening the coin (S. 5) as to having in possession three or more pieces of counterfeit coin with intent to utter (S. 8) as to the possession or use of coining tools (S. 10) are not contained in either of the Indian Acts, and might be introduced here with advantage. By Electroplating and other chemi-

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cal processes the coin may be impaired, diminished, or lightened without being either "clipped, filed, drilled, defaced, or debased within the strict legal construction of the Act of 1839. These words were probably intended to embrace all modes then known of diminishing or lightening the coin and the last two are of a very comprehensive nature. But it may be well doubted whether some processes of sweating the coin now resorted to fall within the meaning even of the words defaced or debased.

4. In some respects I think it would be desirable to go further than the English Act 2 W. 4 C. 34, and to provide an express punishment; (1.) for the uttering or tendering with guilty knowledge coins unlawfully impaired, diminished, or lightened; (2.) for the buying or receiving, selling or putting off such coin at a lower rate than it by its denomination imports; (3.) for the possession with intent to utter, or without lawful excuse of such coins.

5. The first of these offences is, I doubt not, a misdemeanor at common law. The second, I also think is a misdemeanor at common law, and was punishable as a felony by the 8 and 9 W. 3, C. 26, which was repealed by the 2 W. 4 C. 34 and not in this respect reenacted. The third is not an offence either at common law or by Statute, though *procuring* such coin with the intention of passing it as good coin is in my opinion a misdemeanor at common law. It would aid much I think in bringing offenders against the coin to justice; if all these offences were subjected to specific punishment as misdemeanors.

6. The powers of the Revenue or other Officers of Government to break up or destroy genuine coins which have been unlawfully tampered with, but which are presented by innocent holders, are very ill-defined at common law; and special provisions for breaking up counterfeit coin or coin unlawfully diminished, have been so often introduced by Statute,* that an inference arises that some statutory authority is necessary in order to afford a complete protection to the Officers so dealing with coins.

7. My own opinion certainly is that any Officer of Government to whom counterfeit coin is tendered, even by an innocent holder, is fully justified, without any Legislative authority, in cutting or breaking in two such coin, returning the pieces to the holder if no suspicion attach to him, or to any one who can be traced through him.

8. But the question is more difficult as to genuine coin which has been unlawfully tampered with. I incline to think, however, that if such coin has been actually "fraudulently clipped, filed, drilled, defaced or debased" within the meaning of Act XXXI of 1839, (which would include the cases of plugging referred to by Mr. Harvey) the Government Officers would be safe in cutting or breaking in two such coins, returning the pieces (without loss of any of the particles) to the innocent holder. I cannot see that the latter could sustain any damage that the law would recognise by the Act, as he could not himself make use of the coin as a genuine coin after being apprised of its having been unlawfully dealt with, without a crime; and the value of the coin for any lawful purpose would not be diminished by its being broken in two.

9. Whether the course be strictly justifiable in the present state of the law or not, which is very doubtful, I strongly advise its immediate adoption at the Treasury, and by all Revenue Officers as a protection to the public against the circulation of coin illegally depreciated, which there is a strong moral obligation on the Government to afford.

10. When the coin has been diminished or impaired otherwise than by any of the five modes specified in Act XXXI of 1839, *e.g.*, by sweating through a chemical process, which does not deface or debase the standard, much greater difficulty will exist. Where it is quite certain that the diminution is owing to some chemical or unlawful process, wilfully applied, I incline to think, the Government Officers breaking it in two will be practically safe. For any subsequent uttering such coin with knowledge of its character would in my view be a misdemeanor at common law, though not a statutable offence, and therefore it is difficult to see what legal damage the innocent holder in receiving back the pieces, could sustain. But extreme caution will be necessary in dealing with such cases, because if the lightening or diminution of the coin can be attributed to fair wear and tear, or to lawful means, the burden of negating which would be on the Officer breaking it, I think it clear that he would be exposed to an action by the innocent holder.

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RESOLUTION.—The Governor General in Council observes, that the Sub-Treasurer, Fort William, in reporting that much inconvenience and risk are experienced in his office from the constant tender of plugged and counterfeit Rupees in payment of money by the public into the General Treasury, solicits that as the practice of allowing such Rupees, after they have been tendered, to be returned to the holders, leads to the same base coins being brought to the Treasury over and over again, he may be empowered to mutilate and divide into two all plugged and counterfeit Rupees that may be tendered at the General Treasury, in the same manner as the Collectors of Land Revenue are empowered under the Circular of the Accountant, Revenue Department, No. 431, dated 14th July 1832, issued in compliance with the orders of the Sudder Board of Revenue, to mutilate all base coins found in remittances from one Government Treasury to another.

2. He further reports that a large number of light-weight Rupees are in circulation in Calcutta and are frequently tendered by the public for payment into the General Treasury. These coins have been either clipped or filed, and silver taken from them, or, from the recent system of electroplating, a considerable quantity of silver is extracted from Rupees by means of chemical process, and this, he states, does not admit of ready detection. Under the above circumstances, he submits that it is desirable, that the matter should receive the consideration of Government, with a view to very stringent rules being enacted for the preservation of the integrity of the coin, and the safety of the public.

3. The Advocate General having been requested to state his opinion as to what powers the law confers upon the Government in dealing with the coins referred to by the Sub Treasurer, and with the parties who tender them at the General Treasury, advises that application should be made to the Legislature to pass a fresh law on the subject, the law now in force in India with reference to false coins being, in his opinion, defective; and meanwhile he thinks that the Sub Treasurer and the Revenue Officers generally may be authorized to cut or break in two, counterfeit coins and coins that may have been unlawfully tampered with; observing, at the same time, that extreme caution should be exercised in dealing with cases in which coin has been diminished or impaired otherwise than by any of the five modes specified in Act XXXI of 1839.

4. The Governor General in Council approves of the views of the Advocate General, and accordingly directs that a copy of the correspondence on the subject be forwarded to the Home Department, with a view to the introduction of a new law, as advised by the Advocate General: and pending the passing of such new law, His Lordship in Council is pleased to authorize the Sub Treasurer, Fort William, and the Revenue Officers generally, to act upon the advice of the Advocate General.

ORDER.—Ordered, that a copy of the above resolution, together with a transcript of the correspondence therein referred to, be forwarded to the Home Department, for the purpose indicated.

Ordered, also, that a copy of the resolution, together with a transcript of the opinion

<i>Govt. of Bengal.</i>	<i>Govt. of Bombay.</i>	of the Advocate General referred to therein, be forwarded to
" <i>of N. W. Provinces.</i>	" <i>of Punjab.</i>	the Governments noted in the
" <i>of Fort St George.</i>	" <i>of Straits Settlements.</i>	margin, with a view to the necessary instructions being issued to

the several Officers in charge of Treasuries to act upon the advice of the Advocate General as contained in paragraphs 6 to 10 of that Officer's opinion, pending the passing of a new law on the subject.

Ordered, also, that a copy of the resolution, and of the opinion of the Advocate General, be forwarded to the Sub Treasurer, Fort William, with reference to his letter, No. 308, dated the 21st ultimo, and with a request that, pending the passing of a new law, he will act upon the advice of the Advocate General as given in paragraphs 6 to 10 of his opinion.

Ordered, further, that a copy of the resolution and of the opinion of the Advocate General be forwarded to the Accountant General to the Government of India, for the issue of the necessary instructions to the Revenue Officers under his control.

(A true Extract.)

(Signed) C. HUGH LUSHINGTON,

Secretary to the Government of India.

Fort Saint George, Financial Consultation, 12th April 1859.

No. 14.

ORDER THEREON, No. 213; dated 9th April 1859.

Ordered to be communicated to the Sub-Treasurer, and to all Officers in charge of Treasuries, with instructions to act upon the advice of the Advocate General pending the passing of a new Law on the subject.

(Signed) T. PYCROFT,
Chief Secretary.

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No. 213.

Ordered to be com-
municated to the Sub Treasurer
and to all Officers in charge
of Treasuries, with instructions
to act upon the advice of the
Advocate General pending the
passing of a new Law on the
subject.
Fort St George
9 April 1859-
WY

To the Sub Treasurer
to the Advocate General for Count
to all Officers in charge
of Treasuries. } Sept. 15th