

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 245	Press ~~Mis.~~
21-22	
Dated 3 - 3 - 1897.	

Not to be folded or roughly handled

See

245

Fort St. George, Judicial Consultation, 3rd March 1857.

No. 21. Read the following letter from Lieutenant Colonel G. P. CAMERON, C. B., K. C. T. & S. & K. C., Commanding Neilgherries, and Joint Magistrate; to T. PYCROFT, Esq., Chief Secretary to Government, dated 26th January 1857, No. 52.

SIR,

Enclosed I have the honor of forwarding you a Memorial in duplicate, which I have been requested to transmit to Government, signed by a number of the inhabitants of this place, for submission to the Right Honorable the Governor in Council.

2. I have reason to believe the Memorial in question, would have been much more numerously signed, but from the absence at this period, of a great many of the resident inhabitants of the Hills, and its not having been transmitted to the neighbouring Stations for signature, from a wish on the part of those who attended the meeting, that the document should be forwarded, and placed in the hands of Government, as early as possible.

3. If I may venture upon so great a liberty, I would earnestly, though respectfully recommend most particularly to the notice of the Right Honorable the Governor in Council, those two points contained in the Memorial, relative to a Law between Servants and Masters, Masters and their employees, the absence of which as my own experience too well proves, in a population recognized as the very worst throughout the whole of India, gives rise to such abuses, that in regard to the first, it not unfrequently happens, unprotected invalid ladies and children are exposed to insult, and extortion, and sometimes live in a state of constant anxiety, and alarm, while in reference to the last, not only individuals, but the Government, and Public at large, have sustained great injury in consequence of the frauds carried on with impunity, from the defective state of the existing law; one example of which had nearly caused the sweeping away of the Bridge at Goodalore, and left passing travellers to the almost certain death occasioned by a stay in those pestilential jungles.

(Signed) G. P. CAMERON, Lieutenant Colonel,
Commanding Neilgherries, and Joint Magistrate.

To the Right Honorable GEORGE FRANCIS LORD HARRIS, Governor of Fort St. George, Madras.

The respectful Memorial of the European Residents at Ootacamund on the Neilgherries.

SHEWETH,

1st. That in our Memorial in April of the year 1855, is detailed the increased, and still increasing population of these Hills, in which there are more Europeans located than in any other Station in India, beyond the limits of the several Presidencies of Calcutta, Madras and Bombay, and we regret to state that the little that has been done subsequently to the presentation of our last Memorial, has, but in a very slight degree, served to ameliorate the condition in which we found ourselves then placed, for we are still debarred from the protection of British Law, and have still to contend against the delays and intricacies of Moofussil Courts wherein Hindoo and Mahomedan law predominates in the Company's Regulations, which are not in any way calculated for the free born Briton.

2nd. Your Memorialists indulged the hope that from the representation they made in April 1855, and from the favourable reply received thereto, a Small Cause Court would have been here established, as well as an efficient Magistracy, and powerful Police, confirmed by a local Act, based upon English law, and thus would protection have been afforded to the inhabitants generally, both in regard to their persons, and property.

3rd. It is useless to recapitulate the details given in our former Memorial, suffice it to say, that the grievances we then complained of are still, for the most part suffered to exist, much to the injury of the Inhabitants of these Hills both European and Native; we therefore most respectfully and humbly pray that the particular Act[†] which has been sometime in

operation in Bengal for the protection of Master and Servant, and Workman and Employers, may be promptly extended to these Hills, and

Vide Beaufort Digest of the Criminal law of Fort William, Book the 8th Chapter 3rd page 692 under the

Fort St. George, Judicial Consultation, 3rd March 1857.

head of Master and Servant
and Workman and Con-
tracts of labour

also the Act lately passed for regulating the Police of the Towns of Calcutta, Madras, and Bombay, may under certain modifications be likewise granted to us with a Small Cause Court, similar to those of the Presidencies.

And your Memorialists as in duty bound, will ever pray.

(Signed) HOWARD DOWKER, Major Genl.

(") FRANCIS STRATAN, Major Genl.
and several others.

No. 22.

ORDER THEREON, No. 245; dated 27th February 1857.

Lieutenant Colonel Cameron submits, in duplicate, a Memorial from several (56) residents at Ootacamund.

2. The Memorialists refer to the Memorial presented in April 1855, and state that the little that has been done subsequent to its presentation has but in a very slight degree, served to ameliorate the condition in which they found themselves then placed, for they are still debarred from the protection of British Law, and have still to contend against the delays and intricacies of Mofussil Courts wherein Hindoo and Mahomedan Law predominates in the Company's Regulations, which are not in any way calculated for the free born Briton. They state that they had hoped that, in consequence of their Memorial, a Small Cause Court would have been established at Ootacamund, as well as an efficient Magistracy, and powerful Police, confirmed by a local Act, based upon English Law, and thus would protection have been afforded to the inhabitants generally, both in regard to their persons and property.

3. They conclude by praying that the particular Act which has been for sometime in operation in Bengal† for the protection of Master and Servant and Workman and Employer may be promptly extended to the Hills, and also that the Act lately passed for regulating the Police of the Towns of Calcutta, Madras and Bombay, may under certain modifications be likewise granted to them with a Small Cause Court similar to those of the Presidencies.

4. The Right Honorable the Governor in Council observes, in regard to the objections urged by the Memorialists against the system of Law as now administered by the Mofussil Courts that a Bill for simplifying the Procedure of the Courts of Civil Judicature of the East India Company in Madras, founded on the Report of H. M. Commissioners appointed to consider the Judicial Establishment, Judicial Procedure and Laws of India, has recently been brought into the Legislative Council and will probably soon become Law. It will, it is to be presumed, shortly be followed by one of a similar kind for reforming the Procedure of the Courts of Criminal Judicature and adapted to the carrying out of the Indian Penal Code which is also before the Council.

5. With respect to the Institution of a Small Cause Court at Ootacamund, the Memorialists will be informed that it was originally designed by this Government and proposed by them to the Government of India, that the Principal Sudder Ameen's Court at Ootacamund should be invested with the Jurisdiction of a Small Cause Court. This was not done, because the Legislative Council had at the time before them the Bill for establishing Small Cause Courts generally in the Mofussil, and it therefore appeared to them unnecessary to legislate specially for Ootacamund in that respect. From some reason, however, with which this Government are unacquainted, the Bill in question, entitled "Bill for the more easy recovery of small debts and demands," and which would have enabled the Government to confer the powers of a Small Cause Court on any Civil Court of the East India Company, has not passed.

6. As regards the Law of Master and Servant, the Government would observe that a Law for settling the relations between Master and Servant, drawn up by the Advocate General of Madras was laid before a Select Committee of the Legislative Council who reported against it.

† Vide Beaufort's Digest of the Criminal Law of Fort William, Book the 8th Chapter 3rd, page 692 under the head of "Master and Servant and Workman and Contracts of labor."

Fort St. George, Judicial Consultation, 3rd March 1857.

Their reasons will be found in their Report of 28th July 1855, from which it will be seen that the framers of the Penal Code, the Law Commissioners who reviewed it in 1847, and the Select Committee (as per margin) were agreed that, with some specified exceptions, which will be included in the Penal Code, breaches of contracts of service should not be treated as offences, but only be the subject of Civil actions. Copy of the Report above referred to will be furnished to the Memorialists for their information. It may be noted that the Bengal Act to which they have alluded will be abrogated by the Penal Code.

MEMRS. Elliott.
Grant.
Peacock.
Colville.

Mr. LeGeyt, dissented.

7. With respect to the extension to Ootacamund of the Act lately passed, for Regulating the Police of the Towns of Calcutta, Madras and Bombay or Act XIII 1856, it will be clear, from a cursory perusal of that enactment, that it would require considerable modification to fit it to be carried out on the Hills. It, moreover, seems to the Right Honorable the Governor in Council very improbable that the Legislative Council would perceive such distinction between the circumstances of Ootacamund and other large up-country stations, as to legislate specially for its Police—or, at any rate, before trial has been made in it of the new Penal Code.

8. The above observations will be communicated to Lieutenant Colonel Cameron, who will be pleased to make them known to the Memorialists. The Government have not perceived in their Memorial any thing which has not been before considered, or on which they would be justified in again addressing the Supreme Government or the Legislative Council. It will, however, be open to the Memorialists to apply to the Council in the usual course by Petition, should they see fit, on any of the subjects to which their present address has reference.

(Signed) T. PYCROFT,

Chief Secretary.

Memorandum.

The memorialists
might be informed
that any legislation
cannot be entertained
being that the ~~Parliament~~
formation of the ~~Canal~~
is about to be brought into
operation.

With respect to the ~~human~~
law. some modification
might possibly be made applic-
able. D Dalhousie told
me. that he had introduced
something of the kind at the
Kite Station in ^{the} Amulaga.

Enquiry might first be made
about this. & the only memora-
lists told. that Govt wd take it
into consideration.

H

Lieut. Colonel Cameron
submits, in duplicate, a
Memorial from several
56/ residents at Co-
cumud.

The Memorialists
refer to the Memorial
presented in April 1855
and state that the
little that has been
done subsequent to
its presentation has
been in a very slight
degree, served to im-
prove the condition
in which they found
themselves then placed,
for they are still de-
barred from the pro-
tection of British law
and have still to
endure

their Memorial that has not
been considered before
the want of some penalty for
breach of contract is a crying evil
- the opinion of the Leg^{al} Council
standing. W

Note: Beaumont's Digest of
the Criminal Law of Fort
William. Book the 8th, Chap. 3?
page 692. under the head of
Master and Servants and Work-
men and Contracts of Labour.

regard to their persons
and property.

2 They conclude by
praying, that the particu-
lar Act which has
been for some time in
operation in Bengal
for the protection of
Master, and Servant,
and Workman, and
Employers, may be
promptly extended
to these Hills, and
also the Act lately
passed for regulating
the Police of the Towns
of Calcutta, Madras,
and Bombay may,
under certain modi-
fications, be likewise
granted to them with
a Small Cause Court
similar to those of
the Presidencies.

3 It may not
be

The real wants
of the community are
a small cause
court such as it
was intended to
establish in the
basis of the expected
act & an efficient
tribunal for Master

The Memorialists
might have used the
establishment of the
small courts for
the basis of the act
This Memorial is known
of other persons &
the substance of it
might be communicated
to Memorialists. &
information obtained
as to what was done
to carry out the
at the late sessions
in N. India.

The Memorialists
to the address the Leg^{al}
Council. There does not
appear to be any thing in

content against the
delays and intricacies
of Mofussil Courts
wherein Hindos and
Mahomedan law pre-
dominates in the lower
ranks regulations, which
are not in any way
calculated for the free
born Briton. They state
that they had hoped
that, in consequence
of their Memorial, a
Small Cause Court
would have been there
established, as well
as an efficient Mag-
istracy, and power-
ful Police, confirmed
by a local Act, based
upon English law, and
thus would protection
have been afforded
to the Inhabitants
generally, both in
regard

See Mr. J. H. Norton's book.
Administration of
Justice in Southern
India - P. 146. 7 -

be necessary to notice
at any length the first
Section of the Memorial.
It may, however, be
observed that the pro-
cedure of the Mofussil
Courts is remark-
ably simple and
free from intricacies.
that, if there is delay,
it arises from the
Courts being overloaded
with business - a cause
which would occasion
delay in any Court,
but ought not to oper-
ate in the Principal
Sudder Ameer's Court
at Aotacamund which
is not believed to be
in arrears - that
the Hindoo and Ma-
hometan Civil Law
applies only to suc-
cession - inheritance -
marriage - Caste and
religious

Clause I See XVI Reg. III.
1802.

E. H. C. 18th May 1855
80369

5
religious usages and
institutions among
Hindoo and Mahe-
metans themselves res-
pectively - that the
Mahometan Criminal
Law enters little more
than nominally into
the existing Criminal
Law of the Mofussil,
that, whatever there
may be of it, will
be swept away by
the forthcoming Penal
Code which will in-
clude free born Britons
as well as others.

4 With respect
to the Small Cause
Court, it was originally
intended and proposed
that the Principal
Sudder Ameer's Court
at Aotacamund should
be invested with the

the Jurisdiction of a
Small Cause Court.
This was not done, be-
cause the Legislative
Council had at the
time before them the
bill for establishing
Small Cause Courts
generally in the Mo-
fussil - and it there-
fore appeared ^{to be} unne-
cessary to legislate
specially for Coataca.
- must in that res-
pect. From some
Cause or other, however,
the bill for the ge-
neral establishment
of Small Cause Courts
as ^{and which would} ~~was properly~~
^{has} ~~been~~ ^{been} ~~been~~
- abling the Govt. to
confer the powers of
a Small Cause Court
on any ^{Civil Court} ~~Mofussil Court~~
here

Scix

has not passed. Ser-
tantly, if there be any
station, after the Pre-
sidency Town, at
which a small Cause
Court might appropri-
ately be located, it
would seem to be
Cotacambú.

5 With regard to the Law of Master and Servant, it will be remembered that, a Law for settling the relations between Master and Servant, drawn up by the Advocate General, was laid before a Select Committee of the Legislative Council who refused to entertain it. Their reasons will be found in their report of 28th

Mr. Chitt.
Grant.
Peacock
Calville.
—
Mr. Le Sept. dissented

28th July 1855. from which
it will be seen that
the framers of the
Penal Code. the Law
Commissioners who re-
ceived it in 1847-
and the Select Com-
mittee (as per margin)
were agreed that, with
some specified excep-
tions, which will be
included in the Penal
Code, breaches of con-
tracts of service should
not be treated as of-
fences, but only be the
subject of civil actions.
It seems wholly out
of the question that
the Council should
take a different view
now that the Penal
Code is seemingly
on the point of
being enacted. This
Code

7
code, it may be re-
marked, will abrogate
the Bengal Act al-
luded to by the Me-
morialists.

With respect
to the extension to
Pootacamund of the
Act lately passed for
Regulating the Police
of the Towns of Cal-
cutta, Madras and
Bombay or Act VIII-
1856, it will be clear,
from a cursory per-
usal of that enact-
ment, that it would
require considerable
modification to fit
it to be carried out
on the Hills. It,
moreover, ^{is not} seems very
improbable that the
Legislative Council
would perceive
such

such distinction be-
-tween the circum-
-stances of Cotonco,
-ground & any other
large rep. Country Sta-
-tion, as to legislate
specially for its Police
or, at any rate, before
trial has been made
in it of the New Penal
Code.

7 The Memorialists,
after all, have not
adverted to what, I be-
-lieve, is the real de-
-sideratum at Cotonco:
-mund - viz: a good re-
-sident Magistrate (i.e.
Special Jst. to the
Magistrate of Coun-
-batores) of sense and
experience. When Mr.
G. L. Morris was on
the Hills in that ca-
-pacity during the visit
of

8
of the late Gov^r General,
I understand he was
very useful - Such an
arrangement was re-
-commended by Mr.
Thomas - but this Gov^r,
writing to the Gov^t
of India on the sub-
-ject, 13th August 1855,
said that the proposal
might be once in re-
-ference to the con-
-templated Act by which
the powers of a Joint
Magistrate might
be conferred upon the
Principal Sudder Ameen.
That Act has since
passed as Act XXV.
1855 - but the powers in
question have not
been conferred upon
the Principal Sudder
Ameen - and, indeed,
it seems doubtful
whether he could
perform

perform efficiently
all the Police and Ma-
gisterial business of
the Hills in addition
to his proper Judicial
Functions.

J.P.

Ind. Dep. 9

No. 245

Extract from the Minutes of Consultation.

Dated 27th February, 1854.

Read the following
letter from Lt. Col. C. P.
Cameron C.B. H.C. & C.
& R.C. Comd. & Kilgerries
& A.M.

(Here enter 26th Jan 1866
No. 52.)

H. G.
M.

M. M.

Lieut Colonel
Cameron submits, in
duplicate, a Memorial
from General /56/ re-
sidents at Botocampo.

The Memorialists
refer to the Memorial
presented in April 1853
and state that the
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but

W. D. Hall

but in a very slight degree, served to ameliorate the condition in which they found themselves then placed, for they are still debarred from the protection of British law, and have still to contend against the delays and intricacies of Mofussil Courts wherein Hindu and Mahomedan law predominates in the Company's regulations, which are not in any way calculated for the free-born Briton.

They state that they had hoped that, in consequence of their Memorial, a Small

Cause

10
House Court would have been established at Aotacamund, as well as an efficient Magistrate, and powerful Police, conformed by a local Act, based upon English Law, and thus would protection have been afforded to the Indian subjects generally - both in regard to their persons and property. [⊕]

§ 4 The Vth Hon^{ble} Gov^t in Calcutta, in regard to the objections urged by the Memorialists against the system of law now administered by the Mofussil Courts, that a bill for simplifying the procedure of the Courts of

§ 23. They conclude by saying that the particular Act which has been for some time in operation in Bengal for the protection of Master and Servant and workman and employ^{er}, or may be promptly extended to the Hills, & also, the Act lately passed for regulating the Police of the Towns of Calcutta, Madras & Bombay may under certain modifications, be likewise granted to them with a Small Cause Court similar to those of the Presidencies -

a. Vide Report & digest of the Criminal Law of Fort William Book II. eighth. Chap 3. Page 692 under the head of Master and Servant and workman & contracts of labor.

of Civil Inducature
of the East India
Company in Madras,
founded on the reports
of H. M. Commis-
sioners appointed
to consider the Indi-
cual Establishment,
Judicial Procedure
and Laws of India,
has recently been
brought into the Le-
gislative Council
and will probably
soon become law.
It will, it is to be
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be followed by one
of a similar kind
for reforming the
Procedure of the
Courts Criminal
Inducature and
adapted

17
adapted to the carry-
ing out of the Indian
Penal Code which
is also before the
Council.

* 5 With respects to
the institution of a
Small Cause Court
at Rotacamund,
the Memorialists
will be informed
that it was origi-
nally designed
by this Govt. and
proposed by them
to the Govt. of India,
that the Principal
Sudder Ameen's Court
at Rotacamund
should be re-
pealed with the En-
diction of a Small
Cause Court. This
was not done, because

Mr. Blott.
Groot.
Peacock.
Colville.

Mr. Le Geyt. dissented.

the framers of the
Penal Code. the Law
Commissioners who re-
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and the Select Com-
mittee (as per mar-
gin) were agreed
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which will be in-
cluded in the Penal
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Copy of the reports
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by the Penal Code.

§ 7 With respect
to the extension to
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of Calcutta, Madras
and Bombay or Act
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perusal of that en-
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tion to fit it to be
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the Govt in C. very
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cil, would perceive
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such distinction be-
-tween the circumstan-
ces of Cotacaimund
and other large up-
Country Station, as
to legislate specially
for its Police. or, at any
rate, before trial has
been made in it of
the new Penal Code.

* 8. The above ob-
-servations will be
communicated to
Lt. Col. Cameron, who
will be pleased to
make them known
to the Memorialists.
The Govt. have not
perceived in their
Memorial anything
which has not been
before considered, or
on which they would
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14-1
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preme Court or the
Legislative Council.
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open to the Memore-
-alists to apply to
the Council in the
usual course by
Petition, should they
see fit; or any of
the subjects to which
their present address
has reference.

JF.

To Lt. Col. Cameron, b. 13
with copy of reports of
Select Committee al.
included to in Para 56 } Dist. 9th

The Col.

I have said nothing about
Sept. 11 - 1850
because it seems to me
meant only for towns
and that it could not
with out consideration
of the Police
to be made
by the Government

Dr Dyke Co: 3rd inst

2/1222

Will be 6.50 of 9 June
on 16 of 1857 Paul 12

W. D. Smith 1857 P. 11.

W. D. Smith 1857 P. 11.
Judicial 1857 P. 11.

No 245

Charles W. Smith
Dated 27 Feb 1857

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