

MADRAS RECORD OFFICE.

Government of Madras.

Journal DEPARTMENT.

G.O. No.	239	Press ~~Mis.~~
Dated	16 . 2 .	19 86.

160-161

9/10

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
16th February 1866.

No. 160. Read the following letter from the Officiating Under Secretary to the Government of India, to the Secretary to the Government of Fort Saint George; dated Fort William, 30th November 1865, No. 4707.

Home Department,
Legislative.

I am directed to forward a copy of the papers noted in the margin, relating to a proposal to restrict, by law, the possession and sale of poisons, and to request that the Governor General in Council may be favored with the opinion of His Excellency the Governor in Council whether such a measure for all India would be likely to be productive of good, without proving at the same time an engine of oppression.

From General Superintendent of Operations for the Suppression of Thuggee and Dacoity, No. 930, dated 13th September, and annexures.

From the General Superintendent of Operations for the Suppression of Thuggee and Dacoity, to the Secretary to the Government of India,—No. 930, dated Simla, the 13th September 1865.

I beg to submit, to the notice of Government, the annexed draft of a Bill "to regulate and restrict the sale of poisons in the Bombay Presidency" as proposed in the Local Legislative Council, and published in the Supplement to the *Bombay Government Gazette*, dated 4th instant, this morning come to hand.

2. In the correspondence which I some years previously had with the Bombay Government, on the subject of the expediency of amending the Laws relating to the crime of poisoning, it was remarked by the Honorable the Governor in Council that I had quite shown the necessity for such a measure; but it will be perceived that it was only when public horror was excited by the poisoning of several European children of the Byculla Charity Schools that the present Bill was brought in.

3. I have, from time to time, ventured to urge the adoption of like measures upon the notice of the Government of India. The prevalence of the crime of poisoning in many directions justified me in the step; and although I may not say that a similar catastrophe is necessary to arouse the same attention to the subject, the serious extent to which the crime has reached, and its unabated progress throughout the country, will absolve me for enquiring, *why*, under as dire a necessity, the same and even greater restrictions should not be imposed by the Supreme Government everywhere.

4. In the Report on the administration of Criminal Justice in the North-Western Provinces for 1864-65, just published, it is noticed that crimes analogous to Thuggee, and the giving of stupefying drugs, had revived; and a case is quoted, which presented "all the ordinary features of the old Thuggee system" (the manifestation of which, I regret to say, is not confined to that single instance), of a Chumar personating a highly connected Thakoor. "He was extremely well dressed, in red turban, a chintz tunic, and a gold necklace. He induced a Native *bhaileo* driver to take him from Itmadpore, in the Agra District, towards Jeytra, whither he said his son had preceded him in a palkee; on the third day's journey, he stupefied the carter with some intoxicating drug, left him on the road side, and carried off the cart and bullocks. This man was said to have been accompanied by twenty Marwaries, men and women."

* Quoted from the Pioneer of the 8th September 1865: "The operations of a similar gang of poisoners of huckery drivers, whose field extended from Bundelcund to Oude and Hurdwar, were reported in full detail in my Despatch, in the Foreign Department, No. 794, dated 15th September 1863, paragraphs 19 and 24.

which have resulted have led to such astonishing revelations of its fatal extent in that direction, and are attended with such horrible details, that I am left to wonder what the Police could have been about. Several recent instances in Oude show that it is successfully practised there, combined in some cases, as in Bengal, with strangulation after drugging. I do not receive any reports of its

In Bengal, the crime had gained such head without detection, that the Local Superintendent of Detective Police was recently directed by the Lieutenant-Governor to place himself in communication with me, and the inquiries

occurrence in the Central Provinces, in Madras, and Bombay territory; but I have no reason for believing that it does not prevail in those countries. My impression, from observation, being that it exists to a much greater extent in them than is reported or is known,—some cases last year in the former territory having been of a very diabolical nature; while in the Punjab the example I last year brought to notice, of an escaped Thug approver committing, with associates, in the space of three months only between his escape and capture, so many as *eighteen* cases of it, with fatal effects in almost every instance. Some subsequent cases in the Cis-Sutlege Districts, of a nature akin to that brought to notice in the North-Western Provinces, and the references recently directed to me on the subject of general measures of detection, also preclude me from exempting that Province from the consideration, whether on this side of the Sutlege or on that. Some recent discoveries, too, of Thuggee in Central India, lead me to include those States in the same category; while the condition of the Hyderabad, Rajpootanah, and other Native States, and the silence which is generally observed with regard to the perpetration in them of acts of crime, afford me no grounds for excluding those countries from it.

5. Life generally is taken; or if the victims recover, they mostly lose their health and their intellect,—and in frequent cases there is no Police detection. On the contrary, death, if reported at all, is ascribed to disease, suicide, or wild beasts; and if death is escaped, silence is too often observed to avoid the charge of drunkenness or falsehood,—or, if females should be the complainants, of incontinence and other taunts—at the sacrifice of the property which has been robbed and of justice.

6. Merely, however, to restrict the sale of poisons, would not be, I submit with respect, to go far enough in remedial measures. The whole Law relating to the crime of poisoning, the sale, purchase, and possession of poisonous or noxious drugs, might, with salutary results, be made more stringent. With no more in this place than merely adverting to the pressing necessity which also exists for supplementing the Police with a detective organization, under a single but not independent administration, for the purpose of more effectually repressing this and other heinous crimes of the same exceptional character, to cope with which something *more* than ordinary Police action is required, I would here refer more directly to what I have before pressed to notice, namely, the necessity for a Law which shall make it both *criminal* and *penal* to be found in the possession of deleterious drugs, except on the part of licensed vendors, or of person specially permitted to have them. As submitted in another place, the person who desires to obtain such things for criminal purposes would, in reference to any enacted restriction in the *sale* of poisons, have no need to resort to the Druggist's stall, or the Chemist's counter, in a country in which he was able readily to get what he wanted from the roots of trees, from jungle, garden, or the wayside, or for mineral poisons, to the travelling quacks (waidas) who numerously roam the country, vending, unquestioned, every noxious thing,—but he would have to be-think himself how to prevent his being discovered to *possess* them, if it was made *unlawful* to do so. Such a measure, however easily it might often be evaded, would, at least, have the effect of checking the crime of poisoning committed from malice, or for the purpose of robbery, or of procuring abortion; while those who required the drugs for medicinal or honest purposes would suffer little from the mere inconvenience of having to seek the required permission to possess them.

7. I have long aimed to gain for this subject the consideration it seems to merit, and I trust the occasion will be deemed a fitting one for my now again seeking to do so.

8. I am able to submit the correspondence which has taken place relating to it in this office, should it be the pleasure of Government to see it.

BILL No. IX OF 1865.

A Bill to regulate and restrict the sale of poisons in the Bombay Presidency.

Whereas it is expedient to consolidate and amend the law relating to the sale of poisonous

Preamble.

drugs and deleterious substances in the Mofussil of the Bombay Presidency, and to regulate and restrict the sale of such drugs and sub-

stances in the City of Bombay, and throughout the Presidency; It is enacted as follows:—

I. Section 20 of Regulation XIV of 1827 and Chapter IX of Regulation XXI of 1827 are hereby repealed, except in so far as they repeal the whole or part of any other Regulation.

Laws repealed.

II. From and after the date on which this Act comes into operation, no person shall sell any of the poisonous drugs or deleterious substances specified in the Schedule (A) annexed to this Act, without a license, as hereinafter

Sellers of poisons to be licensed.

provided, and every person shall annually pay, in advance, for the said license, a fee of five Rupees.

III. Every license, under the preceding Section, shall, in the City of Bombay, be granted by the Municipal Commissioner for the City of Bombay on behalf of the Justices, or by some person duly authorized by him on that

Licenses to be granted in Bombay by the Municipal Commissioner on behalf of Justices, and in the Mofussil by the Collectors on behalf of Government.

behalf, and in the Mofussil by the Collectors on behalf of the Government, and every such license shall be in the form of the Schedule (B) annexed to this Act.

IV. Every license shall have effect and continue in force from the date of the grant thereof until the next 31st day of December ensuing. Provided that any person to whom such license shall be granted after the 1st day of July of any year shall pay only one-half of the fee specified in Section 2.

Licenses to be granted annually.

Proviso.

V. Every person to whom any license shall have been granted, and who shall be desirous of having it renewed after its expiration, as in the preceding Section provided, shall take a fresh license for that purpose for the following

Licenses may be renewed.

year, and shall renew the same from year to year, subject to the annual payment of the fee specified in Section 2, so long as he shall desire.

VI. Every person taking out a license under this Act shall deposit a copy of the same in the Office of the Senior Magistrate of Police in Bombay, if such person resides in Bombay; or if such person resides in the Mofussil, in the office of the nearest Magistrate having local jurisdiction.

Copy of license to be deposited with Senior Magistrate of Police or District Magistrate.

VII. If after the expiry of two months from the date when any person is, by Sections 2 and 5 of this Act, required to take out a license or renew the same, such person shall sell any of the poisonous drugs or deleterious substances

Penalty for selling poisons without a license.

specified in the Schedule (A) without having duly taken out a license in accordance with the provisions of this Act, and deposited a copy of the same in the Office of the Senior Magistrate of Police or other Magistrate, as required by the preceding Section, he shall be liable, on conviction before a Magistrate, to be punished with fine, or with simple imprisonment for a term which may extend to one year, or with both.

VIII. Any person required by this Act to take out a license who shall, without reasonable excuse, neglect or refuse to produce, and show his license, when required to do so by an Officer duly empowered in writing by the

Penalty for refusing to produce license when required to do so.

Municipal Commissioner in Bombay or by the Collector in the Mofussil to make such requisition, shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred Rupees.

IX. Every licensed retailer of poisons who shall sell any of the poisons specified in Schedule (A) shall forthwith, and before the delivery of such poison to the purchaser, enter or cause to be entered, in a fair and regular manner, in a

On every sale of poison, particulars of sale to be entered in a book by the seller, in form set forth in Schedule (C) to the Act.

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book or books to be kept by such person for that purpose, in the form set forth in the Schedule (C) annexed to this Act, or to the like effect, a statement of such sale, with the name of the poison and quantity thereof so sold, and the purpose for which such poison is required or stated to be required, and the day of the month and year of the sale, and the name, place of abode, and condition or occupation of the purchaser, into all which circumstances the person selling such poison is hereby required and authorized to inquire of the purchaser, before the delivery to such purchaser of the poison sold; and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write, (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale, the words "cannot write,") and, where a witness is hereby required to the sale, shall also be signed by such witness, his place of abode being also entered.

X. No person shall sell any of the poisons specified in Schedule (A) to any person who is unknown to the person selling such poison, unless the sale be made in the presence of a witness who is known to the person selling the poison, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the poison to the purchaser; and no person shall sell poison to any person other than a person of full age.

XI. No person shall sell any arsenic unless the same be, before the sale thereof, mixed with soot or indigo, in the proportion of one ounce of soot, or half an ounce of indigo, at the least, to one pound of the arsenic, and so in proportion for any greater or less quantity: Provided always, that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose, for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than ten pounds at any one time.

XII. If any licensed retailer of poisons shall sell any of the poisons specified in Schedule (A) save as authorized by Sections 9, 10 and 11 of this Act, or on any sale of poison shall deliver the same without having made and signed the entries hereby required on such sale, or without having obtained such signature or signatures to such entries as required by this Act, or if any person purchasing any poison shall give false information to the persons selling the same in relation to the particulars which such last mentioned person is hereby authorized to inquire into of such purchaser, or if any person shall sign his name as a witness to a sale of poison to a person unknown to the person so signing as witness, every person so offending shall, for every such offence, upon a summary conviction for the same before a Magistrate, be liable to a penalty not exceeding two hundred Rupees.

XIII. Provided, that this Act shall not extend to the sale of any poison when the same forms part of the ingredients of any medicine required to be made up or compounded according to the prescription of a legally qualified Medical Practitioner, or a member of the Medical Profession, or to the sale of poisons by wholesale sale to retail dealers, upon orders in writing in the ordinary course of wholesale dealing.

XIV. A retail dealer failing to conform to any of the Rules laid down in Sections 9, 10 and 11 shall, in addition to the penalty assigned to the offence by Section 12, be liable to the forfeiture of his license, on intimation to that effect by the Municipal Commissioner for the City of Bombay in Bombay, or the Collector of the District in the Mofussil.

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16th February 1866.

SCHEDULE A.
(Referred to in Section 2).
VEGETABLE POISONS.

Name of Plant.	Part of Plant used.	Native name of Poison.
Aconitum Napellus...	The root...	Bishnak and Butchnab.
Atropa Belladonna...	The berry (Deadly Nightshade)...	Girboolee.
Cannabis sativa...	The herb and the resin...	Bhang, Ganja.
Cocculus Indicus, Animirta Cocculus.	The berry...	Kakmari.
Conium maculatum...	The fruit called Hemlock seed...	Keerdamana.
Croton Tiglium...	The seed (Croton seed)...	Jamalgota.
Datura Metel...	The seed (Datura)...	Kala-dhatara and Dhatara.
Datura Hummattu var fastuosa		
Helleborus niger...	The root (Black Hellebore)...	Kalikootkee.
Hyoscyamus niger...	The seed (Faba porcina, Faba suilla).	Khorassanee ajwan.
Ignatia amara...	The seed (St. Ignatius' Bean)...	Papeeta.
Mandragora officinalis...	The root (Mandrake)...	Yeburj.
Methonica superba...	The root...	Karianag.
Papaver sumniferum...	The pounded herb, dry capsule, and concrete juice of the immature capsule, or opium.	Afeem.
Strychnos Nux-vomica...	The seed (Nux-vomica)...	Koochila and Kajra.
Strychnos potatorum...	The seed (Clearing nut)...	Nirmullee.
Wrightia antidysenterica...	The bark and seed...	Inderjo.
Wrightia tinctoria...	The bark and seed...	Kala-kooda.

MINERAL POISONS.

Name of Poison.	Native Name.
<i>Antimony.</i>	
Sulphuret of Antimony (crude Antimony)...	Soorma.
<i>Arsenic.</i>	
Arsenious Acid...	Phutkya Somul.
White Oxide of Arsenic...	Shunkhya Somul.
White Arsenic...	Dalimbya Somul.
Red Arsenic...	Gajria Somul.
Yellow Arsenic...	Huldya Somul.
Red Sulphuret of Arsenic...	Munsheel.
Yellow Sulphuret of Arsenic...	Hurtall.
<i>Copper.</i>	
Sulphate of Copper (Blue Vitriol, Bluestone)...	Morechoot.
Acetate of Copper (Verdigris)...	Jungla.
<i>Lead.</i>	
Red Oxide of Lead (Red Lead)...	Shendoor.
Carbonate of Lead (White Lead)...	Supheta.
Acetate of Lead (Sugar of Lead)...	No Native name.
<i>Mercury.</i>	
Bichloride of Mercury (Corrosive Sublimate)...	Ruskapore.
Red Oxide of Mercury...	Hingool.
<i>Zinc.</i>	
Sulphate of Zinc (White Vitriol)...	Justachaphool.

*Proceedings of the Madras Government, Judicial Department,
16th February 1866.*

SCHEDULE B.

(Referred to in Section 3).

FORM OF LICENSE FOR THE SALE OF POISONOUS SUBSTANCES.

I, A. B., hereby license C. D., inhabitant of _____, to sell by retail within the District (City, or Town, Village) of _____ from the date _____ hereof to the 31st December next, the poisonous substances specified in Bombay Act No. of 186 . The said C. D. will conform to the rules contained in the said Act, on failure whereof, and on intimation to that effect by the Municipal Commissioner (or Collector), this license shall be held to be forfeited and annulled.

(Signed) A. B.

(Municipal Commissioner or Collector).

Office,

SCHEDULE C.

(Referred to in Section 9).

FORM OF ENTRY OF SALE OF POISON.

Day of Sale.	Name and Surname of Purchaser.	Purchaser's place of abode.	Condition of occupation.	Poison sold.	Quantity sold.	Purpose for which required or stated to be required.

Purchaser's Signature, or, if purchaser cannot write, his mark, to be put for him, and the words "cannot write" added.

Witness' Signature.

Seller's Signature.

STATEMENT OF OBJECTS AND REASONS.

On the 27th August 1864, the Honorable Mr. Cassels moved for leave to introduce, into the Council of His Excellency the Governor of Bombay for making Laws and Regulations, a " Bill for regulating and restricting the sale of Poisons in the Bombay Presidency."

In doing so, he explained that many startling cases had recently occurred, which showed the desirability of restricting the opportunities of obtaining poisons in Bombay. Arsenic and other poisonous drugs were freely sold in the bazaar, and every facility was offered to crime from the difficulty of tracing a purchaser. Mr. Cassels, in speaking to the motion, used the following words:—"A lamentable case of poisoning recently occupied the attention of the High Court, in which, through some flaw in evidence, the guilty parties unfortunately escaped punishment. I find that three cases of poisoning by arsenic, which a medical friend of my own has since had under his care, must be considered as the result of this immunity. During the last few days, public horror has been excited by the poisoning of some fifteen or sixteen children of the Byculla schools; and although, happily, no fatal result has ensued, it is clear that, if arsenic can thus with impunity be sown broad-cast about our streets and gardens, some great mischief must sooner or later ensue." Mr. Cassels added that, though in the Mofussil some restriction was put upon the sale of poisons, still the existing law was not sufficient to check "this growing evil," and that a more comprehensive measure was required. Mr. Cassels felt that, in a country "where poison grows rankly in every hedgerow, it was impossible altogether to control it," but he thought that at least that which legislation had done in England and other countries should be tried in India, and he proposed to bring in a " Bill which should be based upon English Acts and established principles of law."

Mr. Cassels obtained leave to bring in the Bill, but his attention was so fully engaged with the Bombay Municipal Bill, during the last few months of his stay in India, that he had not an opportunity of introducing the proposed Bill for regulating and restricting the sale of poisons.

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It seems desirable, however, that the measure should be proceeded with. Mr. Cassels, in the remarks quoted above, gave ample reason why the existing law in the Mofussil should be amended, and why a restrictive enactment should be passed also for the City of Bombay.

The present Bill repeals the existing law on the subject, and re-enacts, with certain modifications, its provisions regarding the grant of licenses to retailers of poisonous drugs. The list of poisons referred to in the present law has been revised; and the restrictions placed by the English Arsenic Act (14th and 15th Vict., C. XIII.) on the sale of arsenic are embodied, with necessary alterations, in the Sections of the Bill which more especially regulate the actual sale of the poisons specified in the Schedule.

This Bill, which has been entrusted to my charge by His Excellency the Governor, is introduced in pursuance of the leave given on the 27th August 1864.

The Bill and this Statement of Objects and Reasons should be translated into Marathi, Guzerathi, Canarese, and Singhee.

POONA;

The 30th August 1865.

RUSTOMJEE JAMSETJEE JEJEEBHOY,

By Order of the Honorable Governor in Council,

(Signed) H. BIRDWOOD,

Under Secy. to the Govt. of Bombay.

No. 161.

ORDER THEREON, 16th February 1866, No. 239.

Resolved that the foregoing letter and its enclosures, together with the Proceedings of this Government of the dates noted in the margin, be forwarded to the Principal Inspector General of the Medical Department, to the Inspector General of Mofussil Police, and the Advocate General, with a request that they will form themselves into a Committee, and submit a joint report, showing the present state of the Law regarding the sale of poisons, and of what amendment, if any, it is susceptible.

(True Extract).

Chief Secretary.

To the Principal Inspector General, Medical Department, with Papers.
" Inspector General of Police, do.
" Advocate General, do.

Ed. J. H. Burns.

Judicial

N^o 2685

From
The Under Secretary to Govt. of India.
Home Dept. d^y 30th Nov^r 1865.
For Orders.

We have already told the Govt of India
that we considered that the sale of poisonous
drugs sh^d be placed under restriction,
and have submitted to them the Draft
of an Act for that purpose and they
have told us in reply that they were
not prepared to legislate on the subject.
I do not see that the position now stands
in a different position from that in which
it stood in July 1864.

It is certain that no law will pre-
-vent in this country the sale of poisonous
drugs for criminal purposes - for
buying all poisons now in many
corner shops & jingals - and

mind ones. e.g. arsenic - an L-
L-precursor. But it does not follow
that some check should not be put
upon the sale of poisons, or that
L-precursor should be controlled
not from desire but from the danger
a careless user of the brand or
compound -

We might ask the opinion of
the Principal Ins. Genl. In order
part of Police and Advocates for
& request them
to send in a joint report showing
what is the present state of the
law on the point & of what if
any amendment it is needed.

- E.H. -

J.P. M.H.

I am unable to adopt the views of
the General Supt. of Thugs recently laid before
the Sup. Bd. There is nothing in the letter
that throws any new light on the subject -
and it seems to me now, as before, unwise to
especially tolerate for a crime which men
are so many ways of committing when there
is a determined intent to commit it. - But
we may simply give an answer to the Sup.
Bd. if we receive in a ready form the joint
report of the Ins. Genl. & the Police & the
called for.

W.D.

Proceeds Madras Govt

^{the MS}
Recd letter from
the Under Secy to the
Govt of India.

(Here enter 30 Nov/05 N: 234)
Order thereon 16 Feb/06 N: 234

Resolved that
the foregoing letter and
its enclosures together
with the Proceedings
of this Government
of the date noted in
the margin be for-
warded to the Principal
Inspector General of the
Medical Department
to the Inspector General
of Mofussil Police
and the Advocate
General, with a request
that they will form
themselves into a
Committee and

Ind: 2nd March/04 R: 291 43 44

Ind: 7 July/04 N: 304

Ind: 30 Jan/05 R: 165 271 272

submit a joint report
showing the present
state of the Law regarding
the sale of Poisons,
and of what amend-
ment, if any, it is
susceptible.

[Faint handwritten notes and a large diagonal mark, possibly a signature or initials, are visible in this section.]

To the Chief of the Dept. of the Interior
- High School of Police - do -
- Streets General - do -

desp

4/2

list of 27 Feb'y
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Judicial 1866 Report

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Proceedings of Court

St. Agatha - 2500.

State of Wisconsin 1866

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