Archives 1—10,000—6-10-76.

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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

JUDICIAL DEPARTMENT

Confidential

G.O. No. ~~B.P. No.~~	697 & 698	Press. ~~Mis.~~
Dated	19 - 3 - 1894	197 .

Not to be folded or roughly handled

JMR

19TH MARCH 1894, No. 697, JUDICIAL.

CONFIDENTIAL

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again—

G.O., dated 3rd February 1894, No. 285, Judicial.

ABSTRACT.—Requesting the Honorable the Judges of the High Court and the Inspector-General of Police for their opinions on the proposed legislation for the protection of sacred or dedicated bulls.

READ—also the following papers:—

From D. W. G. COWIE, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, to the Chief Secretary to Government, dated Madras, 26th February 1894, No. 585.

With reference to G.O., dated the 3rd instant, No. 285, Judicial, forwarding certain correspondence received from the Government of India and requesting to be favored with the views of the Honorable the Judges as to the necessity or expediency of undertaking legislation for the protection of sacred or dedicated bulls, I am directed to forward a transcript of the minute recorded by the Honorable Sir T. Muthuswámi Aiyar and to state that the Honorable the Chief Justice and Puisne Judges entirely concur in the suggestions contained therein.

2. As requested in paragraph 2 of the above Government order, the copy of the correspondence received has this day been forwarded to the Inspector-General of Police.

ENCLOSURE.

MINUTE.

The Honorable Sir T. Muthuswámi Aiyar.—I think it is expedient to legislate for the protection of sacred or dedicated bulls. The absence of such protection is considered to be a grievance by the orthodox section of the Hindu community who look upon them as objects worthy of kindness and at times even veneration. The general public require also to be protected against harm which these animals are prone to cause when they are suffered to wander without control. All that is needed is to declare the property in them to continue to vest in the person who dedicated them for the purpose of protecting them (on the one hand) against any cruelty or ill-treatment and for the purpose (on the other) of taking order with them so as to prevent any harm to the public. I would further provide that in those cases, in which the property therein is transferred to, and accepted by, the trustee of a temple or some other person selected as donee by the person dedicating the sacred bulls, the property in them should vest in such trustee or donee. The sacred bulls are clearly not objects of worship such as are contemplated by section 295 of the Indian Penal Code.

From Colonel C. A. PORTEOUS, Inspector-General of Police, to the Chief Secretary to Government, dated Madras, 10th March 1894, No. 1302.

With reference to G.O., No. 28[illegible], Judicial, dated 3rd February 1894, I have the honour to submit the report required from me on the subject of legislation for the protection of sacred or dedicated bulls.

2. I will commence by quoting the Sanskrit text which, I am informed, is recited at the time a bull is dedicated and liberated :—

"Hê vrishabha-râja pârva-samudra-paryantam gatvâ triṇani khâtvâ jalâni pîtvâ daiva-brâhmana bhûmim vihâya yathechchham sañchara."

The meaning of this is :—

"Oh ! King of bulls ! Roam wherever you choose except on the land belonging to a deity or a Brahman, going as far as the eastern ocean, eating grasses and drinking waters."

This is first said facing the east and the same is afterwards repeated facing the other three points of the compass, the adjective before the word "ocean" in the text being changed according to the direction which the devotee is facing.

"Grasses" and "waters" (plural) is used in the text.

The bull is then let loose. According to this, liberty is given to it to graze anywhere and everywhere and thereby to cause any damage, except on land belonging to a deity or a Brahman.

This will scarcely be tolerated in the present state of society.

3. (i) In the northern districts of this Presidency sacred bulls seem to be regarded with much more reverence than in the south and accordingly enjoy more privileges and take greater liberties. In the southern part of the Presidency in most cases at present the bulls are dedicated and handed over to temples. The temple authorities use them for carrying drums at the time of the processions of the temple deity.

They also serve for breeding purposes. Some bulls are given away to a class of mendicants.

(ii) In some cases the temple authorities (trustees or dharmakartas) sell the bulls especially when they have more than they can find use for or look after.

Persons setting bulls at liberty do not object to their being sold for the benefit of the temple.

Once thus sold the bulls may pass through several hands. In such cases it is open to question whether the sacred character of the bulls continues after they have been once alienated. I am of opinion that it cannot reasonably be held that it does.

(iii) The person who liberates a bull is much more interested in its being held as sacred and being unmolested than the community or class to which he belongs.

(iv) In my opinion the killing of a Brahmani bull is not likely to arouse the feeling of the community concerned to the same degree as the destroying or defiling of a place of worship or other sacred objects of worship, to which section 295, Indian Penal Code, has been held by the courts to apply.

4. In this part of the country I am not aware of any grievance alleged on account of such bulls being killed. At times these bulls are branded, at others they are not. Brahmans do not brand them, so it will be impossible to invariably distinguish those bulls that are sacred.

5. Under these circumstances I am of opinion that it is neither necessary nor expedient to legislate so as to make the killing of Brahmani bulls punishable under section 295, Indian Penal Code, especially if their being carried away dishonestly or killed is brought under the sections of the Indian Penal Code relating to theft and mischief, as I think they should be.

6. According to the Sanskrit text recited at the time a man liberates a bull, it is his desire that it should graze anywhere (except on land belonging to a deity or a Brahman), should not be molested, and that, instead of being no property or the

property of none (as has been held by the Allahabad High Court), it should be held to be the most sacred of properties and be fed and protected as if it were the property of *every one* who comes by it honestly. The main point is that the bull should not be made to labour for the benefit of the liberator or any one else; it cannot follow from this that it is not to be looked after and protected from injury. The care and protection of an animal are clearly acts of ownership.

7. As I have already said, in most cases, the liberator hands over the bulls to temples whose trustees or dharmakartas use them for temple purposes and look after them.

In other instances the liberator himself looks to their feeding and general care.

The question as to whether the bulls should be treated as property or not for the purposes of the Penal Code should, I consider, be decided with reference to whether they are *actually* under the protection or general care of any individual or the authorities of any institution like a temple, or, I would even say, the inhabitants of the place where the bull is, and not with reference to the construction of the ceremonial act of liberation as have been done by the courts that have held such bulls not to be "property"; for it will be seen that it is impossible that the full object of the liberator that the bull should graze and roam anywhere unmolested can be practically given effect to, and, if an injury is likely to happen to the bull, the liberator or the authorities of the temple to which it is dedicated would feel themselves bound to protect it therefrom, and, when this is done, it can only be the act of one who considers it his property.

I believe that the liberator or the authorities of the temple, to which a bull has been dedicated and handed over, would be held liable under the civil law for any damages to person or property done by such bull.

8. Without adding more, I am of opinion that the view of the Punjab and Madras High Courts is correct and that this view will be generally accepted in future cases.

I do not therefore consider it necessary to resort to any special legislation for the purpose of declaring Brahmani bulls to be property within the meaning of the sections of the Indian Penal Code relating to theft, mischief and criminal misappropriation, so long as they are under the ostensible custody and care of some individual or individuals, the trustees of temples, &c. When they are not under such custody or care and they wander to some distance from the place at which they were liberated, I consider that it would be practically useless to declare a fictitious ownership.

9. If special legislation is decided on, I consider it should be by means of a special enactment declaring that Brahmani bulls shall be property within the meaning of the sections under reference of the Penal Code so long as they are under the custody or care of some individual or individuals rather than by any addition to any of the sections in the Indian Penal Code which are of a general nature.

10. If, in the interests of agriculture, Government considers it necessary that some bulls should be preserved for breeding purposes, it would be possible to do so by ordering village officers to see to preserving as many bulls as may be considered necessary, and the liberators of the bulls would be only too glad if this were done.

ORDER—dated 19th March 1894, No. 697, Judicial.

The following letter will be despatched to the Government of India.

(True Extract.)

J. F. PRICE,
Chief Secretary.

Govt. of {1894} Madras.

JUDICIAL

CONFIDENTIAL.

Encl.

G.O., 19th March 1894, No. 697.

MARCH.

Kine-killing.

19th March 1894, No. 696, Judicial.

CONFIDENTIAL.

JUDICIAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of
FORT ST. GEORGE

To

The SECRETARY to the GOVERNMENT of INDIA,
Home Department.

Sir,

As requested in your letter dated 27th January 1894, No. 209, Public, I am directed to place you in possession of the views of His Excellency the Governor in Council upon the proposal to legislate for the protection of sacred bulls.

2. I am to say that legislation is not needed in this Presidency where sacred bulls are not treated with particular veneration but that, if undertaken, it should be on the lines suggested in the accompanying Minute by the Honorable Sir T. Muthuswámi Aiyar, K.C.I.E. That is to say, the animals should be treated as "property" and not as "sacred objects."

I have the honour to be,
Sir,
Your most obedient servant,

Fort St. George,
19th March 1894.

J. F. PRICE,
Chief Secretary.

1894

JUDICIAL DEPARTMENT.

CONFIDENTIAL.

From the Government of
Fort St. George

Strike off and forward copies as shown on the [illegible] endorsement.

Issued

Recd. Encl.

Letter, 19th March 1894,
No. 698.

MARCH.

Kine-killing.

Submitting to the Government of India the views of His Excellency the Governor in Council upon the proposal to legislate for the protection of sacred bulls.

High [illegible]

From

G. W. [illegible]
Acting Registrar of
High Court of Judicature
Appellate Side, Madras.

To

The Honorable J. F. Price,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

With reference to G.O dated the 3rd instant, No. 285, Judicial, forwarding certain correspondence received from the Government of India and requesting to be favored with the views of the Honorable the Judges as to the necessity or expediency of undertaking legislation for the protection of sacred or dedicated bulls, I am directed to forward a transcript of the minute recorded by the Honorable Sir T. Muttusami Aiyar and to state that the Honorable the Chief Justice and Puisne Judges entirely

JUDICIAL

[illegible] suggestions contained [illegible]
[illegible] in para 2 of the above G.O.
[illegible] of the correspondence received has
[illegible] been forwarded to the Inspector
General of Police.

I have the honor to be
Honorable Sir,
Your most obedient servant,

Acting Registrar.

Exd. W.R.

Minute

Minute

The Honorable Sir [illegible]

it is expedient to legislate for the [illegible] of sacred or dedicated bulls. The [illegible] of such protection is considered to be a grievance by the orthodox section of the Hindu community who look upon them as objects worthy of kindness and at times even veneration. The general public [illegible] require also to be protected against harm which these animals are prone to cause when they are suffered to wander without control. All that is needed is to declare the property in them to continue to vest in the person who dedicated them for the purpose of protecting them (on the one hand) against any cruelty or ill-treatment and for the purpose (on the other) of taking order with them so as to prevent any harm to the public. I would further provide that in those cases in which the property therein is transferred to, and accepted by the trustee of a temple or some other person selected as donee by the person dedicating the sacred bulls the property in them [illegible]

[illegible] trustee [illegible] done the
[illegible] clearly not objects of
[illegible] as are contemplated by
[illegible] 295 of the Indian Penal Code.

(True Copy)

Acting Registrar.
Appellate Side.

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back; * * * * and the abstract should state clearly the purport of the letter and not merely its title subject. * * * *

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O., 8th April 1893, No. 289, Public.)

No.

From
The Registrar of the High Court
of Judicature, Appellate Side,
Madras.

Dated 26th February 1894.
Received 27 "

CHIEF SECRETARIAT
27 FEB 1894
GOVERNMENT OF MADRAS

No. 585.
Enc.

Forwarding transcript
f a minute recorded by the
onourable Justice Sir T. Muttusami
yar and concurred in by
he Chief Justice and the
Puisne Judges on the corres-
pondence as to legislation
for the protection of sacred
bulls.

Confidential
Department.

No. 1302

CHIEF OFFICE OF THE INSPECTOR GENERAL OF POLICE,
Madras, [illegible] 1894.

FROM
Colonel C. A. Porteous,
INSPECTOR GENERAL OF POLICE,

TO
THE Chief Secretary
to Government,
Fort St George.

SIR,

Enclosures.
Three (Received from the [illegible] on 27 February 1894)

With reference to G.O. No. 285 Judicial dated February 3rd, 1894, I have the honor to submit the report required from me on ~~the~~ subject of legislation for the protection of sacred or dedicated bulls.

2. I will commence by quoting the Sanskrit text which, I am informed, is recited at the time a bull is dedicated and liberated.

"Hé vrishabha-râja pûrna-samudra-
paryantam gatvâ trinâni khâdvâ
jalâni pitvâ deva-brâhmana-
bhûmim vihâya, yathechchham
sañchara."

The meaning of this is:-

"Oh! King of bulls! Roam wherever
you choose except on the land of

[illegible] belonging to a deity is brought [illegible] as far as the western [illegible] reciting verses and drinking [illegible] which is lined said facing the east [illegible] the same is afterwards repeated facing the other three points of the compass, the adjective before the word [illegible] in the text being changed according to the direction which the devotee is facing.

The bull is then let loose. According to this liberty is given to it to graze anywhere and everywhere and thereby to cause any damage, except on land belonging to a deity or a Brahmin.

This will scarcely be tolerated in the present state of society.

3. In the Northern Districts of this Presidency sacred bulls seem to be regarded with much more reverence than in the South and accordingly enjoy more privileges and take greater liberties. In the Southern part of the Presidency the bulls in most cases at present are dedicated and handed over to temples. The temple authorities of the temple use them for carrying drums of the temple at the time of the processions of the deity.

They

[illegible] community or class of many [illegible] the temple authorities trustees or whomsoever [illegible] especially when they have more than they can find use for or look after.

Persons setting bulls at liberty do not object to their being sold for the benefit of the temple.

Once thus sold the bulls may pass through several hands. In such cases it is open to question whether the sacred character of the bull continues after they have been once alienated. I am of opinion that it cannot reasonably be held that it does.

iii. The person who liberates a bull is much more interested in its being held as sacred and being unmolested than the community or class to which he belongs.

iv. In my opinion the killing of a Brahmini bull is not likely to arouse the feeling of the community concerned to the same degree as the destroying or defiling of a place of worship or other sacred objects of worship to which Section 295 Indian Penal Code has been held by the Courts to apply.

[illegible] aware of any grievance [illegible] of such bulls being killed. [illegible] these bulls are branded, as there they are not Brahmins do not brand them, so it will be impossible to invariably distinguish those bulls that are sacred.)

5. Under these circumstances I am of opinion that it is neither necessary nor expedient to legislate so as to make the killing of Brahmini bulls punishable under section 295, Indian Penal Code, especially if their being carried away dishonestly or killed is brought under the sections of the Indian Penal Code relating to theft and mischief, as I think they should be.

6. According to the Sanskrit text recited at the time a man liberates a bull, it is his desire that it should graze anywhere (except in land belonging to a deity or a Brahmin), should not be molested and that, instead of being no property or the property of none (as has been held by the Allahabad High Court) it should be held to be the most sacred of properties and

be

[illegible] and [illegible] permanently [illegible] that therefore [illegible] not [illegible] for the benefit of the liberator or any one else, it cannot follow from this that it is not to be looked after and protected from injury. The care and protection of an animal are clearly acts of ownership.

7. As I have already said, in most cases, the liberator hands over the bulls to temples whose trustees or Dharmakartas use them for temple purposes and look after them.

In other instances, the liberator himself looks to their feeding and general care.

8. The question as to whether the bulls should be treated as property or not for the purposes of the Penal Code should, I consider, be dealt with reference to whether they are actually under the protection or general care of any individual or the authorities of any institution like a temple, or, I would even say the inhabitants of the place where the bull is, and not with reference to the construction of the [illegible]

[illegible] liberation as the [illegible] accompanied [illegible] have [illegible] [illegible] seem that it is impossible that the full object of the liberator that the bull when it grazes or roams anywhere unmolested can be practically given effect to, and if an injury is likely to happen to the bull the liberator or the authorities of the temple to which it is dedicated would feel themselves bound to protect it therefrom, and when this is done, it can only be the act of one who considers it his property.

I believe that the liberator or the authorities of the temple to which a bull has been dedicated and handed over would be held liable under the civil law for any damages to person or property done by such bull.

8. Without adding more, I am of opinion that the view of the [illegible] Punjab and Madras High Courts is correct and that this view will be generally accepted in future cases.

I do not therefore consider it necessary to resort to any special

[illegible] legislation [illegible] declaring [illegible] [illegible] the property within the meaning of the sections of the Indian [illegible] and relating to theft, mischief and criminal misappropriation, so long as they are under the ostensible custody and care of some individual or individuals, the trustees of temples, etc. When they are not under such custody or care and they wander to some distance from the place at which they were liberated, I consider that it would be practically useless to declare a fictitious ownership.

9. If special legislation is decided on, I consider it should be by means of a special enactment declaring that Brahmini bulls shall be property within the meaning of the sections under reference of the Penal Code so long as they are under the custody or care of some individual or individuals rather than by any addition to any of the sections in the Indian Penal Code which are of a general nature.

10. If in the interests of [illegible] agriculture Government consi

[illegible] necessary, that [illegible] thinks
be [illegible] ed for breeding purposes,
it would be possible to do so by
ordering village officers to see to
procuring as many bulls as may
be considered necessary, and the
liberators of the bulls would be
only too glad if this were done.

I have the honor to be,
Sir,
Your most obedt. Servt.

[illegible] Colonel,
Inspector General of Police

Judl. (1894) Department

CHIEF SECRETARY
12 MAR 1894
GOVERNMENT OF MADRAS

From

Col. C. A. Porteous,

Inspector General
of Police.

No.

Dated 10 } March 1894.
Received 12

No. 1302

Subject.

Submitting the report required on the subject of legislation for the protection of sacred or dedicated bulls.

12-12-93.

Judl. Department

No. [illegible] 26. 2. 94 & [illegible] 20. 3. 94

From

Dated , 189

This is marked urgent as the reply to the G. of I. is overdue.

There is a great deal to be said on both sides as to whether these bulls are, or are not, the property of anyone. Personally I agree with Sir T. Muttusami Ayyar on the point of their being property. Legislation for the protection of these animals is not urgently needed here. But if it is undertaken it should be on the lines laid down by Sir T. M. Ayyar.

13/3/94

I agree that legislation is not needed for this Presidency but that if it is undertaken it should be in accordance with the views of Sir T. Muttusami Iyer.

14/3

I agree with my hon. colleagues.

W.
16 Mar.

FOR ORDERS.

It seems expedient to set at rest by legislation the doubts which the Courts have expressed.

If so, the question whether Brahmani Bulls should be protected under the religion or the property clauses of the Penal Code arises.

It is clear from the Hon. T. Muttuswami Aiyar's minute that the veneration in which these Bulls are held in this Presidency is not very strong. He says they are clearly not objects of worship within the meaning of sec. 295 I.P.C.

Paras. 3(iv), 5 & 6 of the I. G.'s letter are to the same effect.

It seems clear that there is no necessity to render the killing of B. Bulls punishable under sec. 295. I.P.C.

The Hon. Sir T. Muttuswami Aiyar, while observing that the safety as well as the religious feelings of the public demand that the law should be made clear, propose that sacred Bulls should be brought within

ope of the pro[illegible] clauses
I.P.C. with [illegible]
suggests that the property
a Sacred Bull should be
ilared to vest in the dedicator
, if the Bull has been pre-
ted to be accepted by the
ustee of a temple or any
ther person, in such trustee
other person.
I.G. agrees in the opinion
t the killing or carrying
off of Sacred Bulls should
punishable under the
roperty clauses of the I.P.C.
but he holds that the appli-
bility of these clauses is
fficiently obvious in
ases where the Bull is under
the ostensible care of some
individual & that, in cases
where the animal is not
under anyone's ostensible
care, it is useless to declare
a fictitious ownership.
~~[illegible]~~
~~[illegible]~~
~~[illegible]~~
~~[illegible]~~
~~[illegible]~~
But the question at issue is
whether the maltreatment of
Sacred Bulls, whether they are
Entirely or only partially free
~~of~~ control, should be punishable
And, if the answer to this is
affirmative, then it does appear
desirable in the interests of
the community that they should
be declared to be ~~in~~ the property
of some one who will be res-
ponsible for any damage they

13

[illegible] cause in return [illegible]
the [illegible] they enjoy
ownership will not be suffi
cient as the I.G. suppo
& the declaration of ownersh
will not be useless.
Sir Muttuswami Aiyar's vi
as to who should be regard
as the owner seem suitab
for adoption but the fact
mentioned in para. 3(iii) of
I.G.'s letter will be noted in
this connection. If a sacre
bull is sold by the Dharmakar
of a temple then it seems to
follow that it loses its char
of sanctity & certainly it
becomes subject to all the
incidents of ordinary proper
It is unnecessary, theref
when legislating, to pr
specifically for the case
a Sacred Bull which has
been sold.
Finally as to the form which
legislation, if any, should
take.
The I.G. thinks a separate
enactment should be passed
& this will perhaps be the
simplest way of dealing
with the matter but the
enactment should be on the
lines suggested by the Hon.
Sir T. Muttuswami Aiyar
which have the approval
of the other Judges rather tha
on those proposed by the
I.G.

12 Mar.
13/3/94

/92

Sacred Bulls.

Hm & circ

(For Orders)

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[5]
1-12-93.

Jud^l DEPA

Papers to be read in Proceedings :—

~~Abstract~~

Again G.O., dated 3 Feb 1894, No. 285. Jud^l

Again G.O., dated 18 , No.

in full. {
Current No. 1027 of 1894, dated 26/2 from Reg. H.C.

1A

Current No. 1314 of 1894, dated 10/3 from ~~the~~ I.G. of Police

Orders : 19th March 1894, No. 64
P.S.

The following letter will be d/
to the G. of I.
(From orders)

Letter No. 698.
To the Sec. to the G. of I., H. D.

Desp^d 29/3.

Sir,

As requested in your le
d/ 27 Jan 1894, No. 209, Publ
I am directed to place yo
in possession of the views
of H. E. the G. in C. upon the
proposal to legislate for
the protection of Sacred
bulls.

2. I am to say that legislation
is not needed in this Presidency
where sacred bulls are not
treated with particular
veneration but that, if under-
taken, it should be on the
lines ~~of~~ suggested in the
accompanying minute
by the Hon. Sir T. Muthuswami
Aiyar, K.C.I.E. That is to
say, the animals should be trea
as "property" & not as "
objects".

JR 19/3/94

17/3

Sacred Bulls

C1
P1 ([illegible])

PREVIOUS PAPERS, No. Con 23 of 18 98/9

GOVERNMENT, DATED 8 8 P ([illegible])

FURTHER PAPERS, No. Con 441 99

ENCLOSURES — A
6 Con 1027

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Confidential No. 3
1894

Confidential.

Judicial DEPARTMENT.

G.O., DATED 19-3-94.

No. 697
698

Series. Press.

~~First copy~~ sent to Press.

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Despatched.

[Despatch Abstract.]

Kine Killing. Submitting to the G. of I. with the views of H.E. the Governor in Council upon the proposal to legislate for the protection of Sacred bulls

(15)