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MADRAS RECORD OFFICE

Government of Madras

Judicial

DEPARTMENT

G.O. No.	190	Press
B.P. No.		Mis.
(Back No. 171-176)		
Dated	29.1.	1878 -195-

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

29th January 1878, No. 190.

Bills—Legislative.

Read the following paper:—

No. 171. *From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 26th September 1877.*

With reference to the Order of Government, dated 19th July 1877, No. 1692, referring to me the papers submitted to Government by the Collector of Malabar upon the subject of certain proposals made by the Planters' Association of Wynaad for an alteration in the law affecting contracts made by Planters with their maistries or coolies and to check coffee-stealing upon coffee estates, I have the honor to state that I have given my best consideration to the various questions raised by the Planters' Association, and I beg to state the conclusions at which I have arrived for the information of His Grace in Council.

2. Various alterations in the law have been suggested by the Wynaad Planters' Association, but I understand that the Association do not, at least for the present, desire that the law should be altered except in respect of two points. They desire—

- (1) That a law should be passed, founded upon the Ceylon Ordinance No. 8 of 1874, to check the offence of coffee-stealing.
- (2) That the criminal law should be rendered more effective to punish breaches of contract by maistries and coolies and criminal offences, such as cheating or criminal breach of trust, committed by such maistries and coolies.

3. With regard to the first point, I think the Planters have made out a case for the interference of the Legislature, and that measures ought to be taken as speedily as possible to prevent coffee-stealing. I have prepared a Bill on the subject, following, as far as practicable, the Ceylon Ordinance above mentioned. I think the draft Bill ought to be submitted for the consideration of the District Officers in Malabar and of the Planters. It may turn out that some of the provisions of the Bill, though found to suit Ceylon, may not be adapted to Wynaad owing to local or other causes. It is also a question for consideration whether the Bill should be applicable to Wynaad only, or whether it should be extended to other areas in this Presidency in which coffee is grown. I have made it applicable to the whole Presidency.

4. With regard to the second point above mentioned, I think the law is at present as stringent as it ought to be. By Act XIII of 1859 an artificer, workman, or laborer who receives an advance of money on account of any work and who without reasonable excuse, neglects or refuses to perform such work is liable to the penalties specified in the Act, one of which is imprisonment with hard labor for a term not exceeding three months. By the Bill to define and amend the law relating to master and servant now before the Council of the Governor-General, it is proposed to repeal Act XIII of 1859, but its provisions are to be substantially re-enacted in Section 34 of the Bill, except that the Bill applies to every mechanical or agricultural servant who receives advances on account of any work which he has contracted to execute. By Section 16 of the Bill a master will be entitled to compensation from any person who knowingly entices away a servant from his master. This is, no doubt, the law at present, but it is perhaps not generally known.

5. It seems to me that the criminal law goes as far as it ought to do, and that where the servant has not received an advance, but has merely failed to fulfil his contract, the breach ought to be treated as only entitling the Master to recover damages in a civil suit, or, if the breach is to be treated as a criminal act, the breach by the master ought in fairness to be dealt with in the same way.

6. It appears to me also that it would not be expedient, in a prosecution under the Penal Code for cheating or criminal breach of trust brought by the Planter against his servant, to throw upon the servant the burden of proving the absence of a dishonest intent. In such cases the servant would not be a competent witness on his own behalf, and in many cases the servant would labor under as many difficulties as the Planter in procuring the attendance of witnesses who, if they could be compelled to attend, might show that the witnesses or others had acted dishonestly towards him. If convictions took place of maistries for having failed to account for advances made to them, although they had in truth expended the advances in endeavouring to procure coolies but were themselves deceived, because the maistries were unable to adduce the requisite legal proof, the law would be discredited, and it is doubtful whether maistries would be prepared to take part in transactions involving such onerous consequences.

7. If, however, it should be 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, for it is doubtful whether such legislation is within the power of the Legislative Council of Fort St. George.

8. I may add that if hereafter protection can be given to the planting interest by establishing registers of servants employed upon coffee estates, such protection ought in my view to be afforded, but such a system of registration would probably entail upon the Planters duties and obligations which might outweigh its advantages.

✓ No. 172. *From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 26th September 1877.*

I have the honor to forward, herewith, the draft of a Bill to make special provision to prevent thefts of coffee for the consideration of His Grace in Council. The Bill is founded upon the Ceylon Ordinance No. 8 of 1874 to check coffee-stealing, which, there is reason to believe, has been found to work well in Ceylon. It would perhaps be advisable to print copies of the Ceylon Ordinance for circulation with the draft Bill, so that all who may be invited to state their views on the subject may have all the available information upon the subject before them.

2. I have omitted the sections in the Ordinance relating to common carriers, as those sections are connected with a law in force in Ceylon relating to carriers and there is no such law in India. But I have, instead of a license to a carrier as contemplated by the Ordinance, provided that a certificate shall be given to every person engaged in the transport or removal of coffee by the owner or manager of the estate, which, it is hoped, will serve the same end, that is to say, will tend to prevent the clandestine or unauthorized transport of coffee.

3. It will be matter for consideration whether the provisions in the Bill, which follow the Ordinance, requiring persons to produce their books and certificates for the inspection of any Police officer upon his requisition should be retained, or modified by rendering it obligatory to produce only on the requisition of a Police officer of a specified rank or generally or specially empowered to demand the production.

4. I have not inserted Section 12 of the Ordinance, as the Evidence Act (Section 54) declares that a previous conviction may be given in evidence as a relevant fact in criminal proceedings, nor Section 17 of the Ordinance, inasmuch as the provisions of the Penal Code relating to forgery are sufficient.

5. I return the copy of the Ceylon Ordinance which was sent to me.

No. 1947.

MEMORANDUM.

No. 173.

With reference to his letter, dated 26th September 1877, forwarding draft Bill for the prevention of coffee-stealing, the Acting Advocate-General is requested to be good enough to favor the Government with his opinion on the following points in connection with the draft Bill:—

PREAMBLE, CLAUSE 2.—Instead of making the Act applicable to the whole Presidency, whether it will not be more advisable to provide that the Act shall be applicable to such districts, divisions, or parts of districts to which the Governor in Council may by notification be pleased to extend its provision.

SECTION 1.—Whether the words "upon any coffee estate" and "upon such coffee estate" should not be omitted in providing against the loading or unloading of coffee within certain hours, as the insertion of such words which do not occur in the Ceylon Ordinance appears to act as a limitation and seems calculated to render the Act nugatory.

SECTIONS 4, 5, AND 6.—Whether the omission of corporal punishment and the mere provision of fine and imprisonment are not likely to lessen the fear of punishment in the case of mere coolies and tend only to fill jails with coffee-pilferers.

(By order.)

FORT ST. GEORGE,
16th October 1877.

(Signed) D. F. CARMICHAEL,
Chief Secretary.

To the Acting Advocate-General.

✓ No. 174. *From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 18th October 1877.*

In answer to your official memorandum, No. 1947, dated 16th October 1877, on the Bill to prevent coffee-stealing, I have the honor to forward herewith my opinion in regard to the suggestions contained therein.

ENCLOSURE No. 1.

OPINION.

With reference to the official memorandum of the Chief Secretary, dated the 16th October 1877, No. 1947, on the Bill to prevent coffee-stealing, I think the Preamble, Clause 2, may be altered for the present as suggested. But this is a question upon which local opinion may, I think, be invited. And it will be matter for further consideration whether the provisions of this Bill ought to be extended by notification, or whether the Bill itself should not set forth the limits to which it applies.

SECTION 1.—The words "upon any coffee estate" or upon "such coffee estate" had better be omitted, at all events at present. My recollection is that such words were in the copy of the Ceylon Ordinance which I saw, though they do not appear in the copy of the Legislative enactments of Ceylon which was sent to me yesterday.

SECTIONS 4, 5, and 6.—A punishment not exceeding sixty stripes with a rattan may be added for the present, but whether it is to be retained is a question for further consideration.

It is also worthy of consideration how far the provisions of Sections 3 to 9 ought not to apply at all times in such towns as Calicut and Tellicherry and the town of Madras, but this is a question upon which the views of the Planters might be useful, for, of course, it is not advisable to extend the Bill further than may be necessary to secure the object in view so far as it can be foreseen.

MADRAS,
18th October 1877.

(Signed) P. O'SULLIVAN,
Acting Advocate-General.

No. 175. *From A. McC. WEBSTER, Esq., Acting Commissioner of the Nilgiris, to the Chief Secretary - Government, dated Ootacamund, 14th November 1877, No. 100.*

I have the honor to forward, for the favorable consideration of Government, a copy of a letter to my address from the Honorary Secretary, Nilgiri Planters' Association, enclosing a letter to Government on the subject of a coffee-stealing law.

2. I believe that the necessity of a law has been brought to the notice of Government by the Collector of Malabar, and that the subject has already received favorable consideration. The Association trust that no time may be lost in passing a law similar in effect to the Ceylon Coffee-stealing Ordinance, as the present crop is nearly ready for picking and a large increase in the number of thefts is anticipated owing to the prevailing distress.

ENCLOSURE No. 1.

From Mr. E. HAMLIN, Honorary Secretary, Nilgiri Planters' Association, to the Acting Commissioner, Nilgiris, dated Wynad, 18th November 1877.

I have the honor to enclose, for your information, a communication addressed to the Chief Secretary to Government urging the necessity of immediate attention to the special "Coffee-stealing Ordinance" which is now under the consideration of the Legislative Council.

2. For the last few years the robberies from the coffee stores and drying grounds, apart from the growing crops, have considerably increased, and without the assistance of a law such as the above detection of the thieves is almost impossible.

3. Owing more especially to the effects of the famine the absence of a protective measure is a source of grave apprehension to the coffee planters at the present moment; instances have already occurred of the fruit having been stolen from the trees.

4. As you are probably aware, it is only by the prosecution of the purchasers of stolen coffee that we shall successfully put a stop to the practice of coffee-stealing; this Association hopes for your co-operation, and trusts that you will urge Government to expedite the final completion of the Ordinance and thus afford the coffee estates some protection from what has become a source of serious loss and trouble.

No. 176. ORDER THEREON, 29th January 1878, No. 190.

The Governor in Council approves the draft "Bill to prevent Coffee-stealing" as now sketched on the views expressed by the Members of Government, and directs that the Bill be referred to the Legislative Department in view to its immediate publication, with the Statement of Objects and Reasons, under Rule 25 of the Rules for the conduct of business in the local Council for making Laws and Regulations.

(True Extract.)

D. F. CARMICHAEL,
Chief Secretary.

To the Collector of Malabar.
" Advocate-General.
" Legislative Department.
" Revenue Department.

Exd. J. W. Fischer,

Correct
 strike if
 10 Copies.
 26.11.77

BILL

to
 Prevent thefts of Coffee.

WHEREAS it is expedient to make special provision to prevent thefts of coffee, it is enacted as follows:—

1. This Act shall take effect in such districts, divisions, or parts of districts of the Presidency of Fort St. George to which the Governor in Council may, by notification published in the official gazette, extend its provisions, and from such date as may be specified in such notification.

2. In this Act, unless there is something repugnant in the subject or context,

(a) "Labourer" includes all persons (except Resident Managers) temporarily or permanently employed on a coffee estate in any capacity, whether agricultural or menial or otherwise howsoever;

(b) "Carrier" includes all persons for the time being employed in the transport of coffee;

(c) "Coffee estate" includes any land on which coffee is growing;

(d) "Coffee" includes all coffee not roasted or otherwise prepared for immediate consumption;

(e) "Imprisonment" means imprisonment of either description as defined in the Indian Penal Code;

"Magistrate" means for the Town of Madras a Magistrate appointed under the Presidency Magistrates Act, 1877, or any other law for the time being in force for the appointment of such Magistrates, and for all other places within the Presidency of Fort St. George a Magistrate appointed under the Code of Criminal Procedure, or other law for the time being in force.

Cap.

L.C. in view of the fact that...

e/

a/

Bill of 1878
 JUDICIAL.

To THE COLLECTOR OF MALABAR.

Date of issue, 20th
 Issued
 Recd.
 G.O. No. 1573, 27.1.1901

JANUARY.
 Nos. 171-173.

By the Legislative Council—Draft "Bill to prevent coffee-stealing" approved, and referred to the Legislative Department in view of its importance.



2

Jacob 5

2. Between the hours of half past six in the evening and five in the morning, no coffee shall be loaded or unloaded or carried for any purpose whatever, except in or upon boats, carts, wagons, carriages, elephants, or bullocks, in charge of boatmen or drivers authorized as hereinafter provided.

Penalty. Any person committing a breach of this provision, or aiding or abetting such breach, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees one hundred, or to imprisonment not exceeding two months, or to both.

3. Every person found loitering or lurking about a coffee estate shall, unless he can satisfactorily account for such lurking or loitering, be deemed to have committed an offence against this Section, and, upon conviction before a Magistrate,

Penalty. shall be liable to undergo imprisonment for a period not exceeding one month, or to pay a fine of Rupees one hundred, and in default of payment to undergo imprisonment for a period of one month.

4. Where green gathered coffee is found in the possession of any person, such person may be presumed to have stolen such coffee, or to have received it, knowing it to have been stolen, unless such person shall satisfactorily account for his possession thereof. Any person found in possession of such coffee and unable to account satisfactorily for his possession thereof, shall, on conviction before a Magistrate, be liable

Penalty. to undergo imprisonment for a period not exceeding three months, or to pay a fine of Rupees one hundred, or in default of payment to undergo imprisonment for a period not exceeding three months.

5. It shall not be lawful for any person to purchase or to take in barter, or exchange, or receive coffee from any labourer employed on a coffee estate. Any person committing a breach of this provision shall, on conviction before a Magis-

Penalty. shall, on conviction before a Magis-

*This may be... but...
dark at 6.30 PM...
as always...*

*This is a...
... or not at...*

...

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2

trate be liable to undergo imprisonment for a period not exceeding three months, or to pay a fine not exceeding Rupees one hundred, and in default of payment to imprisonment for a period not exceeding three months, or to suffer corporal punishment not exceeding sixty stripes with a rattan or be liable to any two of such punishments.

6. It shall not be lawful for any person to purchase or to take in barter or exchange or to receive coffee from any person, other than a laborer employed on a coffee estate, unless the person so purchasing, taking in barter or exchange, or receiving such coffee shall thereupon enter or cause to be entered, in a book to be kept by him for that purpose, a true record of such transaction specifying the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange, the date of the transaction and the quantity and description of coffee so purchased, taken in exchange, or received.

Provided that in any prosecution under this section, the proof that the entry was made in good faith shall lie on the person charged.

Provided further that this section shall not apply to coffee purchased, taken in barter, or exchange, or received from any person other than a laborer employed on a coffee estate, and intended in good faith for consumption in the house or premises of the person purchasing, taking in barter or exchange, or receiving the same, but the burden of proving such intention shall in every case lie on the person charged.

Any person committing a breach of this provision shall, on conviction before a Magistrate, be liable to undergo imprisonment for a period not exceeding three months, or to pay a fine of Rupees one hundred, or in default of payment to undergo imprisonment for a period not exceeding three months, or suffer corporal punishment not exceeding sixty stripes with a rattan, or be liable to any two of such punishments.

7. It shall not be lawful for any person to purchase or take in barter or exchange, or receive from any carrier, or for any

6/12/2020
Plagiarism
1st level

9
In A may not buy coffee from shop of B to be consumed by D when ill in D's premises unless he keeps book etc!

3 months
2 months
the following is for not proper
you are not present if

2/

4
7
carrier to sell or give in barter or exchange or by way of gift, any coffee unless the person so purchasing or taking in barter or exchange or receiving such coffee, shall, besides making the entry required by Section 6 of this Act, also enter or cause to be entered in the book in the said Section 6 mentioned, or in a book to be kept by him for that purpose the marks, if any, on the bags or packages in which such coffee may be contained, and unless the entry required by this section be also correctly signed by such carrier in his own name or with his mark, and unless such signature or mark be attested by one witness.

Any person committing a breach of this provision shall, on conviction before a Magistrate, be liable to undergo imprisonment for a period not exceeding three months, or to pay a fine not exceeding Rupees one hundred, or in default of payment to undergo imprisonment for a period not exceeding three months, or to suffer corporal punishment not exceeding sixty stripes with a rattan, or be liable to any two of such punishments.

8. Any person falsifying or fraudulently tampering with any entry which may have been made in any book kept pursuant to Sections 6 and 7 of this Act shall, on conviction before a Magistrate, be liable to undergo imprisonment for any period not exceeding six months, or to pay a fine not exceeding Rupees two hundred, or in default of payment to undergo imprisonment for a period not exceeding six months.

9. Any person required under Sections 6 and 7 of this Act to keep any such book as is therein referred to, and who shall, without reasonable excuse, refuse or fail to produce such book to any Police Officer when reasonably required to do so, shall, on conviction before a Magistrate, be liable to undergo imprisonment for a period not exceeding three months, or to pay a fine of Rupees one hundred, and in default of payment to undergo imprisonment for a period not exceeding three months.

10. Whenever coffee is seized in the possession of any person under this Disposal of coffee seized.

5- *Many*

Act, and any person is charged in respect thereof with any offence under this Act, it shall be competent to the Magistrate who tries the charge to make such order as to the disposal of the coffee as to him may seem fit.

Provided that such order shall not affect the right of any person to bring a civil suit in respect of such coffee.

11. Every person who shall be engaged in the transport or removal of coffee upon any Coffee Estate, or from such estate to any port of shipment, shall procure from the owner or Manager of such estate, or some person duly empowered by such owner or Manager, a written authorization signed by such owner or Manager, or person duly authorized in the form in Schedule A annexed to this Act, or to the like effect. Every such person shall be bound to produce such authorization to any Police Officer when reasonably required to do so.

Permits or certificates authorizing transport or removal of coffee to be obtained.

Any person committing a breach of this provision shall, on conviction before a Magistrate, be liable to undergo imprisonment for a period not exceeding three months, or to pay a fine of Rupees one hundred, and in default of payment to undergo imprisonment for a period not exceeding three months.

Penalty.

12. Nothing in this Act shall be deemed to extend to any officer or servant of any Railway Company receiving, carrying, or delivering any coffee in the course of his employment on such Railway.

Act not to affect officers or servants of Railway Companies.

13. Any person convicted under this Act by any Magistrate, other than a Magistrate exercising jurisdiction within the Town of Madras, may appeal against such conviction according to the provisions of the Code of Criminal Procedure relating to appeals in cases in which an appeal is allowed by the Code of Criminal Procedure.

Appeals from decisions under the Act passed by Magistrates in the Mofussil.

14. Whenever a complaint is made to any Magistrate of an offence under this Act, which is also an offence under the Indian Penal Code, the Magistrate may deal with the case under this Act, or under the Indian Penal Code, as to him shall seem fit.

Offences under Act, which are also offences under Penal Code, may be tried either under the Act or the Code.

Schedule A (referred to in Section 10).
(Statement of).

— Coffee Estate.

This is to certify that (insert name of carrier or person) is authorized to carry bags (or packages or boxes) of (state description) coffee from (state place of receipt) to (state place of delivery) upon carts (stating number or other mode of conveyance).

(Signed)

Owner or Manager
of Estate.

or person duly authorized to sign this certificate.

BILL

Introduced

1977.

St. of Δ + Reason

Copy Standing 1616

(over)

Bill to prevent thefts of Coffee

Preamble

Article

Commencement and
West extent of Act.

Whereas it is expedient to make
special provision to prevent thefts of Coffee
and to repress & punish the offence of receiving
and disposing of stolen Coffee in the
neighbourhood of Coffee blanks or cokekes; in
enacted as follows:-

2. This Act shall take effect in such districts, divisions or parts of districts or within such localities or limits within the Presidency of Fort St. George as the Gov^r in Council may from time to time direct by Notification published in the official Gazette, and from such date may be specified in such Notification.

9. Whenever this Act is brought into force in any ^{State, district, division or sub-division} locality, as aforesaid, no person shall sell, buy, barter, exchange or in any way deal in, Coffee, unless he has first obtained a license for the purpose from the District Magistrate or other Magistrate authorized by the District Magistrate in that behalf.

Business for private
consumption exempt.
124

Nothing in this section shall
preclude a person from buying coffee
private or domestic consumption,
a regular shopkeeper or licensed a

Form of license

4. The Magistrate shall
a license in the form A in the
schedule appended to this Act to be
applying for such license, provided
Magistrate is satisfied by evidence
otherwise that the ^{person} applying is a
proper person to be so licensed.

Licensed dealer to
keep Books and
Accounts

5. Every licensed dealer under
this Act shall keep Books & Accounts
in which he shall regularly enter
in course of business of a firm & full
the particulars of each transaction,
including the name, residence, ^{and occupation}
of the person with whom such transaction
was had or held, together with the date
of the transaction and the quantity & descrip-
tion of the coffee which passed from one
to the other.

Small Native Coffee
grower exempt from
keeping Books

[Any native Coffee grower with
a few Coffee plants on a small plot of
ground held by him may, at the discre-
tion of the Magistrate, be excused from
keeping a record as aforesaid in respect

Native grower failing
to prove the fact likely
to be charged with theft.

Time for buying or
selling without li-
cense is reserved.

Time for selling to
any other than a licensed
dealer.

to any coffee sold by him which may
be the product of his own said plain-
tiff. The onus of proving the fact that
the coffee thus sold was within the
premises of the last preceding clause
shall lie on such Native grower, and
if he fail to prove it, he shall be liable
to be charged with theft and be punished
accordingly for such offences under sections
378 and 379 of the Indian Penal Code.]

6. Any person other than a licensed
dealer, [or Native] Coffee grower within the
exception provided by the second clause
of the preceding section, selling or dealing
in coffee shall be liable, in connection
with a Magistrate of breach of the provisions
of section 3 of this Act, to pay a fine not ex-
ceeding 500 Rupees for every such breach.

7. Any person selling Coffee to
any other than a licensed dealer,
[except for bona fide domestic consump-
tion in reasonable quantities] shall
be summarily liable, in connection
with a Magistrate, to pay a fine not ex-
ceeding 500 Rs for every breach of the pro-
visions of this section.

Green coffee not to be purchased from other than licensed dealer or proprietor

8. No licensed dealer or person shall buy green coffee from any other than a licensed dealer or proprietor of a coffee estate; nor one duly authorized in writing such proprietor to act for him in behalf.

True for breach of above provision.

Any person guilty of a breach of the foregoing provision shall, on conviction by a Magistrate, be liable to pay fine not exceeding 500 Rs.

Not satisfactory possession of green coffee to be treated as theft.

9. Any coolie, maid, or laborer employed on a coffee estate found with green coffee in his possession and failing to account satisfactorily such possession shall be liable to be charged with theft and shall, on conviction by a Magistrate, be punished in manner provided for such offence by section 379 of the Indian Penal Code.

Coffee not to be removed without permission.

10. No person shall carry or remove coffee without the express permission of the owner or his authorized agent.

Permission to be in writing & signed by owner or proprietor.

Such permission shall be in writing dated and signed by the said

or his authorized agent, and shall contain the following particulars:-

- the quantity of the coffee carried or removed;
- the number & description of packages in which such coffee secured;
- the place or destination to which the coffee is to be carried or removed;
- the names of the consignee & consignor.

Penalty for breach of this section.

Any person guilty of a breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding 500 Rs. or he may, at the discretion of the Magistrate, be charged with theft and on conviction, be punished as provided for such offence by section 379 of the Indian Penal Code.

Coffee not to be moved between sunset and sunrise.

11. No coffee shall be gathered, moved, loaded, or unloaded on an estate between sunset and sunrise. Any person committing a breach of this provision, or aiding or abetting in

Person engaged for the purpose of theft to be charged with the offence.

Loitering or lurking about coffee estates to be criminally dealt with.

If it shall appear that ^{such} person, moving, loading, or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft and be proceeded against for such offence under the provisions of sections 378 and 379 of the Indian Penal Code.

12. Any person found loitering or lurking about a coffee estate by or by night with the intention of committing an offence shall be deemed to have committed the offence of "loitering or lurking about coffee estates" as the case may be, within the meaning of sections 443 and 444 of the Indian Penal Code, and shall on conviction be punished in the manner provided by sections 453 and 454 of the said Code.

13. Whenever default is made in payment of any fine imposed under this Act, the Magistrate shall be guided by the provisions of section 67 of the Indian Penal Code.

14. The Magistrate in the case of conviction shall be at the time of the conviction.

Section 10.
Sentenced object to
Contract punishment
1977

Section 10.
Sentenced object to
Contract punishment
1977

any person of low caste or position] of such a nature as to add corporal punishment under the provisions of the Whipping Act, provided that such substituted or additional punishment shall be awarded for the offence itself, and not as an alternative penalty for nonpayment of fine.

Schedule A (referred to in Section 4).
License.
A. B. of is licensed under section 4 of the Madras Coffee Act 1878, to buy, sell, or otherwise deal in coffee for the purposes of regular business or trade, subject to the requirements of section 5 or other provisions of the said Act.

(Name).....
Magistrate of
Station & Date.

11.1.78.

Coffee Bill

Printed by the
of the Government,
in the year 1878.

May be obtained
of the Government,
at the price of 1/6 per copy.

For the receipt as attested
+ signed by the
~~Secretary~~ *M.*

16

A Bill to prevent thefts of Coffee.

Preamble. Whereas it is
expedient to make special
provision to prevent thefts
of Coffee, and ^{to} re-press and
punish the offence of
receiving and disposing
of stolen coffee in the neigh-
bourhood of Coffee plantations
or estates, it is enacted as
follows;—

1. This Act may be
short title. called "The Madras Coffee
Prevention
Stealing Act, 1878."

2. This Act shall
Commencement
and local extent take effect in such district
of Act. divisions or parts of districts
or within such localities or
limits within the Presidency

of Fort Saint George as the Governor in Council may from time to time direct by Notification published in the Official Gazette, and from such date as may be specified in such Notification.

3 Whenever this Act is brought into force in any such district, division or part of district, locality, or limits, as aforesaid, no person shall sell, buy, barter, exchange, or in any way deal in coffee, unless he has first obtained a license for the purpose from the District Magistrate, or the Magistrate authorized by the District Magistrate in that behalf.

No one to buy or sell coffee without license from Magistrate.

Purchase for private consumption exempted.

Form of License.

17 Nothing in this section shall preclude a person from buying coffee for private or domestic consumption from a regular shop-keeper or licensed dealer, nor preclude a coffee grower from selling the produce of his own land. The owner proving that the coffee sold was the produce of the vendor's land shall be on such ground.

4 The Magistrate shall grant a license in the form A in the schedule appended to this Act to every person applying for such license, provided the Magistrate is satisfied by enquiry or otherwise that the person applying is a fit and proper person to be so licensed.

For every such license, the licensee shall pay a fee of one Rupee.

Every licensee so granted shall be liable to be revoked at the will of the authority granting it, and shall be revoked in case the holder be convicted of any offence under this Act.

5. Every licensed dealer under this Act shall ^{display over his door containing} keep painted in distinct letters in English and ^{in the} Vernacular over his door the words "Licensed dealer in Coffee." ^{He shall} He shall also keep Books and Accounts in which he shall regularly enter in the course of business a true and full record of the

Licensed dealer to keep Books & Accounts.

the particulars of each transaction, specifying the name, residence, and occupation of the person with whom such transaction was had or held together with the date of the transaction and the quantity and description of the Coffee which passed from one to the other.

Any person other than a licensed dealer, who ^{displays} paints over his door a board containing or the words "Licensed dealer in Coffee" or words of a similar meaning, shall be deemed to have committed the offence of ^{by personation} "cheating" and shall be liable to such punishment as is provided for that offence ^{section 419 of} by the Indian Penal Code.

liable, on conviction before a Magistrate, to a fine not exceeding — Rupees.

6. Any person other than a licensed dealer selling or dealing in Coffee shall be liable, on conviction by a Magistrate of breach of the provisions of section 3 of this Act, to pay a fine not exceeding 500 Rupees for every such breach.

Fine for buying or selling without license.

7. Any person selling or bartering Coffee to any other than a licensed dealer shall be similarly liable, on conviction by a Magistrate, to pay a fine not exceeding 500 Rupees for every breach of the provisions of this section.

Fine for selling to other than a licensed dealer.

8. No licensed dealer or other person shall buy green coffee from any other than a licensed dealer.

Green coffee not to be purchased from other than licensed dealer or proprietor.

Fine for breach of above provision.

Any person guilty of a breach of the foregoing provision shall, on conviction by a Magistrate, be liable to pay a fine not exceeding 500 Rupees.

Non-satisfactory possession of green Coffee to be dealt with as theft.

9. Any Cooly, masonry or other labourer employed on a Coffee estate found with green Coffee in his possession and failing to account satisfactorily for such possession shall be liable to be charged with theft and shall on conviction by a Magistrate, be punished in the manner provided for such offences by section 379 of the Indian Penal Code.

Exemption not granted
Rs. 500

Coffee not to be removed without permission.

10. No person shall carry or remove Coffee without the express permission of the owner.

from any person
without any order

owner or his authorized agent.

Such permission shall be in writing duly dated and signed by the said owner or his authorized agent, and shall contain the following particulars,
a - the quantity of the Coffee to be carried or removed.
b - the number and description of the packages in which such coffee is secured.
c - the place or destination to which the Coffee is to be carried or removed; &
d - the names of the Consignor & consignee.

Permission to be in writing and signed, & to contain particulars

Any person guilty of a breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding 500 Rupees, or he may at

Penalty for breach of the section

at the discretion of the Magistrate, be charged with theft and shall, on conviction, be punished as provided for such offence by section 379 of the Indian Penal Code.

11. No Coffee shall be gathered, moved, loaded or unloaded on any estate between sunset and sunrise.

Coffee not to be moved between sunset & sunrise

Any person committing a breach of this provision, or aiding or abetting such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding 500 Rupees.

Penalty for breach.

If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing or theft, the person or persons so engaged shall be liable to

Persons so engaged for the purpose of theft to be charged with such offence

to be charged with theft and be proceeded against for such offence under the provisions of sections 378 and 379 of the Indian Penal Code.

12. Whenever default is made in the payment of any fine imposed under this Act, the Magistrate shall be guided by the provisions of section 67 of the Indian Penal Code.

13. It shall be at the discretion of the Magistrate, to substitute or add corporal punishment under the provisions of the Whipping Act, provided that such substituted or additional punishment shall be awarded only in respect of the offence itself, and not again alter-

Substitution of Corporal punishment

in the case of a person who has been convicted of an offence under this Act.

= native

= native penalty for nonpayment of fine.

Act not to affect officers or servants of Railway Companies. 14. Nothing in this Act shall be deemed to extend to any officer or servant of any Railway Company receiving, carrying, or delivering any office in the course of his employment on such Railway.

Schedule A (referred to in section 4)

Licence

A. B. of — is licensed under section 4 of the Madras Coffee Planting Act, 1898, to buy, sell, or otherwise deal in Coffee subject to the requirements of section 5 or other provisions of the said Act.

Name

Magistrate of

Station and Date.

Let the sum of Rs. 100/- be paid and shall be carried to the credit of a fund to be entitled the "Coffee Planting Fund" for the purpose of furthering the objects and the Government may from time to time in what manner the sums so credited to the said fund shall be disposed of.

14. 1. 78

Provided, however, that in the case of fines levied under this Act.

Not the irregularity
 case may present any further
 information regarding the same
 as may be required by the
 various departments.

Coffee Bill

7. Review of
 the Coffee Bill
 in the House of Representatives

To be taken to committee

obj. sep. ed. 190

Revised Draft Bill
 for the House of Representatives
 to be taken to committee

Jud. DEPARTMENT.

No.

From the Ag. Secy. Genl, 26 Sept 1877.
 Stating that the Wymond Bankers have made out a case for relief.
 From - D. S. 26 Sept 1877.
 Forwarding Draft Bill to prevent Coffee Stealing.
 From - D. S. 18 Oct 1877, relating to Draft Memo: on certain
 suggestions in regard to the Draft Bill.

Dated

187-

FOR ORDERS.

I was absent when the
 Bill was brought before
 Executive Council and
 to our unwillingness
 to question the fact that a
 case is made out for it.
 I think the Bill is
 brought before the Executive Council
 the extent of the
 plan to be taken
 like the modifications
 now temporarily
 are carried in by
 the Ag. Secy. Genl. I
 approve of the
 bringing up of the
 Bill.

24-10-77.

leges: I. in view
of immediate public: land of the as en
under such XXV. tained -
to the stat. of J.P. Under any case
J.P. Amstam
The questions of the Plaintiffs is proper & approved &
leave: J.P. is not this. Confirmed punishment.
the J. of Malabar. but the question of proof
the need to delay public: this is admitted. That under
J.P. as a punishment for
J.P. I do oppose the bill
of Dec. 3 is in the present
form. 26/11/1871

FOR ORDERS.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters: -

From the Ag. Advocate General dated 26 Sept 1877.
(Nos 2988 and 2987).

Any ref. to the Mysore & A. M. S. he made in the J. of Malabar.

I don't altogether approve the draft bill I think it is the general. It is applicable by M. S. & specific cases. I think the A. G. has introduced one limitation. It is not a law under the Act. It is also omitted. I think it is questionable in some cases. Fine in prison must convey little time & cost. It is not a law. It is not a law. It is not a law.

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Ordered that these papers be communicated through the C. of Malabar, to the Attorney General to the Mysore & A. M. S. Association with reference to A. O. 19 July 1877 No 1692, together with copies of the draft Bill to check coffee stealing and of the Ceylon Ordinance for that purpose. The Govt will be prepared to consider any further representation that the planter may desire to make through the C. of Malabar on the subject of legislation after they have fully weighed the merits of the Ag. Advocate Genl.

The Govt are disposed to agree with the Ag. Advocate Genl that the existing law is sufficient to punish breaches of contract by masters & coolies and offences in the nature of speaking and criminal.

breach of trust. They apprehend that the real difficulty consists in the present mode of obtaining the surrender from the Mysore Authorities of the labourers who, having originally come from Mysore, escape into that country on deserting their work & the estate on which they were employed. This difficulty, however, will soon be at an end, as the Govt of India have called on the Mysore Govt to pass an executive order requiring their Magistrates to give effect to the requisitions of the Magistrates of Wynaud, as if such requisitions had been made by their own Magistrates. The question is also being separately considered of complete reciprocity in execution of civil and criminal processes between the Courts of this Govt and of the Mysore Administration, so long as Mysore is governed by British Officers and is subject to British laws.

3. The Govt approve the

Change by B.M.
before disposing of
his letter to G.O.

Colr & Magt of Malabar
Drs: & Supt Judge - do.
Colr & Magt, Salem
D. & S. Judge - do.
Commr of the Nilgiris
Asst. Commr - do.

To
~~Rev. & Secy, Wynaud Planters' Association~~
Colr & Magt, Malabar (with two copies, one to be furnished to the Wynaud Planters' Association.)
D. & S. Judge - do.
Colr & Magt, Salem
D. & S. Judge - do.
Commr, Nilgiris
Asst. Commr - do.
Supt. Adv. Genl.
Revenue Dept.
Supt. Gazette Press.

draft Bill being made general as it is, so as to apply to other coffee growing tracts beside the Wynaud. The Bill as now prepared by the Dy Advocate Genl for checking coffee stealing will now be printed, and the Ceylon Ordinance for the same purpose will be reprinted in the Gazette Pres; and copies of both will be furnished to the Officers noted in the margin, as well as to the Wynaud planters' Association, for such observations & suggestions as they may have to offer on the provisions of the proposed enactment.

4. With reference to para 2 of his letter giving cover to the above draft Bill, the Dy. Adv. Genl will be requested to consider whether, in remarking that there is ~~no~~ law relating to carriers in India, he overlooked Act III of 1865, "an Act relating to the rights and liabilities of common carriers."

23/10

Dated
Recd.

IV 03.

The bill as drafted,
would enact a stringent
provision and authorise
the arrest of persons
who are not trespassers.
It imposes disciplinary
restrictions on the sale
of Coffee that the Native

holder

class 3

holder of a small putta
who has Coffee bushes
in his garden, but works
occasionally or habitually
on some large adjoining
Coffee Estate, is effectually
debarred from selling his
own produce. And no
person can purchase,
in the ordinary way of
business, Coffee for a sick
friend or neighbour, un-
able to purchase for him-
self, unless he opens a
book and enters the trans-
actions and keeps the

book

27
book ready for any police
officer who chooses to de-
mand its productions.

What appears to be
needed & required is a
check on the receiving
& disposing of stolen Coffee
in the neighbourhood of
Coffee plants.

The more simple
mode appears to me to
be to enact that within
certain notified districts
no person shall sell Coffee
unless he shall have
first obtained a licence
to do so. That every person

do

to licensed shall be bound
to keep books & to
enter all particulars -

That any other person
selling Coffee shall be
liable to penalties. That
any person selling to any
other than a licensed deal-
er shall be liable to pen-
alties, and that no li-
censed or other person
shall buy green Coffee
from any other than a
licensed dealer, or pro-
prietor of a Coffee Estate
or some person duly au-
thorised in writing to act

Nature Coffee is the pro-
duct of the small culture
of the Native Apiculture
It is the essence of the
fair & such & the
set of books & acct. &
the licence will prove
both & procure.

for

for him.

That any labourer on
any Coffee Estate found
with green Coffee in his
possession, & failing to ac-
count satisfactorily for
it, shall be liable to pun-
ishment. That no person
shall carry or remove
Coffee without a written
authority from the owner,
which shall specify the
quantity, number and
description of packages,
marks, date, destination
& name of Consignor -
That no Coffee be gather-

ered

That if flogging be
added as an alternative
or additional punish-
ment, it should only ^{be} as
a punishment for the
offence, and not as a
penalty for non payment
of fines.

It is not about the
the principle of licence
& dealers being adopted
as the principle of
the Bill & the details
may be settled on the
Draft Bill so prepared
4/62 W.B.

My approval was
limited to some of the
advantages of the
draft. In view of
public interest in the
proposed introduction
of the C. & D. Act
I have taken all the
details of such public
interest as I can take
into account and
shall in fact submit
the draft as now
before these papers
reached me -
The object is to check

2. tuncine pety silprine of
Coffee from the plant. &
The suggestion is to remove
the main inculcated such
suffering by destroying the
lower of disposing of the
stone seeds.

But I believe one of the
main faults is by an
active owner of a small
plot of coffee becoming
so inefficient & sending it
to the market in a very
poor state. I do not know
the cause of this.
The State Government has
since had corruptors
there is no reliable buying.
in order to far as I can
ascertain there is no body of
coffee dealers such as the
proposal in the plates.
in the coffee growing &c.
the coffee grows & sold to the
home markets.

The 2nd & 3rd principles of the
active. When coffee in the
my road do not profess to
rebel coffee. It goes to the
west as it was
re coffee plant in garden

Note

Coffee Trading Bill

8

The paper is
in a state of
the 1st. has been

is then open private
to show the merchants
& reporters.

Probably the paper has
been in the hands of the Council

Judicial Department 130
30

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter papers.

Letter from the Advocate General, dated 26th September,
Receipt No. 2988 & 2989.
Off. Memo to the D^r — dated 16th October 1877, No. 194.
Letter from the D^r — — 18th — — at No. 325.
Letter from the Ag. Com^r, Nilgiris, 14 Nov/77, No. 100.
Order thereon, 29th Jan'y/78, No. 190.

The Governor in
Council approve the Draft
Bill to prevent Coffee Trading
prepared by the Advocate
as now sketched on the views expressed
General, subject to the
by the members of Government
modifications suggested
in the official Memorandum
this Dept. dated 24th Oct/77
and concurred in temporarily
by Mr. G. Sullivan; and
directs that the Bill
modified accordingly be
referred to the Legislative
Department

Department in view to its
 immediate publication,
 with the Statement of Objects
 and Reasons, under Rule 25
 of the Rules for the conduct
 of business in the Local
 Council for making Laws
 and Regulations.

M.Y.

Will be submitted
 to the Council for
 consideration on 28/1/11

not done

desp 31/1

The Coll. of Malabar 46
 The Atty. General 30
 The Legislative Dept. 3
 The Secy to the Govt. 5
 The Revenue Dept. 11
 Total 95

2073/17

13-11-1717

Govt. of 1878

Just

To

Dated 29th Dec 190
Recd. 1st Jan 1878 No. 111

NOS. 171-176

Bill - Deposition. Major
"Bill to prevent Offences
-ing, approved, & signed to
the Legislative Dept in
view to its immediate
publication.

Secretary