(1) பங்குகளின் எண்ணிக்கை 50

(2) புதுக்கித் திருப்பிய நாள் _____

(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம் _____

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Sudesan குறை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	1457-58	அச்சகம் பரவாநல்லூர்
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மா. தென்னரசு, எம்.ஏ.,பி.எல்., கூடுதல் பொறுப்பு.

ச. 1—18.016—6-90.

No. 18 of 1886.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

EMIGRATION.

To the Right Honourable
THE EARL OF KIMBERLEY,
Her Majesty's Secretary of State for India.

Simla, the 17th July 1886.

My Lord,

In the Marquis of Hartington's Despatch No. 7 (Legislative), dated the 6th April 1882, His Lordship, while intimating that Act I of 1882, the Inland Emigration Act, would be left to its operation, requested that he might be furnished, at the close of each year, with a return of the number of persons suffering criminal punishmen for breach of contract under the law. He further desired that at the end of hree years a special report might be made on the working of the Act, with a view to considering the possibility of abandoning all exceptional legislation respecting contracts of labour in the Indian tea-districts. In the same despatch His Lordship referred specially to the extension permitted by the Act of the maximum period of penal contract from three to five years as a matter of which he considered the policy to be doubtful, and observed that "the justification of the exceptional legislation which permits breaches of contract in the tea-planting districts to be punished by criminal penalties in cases other than those provided for by the Indian Penal Code has always been supposed to lie in the remoteness of those parts of India which are the seat of that industry, in their inaccessibility and in the scantiness of their population." But the statements which he gathered from the papers respecting the improvement of communications with Assam, and the prospects of free immigration into that Province, would rather have prepared him for the curtailment than for the ex ansion of the maximum period of the exceptional labour-contract. His Lordship was unable to admit the validity of the argument drawn from the analogy o the contracts for service in British and Foreign Colonies, where the term is five years, seeing that the journey from Calcutta to Dhubri in Assam could be m ade in twenty-seven hours.

2. The returns desired by His Lordship of the number of persons suffering criminal punishment under Act I of 1882 have been regularly furnished in the annual reports on Immi ration into Assam, which have been reviewed by the Government of India y r by year on receipt, and forwarded

with their review to the Secretary of State. The special reports on the working of the Act asked for at the end of three years will be found in the letters from the Government of Bengal and the Chief Commissioner of Assam herewith transmitted, which reached us in December and January last. Since their receipt the whole subject of the policy and operation of the law has been under our careful consideration, and we have now the honour to report our conclusions for Your Lordship's information.

No. 187, dated 9th December 1887.
No. 16, dated 20th January 1888.

3. In the first six paragraphs of the letter from the Government of Bengal will be found a summary of the course of legislation on the subject of labour emigration from the adjacent Provinces of India into Assam; and a more detailed review of the provisions of the various Acts passed from time to time to regulate it is contained in pages 5055 of Part II A of the Report on the Administration of the Province of Asam for the year 1882-83. The first impulse to legislation was given by the excessive mortality which was found to attend the transport of labourers by the long river journey from the western districts of Bengal to Assam, Cachar, and Sylhet; and it was not till two years later, in 1865, that special provisions were enacted for their protection after arrival in the labour districts, and, as a correlative of the obligations thus imposed on employers, for the enforcement by criminal penalties of the contracts entered into by the labourers. Until 1873 no recruitment for labour in the tea-districts otherwise than under the special law was permitted. In that year the Act was passed of which Act I of 1882 has now taken the place; it contained no prohibition of recruitment independently of its provisions, and allowed engagements to be made outside of the Act for a term not exceeding one year. It also removed all restrictions upon employers and labourers, so far as the emigration law was concerned, after the termination of the original contract, and authorised the engagement of labourers, without the intervention of contractors, by garden-sardars or agents despatched from the tea plantations direct to the recruiting districts.

4. The Act of 1873 was in force for nine years, and large additions to the labour-force of the Province were made under its provisions. The circumstances which led to its repeal, and the substitution for it of Act I of 1882, will be found summarily stated in the note by Mr. C. A. Elliott enclosed in the letter from the Chief Commissioner of Assam, and were fully detailed in the correspondence which preceded the Marquis of Hartington's despatch to which we now reply. The most important of the changes which the present Act effected were the encouragement of assisted (sometimes called "free") emigration by relieving it from legal trammels until the coolies reach the labour districts, and the permission, then given for the first time, to place labourers upon contract under the Act in those districts. In one direction, therefore, it removed the restrictions which had previously been deemed expedient upon the engagement of labourers and their conveyance to Assam, while in the other it seemed at first sight to extend the scope of official interference and supervision by authorising local contracts to be made under its provisions, which the labourer was bound under criminal penalties to fulfil, and which required the employer to submit to inspection, to provide for the comfort and convenience of his labour force, and to furnish regularly returns of the persons employed on his estate. If in this respect is marked an advance in the direction of freedom of contract; in the second it might be deemed to embody a somewhat retrograde policy, or at any rate a return to a system of paternal supervision.

5. This, however, was not really the case. The contracts which might be made under Act VII (B.C.) of 1873 for one year, without subjecting the contracting parties to official supervision, and the engagements entered into, while that Act was in force, by time-expired labourers, were not merely civil contracts, capable of being enforced only by suit in the Civil Court. Concurrently with the special Acts relating to immigrant labourers there was in force in Assam another law, more stringent in its operation as regards the labourer, and less equitable in the obligations which it imposed on the employer, which had been introduced into the greater part of the Province so long ago as 1863, and was extended to Sylhet and Goalpara in 1876. This was Act XIII of 1859, an Act to provide for the punishment of breaches of contract by Artificers, Workmen and Labourers in certain cases. This Act provides that if, on complaint by or on behalf of an employer, it is proved to the satisfaction of a Magistrate that an artificer, workman or labourer (1) has received money in advance from the complainant on account of any work, and (2) has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either (*a*) order the defendant to repay the money advanced, or such part thereof as to the Magistrate may seem just and proper, or (*b*) order him to perform, or get performed, the work according to the terms of his contract. In default of compliance with the order, the defendant may be imprisoned with hard labour for three months, or; if the order is for the payment of money, until the money is paid. When the Magistrate orders the defendant to perform his contract, he may require him to find security for its performance, and if he fails to find security, may sentence him to imprisonment with hard labour for three months. "Contract" is explained as extending "to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work or otherwise." It has always been the custom with employers of labour in Assam to give to persons contracting outside the labour-emigration laws either an advance or a bounty (which the Courts have generally held to be equivalent to an advance), and thus to bring them within the provisions of Act XIII of 1859. Whether the law has rightly been applied to such cases, or whether, indeed, its extension to whole districts and provinces was ever contemplated by its framers, are questions which are not free from doubt, and will be adverted to more fully below; but as a matter of fact this Act has for more than twenty years been applied to enforce the so-called "free" labour contracts in Assam; and we think that Your Lordship will agree with us in the opinion that its provisions are not less severe than those which attach to a contract under Act I of 1882, while they fall very much short of that Act in the safeguards which they furnish for the due understanding and execution of his engagement by the labourer, and in their omission to require from the employer any compensatory advantages in the provision of cheap and suitable food, good lodging, maintenance when sick, and reasonable wages, such as are secured to the labourer by the Labour Emigration Act.

6. A reference to the Statement of Objects and Reasons with which Act I of 1882 was introduced, and to the papers which accompanied our despatch

No. 24, dated the 30th January 188[illegible] that the object of enabling contracts under that Act to be entered into *in the labour-districts* was to do away with the necessity of resorting to the harsh and unsuitable provisions of Act XIII of 1859, and to substitute for the unilateral engagements, capable of being enforced under the latter Act, the (as it seems to us) much more equitable contracts made under the new law, which bind not only the labourer, but also the employer, and place the former, as Act XIII does not, under the protection of the district authorities. The change aimed at was thus, we think, a decided advantage to the labourer, while it relieved the tea planter from the necessity of having recourse to an ambiguous and doubtful law, in the interpretation of which different views had been taken by the Courts, and the legality of the extension of which to the Province at all might perhaps at any moment have been successfully called in question. It may be regretted that the Act did not go further and, while offering the new system, did not plainly put an end to the old alternative system under Act XIII of 1859.

7. Bearing in mind the objects of the legislation of 1882 as above explained, we would now ask Your Lordship's attention to the results of the working of the law as set forth in the reports from Bengal and Assam. The letter from the Bengal Government deals mainly with that part of the subject which relates to recruiting; the transport of the labourers recruited falls chiefly under the control of the Assam authorities, and the execution of the contract does so wholly. The great extension which the Act has caused in what is called free, but is really unregulated, recruiting, is explained at length by the Superintendent of Emigration at Calcutta, and the opinions on the working of the system which are given by the Magistrates of the recruiting districts, and quoted in his letter, are for the most part unfavourable. The Government of Bengal, however, does not endorse these views. On an examination of the cases reported—

"the Lieutenant-Governor is unable to find in them any special form of abuse which can be definitely put down to the system of free emigration as distinguished from protected emigration under the Act of 1873. The abuses, such as they are, are of the same kind, and the only difference is that they are, or are represented to be, more numerous. But even this statement depends largely upon unverified assumptions. It is impossible to ascertain how many of the uninvestigated cases now put forward as instances of abduction would, if enquired into, turn out to be merely cases in which people have emigrated against the wishes of their relatives. In reporting upon cases of this kind there can be little doubt that the judgment of most district officers is likely to be warped by a not unnatural prejudice against free emigration. Formerly they controlled every step of the emigrants' movements; now they know nothing about them, except through complaints of abuses which only come to their knowledge after the emigrants have left their jurisdiction. Again, the people of the recruiting districts, particularly those classes of landholders whose opinion is likely to influence the district officers, are violently opposed to any form of emigration, on the ground that it takes away from the district large numbers of the landless classes, and thus tends to raise the wages of agricultural labourers."

After further discussing the charges brought against the system of unregulated recruiting, Sir Rivers Thompson sums up the matter thus:—

"Upon this branch of the subject, then, the Lieutenant-Governor has come to the conclusion that no such case has been made out against free emigration as to justify the amendment of the present Act by new legislation and the revival of principles of strict coercion and supervision in every step wh[illegible] emigrant takes. It is doubtless impossible to overlook the fact of a certain amount[illegible]ses having been represented; but the considerations set forth in paragraphs 11 to 1[illegible] go to show that these existed, to some extent at

any rate, under the old law, that their prevalen[illegible] under the new law is probably exaggerated, and that the character and usages of the people themselves help to produce them. It may be added that every successive year decreases the number and force of such complaints, and that as communications between all parts of Bengal and Assam continue to improve, and the people become more and more acquainted with their freedom in the matter, and with the requirements and conditions of service on tea estates, the objections to the free system are gradually diminishing and will finally disappear. As Mr. Hewitt, the Commissioner of Chota Nagpore, has observed in one of his reports, 'there is no alternative between a system of registration combined with medical examinatio and a system of free emigration.' The former, with all the minute control exercised, was not without the disadvantages which are now complained of in the case of the latter, and the Lieutenant-Governor can see nothing in the experience of the last three years to justify a return to a system based exclusively upon official supervision and control."

The conclusion arrived at by the late Chief Commissioner of Assam is the same. After explaining in paragraphs 6 and 7 of his note that what is called free is really assisted emigration, and that it is impossible to expect any considerable number of persons to resort to Assam in search of labour without being supplied with means to do so by the employer or his agent, Mr. Elliott continues:—

"The only objection to this procedure, as far as I know, arises from the complaints made by officers in Bengal that increased facilities for emigration have led to fraudulent recruitment and to the loosening of family and domestic ties by enabling wives and minors to desert their husbands and guardians. If this charge were commonly true, it would be a very serious evil, but, though there has been much correspondence on the subject, and some strong expressions have been used, it appears to me that hardly any cases have been brought to light, and none which the provisions of the Act can put a stop to. We must distinguish between the different forms which such an offence may take. Kidnapping, that is, carrying off persons against their will, or carrying them to Assam when they think they are being carried to some other place, would be a crime of the greatest enormity, and I can hardly think it possible that such a crime would go undetected; the victim would discover the fraud, or would find a means for protesting against the violence either on the long journey or in the crowded depôts at the gates of Assam, or at least on reaching the garden. Yet it is certain that no such offence has been proved or even charged by any kidnapped person since Act I of 1882 has been in force. On the other hand, instances of fraud in misrepresenting the nature of the labour on the garden or the amount to be earned are not uncommon; but the provisions of the Act offer no defence against this. And the grievance most urged in Bengal is of quite a different character, and is one which the law cannot possibly prevent: it is that wives or children voluntarily run away to the tea-gardens, and cannot be traced. The only remedy that I can see for this is that there should be great delay and deliberation about emigration, and that opportunity should always be given for a parent or husband to look for the lost relation in the depôts at the district head-quarters or along the route. But to legislate in this direction would be to reverse the intention with which Act VII (B.C.) of 1873 was amended, and I do not think any one would maintain that all emigrants should be delayed some days on the road in order that some relation may possibly hunt for and recover some lost sheep who may possibly have run away improperly."

We concur in these views, and are of opinion that there is no necessity for amending the Act with a view to increase the supervision over, and therefore the cost and delay of, recruiting. We admit, with Sir Rivers Thompson and Mr. Elliott, that abuses are possible under the present system; but the case appears to us to be one of those in which greater evils would be caused by interference with a view to stop such abuses than are involved in the relatively small number of instances in which abuse occur. Holding, as we do, that the extension of emigration is a great benefit, not only to the tea planter and the

emigrant, but also to the country at large, we consider that to make it more expensive and troublesome, by interposing delays for official registration in the recruiting district and detention and maintenance in depôts, often with much danger to the lives of the emigants thus gathered together, would be inexpedient, and that the risk of some abuses incident to the liberty of recruiting now allowed must be accepted.

8. As regards that part of the subject which relates to the transport of labourers to Assam, we would refer YourLordship to paragraph 14 of Mr. Elliott's note and paragraphs 18 to 21 of the letter from the Government of Bengal. The extension of the Northern Bengal State Railway to the neighbourhood of Dhubri, and the establishment, towards the end of 1883, of a service of swift steamers running daily between that place and Dibrugarh, a journey which now ordinarily takes four days, have rendered the introduction of emigrants into the Assam valley much more expeditious and free from danger to life than was the case when the only means of conveyance was the slow trading steamers starting from Goalundo, the voyages of which seldom took less than a fortnight, and often much longer. In the Surma valley, however, the transport of emigrants has hitherto been managed, as before, by means of country boats; and the nature of the journey, through the compliated network of rivers which covers the district of Sylhet, has not admitted of adequate supervision being exercised over the voyage. We are glad to be able to state that arrangements have now been concluded for the establishmen on the Surma between Narâyanganj and Cachar of a swift daily steamer service, similar to that now plying on the Brahmaputra. The vessels employed will make the journey between Narâyanganj and Karimganj during the cold weather in two days, and between the former station and Silchar in the wet season in three days, and will thus greatly abridge the length of time occupied in the transit (now generally a month), besides securing proper accommodation and supervision. We have little doubt that this service will be generally adopted by employers for the importation of labourers into Sylhet and Cachar, and thus obviate the risk of disease to which under the present system the emigrants are exposed.

9. The incidents of the contract within the Province may be considered, first, as they affect the labourer; and secondly, as they affect the employer. To the former they secure a minimum monthly wage calculated at a rate which, as will be seen from the data given on pages 5 and 6 of the Assam Immigration Report for 1884, is liberal when compared with his earnings in his native district; a weekly holiday, a free house, medical attendance and accommodation when sick, and the supply of food at a reasonable rate. He has to serve for a stated number of years which may not exceed five, and if the contract be for the full term he is entitled to increased wages during the fourth and fifth years. If he becomes permanently incapable of work, he is entitled to receive three months' wages to enable him to return to his home. He is, on the other hand, bound to labour for the period stipulated, and his contract term may be extended by the Inspector for any days during which he may have been absent from work; if he deserts or is unlawfully absent from work, he is liable to imprisonment, which in the former case may extend, though only after a third conviction, to three months, and in the latter to one month. The employer is bound by the same engagement to pay the labourer regularly the stipulated monthly wages, and faithfully to comply with all the rules regarding house accommodation,

medical treatment, and the supply of food prescribed by the Local Government. If he omits to do so, he is liable to fine under Section 167 of the Act. He must at all times allow his garden to be inspected by the officers appointed for the purpose, and he must keep up regular accounts and registers showing the earnings, attendance, numbers, births, deaths, &c., of his labour force.

10. Lord Hartington has observed that the justification of exceptional legislation for regulating the terms of labour engagements of such a nature as that detailed above has always been supposed to lie in the remoteness of the tea planting tracts from the districts from which the labour supply is drawn, in their inaccessibility and in the scantiness of their population. To these reasons we would add the expense which the necessity of importing labour imposes upon the employer, and the need which exists of making special provision for guarding the immigrant from the danger to life to which he is exposed from the unaccustomed climate, food and mode of living in his new home. It appears to us that these considerations continue to govern the conditions of emigration to Assam. It is true that, as His Lordship remarked, Dhubri can now be reached in 27 hours from Calcutta; but there are no tea gardens at Dhubri, and the voyage onwards to the nearest port of debarkation for Upper Assam, where the majority of them are situated, takes three or four days. After leaving the steamer, the labourer has frequently to travel on foot or in boats for several days more till he reaches his destination; and though communications in the Province have been relatively much improved of recent years, they are still considerably less advanced than in most other parts of India. The expenses of importation have, as shown on pages 12 and 13 of the Assam Immigration Report for 1884, been somewhat reduced as compared with the standard which prevailed when the Act of 1882 was passed, but they are still heavy; and the proportion which they bear to the value of the work done by the labourer during the first two or three years of his residence on the garden remains very high. The other conditions continue as before, and can be but little affected by any administrative action. It is hardly probable that the time will soon arrive when special precautions will become unnecessary for the labourer's protection during the process of acclimatisation, or when the need of inspection by Government officers, to see that these precautions are duly taken, will cease to exist. On this subject we would invite Your Lordship's attention to what is said in paragraphs 18 to 22 of Mr. Elliott's note. Neither he nor the Lieutenant-Governor of Bengal are in favour of abandoning the exceptional provisions of the labour contract. He observes:—

> As to the tea-coolie, the protection he gets, the excellent cottage he lives in, the good water-supply, the fairly-cheap food, and the fairly-reasonable wage he gets, are the *quid pro quo* granted in return for the penal clauses which compel him to carry out his part of the contract. He would not get the one without the other, and he would certainly be worse off if he had to part with both. The alternative would be a migratory class of labourers, whom no one would go to much expense in hutting or providing for, because he could not be sure of retaining their labour, who would be constantly shifting from place to another under the influence of enticement and bribery, who would have to build their own houses, and would build them of poor materials in unhealthy spots, who would be led to no medical care when ill, and would have no opportunity of making complaints or getting grievances redressed, such as they have now when the inspector's official visit takes place. Such a state of things would be good neither for their *morale* nor for their bodily welfare; but such a state of things would necessarily arise as long as population is scarce and the labourer is of great value to the planter, if

the law did not intervene to give solidity and to the mutual relation of planter and labourer."

From the planter's point of view is equally essential—

"In many parts of Assam he could not procure his labour without it, that is, he could not afford to spend Rs. 50 on getting up a coolie who might desert with impunity the next day. The planter has a difficult task in managing the large body of labourers on his garden, and for the most part he performs the task with discretion, but he requires to be invested with some authority for the purpose. His labour-supply is never quite large enough for his wants in the rains, when plucking and tea-making are going on vigorously; it is always greater than he requires for mere garden purposes in the winter. Consequently, he has to exercise management, keeping a tight hand over them in the hot season, and allowing a good deal of absence in the cold. But if a considerable portion of his coolies should at any time go on strike, or desert to another garden, his operations might be altogether stopped, and his garden ruined."

* * * * * * * *

"I do not mean to imply that the differe ts of the Act necessarily hang together, and that it would be impossible to retain the ses regarding inspection of gardens while giving up those which relate to the enforceme of contracts. But to abandon the penal contract would be to ruin about half the tea-g rdens in Assam; and even those planters who survived it would be indignant at seeing the part of the Act which is in their favour abolished and the part which they d like retained. It seems to me necessary to retain the present Act till its different par s drop off from atrophy, through disuse, and only the part relating to surveillance survive

11. The provision of the Act exter ling the maximum term of contract from three to five years has not until ne last two years had a very wide operation. Five-year contracts are ch entered into at Dhubri, and their number is now increasing; but we h no reason to believe that they are entered into otherwise than willingly, that any undue pressure is used to get the emigrants to consent to them We do not share Lord Hartington's objection to them founded on "the unh althiness of some parts of Assam, and the high rate of mortality which prevail l among the coolies in that Province." The statistics of mortality during the last years for which Act VII (B.C.) of 1873 was in force, under which the maximum term of contract was three years, show that the risk of life to whic the emigrant is exposed on his intro- of his residence, and that after that ate the death-rate falls to the normal level of the general Indian population. Consequently the two years which Act I of 1882 added to the term do no increase the liability of the labourer to disease and death. They do, on the ther hand, to some degree benefit the planter. It costs about a year's wage (in some districts more than a year's wages) to import an emigrant from his home to the tea garden; for his first year or two, he is frequently on the sick lis does not know his work, and does not do work of the real value of h He improves as time goes on, but the remaining period of his thr contract was scarcely long enough to enable the planter to recoup the outlay on his importation, and until five-year contracts were permitte is only by inducing him to serve on after his contract had expired t ull return was obtained. The induce- ment took the form, under the w, of a bonus of Rs. 12, Rs. 20, and sometimes Rs. 24, for entering fresh contract for a year or two years. The bonus is now converted into an xtra rupee per month for the last two

years of the five-year contract. We ve no grounds for supposing that this is thought inadequate by the labourer, nd it does not seem to us unreasonable.

12. Both the Lieutenant-Governr of Bengal and the Chief Commissioner of Assam have indicated several mi or points in which Act I of 1882 is susceptible of improvement; but they ave both also stated their opinion that the most judicious course for the prese t would be to leave it as it is, taking steps to correct as far as possible by e ecutive action those parts of it which require amendment, and to avoid the a itation and unsettlement which might be caused by reopening discussion on e principles of the measure. In this conclusion we concur, and we should pr fer to leave the Act to its operation for some years to come. There is, ho ever, one point connected with the Act which may require legislation, and wh ch we desire to submit for Your Lordship's consideration.

13. In paragraphs 5 and 6 o this despatch we have pointed out that, side by side with the series of Emigration Acts governing the importation of labour into Assam, the has since 1863 existed in the Province another special labour law, A t XIII of 1859, which is not less stringent in its bearing on the labo er, while it provides none of the safeguards, in a written and registered con ract, in frequent inspection and returns, and in the other provisions for the pro ection of the coolie population, which are embodied in Act I of 1882. It has been noticed that the object of permitting local contracts to be made under the latter Act was to obviate recourse to the former. But contracts ntinue to be made under Act XIII of 1859; and however doubtful may have en the legality of the extension of that Act to the whole Province, or of its applic tion to contracts of the nature of those entered into by garden labourers, it is p bable that the Courts would, after so many years, be inclined to hold that it h d been legally extended and was applicable to such engagements. The Act is not however one which would be likely now to receive a place in the Statute ook; it is not in accordance with the spirit of recent legislation on the subjec in England; and if circumstances were favourable we should be glad to see i altogether repealed. But to repeal it might very probably give rise to agitati and dissatisfaction, and we are not prepared at present to undertake gen al legislation for the purpose. Now, however, that Act I of 1882 has provid a procedure for concluding labour engagements within the Province—a it is to be remembered that the engagements entered into by time-expir and local labourers are not ordinarily made for the maximum term allowed r for the minimum wage provided by that Act—we are decidedly of opinion t there are serious objections to continuing in force an alternative and muc harsher procedure for punishing their infraction. We propose therefore to consu the Chief Commissioner as to the expediency of rendering Act XIII of 18 inapplicable to such contracts for labour upon tea-gardens as can more prop ly be entered into under Act I of 1882. That this should be done was, as will be en from paragraph 13 of his note, the opinion of the late Chief Commissione and in a correspondence which took place in 1883, Lord Ripon's Government concurred with Mr. Elliott in thinking it most desirable that these engagements should be removed from the purview of the Act, though action in the matter was postponed until the general question of the revision of Act I of 1882 should come under consideration. As we are of opinion tha that Act should for the present remain unaltered, we have now to consider whe er the decision of 1883 in regard to Act

XIII of 1859 can conveniently be out. Mr. Ward will be requested, during his tour next cold weather, make enquiries regarding the effect which the repeal of the Act, so far as regards contracts on tea-gardens, will have on the planting interest; and if he concurs in our conclusions, he can submit for sanction a Regulation, under 33 Vict., Cap. 3, Section 1, to give effect to them.

We have the honour to be,

MY LORD,

Your Lordship's most obedient, humble Servants,

DUFFERIN.

F. S. ROBERTS.

C. P. ILBERT.

S. C. BAYLEY.

T. C. HOPE.

A. COLVIN.

O. R. NEWMARCH.

LIST OF ENCLOSURES.

Letter from the Government of Bengal, No. 186, dated 9th December 1885, and enclosures.

Letter from the Chief Commissioner of Assam, No. 100, dated 20th January 1886, and enclosures.

File No. 23.
Serial No. 8.

1892.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

EMIGRATION.

No. 13, dated Simla, the 11th July 1892.

(Copy.)

Letter to Her Majesty's Secretary of State for India.

Subject ——

Forwards with remarks the reports received from the Government of Bengal and the Chief Commissioner of Assam on the working of Act I of 1882 (Inland Emigration to Assam).

India Office,
London, 11th February 1892.

Public (Emigrn.),
No. 13.

To His Excellency The Most Honourable The Governor General of India in Council.

Emigration to Assam; as to the working of Act I. of 1882 and Act XIII. of 1859.

My Lord Marquis,

I have considered in Council your letter, No. 77, of 5th October 1891, together with its enclosures, dealing with the working of Act I. of 1882, which regulates the emigration of labourers from Bengal and the North-West Provinces into Assam, and the conditions under which they labour after arrival in that province.

2. I desire to acknowledge at the outset the completeness of your inquiry, and am gratified to learn that on the whole the system works satisfactorily, and that the emigrant is generally well cared for and prosperous. I concur in your view that emigration from the congested districts of Southern India to a province where there is an energetic demand, both on tea gardens and on virgin soil, for additional labour, is to be encouraged. I notice, however, the unanimity with which not only your Government, but all the higher authorities consulted, recognize that the penal labour law of Assam, though necessary under existing conditions, is out of harmony with the general principles of legislation accepted by civilized Governments; and your view that all amendments of the law should be directed to facilitating the dispense or abolition of the system of penal contract on which it rests has my approval. I regret, however, that your inquiries have not placed you in a position to propose any very decisive step in this direction on the present occasion.

3. Your letter brings into prominence the two serious blots which accompany the working of the existing system,—first, the excessive mortality, both on the way up to Assam and also on the gardens,—a mortality which was not less at the end of the last decade than it was at the beginning; and, secondly, the malpractices connected with the recruiting system in Bengal, which seem to have their origin in the high price paid by planters for

coolies under long contracts, over and above the actual cost of bringing them into Assam.

4. With the first of these evils you deal in paragraph 7 of your letter, and your proposals are more fully explained in paragraphs 9, 31, and 32 of your enclosed letter to the Chief Commissioner of Assam. You propose to provide, if the Assam Government agree, that should any employer require a medical certificate as to a labourer's fitness to labour, the Superintendent shall not permit the labourer to execute a contract until such certificate has been obtained. To this I see no objection. You also very rightly propose to amend Sections 128 and 130 of the Act, so as to give greater power of initiative to the local authorities in dealing with unhealthy gardens. It is clear, however, from page 23 of Mr. Quinton's Report that even those gardens which prefer to accept contracts under Act XIII of 1859 for any large proportion of their labour force, the protection which those sections contemplate is very materially weakened. As I gather from that Report, no less than [illegible] paragraph 32 of your letter to the Chief Commissioner of Assam that the sections, even as they stand, are not very strictly and universally enforced. Your view*, that "unhealthy gardens require to be urgently dealt with, and that Managers should clearly understand that failure to preserve their labourers in health will disentitle them to all the benefits of the Act," has my full concurrence, and I shall be glad to learn that you have found a satisfactory method of bringing pressure to bear on the owners of unhealthy gardens.

5. In connection with this subject, I desire to be informed of the decision you may ultimately arrive at regarding the proposal of the Government of Bengal (discussed in paragraph 6 of your letter to that Government) to amalgamate the Bengal Act I of 1859 and your amendments of that Act of 1882. Although the Bengal Act provides some [illegible] of sending coolies over the journey of one [illegible] labourers on their way to Dibrugarh, and the extension to the Assamese route will further assist the planters, it appears from paragraph 11 of the Bengal letter of 26th August 1882, that that Act still retains much to be desired, and which it is contemplating to the removal of [illegible] executive, being incident upon [illegible] objective over the liberty of free-labour [illegible] from the district of recruitment to Dibrugarh.

6. In regard to the [illegible] connected with the system of recruitment by unlicensed contractors (the *arkati* system), it is clear, though I observe that you look upon the evil as less serious than the Bengal authorities represent it to be, that the [illegible] is one [illegible] adult with or [illegible] minor. You have [illegible] and [illegible] the Lieutenant-Governor of Bengal to [illegible] a system of initial registration [illegible] the duty of

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* Paragraph 33 of the letter to Assam.

recruitment, and to restrict contracts under Sections 111 and 112 of the Act to persons who have already lived for two years in Assam. You consider that a system of initial registration, besides being dilatory and expensive and contrary to the principle of free emigration which you desire to encourage, would fail to secure the desired protection against fraudulent or forcible crimping, and you think that there are insuperable difficulties in the way of discriminating between new emigrants and those who have been for over two years in the province of Assam.

7. While I accept, not without hesitation, your decision as to the proposed remedy, I cannot doubt the reality and serious nature of the evils described in paragraphs 21 and 22 of Mr. Nolan's letter, and in the reports appended to it; nor do I doubt that strong measures are required to amend the existing state of things. The conditions of the remote and backward districts of Chutia-Nagpur and the Sonthal Parganahs, from which these complaints come, together with the absence of registration, offer reasons for not measuring the gravity of the evil by the frequency of convictions; and the offences are of a kind which must inevitably create ill feeling, and tend to jeopardize the continuance of the emigration system which it is your object to promote.

8. I await a further communication from you on the subject of the precise measures you propose to take in the direction of strengthening executive action in the recruiting districts. Whether legislation may not still be found to be necessary appears to me somewhat doubtful.

9. As you have decided not to make any very material alterations in the existing system, I need notice but briefly some of the more important amendments you propose to introduce in the working of the system. Of these the principal is the restriction of contracts under the Act to three years instead of maintaining the existing maximum term of five years. The extension of the term to five years by the Act of 1882 was regarded by my predecessor with much misgiving. The chance has, by raising the value of the coolie to the planter, greatly increased the temptation to malpractices on the part of the recruiter; and it is a significant fact that the five years term of contract has, as you observe,* only taken root among labourers recruited under the *arkati* system, and placed under contract at Dhubri. Under other systems the shorter term prevails, and I have no doubt that you are right in reverting to the former maximum of three years.

* Para. 16 of letter to Assam.

10. You propose also, while maintaining the applicability of Act I. of 1882 to local and time-expired labourers, to limit (should the Chief Commissioner of Assam see no objection) the term of

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contract under the Act in the case of such labourers to one year. The question is fully discussed in paragraph 19 of your letter to the Chief Commissioner, and as the proposal is a step in the direction of freeing this class of labour altogether from the penal contract system, and is in accordance with the prevailing state of things, I should regret if the difficulty anticipated by you in discriminating between the different classes of labourers were to render necessary its abandonment.

11. I approve of your proposal to maintain the existing system of executing contracts at Dhubri and to place it on a legal footing, restricting Section 111 to the actual labour district,* and allowing contracts to be executed under Section 112 at Dhubri, before the local officers. I also approve of provision being made for the repatriation of labourers from Dhubri as well as from the labour districts, both on account of ill health and of illegal or fraudulent settlement.

12. A further amendment which you propose is to strengthen the system of inspection throughout the province. I have carefully read the correspondence on this point, and I am of opinion that inspections should be made more systematic and more frequent than they are at present. The proposals contained in paragraphs 17, 18, 21 and 24 of your letter to the Chief Commissioner of Assam on these subjects have my full support.

13. There remain one or two points on which I cannot accept your recommendations with some doubt. The first of these is your decision to maintain Act XIII. of 1859 in force side by side with Act I. of 1882. The former Act was certainly necessary with any view to such contracts as those which now prevail in the gardens. Neither in its form nor in its system of penalties is it convenient adapted to contracts for labour on tea gardens; and on itself it provides no system of protection for the labourer such as that which Act I. of 1882 establishes as executive to the penalties which it enforces for breach of contract. You point out, however, that in practice it has come to be very generally used wherever circumstances enable the planter to dispense with the more stringent conditions of Act I. of 1882; that it is in fact, under-exept where desertion is feared, and that it is a stepping stone between the ordinary conditions of the special labour law of Assam and the system of free labour which prevails elsewhere, and which everyone is anxious to encourage. The absence of any provisions in the law giving protection to the labourer are in your opinion not felt in practice, because Act I. of 1882 provides for inspection and inspectors have hitherto differed in enforcing Act XIII. copies the same advantages which are enjoyed by labourers under Act I. of 1882,—while the [illegible] many matters in connection therewith by Act I. of 1882, and this standard is, as a rule, adopted

Part 13 of letter to Assam.

by managers for their whole labour force, and is readily kept in view by inspecting officers. It is not clear to me how, if Act I. of 1882 falls, as you desire, into general disuse, the standard is to be maintained; and there is an obvious danger, should the Act of 1859 wholly supersede in any part of the country the Act of 1882, that the labour force will there be subject to a penal contract without receiving the protection which renders the special law defensible.

14. There seems, however, to be a general consensus of opinion in which you concur, that Act XIII. of 1859, though objectionable in principle, has hitherto been harmless and even beneficial in its practical operation. I will not, therefore, on the present occasion, interfere with your decision to retain it; but as its continued retention is not without serious prospective dangers, I desire that its operations may be no less carefully watched than that of Act I. of 1882.

15. Another point of detail, on which I am unable to accept your conclusion, is that discussed in paragraph 23 of your letter to the Chief Commissioner of Assam. I do not object to your proposal that the papers of the case, instead of the deserter personally, should be forwarded by the police officer to the magistrate; but I am not willing that the present restriction, prohibiting the arrest without warrant of a deserting labourer within five miles of a magistrate's office, should be abandoned. It is better that some few deserters should get away than that we should give any further extension to the wholly exceptional privilege of summary arrest which Act I. of 1882 allows to the planter, and which can only be justified on the ground of the paucity of magisterial courts, and the want of rapid means of communication which prevail in Assam.

16. The question of excluding individual estates from the Act, which is discussed in the 25th paragraph of your letter to the Commissioner of Assam is by no means free from difficulty,—a difficulty which is greatly complicated by the maintenance of Act XIII. of 1859. On the whole it seems to me that whatever advantages are to be obtained by withdrawing whole districts or subdivisions from the operation of the Act, will be obtained in proportion by withdrawing from it groups of gardens, or even individual gardens; and I do not see any reason why you should not, at all events, take power to do this under the amended Act, leaving the conditions under which you will exercise that power to be decided after receiving the representations of the local authorities.

17. I am glad, moreover, to observe that you contemplate withdrawing from the operation of the Act the whole district of Sylhet, as soon as the construction of the Chittagong-Assam Railway has

brought about a free and more rapid syste
communication.

18. In conclusion, I shall be glad to be info
when you will be in a position to submit the
Bill, embodying the various amendments with w
your letter deals.

I have the honour to be,

My Lord Marquis,

Your Lordship's most obedient humble Server

CROSS.

THE SECRETARY OF STATE FOR INDIA ON THE WORKING OF THE INLAND EMIGRATION ACT, 1882.

[Proceedings—No. 23.]

No. 102 Public (Emigration), dated India Office, London, the 4th November 1886. [*No. 23. File No. 23 of 1886. Serial No. 9.*

From—Her Majesty's Secretary of State for India,
To—The Government of India.

I HAVE considered in Council the letter of your Excellency in Council, No. 18, dated the 17th of July last, reporting your conclusions on the question of the working of the Inland Emigration Act of 1882, and forwarding papers relating to the subject.

2. The Marquis of Hartington, in his Despatch of the 17th of July 1882, in which he informed the Government of India that the Act 1 of 1882 would be left to its operation, expressed doubts as to the policy of extending the limit of the labour contract to five years, and directed that, at the end of three years, a special report on the working of the Act should be submitted to the Secretary of State, with a view of considering the possibility of abandoning all exceptional legislation respecting contracts of labour in the Indian tea districts.

3. In connection with the papers now forwarded, your Excellency in Council has, it appears, for some time had under your careful consideration the subject of the policy and operation of the Act; and you have arrived at the conclusion that, on the whole, it has worked well, and that, although in some minor points it may be susceptible of improvement, it is not desirable to undertake legislation for its amendment. You would, therefore, prefer to leave the Act as it is for some years to come, taking steps, however, as far as possible to introduce by executive order certain improvements in administration. These conclusions your Lordship in Council has adopted after consultation and in concurrence with the Lieutenant-Governor of Bengal and the Chief Commissioner of Assam.

4. I agree generally in the views of your Excellency in Council, being of opinion that it is clearly shown by the documents now before me, that the time has not yet arrived when, in the interests of the tea labourer any more than of the planter, it is possible to abandon the principle of exceptional legislation for emigration into Assam. Such legislation, however, should be considered as temporary only, and clearly ought not to be maintained any longer than is absolutely necessary for the protection of both the classes concerned; and I request that your Government will continue to watch narrowly the working of the Act, and that a further special report upon it may be submitted to the Secretary of State after the lapse of another period of three years, or at an earlier date if it should appear that circumstances have so altered as to make it possible or desirable to repeal or amend the Act.

5. It is pointed out by your Excellency in Council that, concurrently with the emigration law governing the importation of labour into Assam, there has existed for many years in that province the Masters and Workmen's Act, XIII of 1859. There is, in your opinion, reason to doubt the legality of the application of that Act to the Province of Assam, and to contracts such as those entered into by garden labourers; and you propose to consult the Chief Commissioner as to the expediency of rendering the Act inapplicable to *such contracts* for labour as can be more properly entered into under Act I of 1882. I concur in the view taken by your Lordship, and approve of your proposal. Should the enquiries instituted leave your opinion in this matter unchanged, I have no objection to your taking steps for the repeal of the Act so far as regards contracts entered into by garden labourers.

10 16 2313 7317

No. 931
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FROM

J. W. R. MACKENZIE, Esq., C.S.,
Under-Secretary to the Government of India,

To

The Secy to the Govt. of Madras.

Simla, the 9 (10) May *1892.*

Revenue and Agricultural Department.
(Emigration)

SIR,

In forwarding for the information of His Excellency the Governor in Council the accompanying Memorial received from the Government of India from the Wynaad Planters' Association on the subject of the administration of Act XIII of 1859 in Southern India, I am directed to request that His Excellency the Governor General in Council may be favored with a report and expression of opinion by the Government of Madras on the points brought to notice in the Memorial; and that the petitionists may be informed that they ought to have submitted the petition through the Local Government.

2. I am at this opportunity to forward

Despatch to Secy. of State No. 1 dated 17th July 1886. " from " " " 102 " 4th Novr. 1886. Circular of the Chief Comr. Asso. 43 dated 30th May 1889. Despatch to Secretary of State " dated 7th Oct. '91. " from " " " 11 " Feby. 1892.	} confidentially for the information of

His Excellency the Governor in Council a copy of the correspondence noted on the margin regarding the working

working of Act I of 1873 in
Assam, in which the questio
XIII of 1869 in that Provin

districts of
orking of Act
lealt with.

I
onour to be,
Sir,
Your most obedient servant,

Secretary.

No.

Department.

Dated

1894.

FOR ORDERS.

(Zanzibar)

Contracts between Plaudes

and Cortes

CHIEF SECRETARIAT
MADRAS

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper :—

further consideration
necessary.

27 May.

From

Note for Mr. Peel

Instead of the last part of Mr. Secretary Hobart's draft letter beginning "The Complaints that Planters residing in Mysore" it is proposed to substitute the following which appears to represent the intentions of Mr. Secretary Hobart:—

"The complaint that Planters residing "in Mysore cannot obtain Grants "against defaulters in Cochin "India is not without weight. "Special arrangements have been "made for the levies of Revenues "ceased under Act XIII of 1809 in "the Mysore State as reported in "Capt. Mapel's letter of the [illegible] "dated the 9th June 1811 and "it is the Hon. the Court's wish "that no objection to make similar "arrangements for the [illegible] "levies of Revenues ceased under "any Mysore Settlement under "Regulations to Act XIII 1793 "which may be made hereafter "[illegible] "provided it be [illegible] "practicable so to do without rational "objection. If any such case "should occur it should be referred to the "Board of Commissioners for Mysore "Affairs; who in C. would refer "the proposal if deemed expedient "to the Supreme Government "[illegible] "[illegible] "Bengal Regulations relative "to Mysore. Mr. [illegible] "C. also considers that regular "arrangements for the future

I think the hon. M^r Gaselee's suggestion
of the case thoroughly. It would
only require a convention between the
two Governments to appoint three medical
persons in case disputes should arise
between the two Governments
as to the cause of death. For
my own part I see no objection
to such a course being adopted
if it should be found necessary
in practice. It does not seem difficult
to frame rules for the guidance
of the medical persons so appointed
which should be binding on them
and which would meet the objection
raised by the hon. M^r Gaselee
that the Government of the country
in which the death occurred would
not be bound by the finding
of the medical persons appointed
by the two Governments.

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I

CONFIDENTIAL

Just &c
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10- 8- 7 2.
Mr Allen

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Sec. 1. of the Act says down that "the magistrate shall issue summons or a warrant" as he thinks proper. A bailable warrant, I understand, is now issued which runs in Bijapur, on payment of a fee to the Bijapur Government, under a formal arrangement with that Govt. and as a matter of fact warrants are in almost all cases issued, as the service of summons is a process liable to almost invariably disregarded.

Therefore when I wrote "service of process" I meant to include service of bailable warrants.

16/Feb

Ca. Point to be considered by Committee of process as summons or warrant should be issued

2/7/12

(1)

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