

(1) பக்கங்களின் எண்ணிக்கை

(2) புதுக்கித நிறுவன நாள

(3) ஆதாரக் குறிப்பவர் சுருக்கக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

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ண்டப்பு கையாளவோ கூடாது.

17TH JUNE 1893, No. 1238, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following papers:—

G.O., dated 10th August 1892, Mis. No. 1457, Judicial.
" " 19th December 1892, Mis. No. 2352, Judicial.

READ—also the following letter from Sir E. C. BUCK, Kt., c.s.i., Secretary to the Government of India (Revenue and Agricultural Department—Emigration), to the Chief Secretary to the Government of Madras, dated Simla, 19th May 1893, No. 1206—40.

I am directed to reply to your letter No. 1458, Judicial, of the 10th August 1892, reporting on a memorial from certain planters in the South of India regarding the administration of Act XIII of 1859.

2. The requests put forward by the memorialists have been carefully and fully dealt with by the Government of Madras, and I am to say that, in view of the opinions already expressed both by the Government of India and Her Majesty's Secretary of State in the despatches marginally noted

No. 77, dated 5th October 1891. regarding the operation of Act XIII of 1859, His Excellency the Governor-General in Council is unable to agree to

any extension or amendment of its provisions in the manner suggested in clauses I, II, III and V of paragraph 4 of the memorial.

3. To meet the difficulty noticed in clause IV there is no objection to the issue of orders, as proposed in your letter, for the transfer of the execution of processes under the Act from revenue peons to the police.

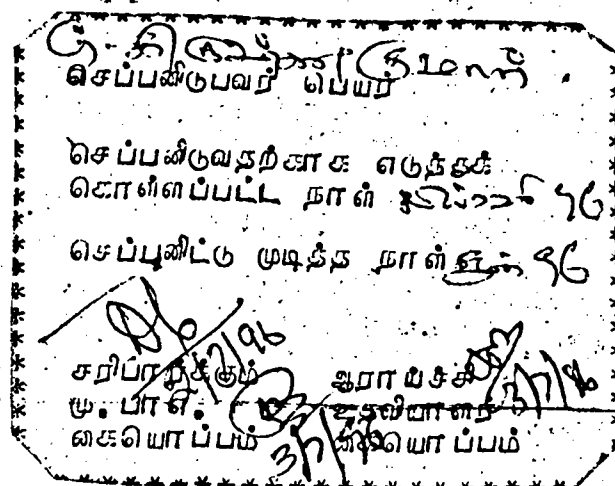
4. With regard to extradition it is suggested in your letter that, in order to meet the wants of the memorialists, arrangements may be made for the reciprocal service of summonses and bailable warrants under the Act. The Government of India are, however, of opinion that grave inconvenience is likely to arise if the states mentioned in your letter are exceptionally treated in the matter of extradition, and they would in any case be averse to the introduction of the proposed concessions in connection with mere breaches of contract falling under Act XIII of 1859.

ORDER—dated 17th June 1893, No. 1238, Judicial.

The foregoing letter from the Government of India will be communicated to the Wynaad Planters' Association for information.

2. The duty of executing processes issued under Act XIII of 1859 should in future be performed by the Police. The Inspector-General of Police and all District Magistrates will issue the necessary instructions on the matter.

3. It has been brought to the notice of Government that warrants issued under Act XIII of 1859 are cancelled after the expiration of fifteen days if the defaulter is not found and that additional fees are demanded if fresh warrants are applied for. This practice, if it exists, is objectionable and should be put a stop to.



4. With reference to paragraph 1 of G.O., dated 19th December 1892, No. 2352, the Chairman of the Travancore Planters' Association will be informed that this Government is unable to take the desired steps in respect of the service and execution of summonses and warrants.

5. The letter from the Government of India will also be laid on the Editors' Table.

(True Extract.)

Chief Secretary.

To the Honorary Secretary, Wynaad Planters' Association.
„ the Inspector-General of Police.
„ all District Magistrates.
„ the Revenue Department.
„ the Chairman, Travancore Planters' Association (para. 4).
Editors' Table.

Exd. A. Grubert.

Govt. of (1893) Madras.
JUDICIAL.

Issued

Recd.

Encl.

G.O., 17th June 1893, No. 1238.

JUNE.

Act XIII of 1859.

Communicating to the Wynaad Planters' Association, for information, letter from the Government of India declining to extend or amend the provisions of — in the manner suggested in their memorial; directing the Inspector-General of Police and all District Magistrates to issue the necessary instructions for the duty of executing processes issued under the Act being performed by the Police; that the practice of demanding additional fees for fresh warrants issued under the Act in certain cases be put a stop to; and that the Chairman, Travancore Planters' Association, be informed that the desired steps in respect of the service and execution of summonses and warrants cannot be taken.



NO. 7.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

EMIGRATION.

TO THE RIGHT HONOURABLE

VISCOUNT CROSS, B.,

Her Majesty's Secretary of State for India.

Simla, the 5th October 1891.

MY LORD,

IN our Despatch No. 11 (Emigration) of 22nd June 1889, we informed Your Lordship that a special comprehensive enquiry was being made into the working of the law relating to the emigration of labourers to Assam, and we promised a further communication on its conclusion. We have now received the reports of the Bengal Government and the Chief Commissioner of Assam, and, after giving them our full and careful consideration, we are in a position to place before Your Lordship our definite views regarding the amendment of the Act and improvement of the working of the law.

2. We ask permission briefly to remind Your Lordship of the circumstances which led up to this enquiry. When Act I of 1882, the law which now regulates the system of labour and immigration in Assam, was passed, Her Majesty's then Secretary of State, the Marquis of Salisbury, was apprehensive that the new law might operate injuriously to the labourer, partly on account of the extension of the maximum duration of the contract from three to five years, coupled with the provision of certain remedies in favour of the labourer against breaches of contract by the employer, and partly owing to the unhealthiness of the Assam tea-plantations, as evidenced by the annual returns of mortality. He directed that after three years a special report should be submitted with the view of considering the possibility of abandoning the system of labour in the tea-districts of Assam. The first special reports from Bengal and Assam were submitted with the Government of India's Despatch No. 18 of 1886; and in reply Your Lordship, while clearly intimating that such exceptional legislation could only be regarded as temporary and must not be maintained in the interests of both the classes concerned, expressed your concurrence with Lord Dufferin's Government that the time had not yet come when it could safely be abandoned in the interests either of the employer or of the labourer. At the same time Your Lordship desired that the working of the law should be narrowly watched, and a further special report submitted in the next year. Subsequently in 1888 certain serious defects in the working of the law were brought to our notice by the Bengal Government, the want of any provision in the law for the emigration carried on outside the terms of the Act, and the absence of such control had, in the first place, precluded the possibility of suitable arrangements

along the line of march for giving rise to sanitary evils epidemic disease and the imp in the second place, it was re malpractices in the recruitment provisional remedies, we autho ment for dealing with cases co the enactment of Bengal Act I to enforce sanitary regulations efficiently as in the case of the Local Government to pr require way-bills, and to fra transit, has materially streng ordinary criminal law, in the With these precautions we d able report of the working c a general amendment of the executive measures taken in been instituted under Sir D

* Enclosures I and II.

From the Secretary to the Gov Bengal, General Department, No. 142, August 1890.

From the Secretary to the Chief Com of Assam, No. 1373J, dated 16th April 18

reports of the District Officers personal enquiries during a c Quinton confirms the reports working of the labour system hand reports the continued f a retrogression on the policy officially controlled emigratic Bayley's conclusions, we inv been designated to succeed t previous experience in Assam writing his views on the s

† Enclosure III. Minute, dated 15th 1890, on the Amendment of Act I of 1882.

of the cold weather to and after full considerati the Bengal and Assam Gov points on which, as at pres

‡ Enclosures IV and V.

To the Secretary to the Government of General Department, No. 2039, dated 5 1891.

To the Chief Commissioner of Assam dated 5th October 1891.

We desire here to expr Quinton has deprived us of f who had mastered the intri the result of our conference paragraphs 27 and 35 of our sion of the sanitary provis exclusion of individual estat for further consideration, M

4. It is desirable at the legislation is maintained me vines from which the labo recruiting Provinces unde Provinces; and the pr districts, such as many i means of subsistence are tolerable comfort, or su

comfort of the emigrants, thus nature involving the constant risk of mola to the Assam plantations; and s having left an opening for abuses and labourers conveyed to that Province. As employment of a special Police establish with recruitment, and we also sanctioned which not only empowers the authorities of free or privately assisted emigration as conducted under the Act, but by enabling es and halting-places for free emigrants, to medical examination and inspection in hands of local officers, acting under the and prevention of abuses in recruitment. view of the Chief Commissioner's favour in Assam, to defer the consideration of o await the results of the more active l the completion of the enquiry which had trick's orders in Assam.

3. We have now the honour to forward e special reports* received from Bengal id Assam. The Assam report has been epared on the lines indicated by Sir D. tpatrick, and is the outcome of the id supplemented by the late Mr. Quinton's tour mainly devoted to this purpose. Mr. ecessors as to the generally satisfactory . The Bengal Government on the other of abuses in recruitment and recommends 1882, and a return to the former system of gre not altogether satisfied with Sir Stuart n colleague, Sir Charles Elliott, who had tenant-Governorship of Bengal, and whose special value to his opinion, to place in id he has recorded the Minute† which orms Enclosure III to this Despatch. Subsequently we took advantage of Mr. Quinton's visit to Calcutta at the close ference with him on the entire question, e materials before us, we have addressed n reply to their reports, indicating the l, we are prepared to amend the Act and hose in regard to which we consider more ficient executive action to be called for. pies of these letters are enclosed for ur Lordship's information.‡

egret that the lamentable death of Mr. d assistance of a Chief Commissioner difficult question; but we may add as in regard to the matters dealt with in Chief Commissioner of Assam (exten- I of 1882 to non-Act labourers, and operation of the Act) which he reserved as ready to accept all our conclusions.

iard against the supposition that special nterests of the tea-industry. The Pro tea-gardens is mainly drawn, known as the law, are Bengal and the North-Western ating areas are either densely-inhabited e North-Western Provinces, where the the support of the entire population in ata Nagpore, where, though population

relatively to area does not appear ex. s are extremely low and the labouring classes are unable without by emigration to obtain a decent livelihood. The Lieutenant-Go Bengal in his special report informs us that Rs. 20 represent seven s' wages for an able-bodied man in Chota Nagpore, and that from a l antecedent to the commence- ment of labour legislation the labouring s of this locality have looked to emigration to Assam as a means of im ing their condition. We invite attention in this connection to the enquir the economic condition of the lower classes of the agricultural pop on made by this Government in 1887-88, the results of which were re d with our Despatch, No. 3 (Famine), dated 30th October 1888. Your dship will there find an account of the tendency towards poverty and pressuring the landless and labouring classes in certain areas which it has been our lfast endeavour to counteract by emigration. During the recent scarcity in C, and in the adjacent districts of Madras there was a sudden developm of emigration to Assam from Ganjam and Vizagapatam, and the Madras vernment asked us to legislate with a view to extending the recruitment psions of Act I of 1882 to that Presidency; and a similar application, asse to by the Local Administra- tion, has recently been made on behalf of the industry for the extension of the Act to the Central Provinces, which are idy used as a recruiting field. It has been the settled policy of this Governt to promote emigration from areas which are over-populated and liab famine to others enjoying more favourable conditions; and the importati immigrants to Assam at the expense of persons interested in the tustry has done much towards opening and colonizing the fertile but sparseloped districts of the North-Easterntier.*

* Section 13 and page 164 of the Assam Report.

5. The condition of the immigrant labo on the Assam plantations is described as follows by the Chief Commissi -

"On a tea-garden the immigrants get the b of house-accommodation, water-supply and other sanitary arrangements and me atment and diet if sick: in addition to this they are entitled to wages at the mi rate of Rs. 5 per man and Rs. 4 per woman, which can be earned by the perform of tasks which from all the available evidence, official and non-official, appear to be moe and reasonable. A family consisting of a man, a woman and a working child can at difficulty earn Rs. 10 per month between them; if healthy and industrious, they ca many gardens for eight or nine months of the year earn Rs. 20: incomes beyond each of the labouring classes in the recruiting districts. The ordinary garden coolie is of getting a sufficiency of food and yet being able to save. He can before the exp the first term of his contract embark upon many occupations in addition to his garden-ur, which add to his income and enable him to increase his savings. Within a fears of the expiry of his first term of contract, he may, if hard working and thrifty, saved enough to be in a position to give up tea-garden work altogether. If he wio settle down to cultivation, there is abundance of land to be had for the trouble of cig the jungle, which under recent orders he can obtain rent-free for three years; anre are numerous non-agricultural occupations in which natives of the Province do any considerable extent engage, to which the immigrant can settle down, and fromch he can earn a livelihood with little fear of over-competition."

These remarks apply, primarily at least tea-coolies who have entered into engagements under the Act. We see no reao doubt that their condition is on the whole prosperous and happy. Wages ar to be fair and tasks moderate. We notice that the wages earned by Act (cot) labourers are less than those earned by Non-Act coolies, but this result is buted partly to the preponderance among the former class of recent imptions—less efficient as workers and unable to perform their tasks with the dity of more experienced hands, who commonly earn extra remuneration by cwork—and partly to the more remunerative kinds of work and positions ust being allotted to old hands, among whom the latter class preponderate. also a fact that the class of Act labourers contains a large proportion of unacitized coolies, who are naturally more liable to sickness than the others; and pears to be the practice on many gardens to re-engage old hands outside the on the expiration of their contracts at a higher rate of wages than those i to newly imported contract labourers—an arrangement which cannot bearded as inequitable seeing that

the latter have mortgaged the land. There is no indication of wages, points which have evidence that the labourers on engaging in private occupation to their earnings from tea-gardens the position of the tea-labourer as of agricultural labourers, to but who are allowed considerable to follow other occupations. of his report the Chief Commissioner remarks that lateral means of livelihood and poultry, or petty trading, particularly by coolies on certain estates, the result must be to lower the avocations makes the coolie considering the monthly wages in tea-gardens there are coolies working during the month, and wages; and the inclusion of it to an amount below what it is with fair regularity. We are of view of the health and prospects of the estate, arising from the emigration.

• Paragraph 155 (pages 223, 224) of the Report.

brought to bear on employers above the strength actually required of coolies, except perhaps during the busiest season, being freely allowed leave or to take a short interval of rest.

6. The relations between employers and the treatment of immigrants on the whole fair and consistent. The growing popularity of Assam has great importance to the independence gained by the immigrants the classes in over-crowded districts groundlessness of the misrepresentation made by a certain section of the poor of other Provinces from their lot by emigrating to Assam. We invite Your Lordship's attention to the remarks of the Reverend Mr. Heberlet, the Reverend Isaac Row, and Reverend K. S. MacDonald, quoted in the 160th paragraph and the 27th of the Assam Report.

The allegations which had been made in certain quarters regarding the habitual use of the cane on tea-plantations of the illegal confinement of coolies by their employers have been specially ascertained to be without foundation.

† Paragraph 163 (pages 238, 240) of the Report.

factory relations between employers and employed, is discussed in detail in the 22nd section of the Assam Report. We do not think that the desertions from tea-gardens can be taken as indications of discontent or ill-treatment generally, because they are chiefly confined to the year or so of the coolies' residence in Assam before they have settled down to new conditions of life, and also because desertions in most cases merely involve a change from one tea-garden to another—often under the influence of emigration—and not an entire relinquishment of tea-garden labour.

7. Against the advantages of emigration to Assam must be set off the drawback of high mortality. Reference to the objection taken to the Act on this ground by Lord Hartington in 1882, we are glad to inform Your Lordship that during the operation of the present Act a marked diminution has

been observed for the cost of their importation. severity of the tasks or lowering of wages, points which have been enquired into; but there is good evidence that the labourers on engaging in private occupation to their earnings from tea-gardens the position of the tea-labourer as of agricultural labourers, to but who are allowed considerable to follow other occupations. of his report the Chief Commissioner remarks that lateral means of livelihood and poultry, or petty trading, particularly by coolies on certain estates, the result must be to lower the avocations makes the coolie considering the monthly wages in tea-gardens there are coolies working during the month, and wages; and the inclusion of it to an amount below what it is with fair regularity. We are of view of the health and prospects of the estate, arising from the emigration.

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taken place in the total mortality on tea-plantations. For the six years preceding the introduction of the Act (owing to alterations in the system of reporting earlier figures are not reliable for purposes of comparison) the average death-rate was 47.6 per mille, while for the nine following years it was 39.0 per mille.*

The mortality in 1880 and 1881 was exceptionally low, but allowing for fluctuations from year to year, there can be no question that since the introduction of the present Act there has been a very substantial change for the better. There are unfortunately no means of comparing the tea-garden death-rate with that of the labouring classes in the recruiting districts, as the recorded statistics of mortality among the general population are unreliable, particularly in Bengal, owing to defective registration; but from the figures and remarks in the 188th paragraph of the Assam Report it will be seen that the registration of deaths on tea-gardens is far more complete and accurate than the registration elsewhere, and that the garden death-rate is not really so much in excess of the actual death-rate of an ordinary Indian village as would at first sight appear from a comparison of the recorded statistics.

We do not however deny that the tea-garden death-rate is appreciably higher than that of the general population. Experience has shown beyond a doubt that the garden mortality rises and falls *pari passu* with importations, and the returns are swelled beyond those of the general population by the deaths of new and unacclimatized coolies. There are, however, circumstances which lead us to expect more favourable results in future. The reduction in mortality already effected is to a considerable extent the result of sanitary improvements on tea-estates. The Chief Commissioner reports that the sanitary condition of a tea-garden is even now far superior to that of an Indian village, that improvements are being annually made, and that the medical staff of tea gardens is being gradually strengthened by the appointment of more competent native doctors and an increase in the number of supervising European medical officers. It is pointed out that in the matter of medical attendance, employers

have gone far beyond the requirements of the law and rules.† From the 181st and 182nd paragraphs of the Assam Report it will be seen that the excess mortality on tea-estates over that of the general population is to a large extent due to the ravages of cholera, and this disease does not ordinarily originate within the Province, but is contracted by new emigrants before reaching Assam in their journey through infected or endemic areas, and brought up to tea-plantations. The want of sanitary control along the emigrant routes has contributed largely towards this result in former years; and we feel justified in anticipating that the sanitary regulations which are now enforced in Bengal under Act I of 1889, and which have quite recently been put in force in the Surma Valley, will go far to mitigate this cause of mortality. The transit arrangements in the Assam Valley, described in the 10th section of the Assam Report, are already complete and satisfactory, and the increasing use of steamers in preference to country boats for the conveyance of emigrants to Sylhet and Cachar will greatly facilitate sanitary supervision in the Surma Valley. A further reduction of mortality may be expected from the recent discovery of the efficacy of the "thymol" treatment in cases of *beri-beri* or "anæmia of coolies," which has hitherto directly or indirectly been the cause of a large proportion of the deaths on tea-estates.‡

At the same time we observe with great regret that the mortality among new immigrants during the first year or two of their acclimatization in Assam is still lamentably high. This is partly due to the greater prevalence of cholera and *beri-beri* among them, but chiefly to the change of climate, food, water and conditions of life undergone by the immigrants, coupled with the fact that many of the importations in late years have consisted of coolies, imported chiefly through contractors, physically unfit to stand the climate and work. We propose to amend the Act so as to enable the Government in all cases to require a

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	Before the Act.		After the Act.
* 1876	51.1	1882	37.8
1877	50.9	1883	41.3
1878	66.1	1884	43.2
1879	50.9	1885	36.8
1880	35.2	1886	39.8
1881	31.7	1887	36.2
		1888	39.8
Average	47.6	1889	41.8
		1890	34.3
		Average	39.0

† Paragraph 168 (page 248) of the Assam Report.

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‡ Paragraph 183 (pages 267, 271) of the Assam Report.

certificate of physical fitness before consulting the Chief Commissioner to prevent the employment of coolies known or believed to be unhealthy. But by whatever means we may remove the preventable causes, we fear that the mortality among new immigrants arising from the change to the unaccustomed and (to them) unhealthy climate of Assam must continue to be high for years to come, till the country has been more opened out by cultivation than at present. This exceptional liability to sickness and death during the earlier stages of acclimatization was recognized both by Sir D. Fitzpatrick and by Mr. Quinton as one of the necessary evils of the emigration system which must be accepted along with its advantages; and we agree with these authorities in thinking that it is more than compensated by the latter.

The high mortality among children and the low birth-rate on tea-estates had been brought unfavourably to our notice. The statistics do not show that the death-rate among children is excessive as compared with the ordinary death-rate of Indian children. The birth-rate calculated on the total population must, as pointed out by the Chief Commissioner, necessarily be low on tea-estates, considering the large preponderance of male over female coolies; but even as calculated on the total strength of adult women, it appears to have been falling since the introduction of the Act. The average percentage struck on the strength of adult women for the six years preceding the introduction of the Act is 11.41, and for the next nine years 10.89.

	Before the Act.		After the Act.
1876	16.07	1882	13.31
1877	10.13	1883	11.04
1878	10.13	1884	11.32
1879	8.82	1885	11.51
1880	10.43	1886	10.29
1881	12.58	1887	10.02
		1888	10.32
		1889	10.39
		1890	8.98
Average	11.36	Average	10.89

Bengal towns. We do not think that the birth-rate among tea-labourers generally is so low as to give grounds for apprehension; but we have asked the Chief Commissioner to direct greater attention to the preparation and scrutiny of the record of births on tea-estates.

On the whole, therefore, looking to the gradual opening out and decreasing unhealthiness of the country, the progress of sanitary improvements on tea-gardens, the strengthening of the medical staff, the measures taken for the prevention of the introduction of cholera, and the cure of *beri-beri*, the gradual increase in the labour-force relatively to the work required, and the action it is now proposed to take to prevent the importation of unfit labourers and the employment of new arrivals on unhealthy sites, we have every reason to hope that the reduction in mortality which has followed the introduction of the Act of 1882 will at least be continued.

8. As regards the legal status of the labourer, the incidents of the contract, so far as they bear against him, are of a two-fold character. There are, first, the penalties against minor breaches of contract, such as idleness or wilful neglect of work or disregard of sanitary regulations, and the provisions (sections 121, 170 of the Act) for prolonging the term of the contract in the event of the labourer's absence from work owing to sickness or other causes. Secondly, there is the punishment for desertion from service, and the summary power, under certain safeguards, conferred on the employer of arresting deserters. The minor penalties were in certain respects made more stringent by the Act of 1882; and it was doubtless the possibility of these being abused by the employer which led Lord Hartington to direct that a record should be kept and returns submitted to the Secretary of State of punishments under the Act inflicted on contract labourers by the Criminal Courts.

† Despatch No. 7 (Legislative), dated 6th 1882.

From the first statement in the paragraph of the Assam Report, Your

Lordship will observe that punishments under the Act, except for the offence of desertion, are extremely rare; and in the 107th and 108th paragraphs the Chief Commissioner shows in detail, district by district, that the powers conferred on employers to procure an extension of the period of the labour-contract in the event of the labourer's absence from work, though they serve a useful purpose in enabling a manager to control his labour-force and prevent idleness, have only been taken advantage of in very exceptional cases. There remain the penalties for desertion, under which the labourer is compelled to fulfil his part of the contract, and in return for which corresponding obligations are imposed on the employer. The latter entitle a labourer to a fair minimum wage, food at reasonable contract rates, free house-accommodation, and free medical attendance and comforts. There are special provisions for his protection against over-work or ill-treatment, for the realization of his wages, for the cancelment of his contract in cases of ill-treatment, for his dieting or subsistence allowance if sick or weakly, for the suspension or cancelment of his contract if temporarily or permanently invalided, and in the latter case, if he desires it, for his repatriation to his native district. The employer is bound under criminal penalties to maintain registers of his labour-force, to submit returns, to undergo inspections, and to provide a suitable water-supply and other sanitary and medical arrangements. There are special provisions for dealing with and, if necessary, cancelling a labourer's obligation to labour on unhealthy gardens, and, generally speaking, all the circumstances which place the labourer in an unfavourable position are under the law subject to Government control. The penalties for desertion, first imposed by the Act of 1865 and continued in subsequent Acts, are the main consideration for which employers submit to these obligations; if they were removed or materially relaxed, the labourer would not have these advantages, and we agree with Sir Charles Elliott (see his remarks quoted in paragraph 20 of our letter to the Bengal Government) that in the present circumstances of the Province the result in that case would be decidedly detrimental to the condition of the great mass of the labour force.

9. In our Despatch No. 18 of the 17th July 1886 we pointed out to Your Lordship that side by side with the Emigration Law there existed in Assam, though of somewhat doubtful application, another labour Act, XIII of 1859, which provided none of these safeguards in protection of the labour-force, while owing to its vagueness it was capable of being worked in a manner harsh and inequitable to the labourer. We observed that one of the main objects of Act I of 1882 in establishing the local contract system had been to substitute for the unilateral contracts capable of enforcement under Act XIII of 1859 the more just and equitable provisions of the Act of 1832, which bind the employer as well as the labourer and enable the Government to exercise suitable supervision in protection of the labour-force. We expressed a regret that the latter Act, while providing a substitute for that of 1859, had not gone one step further and repealed it altogether, and we intimated our intention of calling upon the Chief Commissioner to report on the question of its repeal. Under our direction an enquiry was made in Assam during the cold weather of 1886-87 with a view to considering the possibility of repealing this Act so far as labour contracts on tea-gardens are concerned. Mr. Ward, then Officiating Chief Commissioner and now the permanent head of the Administration, in reporting the results of that enquiry, though he admitted the defects of the law in theory, found that as a matter of fact the Act did not operate harshly and expressed himself unreservedly in favour of its retention. We, however, decided that the question should be fully reconsidered in connection with the present general enquiry; and in the 18th section of the report now submitted the late Chief Commissioner has discussed in detail the information and statistics obtained during 1889-90. In paragraph 119 he sums up the arguments for and against our suggestion in the following terms:—

“From the above remarks the following general conclusions may be drawn on the working of Act XIII. Where it is used employers use it in preference to Act I, because (1) the expenses are less, (2) it involves less Government supervision and less trouble in the way of reports and returns. In the relations between employer and labourer, so far as the general treatment of the coolie is concerned, there is no distinction between Act I and Act XIII coolies. Act I regulates the standard of treatment on tea-gardens, and in practice it is found that Act XIII coolies receive the same treatment as Act I coolies with regard

to house-accommodation, food, sanitary arrangements, medical comforts, &c., with the difference perhaps that in some gardens in localities where rice is expensive, they are required, if they take rice from the garden, to pay the cost price, even if it should exceed the contract rate paid by Act I coolies. In very rare cases abuses have been observed in the working of Act XIII; such as the use of the Act to evade sanitary regulations, the possible separation of husband and wife, arising from the inability to redeem or cancel the contract, and, in a larger number of cases, the indefinite period of the contract as expressed in terms of days. Against such abuses there is no protection under any special law, but a material check can be exercised on them by the powers of inspection given by Act I and by the ordinary law, and by the discretion allowed to Magistrates by Act XIII itself. Section 114 of Act I empowers an Inspector to require the production of any labourers and other persons employed on an estate, and to make enquiries touching their condition and treatment. Act XIII is in itself a lenient law of penal contract. The employer has not the power of arrest without warrant; the Magistrate has a wide discretion as to the determination of what is a lawful or reasonable excuse for the non-performance of the contract within the meaning of Section 2 of the Act; if the Magistrate should be compelled on technical grounds only to find in favour of the employer and order the coolie's return to the garden, he has a further discretion as to the amount of imprisonment, nominal or substantial, to be inflicted for enforcing that order. When once a labourer has been sentenced to imprisonment, he is no longer liable to prosecution in respect of his Act XIII contract. The power of the employer over the labourer is less under Act XIII than Act I. These considerations tend to limit the application of Act XIII generally, (1) as regards the labourer, to labourers who can be relied upon not to desert, i.e., to old labourers; (2) as regards the garden, to gardens which can retain their labour under the less stringent law, i.e., to healthy and popular gardens. There are as a matter of fact less deaths, less desertions, less judicial punishments among Act XIII than among Act I coolies, and the former earn higher wages than the latter. There is no virtue in the Act itself which produces these results; the same results would follow if the classes of coolies now placed under Act XIII were placed under Act I; but the reasons explained above limit the application of the Act to coolies in whose case these good results are likely to happen, that is to say to old coolies, either natives of the district or immigrants who have been some years in the Province, have become acclimatized, and have learnt the conditions of garden life and garden work. Such coolies are aware of their rights and obligations under their contracts; they know they can appeal to the Inspector or Magistrate, and they are generally sufficiently able to take care of themselves. With this limited application, there is little chance of injustice being done to the coolie under Act XIII, and the statistics given in preceding paragraphs show that it has in practice worked well.

"Lastly, the existence and use of the Act have in Mr. Quinton's opinion given a considerable impetus to free or assisted immigration in the Surma Valley by holding out to the planter some security over that of the ordinary law for the expenses incurred in assisting the immigrant up or the loss undergone in supporting him when he is learning his work; and on the other hand it places the coolie in a position of considerably greater independence and enables him to exact his own terms more easily than his fellow-labourers bound by a contract under Act I of 1882 can do. It serves the purpose of a transitional stage from a strict penal contract to one enforceable only in the Civil Courts, and as such is, in the Chief Commissioner's opinion, smoothing the way for a result which all are anxious to reach."

We do not altogether abandon our objection to the principle of the Act of 1859, which admits of specific performance being enforced under a criminal penalty of a contract one-sided and possibly unfair to the labourer, without laying down any restriction as to its terms or mode of execution; but on the facts now before us we are content to allow the Act to stand on its present footing so long as the Courts administer it as a part of the ordinary law and employers understand that it is not to be regarded as a special Act parallel to Act I of 1882. However objectionable in principle, there is no doubt that in its practical operation this Act has been harmless and even beneficial. This is the conclusion deliberately arrived at by the three successive Chief Commissioners who have enquired into the matter since the proposal to exclude the Act from tea-estates was put forward in 1886. In the Assam Valley its use is almost entirely confined to healthy gardens* and to coolies who possess the confidence of their employers. These coolies earn good wages, their death-rate is low (2.27 per cent.) and their desertion rate still lower (0.85 per cent.). Similar results are noticeable in the Surma Valley, where the Act is very popular with employers and still more so with the labourers themselves, is extensively resorted to, and, on gardens which are developing towards free labour, is employed as an intermediate form of contract, less strict as regards the labourer than a contract under Act I of 1882, and affording greater protection to the employer than a

* Page 151 of the Assam Report.

contract only enforceable by a suit in a Civil Court. The safeguard in the working of the Act lies in its practical restriction to cases in which there is a likelihood of the continuance of satisfactory relations between employer and labourer. Prosecutions and convictions in the Criminal Courts are few, they are generally followed by an order for the performance of the contract which is acquiesced in by the coolie, and sentences of substantive punishment are very rare. It appears from the Assam Report that during the five years 1884—1888 only 120 coolies were actually sentenced to judicial punishment, the average annual proportion being about 4 to every 10,000 coolies under this Act. The apprehension that the Act would bind only the labourer under criminal penalties, while leaving the employer free from all the obligations towards his labourers which are enforced under Act I of 1882, has not in fact been realized. Theoretically the only provisions of the law under which supervision can be exercised over Act XIII labourers are sections 113 and 114 of Act I of 1882, which empower the Government to require return and carry out inspections; but it is reported that in practice there has been little difficulty in securing for Act XIII coolies the same advantages which are enjoyed by labourers under Act I of 1882. The only standard recognized by the law for the treatment of the labour-force is that sanctioned by the Act of 1882, and this standard is, as a rule, adopted by the sanitary matters and the general labour-force, and is steadily kept in view by the Act of 1882, and this for the whole of their immigrant inspecting officers in their visits to tea-estates. We are satisfied that the relations between employer and labourer and renders Government supervision possible, there is little likelihood of the Act of 1859 being inequitably worked. The results of the two enquiries show that, far from having been employed as an instrument for exacting unreasonable contracts, or being felt in practice to be harsh in its operation against the labourer, it has been used as a more lenient and popular penal contract law, from the labourer's point of view, than the Act of 1882. As such it is serving a useful purpose as a transitional stage between strict penal contracts and a system of civil contract under the ordinary law.

10. In the course of the discussions which have taken place in connection with the labour-system the question has been raised whether natives of India other than newly imported labourers—such as immigrants settled in Assam, or natives of that Province, or imported labourers whose original contract has expired by lapse of time—should any longer be permitted to enter into contracts under Act I of 1882 within the labour-districts, or whether they should not be left to make their own terms with employers under the ordinary law or under Act XIII of 1859 or some modification of the latter Act. On the one hand it is alleged that there is great danger of such contracts being obtained, and that in all probability they often are obtained, by undue influence, and it is urged that the considerations of public policy which justify the application of an exceptional law of penal contract in the case of newly imported labourers do not hold good in the case of those who are already in the Province. For the employer has not placed the latter under any obligation by defraying the expenses of their importation from a distant and over-populated district to more favourable conditions of life; or if he has done so, the obligation has been discharged by the service rendered by the labourers during the term of their original contracts. Nor has the employer furthered a public object by helping to reduce the population of an overstocked area or to add to the sparse population of Assam. On the other hand it is urged that if, in consideration of the correlative advantages which are secured by the contract and which could not be enforced except under the special law, it is permissible to allow Act contracts to be entered into with newly imported labourers who have had no experience of the country or of the life or work on tea-gardens, it must *a fortiori* be permissible and safe to allow such contracts in the case of old labourers who have been at least three years in the tea-districts, who are fully cognizant of the conditions of service and of their claims to protection by the authorities, and in whose case therefore there is little opening for deception or coercion in the renewal of engagements.

Although this question is not raised in the reports received either from the Bengal or Assam Governments, it occupied a prominent place in the discussions in the Bengal Legislative Council in 1870 and 1873, and we have not allowed it

to escape our attention. The first Act to regulate the labour-system on tea-plantations was Bengal Act VI of 1863. This Act permitted the renewal of his contract by a time-expired imported labourer in the presence of the District Magistrate for any period up to the maximum of three years then allowed by the law. For local coolies—natives of Assam and settled immigrants (then a comparatively small class)—Act XIII of 1859 was employed; for the Act of 1859 had at the time been extended to all the labour-districts of Assam except Sylhet, which was then relatively insignificant as a tea-district and has only attained its present importance since 1880. In the next labour Act, II (B.C.) of 1870, the provisions regarding the mode of renewing the contract were omitted, employers and time-expired labourers being left to contract with each other without the intervention of a public officer. But it was still deemed necessary to secure on behalf of imported labourers the sanitary and protective supervision of the Act, and with this view it was provided that all contracts entered into by such labourers, whether under the Act or otherwise, were, notwithstanding anything in the contract to the contrary, subject to the more important clauses of the Act applicable to labour-districts, such as prescribing criminal penalties for the enforcement of the contract in favour of the employer, and sanitary and protective provisions in favour of the labourer.* The sessions in Council show that the inter-

* Section 117 and sections 101-111 of Act II of 1870, B.C.

main consideration which was kept in view in framing these provisions was to secure to him the continuance of "all the advantages, such as hospital accommodation, rice, maximum and minimum hours of labour, like which he would have on first arriving in the labour-districts." The protection to the employer by way of criminal penalties followed as the correlative. When this Act came under revision in 1873 the conclusion arrived at after much discussion was that time-expired labourers should be left free to make their own terms, but should be forbidden to make a contract under the special Act, and the clauses sanctioning local contracts which had been entered in the draft Bill which subsequently became Act VII of 1873 (B.C.) were omitted. This course left employers with no special contract law for local labourers, and in consequence Act XIII of 1859 came to be applied to time-expired as well as to indigenous and settled immigrant coolies.

The results were far from satisfactory. In the first place, although the Act of 1859 must be regarded as a penal labour law, it contains no provision for the protection of the labourers; and we agree generally in the principle adopted by the Commission which prepared the Bill subsequently passed as Act I of 1882, that if a labourer is allowed to subject himself to a penal law the Administration "must compel the employer to provide for his wants, must secure him his wage, must protect him against overwork, and must shield him against ill-usage of all kinds." Act VII (B.C.) of 1873 restricted the supervision of the authorities to newly imported labourers on Act contracts, and the Government had no *locus standi* as the protector of coolies engaged within the labour-districts. In the second place, it has been forcibly pointed out by Sir Charles Elliott (see paragraph 8 of this despatch and paragraph 20 of our letter to the Bengal Government), that in the present circumstances of Assam no inducement short of permanence and solidity in the mutual relations of employers and labourers makes the interests of planters and coolies identical, or affords a sufficient motive to employers to incur much expenditure on the health and welfare of their labour force. Act XIII of 1859 contains no provisions specially directed against the desertion or enticement from one estate to another of labourers under contract, and the extent to which the practice of enticing and harbouring coolies contracted under this Act was carried on under the system established by Act VII (B.C.) of 1873 appears to have been disgraceful and demoralizing to the labour-system. Thirdly, the Act of 1859 was of somewhat doubtful applicability to contracts for tea-garden labour, and the Courts not unfrequently hesitated to administer it in such cases. Consequently, when the question of revising the labour law was raised in 1880, complaints were made by planters and for the most part supported by district officers as to the unsatisfactory working of the local labour-system. Two proposals were then put forward, the first being to bring local contracts into line with other labour-contracts in the Act which might take the place of Act VII (B.C.) of 1873; and the second to frame a special law on the model of Act XIII of 1859 suitable to labour-contracts on tea-estates. About the same

time the desirability of encouraging free emigration, by which we mean emigration conducted outside the official trammels of the Act, was prominently brought forward by the Bengal authorities, and the establishment of a system of local contracts, which free emigrants would be competent to execute on arrival in the labour-districts, was judged to be the most effective means of promoting this object.* It was essential that new emigrants should enjoy all the protection and privileges of Act labourers, and it was considered desirable that these should also be extended to local coolies. It was finally decided in the interests of uniformity that there should be only one system of contracts, which all classes of persons should be competent to enter into under the special law. This decision, so far as time-expired imported labourers were concerned, practically involved a return to the local contract system which had been in force under Act II (B.C.) of 1870. But whereas under the Act of 1870 it was compulsory on both employers and time-expired labourers to subject themselves to the obligations and protection of the special law, the Act of 1882 left it optional with them to do so or to contract under the ordinary law. Under the system of 1870 the contract might be a merely verbal one and no safe-guards were provided: the Act of 1882 required that it should be in writing and on stamped paper, that it should be submitted for registration in the Inspectors office within one month after execution, and that it should be verified by the production of the contracting labourer before that officer on his next visit to the estate.

* Paragraph 17 of this Despatch.

The decision arrived at was based on the following recommendations which had been made by Sir Stuart Bayley, the Chief Commissioner of Assam in 1880, and were fully concurred in by Sir Ashley Eden, then Lieutenant-Governor of Bengal (Paragraphs 35-37 of letter from the Chief Commissioner of Assam No. 2065, dated 28th October 1880):—

"Two suggestions for remedying this state of affairs have to be considered. One is to permit agreements entered into locally to carry with them all the incidents of agreements entered into under Act VII. This would give the labourer the same protection in regard to his habitation, medical treatment, minimum wages, cheap rice, regular payment, and periodical inspection as the Act gives to labourers under Act VII. It would on the other hand bring him under the penal sections of that Act in regard to absence from work and desertion; but if the maximum rate of wages and the minimum term of contract were left entirely unfettered by the law, the Chief Commissioner thinks this would involve no hardship. The time-expired labourer is fully aware of his own value, and would not enter into such a contract unless the duration of it, and the bonus, and the rate of wages were such as he thought suitable; and it is probable that while the contracts would remain, as at present, for one year, the other incidents of contracts under Act VII would be accepted by both parties. The competition for local labour is so keen that the gardens which offered contracts for one year instead of for a longer term would probably command the market, or if the labourer accepted the longer period, he would do so only in consideration of a proportionately larger bonus, and in such an arrangement he is quite able to take care of himself. In any case the Chief Commissioner would insist on all contracts being registered, and on their being for a specified period, not for the performance of so many daily tasks.

"The other remedy is to have a special local labour law for Assam apart from Act VII. It is suggested that such a law, or rather regulation under 33 Vict., Cap. 3, might be framed on the lines of Act XIII of 1859, including agreements made in consideration of a bonus as well as those made in consideration of an advance, provided that the bonus be substantial and not nominal; that in case of breach of the contract the law should give the Magistrate, not as in Act XIII the employer, power to decide whether the original contract should be performed or damages be given; that no prosecution should be permitted to be instituted after the expiry of six months from the cause of action accruing; that a contract to labour for a period not exceeding (say) three years should be expressly mentioned as one to which the Act is applicable; that a section analogous to section 28 of Act VII (B.C.) of 1873 should be included fixing a fine or imprisonment as the penalty for enticing away or harbouring coolies under such contract, and empowering Magistrates to sentence to one month's imprisonment coolies who, while under contract, engage elsewhere. It would also have to provide for periods of wilful absence or of imprisonment being added by endorsement to the term of the original contract and provision would have to be made for the recovery of fines.

"Of the two alternative remedies the Chief Commissioner prefers the former. The latter, while bringing equally severe pressure in the shape of penalties to bear on the coolie, omits to give him the correlative protection which he would obtain under Act VII; and it is moreover desirable in Sir Stuart Bayley's opinion to have one local labour law rather than two concurrent laws in force in the province at the same time."

11. The local contract system of Act I of 1832 has worked with very different results in the two great divisions of the labour-districts—the Surma Valley and the Assam Valley.* In the former local

* Paragraph 18 of this Despatch.

contracts are usually entered into with newly imported immigrants and more rarely with time-expired or local labourers. The statistics furnished in pages 112-116 of the Assam Report show that 16,560 such contracts were entered into in this valley during the three years 1886-1888, of which 11,740 or 70 per cent. were those of newly imported coolies, 4,754 or 28.6 per cent. of time-expired coolies and only 66 of indigenous coolies. In the Assam valley, on the other hand, excluding the contracts executed at Dhubri which stand on quite a different footing (see section 9 of the Assam Report), 38,772 such contracts were entered into in this period, 27,734 or 71.5 per cent. being those of time-expired labourers, 6,174 or 15.9 per cent. of local

Number and class of coolies contracting under Sections 111-112, Act of 1882.

SURMA VALLEY.

Newly imported coolies: 11,740 or 70 per cent.	One year: 1,011 or 24.1 per cent.
Time-expired coolies: 4,754 or 28.6 per cent.	Two years: 1,484 or 89 per cent.
Locally recruited coolies: 66 or 0.39 per cent.	Three: 0,771 or 65 per cent.
	Four: 5 or 0.08 per cent.
	Five: 179 or 1.08 per cent.

ASSAM VALLEY.

Newly imported coolies: 4,864 or 12.5 per cent.	One year: 2,079 or 51.7 per cent.
Time-expired coolies: 27,734 or 71.5 per cent.	Two years: 8,622 or 22.2 per cent.
Locally recruited coolies: 6,174 or 15.9 per cent.	Three: 6,319 or 21.4 per cent.
	Four: 119 or 0.8 per cent.
	Five: 144 or 0.7 per cent.

coolies, and only 4,864 or 12.5 per cent. of newly imported coolies: the last head would include many dependents of Act immigrants who are put under contract at Dhubri; their dependents would naturally on arrival at the garden enter into engagements for the same term as those on whom they depended, i.e. generally for 3 or 5 years. The periods of contract and the number and proportion of contracts for each period are noted on the margin. In the case of newly imported labourers the period of contract is usually not less than three years, as any shorter term would not repay to the employer the expense of assisting the labourer to emigrate. In the case of the vast majority of time-expired and local labourers the contracts are for shorter terms and are preceded by the payment of a bonus proportionate to the length of the engagement. In the Assam Valley more than half the entire number of engagements were for only one year, and nearly three-fourths for two years or less. In estimating the disabilities which these engagements impose upon the coolie, regard should be had to the provisions of section 142 of Act I of 1882, which permit a labourer to purchase his discharge from his contract. A one-year contract may be redeemed by the payment to the employer of Rs. 12, a sum not much, if at all, in excess of the bonus ordinarily paid to a man on entering into such contract, and a two-years' contract by the payment of Rs. 48, a sum which represents in many cases about double the amount of bonus received for entering into an engagement for this period.†

† Paragraphs 82 (page 101) and 83 (page 105) of the Assam Report.

The anticipation of Sir Stuart Bayley, that time-expired labourers would be found quite able to take care of themselves in making engagements, or at all events that they would not enter into contracts for periods longer than one year except in consideration of a proportionately larger bonus, has thus been realized in a very remarkable manner. The late Chief Commissioner judging from the experience of recent years fully endorsed this view. He observed that "the labourers concerned are well acquainted with the conditions of garden life and garden work, and understand their position under the Act; and there is little chance of their being induced or decoyed into entering into contracts which they are not willing to execute," and that "when the renewals are for long terms it is rather at the request of the coolie in consequence of his desire to obtain a larger bonus to meet some immediate want, such as to get married or to buy cattle with which to start cultivation."†

† Paragraphs 53 (page 65) and 100 (page 127) of the Assam Report.

We must not be understood as suggesting that no sort of pressure is ever put upon labourers, whose term is drawing to a close, to induce them to renew their engagements. But such pressure may be of a legitimate character or it may be improper and verging on coercion. In the former case there is no occasion for interference. After a careful examination of the papers before us, we have come

to the conclusion that anything approaching to coercion is a very uncommon occurrence, while such cases are likely to become rarer under the more stringent system of inspection which we have advocated in our letter to the Chief Commissioner of Assam. We see no reason to doubt that these old coolies are well aware of their rights and can easily resort to the local Magistrate if they have cause for complaint. But most of them have formed connections of some sort on the garden to which they have been attached for at least three years, and are willing enough to accept a reasonable bonus and remain among their friends.

12. The point which we now have under consideration is not the total abolition of the local contract system but its restriction to newly imported coolies. We apprehend that any attempt to restrict local contracts under the Act to particular classes of coolies determined with reference to their place of recruitment or the length of their residence in the Assam Province would be attended by great difficulties in its practical working. The settled immigrant population in the labour-districts is annually increasing; almost the entire labour-force of tea-gardens consists of immigrant coolies; and in the most important tea-districts—Sibsagar, Cachar, Lakhimpur—the immigrant classes number from one-third to a half of the total population. At the same time free or assisted emigration is being more largely resorted to and a beginning has been made in unassisted emigration. The free emigrants thus brought up enter into local contracts in the labour-districts. We fear that the difficulty of ascertaining in particular cases whether an immigrant has been only recently imported or not would either leave an opening for the evasion of the proposed restriction, or, on the other hand, if strict proof were required in each case that an immigrant who proposes to execute or has executed a local contract is really a new immigrant, that it would place serious hindrances in the way of the expansion of free emigration.

As regards the alternative question, whether a new law, based upon section 492 of the Penal Code* or Act XIII of 1859, and adapted to suit the requirements

* Appendix I to the Assam Report.

of tea-gardens might not be substituted for sections 111-112 of Act I of 1882, either generally or in respect of coolies other than new importations, we consider that the suggested change is open to the further objection that it would destroy that uniformity in the labour system which was thought so desirable in 1882. When once it is admitted that a special local contract law of some kind is required, we are of opinion that the necessity for uniformity still outweighs any consideration which has been advanced in favour of a change. Under the new law there would be different classes of coolies living and working side by side on the same estate under entirely different sorts of contracts, subject to different penalties and disabilities, and enjoying different rights as to sanitation and general treatment and different claims to protection by the authorities. Such a system could hardly fail to give rise to much administrative inconvenience in practice, and might also lead to a tendency on many gardens to be content with the lowest standard recognized by the law in sanitary and medical arrangements and the general treatment of the labour-force. Thus the authorities would not be in a position to prevent, as the lower standard would be expressly recognized by the law, and local and time-expired labourers would even be expressly debarred by law from coming under the protection and advantages of the higher standard. At present Act I of 1882 prescribes the standard for all gardens and for all classes of labourers. Act XIII of 1859, as has already been pointed out, is only suitable to a special class of cases. It is worked as a part of the ordinary law, it is wholly outside the special labour Act, and consequently it has not the same effect of introducing a variable standard as any special provision or other

† Paragraph 120 of the Assam Report.
Paragraph 41 of the Assam Circular of enquiry enclosed with Despatch No. 11 (Emigration) of 22nd June 1889.

form of contract embodied in the special law would have. We observe that Sir Stuart Bayley's objection to parallel laws and different standards was shared by the late Mr. Quinton and apparently also by Sir Dennis Fitzpatrick;† and it appears to us an objection of great weight.

For the reasons stated above we have decided not to make any essential change in those provisions of Act I of 1882 which permit both local and time-

Chapter III of the Act; (2) through uncertificated (or licensed) non-professional persons, known as garden-Sirdars, who are ordinary coolies sent down from the Assam gardens for this purpose, under Chapter IV of the Act; (3) through unlicensed professional suppliers, contractors, recruiters, &c., outside the Act; (4) through uncertificated (unlicensed) Sirdars and coolies sent down from Assam to recruit outside the Act; (5) by spontaneous emigration, unassisted or partly assisted, originating from the labourers themselves, and effected without the intervention of regular recruiting agency. The first and second modes are known as "Act" recruitment, and the rest as "non-Act" or "free" recruitment. The second and fourth modes are known as "Sirdari," and the first and third as "Contractors'," recruitment; the third mode is further known as "Arkati" recruitment, the term *arkati* being employed to designate the unlicensed professional recruiter. The labourers obtained under the Act recruitment system are first registered in the district of recruitment before a public officer, and then placed on contract under the provisions of Chapters III and IV of the Act before being taken to the labour-districts of Assam. Non-Act recruits proceed to Assam as "free" emigrants (by which is meant that there is as yet no contract binding under the Act between them and their employer), and after arrival in the labour-districts enter into a local contract under Sections 111 or 112 of Act I of 1882, or under Act XIII of 1859, or remain as free labourers on mere civil contracts. No contracts appear to be taken from free emigrants having express reference to Section 492 of the Indian Penal Code, but recent discussions have brought that provision of the law into prominence, especially in connection with recruitment from the Madras Presidency, and there is a probability of its being used in future in the case of recruitment from Provinces to which the Act of 1882 does not apply.

17. From the commencement of Assam labour-legislation to 1873 free or non-Act recruitment was prohibited under a penalty. Free emigration, in the limited sense of the unassisted and unsolicited movement of labourers individually or

* Section 40, Act III (B. C.) of 1863.
Section 118, Act II (B. C.) of 1870.

in small bodies to the labour-districts, was permitted;* but the Act of 1873 for the first time allowed free recruitment and assisted emigration, subject however to the restrictions that such recruits should only be competent to enter into contracts under the ordinary law (not under the special Labour Act), and that no contract

† Section 7, Act VII (B. C.) of 1873.

to labour for a longer period than one year should be binding on the emigrants.† The Act of 1882 removed these restrictions and permitted the execution of local contracts under the Act within the labour-districts by all persons, whether natives of those districts or immigrants, and irrespective of their mode of recruitment or importation. The only form of recruiting recognized by the earlier Acts was Contractors' recruiting. Sirdari recruitment was first permitted on a limited scale and subject to many restrictions by the Act of 1870; the Act of 1882 released it from these restrictions and set it up as an independent form of recruitment parallel to Contractors' recruitment.

Having regard to the course of legislation, Your Lordship will observe that the Act of 1882 merely embodied an advance in our general policy of gradually lessening the scope of Government interference with emigration. One of the principal objects of the Act was to encourage free emigration by releasing it from official restrictions, and so to prepare the way for the time when the special law could be abandoned. Its secondary objects, subsidiary to this main purpose, were, first, the establishment of local contracts under the Act, with a view to afford a sufficient inducement to employers to advance the expenses incurred in assisting the emigrants to Assam; and secondly, the encouragement of Sirdari recruiting by removing the restrictions which had hitherto applied to it, and thereby placing it in a better position to compete successfully with, and eventually to supersede, Contractors' recruiting. It was well understood that the free emigration brought about by the Act would for a long time to come be only assisted emigration; but it was hoped that as that gradually developed with the help of suitable recruiting arrangements into unassisted and spontaneous emigration, and as communications between the recruiting areas and the labour-districts improved, the necessity for special legislation to

promote emigration would gradually disappear; and the means which was considered best calculated to lead to the form of emigration desired was the substitution, as the medium of recruitment, in the place of professional recruiters with no knowledge of and no interest in the labour-districts, of garden-sirdars and coolies themselves engaged in tea-garden labour, acquainted with the conditions of life on tea-gardens, and more likely to be in touch and sympathy

* Paragraphs 13 and 15 of the Assam Report.

with the emigrating classes.* The opening for unassisted emigration allowed in the Acts of 1863 and 1870 had been wholly inoperative, for the reason that the only classes desirous of emigrating are those who are more or less in distress in their own homes, and quite unable to pay the expenses of conveying themselves and their families to Assam. The permission given to assisted emigration by the Act of 1873 had led to practically little better results, inasmuch as the one year's civil contract enforceable under the ordinary law, which was the only engagement that free recruits were legally competent to execute, was altogether insufficient security to the employer for the outlay incurred in assisting them to emigrate. To afford a sufficient inducement to employers to incur this outlay, it was necessary that assisted emigrants should be declared competent to execute agreements under the Act; and for this reason, as well as in order to obviate a recourse to a

† Paragraphs 4 to 6 of Despatch to Secretary of State, No. 189 dated 17th July 1895.

doubtful and one-sided enactment (Act XIII of 1859),† a system of local contracts, carrying with them, as regards both employer and labourer, all the incidents and obligations of contracts under the special law, was established by the present Act.

18. In considering the effect of these changes on the importing Province, it is necessary to bear in mind that the labour-districts of Assam group themselves into two distinct divisions, separated by a range of hilly country. The Southern division, known as the Surma Valley, contains the districts of Sylhet and Cachar, and is practically a remote part of Eastern Bengal; it is closer to populous tracts, itself comparatively well-peopled, and more easily accessible; and the severe competition for labour does not begin till the labour-districts themselves are reached. The Northern division contains the districts of the Assam Valley on either side of the Brahmaputra; these are sparsely peopled, largely forest-clad, and remote; and the scarcity of labour and competition for labour throughout the Valley is excessive. Most of the tea-gardens are in the upper districts and at a

‡ Paragraph 63 of the Assam Report and Map attached.

distance of several days' journey by river and road from Dhubri,‡ which is the first station in the Valley reached by immigrants in their journey from Bengal, and has been well termed the 'gate' of Assam. These physical differences in the two Valleys have given rise to corresponding differences in the conditions of immigration and labour. In the Surma Valley,§ although

§ Paragraphs 10, 11, 13, 16, 44, 82, and 201 of the Assam Report.

the Act was largely resorted to in the years immediately following its introduction, the system has now developed into one of non-Act recruitment and free emigration. Free emigrants proceed as such to the tea-plantations, where they enter into local contracts chiefly under the Act, but also on many gardens under Act XIII of 1859 or under the ordinary civil law. Sirdari recruitment and assisted emigration is the general practice, but in the case of many of the more popular gardens the sirdari system of family recruitment has led to a development of unassisted emigration. As a rule, new immigrants only are placed under Act contracts, old coolies renewing their engagements under Act XIII of 1859 or under the ordinary civil law. The system is one of short contracts for terms rarely exceeding three years. There is a tendency towards the disuse of the penal clauses of the Act, and on gardens which can recruit to any material extent through unassisted emigration penal contracts are being superseded by free labour under mere civil contracts. In all these respects the Sylhet district from its superior natural advantages is more advanced than Cachar. The objects of the Act are thus already being fulfilled in this part of the Province, particularly in Sylhet, and the system is gradually developing into one which will render special legislation unnecessary. In the Assam or Brahmaputra

|| Paragraphs 19 and 83 of the Assam Report

Valley,|| on the other hand, owing to the length of the journey and the immense competition for labour, free emigrants

cannot be conveyed as such beyond Dhubri, and they are placed on Act contracts at that station under the procedure described in the 9th section of the Assam Report. Old coolies as well as new immigrants are ordinarily put under Act contracts (though for short terms—one year or two years), to prevent their being enticed away to other gardens. Contracts with new immigrants for the maximum term of five years are common; there is practically no free labour at all, and recruitment through contractors is much more resorted to than in the Surma Valley owing to Sirdari recruitment failing to suffice for the ordinary labour requirements of gardens. This part of the Province is much more backward than the Surma Valley, but the first steps in the development contemplated by the Act have been reached in the expansion of family recruitment and assisted emigration.

19. But while the Act system has worked not altogether without success in these respects, the sudden impetus given to non-Act emigration by the withdrawal of all restrictions has brought into prominence a body of unlicensed and professional recruiters, known as *Arkatis*, working independently of all control. These men are ordinarily villagers of the same class as the labourers themselves, and probably always existed as intermediaries between the licensed recruiters and their recruits; but the development of free emigration and the growth of unlicensed professional recruitment, as opposed to the licensed contractor system of former Acts, has increased their numbers and given them an importance which did not before attach to them. They are described as being in many instances men of bad character, and their operations brought discredit on the system and led to the prevalence of abuses and malpractices in recruitment. It appears that garden sirdars and licensed recruiters not unfrequently work in co-operation with these persons, and that the association has communicated the evils of the *arkati* system to other modes of recruitment.

20. The question of abuses in recruitment is discussed at length both in the Bengal and Assam Reports. We do not think that they are altogether new, but the energetic action of recent years has brought them into greater prominence. These abuses are reported to be of two classes: first, those to the prejudice of the employer, and secondly, those to the prejudice of the labourer. The first class includes such practices as the enticement or systematic appropriation of recruits, absconding after taking advances, change of coolies *en route*, bad coolies being substituted for good ones, false description of coolies, &c. The second class consists of the forcible kidnapping of labourers or their enticement by fraud or misrepresentation. A third class of abuses brought to notice is the voluntary resort to emigration by females and young persons to rid themselves of family ties. In the 17th paragraph of our letter to the Bengal Government will be found our conclusions as to the extent to which these malpractices prevail to the injury of the labourer. We believe that they have been much exaggerated both as regards their character and their prevalence. We are of opinion that crimes of violence, which have undoubtedly occurred within the recruiting districts though we can find no evidence of a labourer having been taken by force so far as Assam, have diminished considerably, if they have not disappeared altogether, since executive action was first taken for their repression, and we see no reason to doubt that this kind of malpractice can be effectually controlled by the Police and District authorities under the ordinary law. The remaining forms of abuses are unfortunately inseparable from any system of emigration conducted on an extensive scale, and we can never hope to be able to prevent a certain amount of exaggerated promises or misrepresentations of the life on the Assam plantations being held out as an inducement to the emigrant, or recourse being had to emigration in occasional cases by persons who wish to rupture family connections; but in so far as these evils are now aggravated by the example and operations of persons of the *arkati* class, we agree with the Bengal Government and Sir Charles Elliott that determined remedies are required for their suppression.

21. The remedies proposed by the late Lieutenant-Governor,* briefly stated, involve the compulsory initial registration of the labourers in the districts of recruitment as a condition precedent to their executing a contract under the Act, and

the prohibition of all recruiting for the purpose of placing labourers under Act contracts except by persons duly licensed under the Act as recruiters. Unregistered or free emigrants would be able to contract under the ordinary law, including Act XIII of 1859; but they would not be competent to execute a local contract under Act I of 1832 until they had been proved to have resided at least two years in Assam. These proposals imply an abandonment of the policy of Act I of 1832, in so far as it released emigration from official restraints and established the local contract system.

In the 8th section of the Assam Report the Chief Commissioner states the grounds on which he considers the application of these proposals to Assam to be inexpedient and impracticable; and in paragraphs 9 to 17 of our letter to the Bengal Government, and paragraphs 5 to 8 of Sir Charles Elliott's Minute, Your Lordship will find a statement of the reasons for which we are unable to accept them. We cannot sanction a measure which would involve so retrograde a step as the reversal of our entire emigration policy, and which would not only replace restrictions on emigration generally by forcing it back from private to officially controlled channels, and thus check the growth of assisted emigration, but would also disturb the relations existing between employers, labourers and the Government, and throw back the progress towards a system of free labour which has taken place in the Surma Valley. We apprehend too that the changes proposed would prove an ineffective remedy for those kinds of malpractices in recruitment which most call for repression, where the labourer, though under the influence of enticement or deception, is at the time of registration willing to emigrate, while on the other hand they would lead to a revival of those vexations and evils arising out of official interference which made emigration unpopular and led to the condemnation of the system of compulsory initial registration in 1882. The very same evils were found to be inseparable from such a system when our colonial emigration rules came under discussion in 1883. A special investigation was made in that year by selected officers in Bengal and the North-Western Provinces, which elicited that there was a general hostility on the part of officials to the recruiters, who were frequently impeded in most objectionable ways by the police and underlings of the courts, that registration before the Magistrate was by no means a sure preventive of malpractices in recruitment, and that the Magisterial officers had not sufficient time to attend properly to registration business.

22. An alternative proposal made in the 9th section of the Assam Report proceeds on the principle that the operations of unlicensed recruiters and *arkatis* would be checked by enforcing initial registration in the district of recruitment in the case of labourers who are to be placed under Act contracts at Dhubri for performance in the districts of the Assam Valley. But the Chief Commissioner was personally satisfied as to the beneficial working of the Dhubri system, and only put forward this suggestion as an alternative to the Bengal proposal in case it should be considered that the evils of unlicensed recruiting were too great to be controlled by executive action. In paragraphs 10 to 13 of our letter to the Chief Commissioner of Assam we have stated our objections to this alternative suggestion, which are similar to those taken against the Bengal proposal. We fully concur with Sir Charles Elliott's opinion as to the usefulness and advantages of the Dhubri system, both in the encouragement it gives to assisted emigration and in the check it affords to fraudulent and unsuitable recruitment by the attestation of contracts at the "gate" of Assam. Sir Charles Elliott has suggested that a similar procedure should be followed at Goalundo, the "gate" through which all emigrants pass on their way to the Sylhet and Cachar districts; but having regard to the progress which is being made in the direction of free emigration and the disuse of the Act in the Surma Valley, and to the possibility of our being able to remove that part of Assam from the Act when railway communication is completed, we are unwilling to take any step which might encourage a more extended resort to the Act in those districts.

23. In our opinion the remedies to be applied must be consistent with our general emigration policy. Restrictive legislation, even if it effects a temporary good, must inevitably impede the flow of labour and delay the time when a

special labour law can be abandoned. Recruitment must precede free labour. To attain this result and at the same time to guard against malpractices, there must be the most complete absence of restrictions upon emigration, combined with the most complete executive supervision in the recruiting districts, along the emigrant routes, and in the importing Province. The probability of communications between the labour-districts and the recruiting Provinces being facilitated and cheapened in the near future by the construction of the Assam-Chittagong Railway affords an additional argument against taking any step at the present time which is likely to work unfavourably to the extension of assisted emigration. The measures which we propose to take, and which will operate not only towards the prevention of the malpractices in recruitment which now prevail to the prejudice both of the employer and the labourer, but also towards the improvement in other respects of the administration of the system, may be classed under four heads.

In the first place, we propose to strengthen executive action in the recruiting districts. As to the precise measures to be taken in this direction, we can come to no final conclusion till we receive Sir Charles Elliott's reply to our present reference; but we have no doubt that very much stronger action than is taken at present for the surveillance of *arkatis* and the prevention of malpractices is within the powers of the district authorities and the Police under the ordinary law.

Secondly, we propose to strengthen precautions along the line of march and especially at the "gates" of Assam. All emigrants to Assam must pass through either Dhubri or Goalundo. At Dhubri supervision can be exercised directly under the Act, and from there to the gardens of the Assam Valley emigrants travel as Act labourers until elaborate arrangements which admit of ample protective measures being taken.*

In the 13th and 14th paragraphs of our letter to the Chief Commissioner will be found our proposals for improving the Dhubri system. The supervision along the route from the recruiting districts to Dhubri and Goalundo, and from the latter point to the gardens of the Surma Valley, can be exercised under the powers conferred by the Bengal Sanitary Act of 1889.† Rules under this Act are already in force in Bengal; and the Assam Administration has recently framed rules for controlling the transit of free emigrants in the Surma Valley which can by degrees, as the use of small boats is superseded by steamers for the conveyance of emigrants, be brought up to the standard of supervision maintained in the Assam Valley.

Thirdly, we propose to improve the inspection system in Assam, and we have addressed the Chief Commissioner‡ with a view to his arranging for more frequent visits to gardens to which new coolies are taken up as free emigrants and for a complete verification of their local contracts. Indirectly also the measures which we propose to take for the more frequent inspection of unhealthy gardens and against the employment of new coolies on unhealthy sites will place the local officers in a better position to detect cases of wrongful recruitment. We also propose to strengthen in certain respects the powers of inspecting officers, to empower the Local Government summarily to cancel contracts in suspicious cases, and to embody in the Act a complete repatriation scheme which will legalize and place beyond doubt the present practice of returning to their native districts any immigrants who are found to have been illegally or fraudulently imported.

Lastly, we look forward to the improvement and cheapening of communications, which experience has shown to be the most certain corrective of abuses in recruiting. Much has been done in this direction since 1881 by the opening of the Kaunia-Dhubri and Assam-Bihar Railways and the establishment or acceleration of regular steamer services from Goalundo and Dhubri to Upper Assam and from Narainjan in Eastern Bengal to the Surma Valley; and a considerable stimulus has thus been given to assisted emigration and to some extent to spontaneous emigration,§ not however unattended by evils in the present transitional stage. But the improvements hitherto made have only brought the recruiting districts within tolerably easy access of the fringe of Assam; and from

* Paragraphs 59-62 (pages 74-78) of the Assam Report.

† Paragraph 2 of this Despatch.

‡ Paragraphs 17 and 18 of letter to the Chief Commissioner, Assam.

§ Paragraphs 26 and 31 of the Assam Report.

there to the tea-gardens is a long journey involving a difficult and expensive system of transport, which precludes the unassisted movement of labourers on a large scale. The Superintendent of Emigration in Bengal writes that under present arrangements "the classes from which the coolies are taken are incapable of planning and carrying out unassisted the details of the journey to Assam, nor have they the money to do so." As facilities of transit are extended to the more important tea-districts we are confident that the necessity for the employment of a recruiting agency will gradually disappear, and the increasing stream of emigrants between the tea-plantations and the recruiting areas will effectually close the door to the malpractices of recruiters by making the emigrating classes thoroughly familiar with all the details of life in Assam.

24. We come now to the question whether special labour legislation can be abandoned. We have not been unmindful of Your Lordship's decision that such legislation can only be regarded as temporary. Our whole policy in recent years has aimed at the removal of artificial restrictions and penal contracts as soon as a sufficient flow of labour has been ensured. In 1883 we repealed the Burma Labour Law, leaving the movements of labourers to that Province and their employment there free from all control. In 1888 we sanctioned the complete withdrawal of those provisions of Act I of 1882 which relate to labour-districts from the two Bengal districts of Chittagong and the Hill Tracts. But in Assam the time has not yet come when this step can be taken in the interests either of the labourer or of the Planter. A special Act is necessary, as well for the labourers in the recruiting districts who are desirous of emigrating but cannot do so without assistance, as for the Planter who could not afford at the

* Paragraphs 17 and 23 of the Assam Report.

present high cost of importation* to give such assistance, except on a very inconsiderable scale, without the security of the penal contract. From the point of view of the Administration, the Act is essential both for the protection of the new immigrant during the period of his acclimatization in Assam (a matter in regard to which we propose to strengthen the supervision) and generally as enabling the Government to control the relations between employers and labourers; and we have already pointed out that the advantages of such control are not confined to labourers under the Act, for the Act prescribes a certain standard which must be maintained on all gardens, and the benefits of which spread also to labourers who are not under the Act. It was suggested by Sir Stuart Bayley that the Act should be withdrawn from the Sylhet District. In paragraph 4 of our letter to the Bengal Government we have stated our objections to this proposal; while paragraph 35 of our letter to the Chief Commissioner sets out our reasons for not acceding to a somewhat similar proposal made by the Assam Administration, that power should be taken for excluding individual gardens from all or certain provisions of the Act. The Act is from natural causes gradually working its way to extinction in the Sylhet district; and we think it inexpedient to force on a sudden disruption of the conditions of labour and the relations of employers and labourers before the time is fully ripe for the change. This can only be when railway connection is established and communications cheapened so as to admit of the unrestrained movements of labourers at their own cost, and at small expense, backwards and forwards between the labour-districts and the recruiting areas. Then only will the labourers be in a position to make their own terms and protect themselves, and employers to dispense with penal contracts and offer higher wages in lieu of paying the cost of importation.

We think it possible that, if the present progress in the development of assisted towards unassisted emigration is continued, we may be able to exclude the two important districts of Sylhet and Cachar, which employ nearly half the entire labour-force of the Province, from the operation of all but the statistical provisions of the Act as soon as the Chittagong-Assam Railway is constructed through the Surma Valley. But we consider that the present time is inopportune for attempting to establish free labour or any other substantially new system. During the construction of the railway the demand for labourers will be much in excess of the supply locally procurable, and there will necessarily be a certain disorganization of labour on tea-estates. At such a time it would in our opinion be most unsafe to withdraw any part of the control exercised by Government

over the relations between employers and labourers, or to introduce a new system which could hardly be expected to succeed in the unfavourable conditions to which it would be subjected. We are most anxious that the transition to free labour should not be prematurely forced on, but should take place under circumstances which may ensure the satisfactory establishment of the new system. When the railway has been constructed and been some time at work, the position may with advantage be reconsidered with a view to making such material changes in the law as may be necessary or desirable in the altered circumstances. Meanwhile we shall be prepared to exclude from the operation of the Act any districts or sub-divisions of districts which the Chief Commissioner may consider to be sufficiently advanced for this step.

25. We are convinced that the labour system established by the Act is working in a manner on the whole creditable to planters as a body, and to the advantage as well of the employer and of the Province of Assam as of the immigrants themselves and the recruiting Provinces. Successive Chief Commissioners have assured us that the condition of the garden-coolie is far superior to that of the masses in his native district. The principle of attaching a penal sanction to civil contracts of labour is not foreign to the ordinary law of this country or to the law of other countries similarly circumstanced. The penal labour contract has only recently been abolished in Burma. There are labour ordinances in the Straits, Ceylon and the Colonies in many respects not less rigorous in exacting compliance with labour contracts than Act I of 1882. Act IX of 1860 is a penal labour law in favour of the Government in India. Act XIII of 1859 and the Penal Code embody penal provisions for ordinary contracts of labour in India generally; but in the present backward circumstances of Assam these are insufficient either for the planter or labourer, or for the satisfactory working of the system. The defects in the working of Act I of 1882, whether in Assam or in Bengal, in our opinion arise less from the law itself than from the manner in which it has been administered. The necessity for such close executive supervision as we now perceive is required over the recruiting operations of a large class of recruiters was not previously foreseen. When emigration was thrown open in 1882 and the restrictions placed upon recruitment by the special law were relaxed, no corresponding effort was made during the transitional stage to render more stringent and complete the control which is capable of being exercised in the matter under the ordinary law, or to watch the new system narrowly in its inception so as to correct by executive action the defects brought to light. As a result, the defects had to some extent degenerated into abuses as regards the recruitment and sanitation of free emigrants, before adequate remedial action was undertaken. The defects in question have now been partly removed by legislation; and we propose to amend the Act with a view to correct those which remain and to supply the omissions which experience has shown to exist in the working of the present system.

26. It may be convenient that we should sum up briefly our conclusions on the whole case as set forth in this despatch, which has unfortunately, owing to the complicated details to be dealt with, extended to great length. The subject naturally falls under two heads, that of emigration, relating to the recruiting districts, and that of contracts, relating to the labour-districts.

As regards the recruiting districts, the officially controlled emigration which was practically the only system in force before the present Act was passed has now developed into a system of free or privately assisted emigration. The development has been attended by certain abuses, and for the repression of these we propose to take the measures described in the 23rd paragraph of this despatch. The abuses, however, are to a great extent incident to any system of emigration, and many of them were probably not less rife under the former system of official control. Connected with free emigration are the systems of Dhubri contracts and local contracts as sanctioned by Sections 111 and 112 of the Act. The Dhubri system, under which free emigrants to the Assam Valley enter into contracts on arrival at that station, has grown up in a manner which was, it is true, not altogether contemplated by the framers of the Act: but it has grown up naturally and spontaneously, and we see no reason to suppose that it has led to evil results. On the contrary, we agree with Sir Charles Elliott that it is highly beneficial as a check to fraudulent and unsuitable recruitment. We have decided to continue

and improve it in the manner stated in paragraph 13 of our letter to the Chief Commissioner of Assam. The measures which we propose to take to safeguard the local contract system as carried out in the case of free emigrants to the Surma Valley will be found in paragraph 15 of our letter to the Bengal Government. We are altogether opposed to Sir Stuart Bayley's proposal for a retrogression to the former system of officially controlled emigration. We think that the general measures which we have decided to take for the repression of abuses and the special measures contemplated in connection with Dhubri and local contracts will amply suffice, with more efficient executive action, to keep in check the malpractices of recruiters.

As regards the labour-districts, we agree with the Assam Administration that the maintenance of the present contract system is still essential in the interests of all parties concerned. No comparison can fairly be drawn between the circumstances of the labouring classes in the United Kingdom and those of Indian labourers in a remote and undeveloped part of the empire. In the former the working classes are in a position to help themselves, and Government interference is resented; in the latter, as elsewhere in India, the intervention of Government is not only necessary, but is expected and welcomed by the labourer, who has not yet learnt to stand alone. Several defects in the law of greater or less importance have been brought to notice; and we propose to correct these and to improve the labour system generally by making the amendments mentioned in our letter to the Chief Commissioner of Assam. Side by side with Act I contracts another system of contracts, not recognized by the special law, has come largely into use, based upon Act XIII of 1859. We have pointed out that, however objectionable in theory and opposed to the spirit of modern legislation in England, in its practical operation this Act has been harmless and even beneficial; that it is used chiefly on healthy gardens and for labourers who can be relied upon not to desert; that among the coolies contracted under it the death-rate is low, the rate of desertions still lower, wages high, and judicial punishments only about 4 a year to every 10,000 coolies. In the Surma Valley this system is very popular with employers as well as with labourers, and is facilitating the transition from officially controlled to free labour. In view of these facts and of the great dissatisfaction which its repeal would create among all classes concerned, we do not think that we should be justified, on the information now before us, in withdrawing the Act from tea-gardens.

While we have never ceased to keep in view the eventual abandonment of all special legislation for the introduction and control of labour in Assam, we are convinced that free emigration must first be firmly established before the Government can safely withdraw its control from the labour system. As has been pointed out in the Assam Report, there are two parallel lines of development in the emigration system: *first*, from officially controlled to privately assisted and then to unassisted emigration; *secondly*, from emigration through professional recruiters, which tends to the importation of solitary individuals, to that family colonization which is brought about in recruitment by garden-sirdars and garden-coolies. In the labour system the link in the transition from officially controlled to free labour has, contrary to our anticipations, been supplied by Act XIII of 1859. The Surma Valley districts are making most progress towards the uncontrolled methods; the establishment of privately assisted family emigration has there led to the prevalence of the intermediate system of Act XIII contracts; the development towards unassisted emigration is gradually leading to free labour. The Assam Valley districts are naturally more backward owing to the disadvantages arising from their remoteness and the great scarcity of labour; but here too the stage of privately assisted emigration has been reached, and family emigration is being steadily extended. The systems which have naturally developed and established themselves are thus gradually tending towards the object we have in view; and legislation which would throw back any of the intermediate stages in the chain of progress would cut short the development towards that final result at which our whole recent policy has aimed.

Various proposals have been brought to notice in the reports now submitted to Your Lordship for the abolition, wholly or in part, of the systems mentioned in the beginning of this paragraph and for the adoption in their place of other

methods suggested as more suitable. These proposals have been examined by us in the preceding paragraphs and in our letters enclosed with this despatch, and have been rejected on their merits, both as providing inefficient substitutes for the systems to be superseded and, so far as they would tend to prevent or discourage free or assisted emigration, as involving a retrogression on our general policy which is not called for by existing circumstances. The proposed methods moreover have not yet undergone the test of experience, and their introduction would necessarily be more or less experimental. Having regard to the absence of any necessity for a material alteration of the law and to the tendency of the systems now in use towards that final result which we are desirous of attaining—the substitution of free for officially controlled labour—we are emphatically of opinion that further empirical legislation, such as that involved in the proposals referred to, should be avoided, and that, until exceptional laws can be altogether abandoned in any areas, the most prudent course will be to maintain, improve and, so far as may be necessary, control and shape towards our final object those methods which employers and labourers and others interested have themselves chosen as most suitable to existing conditions. We have therefore decided to confine our revision of the Act to removing the defects and supplying the omissions in the systems at present in force. We are entirely opposed to any such legislation as would operate adversely to the growth and expansion of free emigration and thus defer the time when Government interference in contracts may be dispensed with, or would unsettle in essential respects the mutual relations of employers, labourers, and the Administration, which have now been firmly established under the present Act and have been shown by the recent enquiry to be working on the whole in a satisfactory manner.

We have the honour to be,

MY LORD,

Your Lordship's most obedient, humble Servants,

LANSDOWNE.

F. S. ROBERTS.

P. P. HUTCHINS.

D. BARBOUR.

A. E. MILLER.

H. BRACKENBURY.

R. C. B. PEMBERTON.

LIST OF ENCLOSURES.

- I.—Letter from the Secretary to the Government of Bengal, General Department, No. 142, dated 28th August 1890.
- II.—Letter from the Secretary to the Chief Commissioner of Assam, No. 1373-J., dated 16th April 1890.
- III.—Minute by Sir Charles Elliott, dated 15th December 1890, on the Amendment of Act I of 1882.
- IV.—Letter to the Secretary to the Government of Bengal, General Department, No. 2059, dated 5th October 1891.
- V.—Letter to the Chief Commissioner of Assam, No. 2058, dated 5th October 1891.

FILE NO. 19.
SERIAL NO. 7.

No.

1891.

GOVERNMENT OF INDIA.
REVENUE AND AGRICULTURAL
DEPARTMENT.

EMIGRATION.

No. 77, DATED SIMLA, THE 5TH OCTOBER 1891

(Copy.)

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

SUBJECT.

Forwards the Bengal and Assam Special
Reports on the working of the Inland Emigra-
tion Act, 1882, and communicates the views of
the Government of India with regard to the
amendment of the Act.

G. C. Press, Simla.—No. 512 B. & A. L.—10-11-90.

India Office,
London, 11th February 1892.

Public (Emigration),
No. 13.

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

MY LORD MARQUIS,

*Emigration to Assam: as to the working
of Act I. of 1882 and Act XIII. of 1889.*

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.

I desire to acknowledge at the outset the
completeness of your inquiry, and am gratified to
learn that on the whole the system works satis-
factorily, and that the emigrant is generally well
cared for and prosperous. I concur in your view
that emigration from the congested districts of
Northern India to a province where there is an
energetic demand, both on tea gardens and on
virgin soil, for additional labour, is to be en-
couraged. I notice, however, the unanimity with
which not only your Government, but all the
higher authorities consulted, recognize that the
special 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 disuse 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.

2. 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
labourers.

11738. I. 4.

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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 284 of Mr. Quinton's Report that, in 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; and I gather from that Report, no less than from 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 dis-entitle 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.

* Paragraph 32 of the letter to Assam.

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 1889 with your amendments of Act I. of 1882. Although the Bengal Act provides some measure of sanitary control over the journey of so-called free labourers on their way to Dhubri, and its extension to the Goalundo route will further enlarge its usefulness, it appears from paragraph 12 of Mr. Nolan's letter of 29th August 1890, that that Act still leaves much to be desired; and I attach great importance to the control, both sanitary and executive, being rendered thoroughly effective over the transit of unregistered labourers from the district of recruitment to Dhubri.

6. In regard to the malpractices connected with the system of recruitment by unlicensed recruiters (the *arkati* system) in Lower Bengal, I observe that you look upon the evil as less serious than the Bengal authorities represent it to be, and as one which can be sufficiently dealt with by executive action. You have therefore rejected the proposal of the late Lieutenant-Governor of Bengal to revert to a system of initial registration in the district of

16
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 Pargunnahs, 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 change 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

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 recruitment.

* Para. 13 of letter to Assam.

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 22 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 can only 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 not passed with any view to such contracts as those which now prevail in tea gardens. Neither in its form nor in its system of penalties is it conveniently adapted to contracts to labour on tea gardens; and of itself it provides no system of protection for the labourer such as that which Act I. of 1882 establishes as correlative 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, preferred except where desertion is feared; and that it is a stepping stone between the stringent 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 "little difficulty in securing for Act XIII. coolies the same advantages which are enjoyed by labourers under Act I. of 1882,"—while the standard in sanitary matters and in general treatment is set by Act I. of 1882, and this standard is, as a rule, adopted

† Para. 9 of letter to the Secretary of State.

by managers for their whole labour force, and is steadily 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 28 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 35th 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 system of communication.

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

I have the honour to be,

My Lord Mraquis,

Your Lordship's most obedient humble Servant,

CROSS.

Read - at the following
C.O. 10-8-92 No. 111657
Y.O. 17-12-92 No. 2257206
FROM

SIRE. C. BUCK, KT., C.S.I.,

Secretary to the Government of India,

To

The Chief Secretary to the Government of Madras.

Revenue and Agricultural
Department

(Emigration)

Simla, the 17th May 1893.

SIR,

I am directed to reply to your letter No. 1458 Judicial of the 10th August 1892 reporting on a Memorial from certain planters in the South of India regarding the administration of Act XIII of 1859.

2. The requests put forward by the Memorialists have been carefully and fully dealt with by the Government of Madras and I am to say that, in view of the opinions already expressed both by the Government of India and Her Majesty's Secretary of State in the despatches marginally noted regarding the operation of Act XIII of 1859, His Excellency the Governor General in Council is unable to agree to any extension or amendment of its provisions in the manner suggested in Clauses I, II, III and V of paragraph 4 of the Memorial.

3. To meet the difficulty noticed in Clause IV there is no objection to the issue of orders, as proposed in your letter, for the transfer of the execution of processes under

1003
2220

under the Act from revenue peon to the police.

4. With regard to extradition it is suggested in your letter that in order to meet the wants of the memorialists arrangements may be made for the reciprocal service of summonses and bailable warrants under the Act. The Government of India are however of opinion that grave inconvenience is likely to arise if the States mentioned in your letter are exceptionally treated in the matter of extradition, and they would in any case be averse to the introduction of the proposed concessions in connection with mere breaches of contract falling under Act XIII of 1859.

I have the honor to be,

Sir,

your most obedient servant,

Esda

Secretary.

[G.]

500-18-4-93.

Current No. 2000

DEPARTMENT.

From

The Govt of India
Revenue & Agricultural Dept

No. 1206

Dated 19th May 1913

Received 25th — Do —

Enclosures 2

SUBJECT.

Regarding the extension or amendment
of the provisions of act 13 of

1059-

R3075

45215

2277/93.
Gp 145807 10.8.92
506 : 20.4.93
402 : 8.4.93 R
2352 : 17.12.92 Mis
1032 : 1.9.92 R
Pul 218 : 1.4.92 SC
144/5 : 21.1.92
144/5 : 21.4.91 Mis
402 : 26.2.91 - Ch
1691 : 17.4.89
194 : 31.1.87 SC
Revised Gp + file.

3-3-93

20

The Madras Mail.]

Madras, 1 June 1893.

The Secretary to
Government
Revenue Department

Sir
I have the honor
to request that the
reply ~~to~~ the Govern-
ment of India to the
Memorial of the Planters

Associations of Southern
India regarding Act
XIII of 1859, which
I understand will
shortly be issued,
may be furnished to
one at the same
time that it is
sent to the Secretaries
of the Associations, to

enable the whole community
to be made aware of the
decision of the Supreme
Government in this
important matter.

I have the honor to be
Your most obedient servant
Wm Lloyd Garrison
Secretary of the A. S. S. C.

NOTE FOR THE CHIEF SECRETARY.

I have added a para. in
red ink with reference to the
orders in C. N° 2390.

The Editor had no mail "asked"
only for India's letter & it is
known? that we need not supply
him with any extracts from
the enclosures. If he wants
them he can come up
again.

lee
14/6.

G
25

200-3-3-93

27
JUL. DEPARTMENT.

C. No. 2390

From

Dated

189

FOR ORDERS.

India's reply to the local
Govt's report on the Plaster
Memorial is now in view.

There is no objection to the same
papers being furnished to the Editor
Table as are given to the Association
But at most only small extracts from
the despatches enclosed should be furnished

6
7 June.

If a copy of the is to be furnished to the
Associations there seems no reason
why this request should not be
complied with

J.H.P.
11/6/93

W
9 June

W
13 June

11/6/93

22778
C. No. 10.9.9218

Reply for a copy of
the Indian society to the
Planters' Memorial
to the meeting of the
1857

2. ...

3. ...

C No 2590

18/6 1200-12-6-93

876

[5]

85

25

DEPARTMENT
Papers to be read in Proceedings: *John*

Again G.O., dated 10. Aug. 1892, No. 1457

1892, No. 1457

Again G.O., dated 19. Dec.

1892, No. 2352

Current No. of 18, date from

Current No. 2238 of 1893, dated 19. Aug. from *India*

also C. No. 2390 (not to be read
or referred to)

*Office
Note*

not the Endos was - *deputing*
U.S.

Para 4 of India's letter is in accordance
with the views I expressed, which were noted.
U.S.
6 June

not 17th June 1893, No. 1238.

The foregoing letter from the *East*
of India will be comm. to the
Mynasand Planters' association
for information.

2. The duty of executing processes
issued under Act XIII of 1859
should in future be performed
by the *Police*. The *deputy* *Chief*
of *Police* & all *D. Magistrates*
will issue the necessary
instructions on the matter.

3. It has been brought
to the notice of *Govt* that
warrants issued under
Act XIII of 1859 are cancelled
after the expiration of

is not found & that additional
 fees are demanded if fresh
 warrants are applied for.
 This practice, if it exists, is
 objectionable and should
 be put a stop to.

4. With ref. to para 1 of
 G.O. of 19 Dec 92, no 2352. The
 Chairman of the Travancore
 Planters' Assn will be
 informed that this Govt.
 is unable to take the desired
 steps in the respect of service &
 execution of summonses &
 bailable warrants.

~~Provision contemplated~~
 5. The letter from
 the G. of I. with
 also the list of 3 June.
 the list of 17th Feb.
 (from order no. C. No 2399)
 Note: The Planters' Memorial was
 sent back to the G. of I. & has not
 been returned to this Govt.

To the Hon. Secy. Mysore Planters'
 Assn.
 I. Secy of P. & L.
 all D. Magistrates 173
 Rev. Secy.
 Chairman, Travancore Planters'
 Assn.
 3/5
 11/7/93

Re: The working of the
 VII of 1859.

H. B. P. S. C.

Copy of order to be
 sent to the
 Title No 17

With ref. to the letter
 from the Travancore Planters'
 Assn. dated 11/7/93
 the Govt. will be
 pleased to take
 the necessary
 steps.

Just no 1238
 17-6-93
 Dated 30/6/93

The Collectors of
 The District Magistrates of

Anantapur.	8	25
Nor.h Arcot, Chittoor.	8	
South Arcot, Cuddalore.	8	
Bellary.	8	
South Canara, Mangalore.	8	
Chingleput, Saidapet.	8	
Coimbatore.	8	
Cuddapah.	8	
Ganjam, Chatrapur.	8	
Godavari, Cocanada.	8	
Kistna, Masulipatam.	8	
Kurrool.	8	
Madras (when necessary).		
Madura.	8	
Malabar, Calicut.	12	
Nilgiris, Ootacamund.	8	
Nellore.	8	
Salem.	8	
Tanjore.	9	
Tinnevely.	8	
Trichinopoly.	8	
Vizagapatam.	8	

(1893.)

REVENUE DEPARTMENT.

~~CRITICISM~~

ABSTRACT.

2/5/6.

622235/93.

125522/100-9710

CHIEF SECRETARY
15 JUN 93
GOVERNMENT OF MADRAS

From

The Editor of the
Madras Mail
Madras.

Endorsed No. 177.

Transferred to the
Judicial Dep.

By
Please see enclosure there
is very satisfactory & I am
satisfied & I am sure

Dated 1 June

Received 2

Enclosures

No.

SUBJECT.

Requesting that the reply
of the Govt. of India to the Pre-
marial of the Planters' Association
of Southern India re: Act VIII of
1859 which he hears will shortly
be issued, may be furnished to him
at the same time that it is sent to the
Secretaries of the Association.

By
Secy to Govt. D.D.

Contd. command
5 June 1893

2/5/6
2/6/6
2/7/6

P.T.O.

ORDINARY, PRINTED.

Indicial DEPARTMENT.
G.O., DATED 17-6-93
No. 1238.

First copy sent to Press. 21-6-93

Returned for signature.

Despatched in print.

[Despatch Abstract.]

Act XIII of 1857
Copy of the Mysore
Planters Association
information letter for
the Govt. of India
claiming to extend or
amend the power
of — in the
was suggested in the
memorial; directing
the Inspector General
of Police & all District
Magistrates to issue
the necessary orders
to the effect of
issuing orders
to the effect of
to the effect of

22-2-13
15-11-13
21-3-14
16-10-16
17-3-17
1-11-17
6-8-23
1-9-28
11-10-28
demanding a letter
from the Mysore
under the Act in
these cases he
is to be
the Chairman of
the Mysore
be informed that
desired steps in respect
the same & executed
commissions & orders
cannot be taken