

(1) பக்கங்களின் எண்ணிக்கை

(2) புதுக்கித் திருப்பிய நாள்

(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Indira தலை

அரசாணை எண்.

மு. கோப்புத் தாள் எண்.

அச்சகம்

பலவகை

2482

நாள் : 28. 11. 1993

1993

சுடபடி கையாளவோ கூடாது.

Madras. 21st September 1893

To The Chief Secretary to the
Government of Port. St. George
Madrass

Sir

1st Copy of the Memorial on the subject of
act X III of 1859.

24 Covering the further explaining the prayer of the Memorial.

3^d Letter on the subject of Extradition.

I have the honor to be

Sir

Your most obedient servant

G. L. Gove

Secretary

செப்பவருவார் பெயர்
செப்பவருவதற்காக எடுத்த
கொள்கைப்பட்ட நாள் 1996
செப்பவருக்கு எடுத்த நாள் 1996
செப்பவருக்கு எடுத்த நாள் 1996
செப்பவருக்கு எடுத்த நாள் 1996

[$\frac{9}{9}$]
2,000-13-9-46.

Current No. 4064.

Judicial DEPARTMENT.

From The Secretary of the Plank's
Conference Parap Buildings
Madras.

No. 1

Dated 21st Sept. 93

Received 23rd Sept. 93

Enclosures 3.

SUBJECT.

Forwarding Certain documents,
regarding their memorial on the
Subject of Act XIII of 1859.

1238: 17-6-93
+ file.
801: 16-4-93
2252: 19-12-92
432: 1-9-92
1057/8: 16-6-92
602: 26-2-91
691: 17-4-89
194: 31-5-91
1911/2: 1-8-84
176: 13-4-82
2424: 23-2-81
478: 41-5-81
526/7: 12-3-81
2103/4: 20-9-79
1271: 1-6-79
98: 18-1-79
551: 5-5-76
Spul. Real papers -

Memorial of the Planters' Associations of Southern India on the subject of

Act XIII. of 1859.

To His Excellency the Marquis of Lansdowne G.C.M.G.
Viceroy and Governor-General of India in Council:-

May it Please Your Excellency,-The petition of the undersigned, representing the Planters' Associations throughout the Coffee, Cinchona and Tea Districts of Southern India.

Humbly Sheweth,-That their industry is carried on under great difficulties owing to the present administration of Act XIII. of 1859.

1. As far back as 1877 the Madras Government in G.O. No. 1692, Judicial, admitted "that the planting industry in Wynnaad is suffering from a substantial grievance in the absence of a simple and complete remedy as regards breaches of contract caused by desertion of labourers or fraudulent practices on the part of maistries. The season for gathering the crop is a critical moment and the planters are liable to heavy loss for which an adequate remedy is difficult. Government are therefore now disposed to give the planters all the assistance in their power consistent with adequate protection to their employees."

The Collector of Malabar, Mr. Logan, who thoroughly understood the position of the planters, commenting thereon in a letter, dated Calicut, 12th October 1876, said "the law of India has hitherto recognised the necessity of criminally punishing breaches of contract, first, where the master is more or less at the mercy of the servant, and second, where a breach of contract by the servant leaves the master without adequate compensation for the wrong suffered. Both of these sets of circumstances apply with peculiar force to the case of a coffee planter in Wynnaad, who is deserted by his coolies at the time of year when he most-----

ORDIN

Ind
G.O., DAI
No. 4

INI

First copy sent to

Returned for sig

Despatched in

Inope
of Bri
Copy
Indra
Copy
The
Cnd
white
rule
a p
take
of re
4-6
the

3. Your petitioners would therefore humbly
the Act may be amended and made intelligible alike
contracting parties and to the magistracy. The opinion of
the High Court Judges if enforced would make the Act effective
as far as the punishment of a defaulter is concerned,
but the universal object and practice of planters in dealing
with contractors and of contractors in dealing with their
coolies, is to avoid punishment if by any possibility they
can get the contract for labour fulfilled.

4. Therefore your petitioners would respectfully represent
to your Excellency in Council that if the following
clauses were passed into law the difficulties in the way of
getting contracts for labour fulfilled and the facilities
which the dishonest labour contractor at present enjoys of
evading all the obligations which he has entered into, would
cease to exist.

I. A clause to make it clear that contracts be
maistries and coolies for work to be done upon Coffee, Ci-
chona and Tea estates are within the Act.

II. A clause to provide that a person who has com-
mitted a breach of his contract shall be liable to the punish-
ment provided and to do the work which he contracted to
do after the expiry of the term mentioned in his contract.

Both these clauses were suggested by the Madras
Advocate, General, as quoted in G.O., Nos. 1911 and 1912
Judicial, 384. It seems to be unfair to the planter the
coolie absconding himself without leave during the term
his contract can practically deduct the time of his
from the time he has to serve. It also seems to be unfair
to the coolie that if on arrest after the expiry of his
of contract he is willing to work and the planter to
his satisfaction, the Court cannot pass an order to that effect.
The Court at present can only order him to repay the
and imprison him if he refuses or is unable. The planter
only releases him from this by withdrawing his complaint.
if he does so; he loses all hold on the coolie if he

ORD

G.O.

No.

IN

First copy sent

Returned for

Despatched

*Inspe
of Co
Copy
Inde
Copy
The
Can
whi
Ind
a
tak
7
to*

requires their services. Other employers of labour doubt in more or less the same position and subject less to the same ill-consequences, but then in the coffee industry it must never be forgotten that it has the policy of Government throughout to encourage this industry in a locality where one of the most essential elements of success is wanting, viz.: a permanent and sufficient supply of labour. It may often be good policy on the part of Government to encourage some industry under otherwise unfavourable circumstances, and where that (as in this instance) has been done, it behoves Government to come to the assistance of those who would not, but for such encouragement, have embarked their capital in such a doubtful enterprise."

Mr. Salton, his successor in office, said in a letter to the Chief Secretary, dated 22nd August, 1882, "fact is that A XIII. of 1859 was obviously not framed to meet the case advances for labor in the Coffee District."

The majority of the Presidency Magistrates consulted by the Madras Government in 1884 were of the same opinion (vide Nos. 1911 and 1912, Judicial, 1884.) in the face of this expressed opinion no redress has yet been accorded to the planting community and the act at the present moment is inoperative.

2. In Wynad the Act is inoperative owing to the interpretation put on it and on High Court rulings by the local magistracy. For instance the High Court ruling "A XIII. of 1859 has no application to cases in which the work has actually been completed at the time of complaint" (H. 29th March 1865) is so interpreted that a warrant cannot be obtained against the defaulting contractor, a day after the specified term of the contract, nor if the work specified has been completed by other labour. On the other hand in G.O., Nos. 11 and 1912, 1884, four of the Judges of the Court lay down their opinion that the defaulter can be compelled to render the advance even after the term of contract expired if he does not obey the order he can be punished.

-faulting maistries.

*Stated broadly their argument is-We advance our money to a man to be invested in a particular way, the man disappears and when he is brought up on a warrant he is unable to produce the money, and gives a most unsatisfactory account of what he has done with it. Is it not fair to presume that he has misappropriated it? And yet we are asked to prove how he spent it.

*The hitch lies in the criminal law interpretation of the maxim above quoted. The defaulter gives a plausible account of how he lost the money or was robbed of it or advanced it to coolies who immediately absconded or so forth, his statement being frequently a compound of what is false and what is true. The planter has nothing further to advance than that the money was paid for a certain purpose and that the purpose was not carried out, that here is the man and that he cannot produce the money. Of course the Magistrate asks if there is any evidence for the prosecution to prove either the misappropriation or the falseness of the prisoner's plausible tale, and of course as the scene of the misappropriation is of the real loss or of both is laid some 200 miles off and in foreign territory, no evidence for the prosecution is forthcoming, the prisoner gets down and walks out of court free.

*The planter really wants is to be satisfied by the best and most successful planters that their pound of flesh, who they can get and see that, above all, the planter is by virtue of necessity loyal to the law and fore readily forgive a fault, made up by increased diligence and really and truly lost the money. If the matter is really forgiven, the matter is settled and if the money has been lost that the defaulter

the defaulter

conds.

I. A clause to provide that every labourer whose name shall be entered in the check roll of an estate and who shall have received an advance of a cumbly or money from the employer, shall be deemed to have entered into a contract of hire and service for one month to be renewable from month to month.

Mr. Justice Brandt is of opinion (vide G.O., Nos. 1911 and 1912, Judicial, 1884) that this is within the scope of Act XIII., but it does not seem to be generally recognised. At present in the absence of the contractor the employer is powerless to restrain or recover absconding coolies.

IV. A clause providing that the Police should undertake the apprehension of the offender.

At the present time a warrant is sent to the Subordinate Magistrate whose head-quarters lie nearest to the defaulters home and if not served within 15 days is returned to the issuing Magistrate, when the complainant has to apply for a fresh warrant and pay additional fees. It is obvious that under this system the defaulter has but little difficulty in avoiding the warrant. Numerous cases could be cited of the inefficacy of this system of serving warrants during the past season. In consequence the extremely small risk of punishment has greatly increased the number of defaulting contractors.

V. A clause to provide that the defaulting maistry should be treated on exactly the same footing as a defaulting bankrupt is treated in the insolvent courts.

The Collector of Malabar, in treating of this '84, wrote to the Chief Secretary as follows:-

"The maxim 'nemo debet per se ipsum accusare' has been introduced into the Criminal Law of India as of England. A relaxation of the strict interpretation put upon it has been permitted; but such relaxations such an interpretation of it as would not be consistent with the wishes in respect of de-

9
bankrupt. They have both made away with other people's money and cannot satisfactorily say what has been done with it.

"What I would therefore propose is that in the case of defaulting maistries the burden of proving that the money was really lost or was properly spent should lie on the maistry and that on failure to prove this, the maistry should be liable to imprisonment extending to three months, and that his contract should still be enforceable under the other provisions of the Proposed Act."

5. We would respectfully point out that we ask for these amendments not only in the interests of the employer but also in the interests of the would-be honest contractor. It is equally unintelligible to him, if he should have given his coolies under advance a respite, and has not applied for a warrant against them until the day on which the term of their contract expires, that he should be refused redress.

It has been urged by the few Magistrates who were opposed to fresh legislation on this subject (vide G.O., Nos. 1911 and 1912, 1884) that the root of the evil lay in our system of advances. But we assert that our advances have done more than anything else to break down the village slavery that used to exist in our neighbourhood, and that, but for our advances, coolies would never have been allowed to leave their homes and earn a higher wage.

6. The above clause would make the Act effective where it is at present in force, but during the discussions which have taken place between the Associations joining in this petition, it has been brought to our notice that the Act cannot be put in force in the following cases. (a) -- Planters or contractors residing in Mysore, cannot obtain warrants against defaulters in British territory, though planters in British territory can obtain warrants against defaulters in Mysore. (b) Warrants cannot be obtained against defaulters in Cochin territory; half the European Coffee Estates on the Nellay Hills are in British and half in Cochin territory. In such a case, a Tamil coolie

10
Coimbatore District frequently takes an advance to work in Wynaad and then takes another to go to the Nellampaty Hills; on the arrival of a warrant, he merely has to cross the boundary and arrange to work on the next Estate to escape arrest. We would respectfully draw the attention of Your Excellency in Council to these anomalies and request that arrangements may be made with all Native States in the Madras Presidency, making offences under Act XIII. of 1859 extraditable.

And Your Petitioners Will Ever Pray.

(Signed) by John F. Jowitt, Acting Honorary Secretary
South Wynaad Planters' Association, A. Lambert
Honorary Secretary, Coorg Planters' Association,
L. D. Colledge, Honorary Secretary, North Mysore
Planters' Association, Brooke Mockett, President,
South Mysore Planters' Association, Henry M.
Knight, Honorary Secretary, South Mysore Planters'
Association, J. S. Valentine, Honorary Secretary,
Travancore Planters' Association, W. S. Leckler
Honorary Secretary, Shevoroy's Planters' Association,
F. Griffith, Honorary Secretary, Kotaghere
Planters' Association.

Office of the Planters' Conference
Parrys Buildings
Second Line Beach,
Madras 21st September 1893.



To the Chief Secretary to the
Government of Fort St. George,
MADRAS.

Sir,

On behalf of all the Planters' Associations both European and Native in Southern India assembled in Conference in Bangalore, I have the honor to approach His Excellency the Governor in Council on the subject of the reply of the Government of India to the Memorial of the United Planters' Associations to His Excellency the Marquis of Lansdowne, Viceroy and Governor General on the subject of the difficulties of the Planting industry with regard to their labour contracts and extradition laws.

The entire absence of any special objections to the contents of the Memorial on Act XIII. of 1859 already submitted leads the Conference to the conclusion that a re-hearing of the prayer of the Planting community may tend to remove certain misconceptions which have led to the unfavorable reply from the Supreme Government.

In the Memorial above mentioned several weighty official opinions were expressed that the existing law is inadequate and unfit to meet the problems which arise between labourers and employers; for although, the Government of India in its Despatch No. 77 of 5th October 1891 to Her Majesty's Secretary of State for India says that Act XIII. is extensively used in Asia with beneficial effect, the universal experience in the Presidency has resulted in the matured opinion that owing to the indefinite nature of its clauses and to the contradictory rulings of the High Courts

12
of both Madras and Bombay, it has been found positive
frustrate the very objects for which its provision
specially extended to the Planting Districts.

A Conference of Planters having been called to
consider this difficult subject, meetings have been held
at Bangalore of delegates from all the Planting Districts
in Southern India representing an approximate capital
lay of twelve million Sterling in the industry, who
thoroughly endorsing the Memorial of 1892, have concluded
that the following considerations may help the Government
of India to take a more favorable view of the question.

In regard to suggestion I in the Memorial, the
desire is that a clause be inserted to make the Act
apply to all contracts between Planters; Maistries and Lab-
orers on Maistries and Coolies for Work to be done
in lands cultivated with Coffee, Cinchona, Tea and other
crops.

In regard to suggestion II, that the exemption
mentioned in a Contract which has not been
forfeited shall be no bar to proceeding against the
laborer for this Act.

In regard to suggestion III; that every laborer
whose name is entered in the Check Roll of an Estate and
who has received an advance from his employer either in
money or in kind shall be deemed to have entered into a
contract of hire and service for one month and at the
end of that month, to have renewed it for another
month or until he shall have repaid the advance or amount
owed to him.

In addition to these suggestions which are
in the Memorial, this Conference would respectfully
recommend that in Section II. of Act XIII the words "or
satisfied" be struck out and further
that

137
earnest money or Consideration, in clear distinction to the Simple pre-payment of wages.

The Delegates to the Conference would most respectfully desire to represent that all their endeavours are in the direction of a lenient interpretation of the Act as regards Maistries and Contractors whose occupations bring them into many difficult situations which all Planters from their personal experience in dealing with coolies are the first to acknowledge and rightly appreciate.

I have the honor to request that you will convey to His Excellency the Governor of Madras an expression of the thanks of the Delegates assembled at this Conference for his promise to bestow the most careful attention of himself and his Honorable Colleagues to any re-consideration of the original Memorial a copy of which is herewith annexed.

In conclusion I trust that His Excellency will be able to re-submit the Memorial and a copy of this letter to His Excellency the Viceroy and Governor General with such favorable recommendations as His Excellency may deem commensurate with the interests involved.

The Conference has thought that it would simplify the consideration of the two subjects Act XIII. and Extradition by submitting a separate Memorial on each subject and I therefore confine my remarks in this letter to Act XIII.

I have the honor to be

Sir,

Your most obedient servant

Agar: Y. Bute

Chairman of the Conference.

19
Office of the Planters Conference
Parrys Buildings
Second Line Beach,
Madras 21st September 1893.

To the Chief Secretary to the
Government of Fort St. George,
M A D R A S.

Sir,

As Chairman of the Conference of the Planting Associations of Southern India, held at Bangalore on the 23rd August 1893, I have the honor to inform you that I am instructed to forward for the consideration of His Excellency the Governor in Council, the following Resolution which was unanimously passed by the Conference.

Resolved That this Conference shall present to the Government of India, through the Government of Madras, a statement of the position of disadvantage in which some Planting Districts find themselves placed by the exclusion of Act XIII of 1859 from the provisions of Extradition, and an explanation of the system of Special Magistrates by which, as an alternative to a general concession of Extradition, it is thought that relief may be given to the Districts concerned, praying that the Supreme Government will take the matter into its careful consideration and, if possible, take such action as shall afford the desired relief.

With reference to the above Resolution I would respectfully, invite the attention of His Excellency in Council to the following remarks. The Employers of labour in the Mysore, Travancore and Cochin States, find themselves involved in considerable difficulty in securing themselves against loss from breaches of contract, and dishonesty with regard to advances, under the following circumstances- These Estates being situated in Native States, which do not afford a sufficient supply of labour to meet their wants, much of

the labour employed is drawn from the neighbouring Districts of British India.

The laws which control the relations between employer and labourer in British India have been adopted by the Native States concerned, but as most, if not all, the offences which involve the necessity of legal action (notably those coming under Act XIII of 1853) are excluded from the provisions of Extradition, the offenders need only to return to their homes in British India to escape all prosecution.

The offences having been committed in foreign territory, no Court in British India has jurisdiction in the matter, and, without some system of Extradition, it is impossible to bring the offenders before the Magistrates of the Foreign State.

It is hoped that Act XIII of 1853 may be made serviceable to control the relations of employers and labourers in British India but, without a system of Extradition, its benefit is entirely denied to residents in foreign States, and even Residents in British India will lose many advantages which a system of Extradition, fully reciprocated, would confer on them.

The Conference is led to believe that the inclusion of Act XIII of 1853 within the provisions of Extradition involves difficulties to which the Government of India at present sees no solution, and it desires to lay before the Government a suggestion, of conferring special powers on a limited number of Magistrates, which it believes may prove to be such a solution.

The frontiers of the Native States concerned, so far as they are coterminous with the Districts of British India from which labour is drawn are the territories with which any remedial measures proposed must deal. These coterminous frontiers are of great extent, consequently the measures required are not of very far reaching import.

If in the foreign States concerned, certain sta-

16
-tions were chosen in which to place Magistrates to whose Processes, issued under Act XIII of 1859, the same force may be given in British India as if they had issued from a Magistrate in another District of British India, offenders under that Act could be brought to justice without difficulty or delay.

The Conference understands that many years ago measures of this kind were under the consideration of Government and were not adopted because of the hesitation of Government to submit British subjects to the jurisdiction of Magistrates of a foreign State. Every British subject will sympathise fully with this hesitation, but at the same time the Conference believes that, with regard to the special case with which their prayer is concerned, there are safeguards and limits which, on consideration, will be found to completely satisfy the most solicitous guardian of the rights of Her Majesty's subjects. Some of these safeguards are.

1. That while the Extradition Act, if made applicable to the laws with which we wish it to deal, would necessarily confer the right to claim Extradition on every State with which the Government of India is in relations of friendship, the powers for which we now ask would be given, on full consideration of all surrounding conditions, to individual States and would establish no precedent on which a repetition of the concession could be claimed.

2. That the States with which the Conference is concerned are well known to have so far progressed in the paths of wisdom, and purity of Administration, during the last quarter of a century that the fear of danger from the concession asked is reduced almost to a minimum.

3. That the treaty relations in which these States stand to the British Government places in the latter a machinery already in action, to fully working of such powers as we suggest.

4. That it would still remain with the

Government, while negotiating the concession, to take such security regarding the appointment of the Special Magistrates to whom the Powers would be given, the manner in which the powers should be exercised, and the circumstances under which the concession would be withdrawn, as would completely protect its subjects against any arbitrary injustice.

Further the Conference would respectfully submit that if, in the negotiations of the concession, the foreign States concerned were asked to accord the same facilities to the processes issued by certain British Magistrates, which we have reason to believe they would readily grant, the reciprocal benefit would prove to be a great help and encouragement to other industries besides that of Agriculture with which its members are especially concerned.

In conclusion, I have respectfully to state that, in forwarding this communication to the Supreme Government, the Conference trusts that the same may receive the support of His Excellency the Governor in Council.

I have the honor to be

Sir,

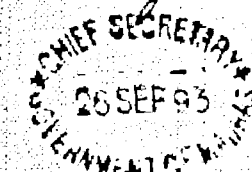
Your most obedient servant

Frederic L. Brett
Chairman of the Conference.

Office of the Planters Conference
Parry Buildings
Second Line Beach
Madras. 25th September 1893

From G. L. George Esq.
Secretary to the Planters Conference

To The Chief Secretary to
The Government of Fort St. George
Madras



Sir

By direction of the Conference of the Planters Associations of Southern India I have the honor to submit for the information of His Excellency the Governor in Council the following resolution, on the subject of the Compulsory Registration of Maistries, which was adopted at the meeting of the Conference in August last.

Resolved "That in view of the inability of the Planting Associations themselves to enforce registration of Maistries, and also of the fact that, without universal adoption, the scheme cannot succeed, this Conference respectfully requests the Government to make registration compulsory on all Maistries by a legal enactment, the term Maistrie being understood to refer to a man who contracts to bring coolies to do the ordinary routine work of Estates, in contradistinction to any special work undertaken by a Contractor."

I am, further, respectfully to ask that the subject matter of the above resolution may receive the favorable consideration of His Excellency in Council.

I have the honor to be

Sir
Your most obedient servant
G. L. George
Secretary

[G]
9

5,000-1547-93.

Current No. 4132

Judicial DEPARTMENT.

From the Plautis' Conference
Madras

No.

Dated 25th Sept. 93

Received 26th Sept. 93

Enclosures nil

Regd 27th Sept. 93

SUBJECT.

Submitting a resolution respecting
the Compulsory Registration of
Practitioners.

20
IND. DEPARTMENT.

Client No. 4064 + 4132

From

Sec. L. Plasteri Conference.

Dated 21 Sept. & 25 Sept.

FOI ORDERS.

In the first letter from Mr. Brett he requests that this Govt. will re-transmit, with a recommendation, to the G. of I. the petition regarding the amendment of Act XIII of 1859 which was finally discussed in the letter from the G. of I. ~~and indeed~~ read in G.O. of 17 June 1898, N° 121 Ind. l.

Nothing is adduced by Mr. Brett which would induce this Govt. to modify the opinion expressed by it in last letter of 10 Aug. 1892, N° 1458, Ind. l. But Mr. Brett's letter contains two new suggestions, viz.,

(1) that the words "while the same remains unsatisfied" in the last paragraph of sec. 2 of Act XIII of 1859 should be omitted.

20
As the effect of omitting the words stated above would be that the latter would be able to recover the advance under Act XIII of 1859 & also to sue for the same amount in a Civil Court. It is improbable that any Civil Court would entertain such a suit &

if not, then the amendment of section 2 suggested by Mr. Brett would be futile. It may be presumed that, even as the law stands, a planter who had already received an advance under Act XIII of 1859 has the power of suing for any damages which he can prove to have resulted from the breach of the contract.

(2) that the word "Advance" be defined to mean "earnest money" or "consideration" as opposed to simple prepayment of wages.

The object with which this amendment is proposed is not apparent, but, in all probability, the suggestion is made with reference to the High Court Rulings quoted on pp. 455 & 456 of *Wier* which are to the effect that an advance which is in reality a deposit or loan to be repaid at the close of the period of contract is not an advance of the kind contemplated by Act XIII of 1859.

It is to be gathered from C.R.C. 470 of 1883 (p. 457 of *Wier*) & C.R.C. 960 of 1883 (p. 472 of *Wier*) that an advance of wages to a coolie is an advance within the meaning of the Act.

Therefore, it seems, the question he asked when a doubt arises as to applicability of the Act is "does the contract bind the labourer to repay the advance?" If the answer is in the affirmative

FOR ORDERS.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

U.S. I don't think this proposal is sound. I believe the law is as it is. I don't see the need of the section. I don't see the need of the section. I don't see the need of the section.

This statement does not seem to hold. Can you see why?

the advance is not of the kind contemplated by the Act, if it is in the negative the Act does cover the advance.

But, if the above view is correct, then it is plain that the Planters have misrepresented their meaning; they do not want the word "Advance" to be defined as "earnest money" or "consideration" in clear distinction to simple prepayment of wages, what they really want is that the word "Advance" used in the Act shall cover "earnest money" or "consideration" as well as prepayment of wages.

Another point that will be noticed is that the Planters use "earnest money" & "consideration" as synonymous which they are not with regard to this proposal to extend the meaning of the term "Advance" it will be observed that it will necessitate the amendment of section 1 of the Act because an "Advance" which covers "earnest money" can hardly be regarded as "an advance on account of work to be performed".

The Planters have undoubtedly reason to complain of the uncertainty of the interpretation of Act XIII of 1859, but this uncertainty is the result of the extension of the Act to cover cases which it was never designed to provide for. The Court has from time to time

clearly, this is an extension of the Act which is not to be allowed. It is a proposal that a proposal should be reviewed by criminal process. There is nothing in the nature of criminal breach in the case of a minority who take money under an engagement to supply labour, and fail to do so.

U.S. Here I differ. The Penal Code defines 'cheating' as being the deceiving of any person by fraud. I don't see how a labourer who takes money under an engagement to supply labour, and fails to do so, is not guilty of cheating. I don't see how a labourer who takes money under an engagement to supply labour, and fails to do so, is not guilty of cheating.

U.S. I don't think they have reason to complain of the uncertainty of the interpretation of Act XIII of 1859, but this uncertainty is the result of the extension of the Act to cover cases which it was never designed to provide for. The Court has from time to time

to by a Ministry to provide
 when to do a certain number
 of days' work on a coffee-
 estate is a Contract within
 the meaning of Act XIII of
 189. yet nothing about the
 Act is plainer than that
 such a contract is not within
 to escape at all for a Ministry
 not an "artificer, workman
 or employee" and when the
 question next comes before
 the High Court it is likely to
 be so decided.

its regard then to this first
 letter of Mr. Baile's it is sub-
 mitted for consideration whether
 a best plan will not be to
 take the following steps:—

- (1) Communicate to the Planters
 the letter of 10 Aug. 1892.
 No. 1458;
- (2) inform them that, without
 further particulars as to
 their exact wants, this Govt.
 cannot undertake to make
 any recommendations to
 the G. of I. when re-submitting
 their petition in accordance
 with the request now made;
- (3) ask the object of the
 proposal to suit the
 words "while the same remain
 unsatisfied" from sec. 2 of
 the Act, pointing out at the
 same time that even as the
 law stands, they could probably
 recover by suit proved
 damages;
- (4) ask the exact meaning
 of the phrase

How they? I think not
 Quote misquoting.

and some of the...
 my intention was to...
 and some of the...
 my intention was to...
 and some of the...
 my intention was to...

I would adopt suggestion 1-4 but in 1892
 I don't think it is for us to advise the planters
 The aim of the letter seems misapprehended by the
 the Planters evidently misapprehended the posi-
 tion taken up by this Govt.

Let us open a...
 let us open a...
 let us open a...
 let us open a...
 let us open a...

I would adopt 1-4 - and leave out

advice. I would most certainly not
 tell the planters to sue defaulting, resistors
 as cheaters. Under the I. P. C. no magistrate
 in the face of the High Court's decision is
 bound, as it would be impossible for them to
 prove fraudulent mis-son in the case
 of the resistors, at the time they accepted the
 advance.

I do think we might support the planters
 in their petition as to the matter being decided
 in Act XIII of '89.

However objectionable the system of advances
 may be in principle, I am convinced that in
 many districts planters cannot possibly do
 without it. In one of the many phases, and
 especially in opening up new districts, they must
 have it, and I believe that the difficulties
 experienced by them in furnishing those who
 abscond after receiving advances, militates
 in a great degree against the investment of
 fresh capital in the planting industry.

I think quite rightly.
 The Government should consider the expediency
 of authorizing extradition, the existing of
 the law.

At present they say they are
 not to have that the Govt.
 of India has no power to
 in the way of extradition for
 of persons under Act XIII &
 to support a scheme

to cover "earnest money" or
 "consideration";

- (5) suggest that the planters
 should have a form of
 contract between planter
 & ministry & planter &
 copy prepared for general
 use by a competent lawyer;
- (6) suggest that they should
 take legal advice as to the
 exact scope of the law as
 interpreted by the High
 Court before taking any
 further steps in the matter.

The next letter (also) signed
 by Mr. Baile & deals with the
 subject of extradition.

This Govt. has on more than one
 occasion expressed an objection
 to bringing offenders under Act
 XIII of 1859 within the scope of
 the Extradition Act but in the
 letter of 10 Aug. 1892. No. 1458,
 it suggested a way of avoiding
 some of the difficulties to which
 Planters are undoubtedly ex-
 posed; the G. of I. however refused
 to consider even the modified
 proposals of this Govt.

The Planters now make further
 representations on the subject
 which they desire shall be
 brought to the notice of the G. of I.
 They accept the conclusion
 that the inclusion in the Extra-
 dition Act, 1879, of offenders
 under Act XIII of 1859 is
 out of the question but they
 propose an alternative scheme
 which is that, in the States of Travancore,
 Cochin & Mysore certain special

Magistrates should be appointed
to that process issued under
Act III of 1859 by such magis-
trates should have the same
force as those issued by
British magistrates.

Of course, however, this alternative
proposal cannot be adopted as
it stands for, even if the three
States named are willing to appoint
the Special Magistrates & have
enactments corresponding with
Act III of 1859, it is obvious
impossible, except by means of
legislation, to give legal force
in British India to the processes
issued by the Special Mag.

The utmost that can be done
is to rescind the proposal made
to the G. of S. in para. the last
paragraph of J. D. G. letter of
10 Aug. 1892, No. 1408, appending
the proviso that only such
summons & non-bailable war-
rants shall be served & executed
as are issued by Magistrates
approved by this Govt. with the
concurrence of the States concerned
& it is more than probable that
the G. of S. would refuse to sanction
even so limited a concession.

In the third letter which
signed by Mr. Gough the
planters propose that the
registration of Maistries should
be made compulsory.
The plan of voluntary registra-
tion of Maistries was introduced by
G.O. of 20 Jan. 1891, No. 60, Rev.
which will be found under
cover of G.O. of 21 April 1891
to J. D. G.

Quite so. And unless, legislation by the States
to give currency to the
processes issued by British Indian Mag.

It is certain they will. The objection proposed is
in substance the same as that already rejected
before the same objection. The reason against
the special proposal, but nothing to do with the
quality of the native tribunals.

I do not see why we should not state
that in this respect our opinions are
unchanged.

Mr. Brodie, the Collector of South
Canara, prophesies that the
system would not prove a
success & his anticipations have
apparently been realized.

The failure of the system of
voluntary registration
suggests that the demand for
Maistries is so great that the
Planters have to put up with
any one they can get. The result
of rendering registration com-
pulsory would be to reduce

the number of Maistries, & render the
competition for them still
keener, to place it within the
power of the Maistries to demand
more advantageous terms &
thus to re-act upon the Planters
themselves.

But the question of legislating
on such a subject cannot be
considered seriously. If the
law is to forbid any person
who is not registered as a
Maistry to contract to supply
coolies, is it also to prohibit
Planters from employing any
but registered Maistries?

It seems to be necessary to
Mr. Gough's letter might be
answered by pointing out that the
order by which it is issued
is not a law.
13/10/92

Mr. Brodie's remarks are very just. I suspect further
that the real object of this proposal is that the
registered Maistries may be enabled to represent
themselves as better educated & more fit to assist
to improve labour.

I do not believe
anything of the
kind.

25/11/92

5 Oct.

Papers to be Proceedings:—

gain G.O., dated 10 Aug 1892, No. 1457-D, Ld. 18
Again G.O., dated 18, No.
Current No. 4064 of 1893, dated 21 Sept from the Secy of the Planter Conference.

Current No. 4132 of 1893, dated 25 Sept from D.

Order 28th Nov 93 No. 2482

L.H.P.
25/11/93

Before dealing finally with the subject of the two letters read above the Govt. considered it expedient to communicate to Mr. Yonge a copy of ~~undated~~ letter of 10 August 1892, No. 1458, Ld. 18, & to request him to state more definitely the precise object of the various amendments of Act XIII of 1859, now proposed. The Govt. notes that

2. the omission of the words "in the same remains unsatisfied" from section 2 will have the effect of enabling the employer not only to recover the advance under Act XIII of 1859 but also to sue for the same amount in the Civil Court. H.E. in C. would be glad to know if this is the intention of the proposal to omit the ^{in question} said words & also whether the Conference considered the question whether an employer, even as the law stands, cannot sue in the Civil Court for proved damages as well as recover

an advance under Act XIII.

7. It is gathered that the object of defining the term "advance" is as to include "earnest money" or "consideration" is to render maistries who contract to supply labour amenable to the Act. The memorialists have doubtless observed that under certain circumstances an advance to a maistry for the supply of coolies has been held to be an advance within the meaning of the Act (see Madras High Court Report, 13 July 1887, 208, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000).

4. With regard to the subject of extradition the memorialists will observe from Judicial Letter 2, 10 Aug. 1890, No. 1458, that this Govt. suggested a modified scheme of extradition in order, as far as possible, to minimize the difficulties of which complaint had been made, but the G. of S. saw objections to the scheme for

by this Govt. The scheme now made is the States of Travancore, Cochin & Mysore certain Special Magistrates should be appointed & that processes issued under Act XIII of 1859 by such Magistrates should have the same validity as those issued by British Courts. The Govt. regrets to be unable to support this proposal which, even assuming that the Native States in question are willing to appoint the Special Magistrates, would involve the necessity of legislation in order to give legal force to their processes. The scheme suggested by the memorialists will of course be brought to the notice of the G. of S., if they so desire, but it is exceedingly improbable, in the opinion of this Govt., that the decision enumerated in Revenue & Agricultural Dept. letter, 3, 19 May 1893, No. 1206-10, will be reconsidered.

5. The last proposal is that the system of voluntary registration of maistries which was introduced by G.O. 25 Jan. 1891, No. 60, Rev., should be rendered compulsory. The memorialists have not perhaps observed that it would be necessary, if persons who are not registered as maistries are prohibited from entering into contracts for the supply of labour, etc.

Gov. is not aware as
the memorialists have
considered the effects of
proposal. It would be
essential condition of such
legislation that planters
should be prohibited, un-
penally, from employing
unregistered maistries. The
Govt would be glad to know
if the planters are prepared
to accept a penal provision
of this sort.

(From orders)

21 Nov.
24/11/93

G. L. George Esq.
Secretary to the Planters' Conference
(10) with copy of letter of 10 Aug 92, N 14652

DEPT. OF AGRICULTURE

18 FEB 1893

18 MS

Memorial for
Planters

Handwritten signature

Handwritten signature

Handwritten signature

15-4-15

7-11-16

16-10-16

MADRAS RECORD OFFICE.
Government Records.

Judicial Department.

G. O. (Misc).

Dated 28-11-1893.

No. 2482.

