

OK
Judicial (1895) Department. ①

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G.O., No 1309

Dated 19th June 1895

INDEXED.

[Despatch Abstract.]

LABOUR LAW.

Relinquishing the idea of legislation in respect of
of contract by labourers on the planting estates and by con-
tractors for supplying such labourers; and referring the draft bill for
the compulsory registration of maistries, prepared by the Advocate-
General, to the United Planters' Association of Southern India, for
consideration.

N.B.—There are papers connected with this
order in the confidential records.

FURTHER PAP				
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செப்பவருபவர் பெயர் அ. பரணா
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10/3/96
சுப்பாதிக்கம்
மு. ப. சிவசாமி
கையொப்பம்
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ஆராய்ச்சி
உதவியாள்
கையொப்பம்

19TH JUNE 1895, No. 1309, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers:—

G.O., dated 8th December 1894, Nos. 3006, 3007, Judicial.

Read—again G.O., dated 17th June 1893, No. 1238, Judicial.

Read—also the following papers:—

From G. L. YONGE, Esq., Secretary, United Planters' Association of Southern India, to the Chief Secretary to Government, dated Madras, 22nd September 1894.

I have the honour to address you, on behalf of the United Planters' Association of Southern India, on the jurisdiction difficulties that exist in those planting districts that are situated within the territories of Mysore, Travancore and Cochin—difficulties that practically debar the employers of labour from recovering advances from absconding maistries and contractors and which the Association earnestly hopes that His Excellency the Governor in Council may find some means of alleviating.

2. This subject has now been for some time before His Excellency the Governor in Council and it may be useful in this communication briefly to refer to former correspondence before proceeding to allude to fresh proposals which the Association would respectfully ask to be allowed to make on this occasion.

3. In the memorial from the Planters' Associations of Southern India which was forwarded through the Madras Government in August 1892, it was pointed out that (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 (and Travancore) territories.

4. In G.O., dated 10th August 1892, Nos. 1457-58, His Excellency in Council addressing the Government of India was pleased to express an opinion that the complaint of planters residing in Native States as to their inability to obtain warrants against defaulters in British territory was not without weight, and His Excellency proposed that reciprocal arrangements for the services of summonses and the execution of bailable warrants might with advantage be made with the States of Mysore, Travancore and Cochin. This proposal was negated by the Government of India.

5. On the 21st of September 1893, the Chairman of the Planters' Conference addressed His Excellency in Council and, with a view of overcoming the objections of the Government of India, suggested a modified scheme by which the processes of certain magistrates in Native States might be given the same force as if they had issued from a magistrate in British territory. His Excellency in Council was, however, unable to support such a proposal and, whilst expressing himself willing to bring it to the notice of the Government of India, was of opinion that it was exceedingly improbable that the decision enunciated by that Government in G.O., No. 1206-40, of the 19th May 1893, would be re-considered.

6. This Association however considers the situation a very grave one and one fraught with danger to the planting industries in Native States, and ventures, most respectfully, to ask the Government of Madras and, through that Government, the Government of India to reconsider the position and to adopt some method of affording relief to the anomalies and difficulties that are allowed to, and undoubtedly do, exist.

7. The Association would desire to point out that the planting industry has assumed very large dimensions in the Native States and that fresh capital is annually being employed in opening up the waste lands. The cultivated area in the three States of Mysore, Travancore and Cochin, to which the figures now submitted apply, amounts to 132,200 acres with an annual expenditure of Rs. 93,78,000. It has been ascertained that the average amount of advances now outstanding on these properties is Rs. 30 per acre, or Rs. 39,66,000, of which Rs. 10 per acre, or Rs. 13,22,000, are considered bad or have been written off within the last four years. The greater portion of this large loss is due by coolies and maistries now residing in British territory, against whom under the existing law there is absolutely no remedy.

8. The value of all the lands held on planting tenure in the three Native States amounts to £6,356,950, and it is for the better safeguarding and conserving of this valuable industry that the Association asks for the intervention of His Excellency in Council. The Association recognises with respectful gratitude the sympathetic attitude of the Madras Government, and it ventures to hope that, when the Government of India is made fully acquainted with the large interests which are at stake in Southern India, it will no longer refuse to give its consent to such remedial measures as may be necessary and which the Association trusts may be supported by His Excellency in Council.

9. In conclusion, I have the honour to forward the following resolution which was unanimously passed by the Association at the meeting held at Bangalore early in this month:—"That Government be asked to empower British magistrates in the districts, in which accused resides or in which the contract was made, to endorse and cause to be executed summonses or bailable warrants against the said accused issued by a magistrate in a Native State."

And to express the hope that the question, which the Association considers a most vital one to the interests of the planting community, may receive the earnest consideration of the Governments of Madras and India.

From H. B. GRIGG, Esq., C.I.E., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Trivandrum, 30th October 1894, Ref. on C. No. 3337.

I have the honour to submit herewith for the favourable consideration of Government a copy of a letter, No. 5130—P-1639, dated the 18th instant, from the Diwan of Travancore, with a copy of one addressed to him by the Secretary to the United Planters' Association of Southern India, on the subject of the service of summonses on, and the execution of bailable warrants against, offenders under Act XIII of 1859. Legislation was undertaken both by Travancore and Cochin so long ago as 1865 on the lines of this enactment, but offenders under it escaping into British territories cannot be easily reached as the Foreign Jurisdiction and Extradition Act does not apply to offences other than certain of those of the Indian Penal Code. I do not think, however, that there is any reason why the Travancore and Cochin planters should not be placed in as good a position *quâ* British territories as planters in British India are *quâ* British territories and Native territories. I would therefore strongly support the request of the Durbar to this extent, provided that arrangements are made for the issue of processes only by First-class Magistrates and for these processes passing through the Resident so long as other processes take the same course. I have stated that any offenders in British India under Act XIII escaping into Travancore and Cochin can be dealt with in the same manner as those escaping into British India from those States, because there is no law preventing the execution of processes issued under this Act through the Political officer in accordance with the rules published under the Government of India notification, No. 31 J., dated 12th March 1875, but such cases must be extremely rare, as the labour of estates lying in British territory is drawn from British territory, which is also the main source of supply for estates in these States.

ENCLOSURES.

From the Diwan of Travancore, to the British Resident in Travancore and Cochin, dated Trivandrum, 18th October 1894, No. 5130—J.-1639.

I have the honour to forward herewith copy of a letter, dated the 29th ultimo, from the Secretary, United Planters' Association of Southern India, Madras, and its enclosure—a memorial addressed to the Government of Madras on the subject of affording the planting community facilities in the matter of the execution in British India of processes issued by the magistrates in Native States against defaulters, who have received advances, absconding into British territory—I consider the representations of the Association very reasonable considering the large interests involved. His Highness' Government will be glad if suitable arrangements could be made to afford relief in the direction indicated. As most of the coolies and maistries who receive advances come from the British districts into the plantations on this side of the ghâts, the facilities for absconding with advances received in contracts are very great, and if the law could be made to reach them when they may go anywhere in British India, the temptation to the commission of the offence will receive a wholesome check and be of help to the cause of planting industry.

From G. S. YONGE, Esq., Secretary, United Planters' Association of Southern India, to the Diwan to His Highness the Maharajah of Travancore, dated Madras, 29th September 1894.

I have the honour to forward a copy of a letter which I have addressed to the Government of Madras, by direction of the United Planters' Association of Southern India, with reference to the jurisdiction difficulties as regards the execution of summonses and bailable warrants against offenders under Act XIII of 1859.

2. The Association respectfully invite the attention of His Highness the Maharajah to the gravity of the situation and to the heavy losses in advances now annually incurred by the planting community in His Highness' territories owing to the absolute absence of any judicial procedure by which defaulters under the Act can be brought to justice when residing in British territory.

3. The Association earnestly requests that this vital and important question may receive full consideration at the hands of His Highness' Government, and that they will take such steps as may be considered expedient to obtain the consent of the Governments of Madras and India to the enactment of some legal process by which the deadlock now existing may be removed.

Order—dated 8th December 1894, No. 3006, Judicial.

The memorial will be forwarded to the Government of India.

2. The Resident in Travancore and Cochin will be informed that the subject of his letter, dated 30th October 1894, is under reference to the Government of India. The Resident's allusions to the rules published in Judicial notification, No. 31 L., dated 12th March 1875, are not clearly understood, as the rules do not relate to arrests within Native States.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Secretary, United Planters' Association, of Southern India.
" Resident in Travancore and Cochin.

Letter—to the Secretary to the Government of India, Home Department, dated 8th December 1894, No. 3007, Judicial.

I am directed to address you again on the subject of the extradition of persons who have committed criminal breach of contract. This matter was discussed in the last paragraph of my letter, dated 10th August 1892, No. 1458, Judicial, wherein it was proposed that arrangements should be made for the reciprocal service of summonses and execution of bailable warrants between this Government and the States of Mysore, Travancore and Cochin. In reply, however, this Government was informed (paragraph 4 of Sir E. C. Buck's letter, dated 19th May 1893, No. 1206-40, Revenue and Agricultural Department) that the Government of India foresaw grave

inconvenience if the three States named were treated exceptionally in the matter of extradition and that the introduction of the proposed concessions in connection with mere breaches of contract appeared to His Excellency the Governor-General in Council to be in any case undesirable.

2. This expression of opinion on the part of the Government of India was communicated to the Planters' Associations interested with the result that the planting community has addressed to this Government further representations on the subject. A copy of the letter from the United Planters' Association of Southern India is enclosed in this communication and a perusal of it leaves no doubt as to the magnitude of the interests involved and the gravity of the loss to which the planters are exposed in consequence of the present condition of the law. The mischief does not end with the loss by the planters of sums which amount in the aggregate to an enormous total; the facility for fraud which the contiguity of British and foreign territory provides must unquestionably have a most demoralizing effect upon the large cooly population employed on the various estates.

3. His Excellency the Governor in Council does not underrate the difficulties and inconveniences to which allusion is made in Sir E. C. Buck's letter, but he believes that the Government of India admits the necessity for applying different principles to different Native States and the condition of the three States of Mysore, Travancore and Cochin is certainly such as to justify concessions which could not safely be granted to all the territories under Native rule. It may be argued that the remedy for existing evils is the discontinuance of the system of money advances, but His Excellency in Council has been assured at an interview which he had with several leading planters that this system is, and must for long be, essential to the carrying on of business and he is convinced that such is the case.

4. The Madras Government has therefore resolved to address the Government of India again on the subject of providing means for the extradition of persons guilty of criminal breach of contract. In Mysore an enactment corresponding to Act XIII of 1859 is in force and there are similar laws in Travancore and Cochin. In Mysore also (as intimated in Captain Hope's letter, dated 9th November 1881, No. 225 I.J.) the processes of British Courts possess the same validity as those of the Courts of the State. The existence of such an arrangement in Mysore is not, of course, a sufficient reason for treating the processes of the Mysore Courts in the same manner as those of British Courts within British territory, but the administration of criminal justice in that State and in the States of Travancore and Cochin is in so satisfactory a condition that reciprocity of process can be granted without any danger. One way of granting such reciprocity would be by means of a special law empowering the British police to serve summonses and execute warrants (if necessary bailable warrants only) which have been issued in respect of criminal breaches of contract by Courts in Mysore, Travancore and Cochin. If safeguards are considered necessary, the power of service and execution might be restricted to the processes of such Courts in the three States as may have been approved by the Government of Madras; and it might be further provided that no process shall be served or executed unless endorsed by a British magistrate. An alternative method would be to notify offences against Act XIII of 1859 to be extraditable offences within the meaning of Act XXI when committed within the states of Mysore, Travancore and Cochin; but this latter method appears less suitable than a special law to meet the special and peculiar circumstances of the case.

5. I am to add that the Travancore Darbar has expressed a desire that steps should be taken to meet the wishes of the planters resident in that State and that the Resident has strongly supported the proposals, on the understanding that the privilege of issuing processes to be served or executed in British India shall be confined to first-class Magistrates and that all such processes shall pass through his hands. The Government considers that such elaborate precautions are hardly necessary, but is willing to accept them and any others which the Government of India may deem essential if to do so will facilitate the removal of the existing impediments to the development of the planting industry.

(Signed) J. F. PRICE,
Chief Secretary.

G.O., dated 31st January 1895, No. 198, Judicial.

ABSTRACT.—Requesting the Advocate-General to prepare a draft of a Bill for the compulsory registration of maistries supplying coolies for tea, coffee and cinchona estates, and referring to that officer and the Hon'ble the Judges of the High Court, for favour of remarks, the draft of a Bill submitted by the United Planters' Association of Southern India for the punishment of breaches of contract by labourers on such estates and by contractors for supplying such labourers.

READ—also the following papers:—

From the Government Solicitor, Madras, dated 28th February 1895, No. 123.

ABSTRACT.—Forwarding the Advocate-General's opinion with reference to G.O., No. 198, dated 31st January 1895.

EXTRACT from Opinion of the Advocate-General, dated 28th February 1895.

*II.—Bill for the Registration of Maistries.**

9. With reference to this Bill, which I have drafted and have annexed hereto, I have the honour to make the following remarks.

10. I have adopted to some extent the definition of "Advance" given in the Bill just criticised.

11. The definition of "Contractor" includes all persons, by whatever name they may be locally known, who contract to supply coolies to work on plantations.

12. I have adopted the phrase "Gang labourer" from Act 30 and 31 Vict., c. 130, as it emphasizes the fact that the Bill deals with those contractors only who undertake to supply labour on a large scale. This necessitates a definition of "gang," but as I have no information to guide me as to the number of coolies usually hired at one time by one contractor, I have left the number to be filled in hereafter.

It may possibly be necessary to thus restrict the scope of this Bill, but, if so restricted, I fear it will be evaded by contractors hiring one labourer less than the number required to constitute a "gang." The result of such evasion may be that planters may have to employ several contractors in order to obtain a sufficient number of coolies, and not one of those contractors will be licensed, registered or subject in any way to the provisions of the Act.

As contractors must obtain licenses, and none but licensed contractors may be employed by planters, the difficulties pointed out in the Resolution of the Board of Revenue, dated the 22nd September 1893, No. 550, will cease to exist. If I am right in this supposition, there seems to be no reason why the scope of this Bill should be restricted to such maistries only as are suppliers of labour on a large scale.

13. The definition of "Estate" has been made similar to that given in the other Bill under consideration, for obvious reasons.

14. I have employed the word "Planter" to avoid the repetition of the phrase "owner of estates," and in the definition have included managers of estates.

15. In drafting this Bill, I have made no provision corresponding to suggestions VII to X inclusive, contained in Mr.

† Papers read in G.O., 19th July 1877, No. 1692, p. 4. Logan's letter of the 12th October 1876, No. 78; † because I think that they are

unnecessary or should not be adopted. Suggestion VII is dealt with in the Bill to provide for the punishment of breaches of contract.

Suggestions VIII, IX and X are unnecessary, because the procedure suggested would be useless. An entry made by a Sub-Magistrate on the *ex-parte* statement of a maistry would be absolutely valueless in a Civil Court to which the parties must eventually resort. Even a "summary enquiry" would, under these circumstances, unnecessarily harass the planter and waste the time of the Sub-Magistrate.

* The draft bill is printed as an appendix to these proceedings—vide pages 9—12.

16. The important subjects touched upon by Mr. Logan in paragraphs 8, 9 and 10 of his letter of the 13th February 1877, No. 11, * do not come within the scope of this Bill.

* Papers read in G.O., 19th July 1877, No. 1692, p. 11.

17. The penalty imposed by section 6 carries out an admittedly just principle which has been accepted by the United Planters' Association, according to Mr. Yonge's letter dated the 15th October 1894.

While conceding its justice, I must point out that the operation of the provision may be easily defeated. Where both parties to a breach of the law are made punishable for such breach, the chances of discovery are slight. Neither is likely to inform against the other. Periodical official enquiry would be expensive and unnecessarily inquisitorial.

18. Section 7 relates to the Register. It is inserted because that is one of the matters with regard to which legislation is considered necessary; but I think that if the system of licenses be adopted and be properly worked, registration will be unnecessary.

Mr. Logan in his letter of the 12th October 1876, No. 78 (above referred to), remarked: "It would manifestly be of very little assistance to an employer if he had to search all the proposed registration offices in the district to ascertain if the maistry was telling him the truth or not, because the proposed registration offices would be numerous and would be distant and it would take days to ascertain the exact truth."

The license prescribed by the Bill will, I think, give all the information required by the planter who wishes to enter into a contract with the licensee for the supply of coolies and will obviate the necessity for any search. If this section be omitted then all references to registration in the Bill must be struck out.

19. Section 9 limits the duration of the license to one year and provides for renewals. By this arrangement, the officer who granted the license will be able to judge whether the contractor is a fit and proper person to be again entrusted therewith, and if he be not, then a refusal to renew gets rid of the contractor without doing that injury to the planter which a suspension or cancellation of a license might inflict. The contracts are for a year, and the licenses can be so dated or taken out as to prevent even the chance of the periods not corresponding and the contractor finding himself perhaps unlicensed by expiry of his license before the completion of his contract.

The renewal must be entered on the original license, because the record of contracts entered thereon must be continuous.

Section 12 practically allows the contractor one month beyond the period of his license within which to obtain a renewal, and to produce the renewed license before the Registrar.

Sections 13 to 16 inclusive carry out the suggestions made by Mr. Logan in his letter of the 12th October 1876, No. 78, the word "license" being substituted for "certificate."

The abstract should be recorded on the license because a planter must demand inspection of the license to avoid incurring the penalty imposed by section 6, and the license, when produced, will give him all the information he can fairly demand, viz., whether the licensee has entered into contracts with any one else and whether he has received advances which remain unadjusted.

The Bill contains no provision for revocation of a license, because revocation would injure the planter by making it impossible for the contractor to complete his contract. The risk of non-renewal of his license will be sufficient to prevent a contractor from doing or omitting to do anything which, if done or omitted to be done, would justify revocation of his license.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

From the Acting Registrar of the High Court of Judicature, Appellate Side, Madras, dated 6th March 1895, No. 626.

ABSTRACT.—Forwarding a transcript of the minutes recorded by the Hon'ble Justices Parker, Shephard and Best on the Bill for the punishment of breaches of contract by labourers on coffee, tea and cinchona estates and by contractors for supplying labourers.

From DENZIL IBBETSON, Esq., C.S., Officiating Secretary to the Government of India, Department of Revenue and Agriculture (Emigration), to the Chief Secretary to the Government of Madras, dated Simla, the 1st May 1895, No. 592-32-1.

I am directed to reply to your letter, No. 3007, dated the 8th December 1894, forwarding a memorial from the United Planters' Association of Southern India, in which they again bring to notice the difficulties with which employers of labour in the planting districts situated within the territories of Mysore, Travancore and Cochin have to contend in regard to the recovery of advances from defaulting coolies and contractors. The Association ask that the question of the extradition from British territory of persons who have committed criminal breach of trust in respect of such advances may receive the earnest consideration of the Governments of Madras and India.

2. The question of the reciprocal service of processes and execution of warrants between British Courts and the Courts of the Native States mentioned above was fully considered in 1893, and it was explained in Sir E. C. Buck's letter to the Government of Madras, No. 1206-40, dated the 19th May 1893, why certain proposals which had been made by the Planters' Association of Southern India to facilitate the execution of such processes could not be accepted by the Government of India. For the reasons given in paragraphs 2 and 3 of your letter under reply you ask that the question may now be reconsidered, and you submit two alternative proposals as possible solutions of the difficulties brought to notice. These proposals are—

(a) that a special law be enacted empowering British police to serve summonses and execute warrants (if necessary bailable warrants only) which have been issued in respect of criminal breaches of contract by Courts in Mysore, Travancore and Cochin, subject to such safeguards as may be considered necessary in regard to the Courts by which such processes may be issued, and to the endorsement of the processes by a British magistrate before service and execution; or

(b) that offences against Act XIII of 1859 be notified to be extraditable offences within the meaning of the Foreign Jurisdiction and Extradition Act, XXI of 1879, when committed within the States of Mysore, Travancore and Cochin.

The latter method appears to the Government of Madras to be less suitable than the former to meet the peculiar circumstances of the case.

3. In regard to these proposals I am to say that there is nothing in the papers now forwarded to lead the Government of India to alter the views expressed by them in Sir E. C. Buck's letter of the 19th May 1893, referred to above. The objections to declaring offences against Act XIII of 1859 to be extraditable offences within the meaning of the Extradition Act, XXI of 1879, are clearly and forcibly indicated in paragraph 3 of the letter from the Government of Madras to the Resident in Mysore, No. 194, Judicial, dated the 31st January 1887, a copy of which was forwarded to this Government with your letter, No. 1458, dated the 10th August 1892, and these objections still exist. It is stated that Acts similar to Act XIII of 1859 are already in force in Mysore, Travancore and Cochin, and that in Mysore the processes of British Courts possess the same validity as those of the Courts of the State. I am, however,

again to invite your attention to the despatches noted in the margin which were forwarded to you with Mr. Muir Mackenzie's letter, No. 931-38, dated the

No. 77 dated 5th October 1891, paragraph 9.
No. 13, dated 11th February 1892, paragraphs 13 and 14.

9th May 1892, and which contain the views of the Government of India and of Her Majesty's Secretary of State respecting the operation of Act XIII of 1859. It will be seen that in the opinion of the Secretary of State, the Act was never intended to be applied to such contracts as are made on tea and coffee estates with coolies and contractors, and that it is generally admitted to be objectionable in principle. It is a dangerous instrument, capable of being worked most oppressively. The working of any similar provisions calls for the closest scrutiny; and the Government of India are not prepared to lend themselves to any proposal which would facilitate the execution of processes issued in Native States under such a law and by Courts the operation of which they cannot watch or in any way control.

4. For the reasons above stated the Governor-General in Council regrets that he is unable to reconsider the orders of the Government of India contained in Sir E. C. Buck's letter of the 19th May 1893, or to sanction either of the alternative proposals now put forward by the Government of Madras.

ORDER—dated 19th June 1895, No. 1309, Judicial.

From the attitude assumed by the Government of India in the letter read above it is evident that it would be useless to proceed further with Mr. Yonge's draft Breach of Contract Bill, and the Government is therefore reluctantly compelled to relinquish the idea of legislation in this direction desired by the planting community.

2. The draft Bill for the compulsory registration of maistries which has been prepared by the Advocate-General will be referred to the United Planters' Association of Southern India for such remarks as they may wish to offer.

(True Extract.)

Chief Secretary.

To the Secretary, United Planters' Association of Southern India.
 „ Hon'ble the Chief Justice, with C. L.
 Copy to the Hon'ble Mr. G. Romilly.

APPENDIX.

A Bill to provide for the licensing [and registration] of all Contractors for the supply of gang labourers to work on tea, coffee and cinchona estates.

[Prepared by the Advocate-General.]

Whereas certain persons hire labourers with a view to contracting with tea, coffee and cinchona planters for the execution on their lands of agricultural work; and whereas it is expedient that such contractors should be licensed [and registered], and that no unlicensed person should be employed for the purpose of supplying gangs of labourers to work on such plantations. It is enacted as follows:—

Short title.

1. (a) This Act may be called the "Estates' Labour Contractors' Licensing Act, 1895."

Local extent.

(b) It extends to the whole Presidency of Fort St. George, and

Commencement.

(c) It shall come into force at once.

Interpretation Clause.

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

"Advance" means any money or thing given to any contractor as a prepayment in whole or in part of the consideration for his contracting to supply gang labourers, and includes any release of a balance due on a previous contract when such release is by mutual consent treated as an advance.

"Contractor" means any person licensed [and registered] under this Act as a contractor for the supply of gang labourers to work on an estate for a specified time, or to do a specified work.

"Estate."

"Estate" means a tea, coffee or cinchona plantation.

"Gang" means a company of persons not less than in number, hired by a contractor to work as agricultural labourers for a specified time, or to do a specified work on an estate.

"Gang."

"Gang labourer."

"Gang labourer" means any person hired by a contractor to work in a gang.

"License."

"License" means a license granted under this Act.

"Planter."

"Planter" means the owner of an estate or, in his absence, the manager thereof.

["Register."

"Register" means the Register of Contractors prescribed by this Act].

Contractors to be licensed
[and registered].

3. No person shall contract to supply gang labourers to work on an estate unless and until he has been licensed [and registered] as a contractor.

4. Any person who acts as a contractor without having been licensed and registered as such shall, on conviction before a magistrate, be liable to a fine not exceeding five rupees for every day during which he so acts.

Penalty for acting as a
contractor without being
licensed [and registered].

No unlicensed [and un-
registered] person to be
employed as a contractor.

5. No planter shall contract with or employ any unlicensed [and unregistered] person to supply gang labourers to work on his estate.

6. A planter who enters into a contract with or employs any unlicensed [and unregistered] person to supply gang labourers to work on his estate shall, on conviction before a magistrate, be liable to a fine not exceeding five rupees for every day during which he so employs him.

Penalty for employing an
unlicensed [and unregis-
tered] person as a con-
tractor.

7. A register of licensed contractors shall be kept at such places by such officers and in such form as the Governor in Council may from time to time by notification direct.

[Register.]

8. A license under this Act may be granted by the Sub-Magistrate within whose jurisdiction the applicant resides, and shall be in the form prescribed in Schedule A of this Act.

License.

9. Each license shall be in force for only twelve months but may be renewed by the Sub-Magistrate who granted the original license, or his successor in office. Such renewal shall be recorded on the license, and such record shall be signed and sealed by the renewing officer.

Annual license but re-
newable.

[Registration of 'original
license.].

[Registration of renew-
ed license.].

[10. Upon production of such license, the registrar appointed under this Act shall register the licensee as a contractor, and shall record the fact and date of registration upon the license.]

[11. Whenever a license is renewed the licensee shall produce his renewed license before the registrar appointed under this Act, who shall thereupon record the fact and date of such renewal in the register.]

[Effect of failure to pre-
sent renewed license for
registration within one
month after the year for
which it was granted or
renewed.]

[12. At the expiration of 13 months from the date of a license or of the renewal of a license, as the case may be, the registrar shall strike the name of the licensee out of the register if a renewed license is not produced as required by section 11 and such person shall be deemed to be unlicensed and unregistered.]

13. A correct abstract of every contract entered into by a contractor shall be written on his license in the place and form prescribed therefor and to the extent specified in such license. Each abstract shall be in English and in the Vernacular language which the maistry understands, shall be signed by the contracting parties as a true abstract, and shall bear the date upon which it was made.

Abstract of every con-
tract entered into by con-
tractor shall be written on
his license.

All advances to be enter-
ed in the abstract required
by section 13.

14. Every advance made to a contractor under a contract shall be entered in the abstract mentioned in section 13 as and when such advances are made and such entries shall be signed by the contracting parties.

15. If a contractor contract to supply coolies to work on an estate not situated within the jurisdiction of the Sub-Magistrate who granted the license, such contractor shall within one week after entering into the contract produce the license before the Sub-Magistrate within whose jurisdiction the estate is situated, and such Sub-Magistrate shall affix his signature and seal to the abstract of the contract written thereon.

Contract to supply coolies
in estates beyond jurisdic-
tion of officer granting the
license.

Note of alteration or
termination by mutual con-
sent of contract before time
stipulated therein to be
entered on the license.

16. In the event of the parties to a contract for the supply of gang labourers to work on an estate agreeing to any alteration of such contract, and also where by mutual consent such contract is put an end to by the parties thereto before the time mentioned therein for its termination, a note of such alteration of, or agreement to put an end to, the contract shall be entered on the license and such entry shall be signed by the contracting parties and shall bear the date upon which it was made.

SCHEDULE A.

No. 1.

See

[Madras Act V of 1866] (Referred to in section 8.)

Contractor's License.

Office of the Sub-Magistrate of

A. B. is hereby licensed under Madras Act of 1895 to be a contractor for engaging persons to work on estates within the territorial limits of the Presidency of Madras as agricultural labourers.

This license will be in force for one year only from this date.

Registered at 18 day of
on the
by E. F.
Registrar of contractors.

Dated the

day of

18

Seal.

(Signed) C. D.,
Sub-Magistrate of

Renewals of License No. 1, dated

(Referred to in section 9).

Registered at 18 day of
on the
by E. F.
Registrar of contractors.

Dated the

day of

18

Seal.

(Signed) C. D.,
Sub-Magistrate of

1. The above license is hereby renewed for a further period of one year.

2. [All following renewals shall be similar to the above.]

Abstract of Contracts required by section 13.

[English].	[Vernacular].
No. 1 Contract.	" Estate, Wynaad.
1. Contracting parties— G. H., Planter. I. J., Contractor.	
2. Contract for supply of twenty labourers to work for months, viz, from, to on the " Estate, Wynaad.	
[Contract for work here to be specified—if the contract is for a specified work.]	
3. Date (and duration of contract if for labourers only).	3.
4. Total amount payable [Rs. A. P.]	4.
5. (Here enter how payable.)	5.
(Signed) G. H. (") I. J.	(Signed) G. H. (") I. J.
Advances made under above contract. (Here enter all advances as required by section 14.)	
No. 2 Contract.	" Estate.
1. Contracting Parties— Planter. Contractor.	1.
2. Contract for (Here set out whether for labourers or for specified work as given above).	2.
3. Date (and duration of contract if for labourers only).	3.
4. Total amount payable.	4.
5. (Here enter how payable.)	5.
6. Advances (see section 14).	6.

All subsequent contracts to be in the above form and to give the particulars therein required

19TH JUNE 1895, No. 1309, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers:—

G.O., dated 8th December 1894, Nos. 3006, 3007, Judicial.

Read—again G.O., dated 17th June 1893, No. 1238, Judicial.

Read—also the following papers:—

From G. L. YONGE, Esq., Secretary, United Planters' Association of Southern India, to the Chief Secretary to Government, dated Madras, 22nd September 1894.

I have the honour to address you, on behalf of the United Planters' Association of Southern India, on the jurisdiction difficulties that exist in those planting districts that are situated within the territories of Mysore, Travancore and Cochin—difficulties that practically debar the employers of labour from recovering advances from absconding maistries and contractors and which the Association earnestly hopes that His Excellency the Governor in Council may find some means of alleviating.

2. This subject has now been for some time before His Excellency the Governor in Council and it may be useful in this communication briefly to refer to former correspondence before proceeding to allude to fresh proposals which the Association would respectfully ask to be allowed to make on this occasion.

3. In the memorial from the Planters' Associations of Southern India which was forwarded through the Madras Government in August 1892, it was pointed out that (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 (and Travancore) territories.

4. In G.O., dated 10th August 1892, Nos. 1457-58, His Excellency in Council addressing the Government of India was pleased to express an opinion that the complaint of planters residing in Native States, as to their inability to obtain warrants against defaulters in British territory, was not without weight, and His Excellency proposed that reciprocal arrangements for the services of summonses and the execution of bailable warrants might with advantage be made with the States of Mysore, Travancore and Cochin. This proposal was negatived by the Government of India.

5. On the 21st of September 1893, the Chairman of the Planters' Conference addressed His Excellency in Council and, with a view of overcoming the objections of the Government of India, suggested a modified scheme by which the processes of certain magistrates in Native States might be given the same force as if they had issued from a magistrate in British territory. His Excellency in Council was, however, unable to support such a proposal and, whilst expressing himself willing to bring it to the notice of the Government of India, was of opinion that it was exceedingly improbable that the decision enunciated by that Government in G.O., No. 1206-40, of the 19th May 1893, would be re-considered.

6. This Association however considers the situation a very grave one and one fraught with danger to the planting industries in Native States, and ventures, most respectfully, to ask the Government of Madras and, through that Government, the Government of India to reconsider the position and to adopt some method of affording relief to the anomalies and difficulties that are allowed to, and undoubtedly do, exist,

7. The Association would desire to point out that the planting industry has assumed very large dimensions in the Native States and that fresh capital is annually being employed in opening up the waste lands. The cultivated area in the three States of Mysore, Travancore and Cochin, to which the figures now submitted apply, amounts to 132,200 acres with an annual expenditure of Rs. 93,78,000. It has been ascertained that the average amount of advances now outstanding on these properties is Rs. 30 per acre, or Rs. 39,66,000, of which Rs. 10 per acre, or Rs. 13,22,000, are considered bad or have been written off within the last four years. The greater portion of this large loss is due by coolies and maistries now residing in British territory, against whom under the existing law there is absolutely no remedy.

8. The value of all the lands held on planting tenure in the three Native States amounts to £6,356,950, and it is for the better safeguarding and conserving of this valuable industry that the Association asks for the intervention of His Excellency in Council. The Association recognises with respectful gratitude the sympathetic attitude of the Madras Government, and it ventures to hope that, when the Government of India is made fully acquainted with the large interests which are at stake in Southern India, it will no longer refuse to give its consent to such remedial measures as may be necessary and which the Association trusts may be supported by His Excellency in Council.

9. In conclusion, I have the honour to forward the following resolution which was unanimously passed by the Association at the meeting held at Bangalore early in this month:—"That Government be asked to empower British magistrates in the districts, in which accused resides or in which the contract was made, to endorse and cause to be executed summonses or bailable warrants against the said accused issued by a magistrate in a Native State."

And to express the hope that the question, which the Association considers a most vital one to the interests of the planting community, may receive the earnest consideration of the Governments of Madras and India.

From H. B. GRIGG, Esq., C.I.E., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Trivandrum, 30th October 1894, Ref. on C. No. 3337.

I have the honour to submit herewith for the favourable consideration of Government a copy of a letter, No. 5130—P-1639, dated the 18th instant, from the Diwan of Travancore, with a copy of one addressed to him, by the Secretary to the United Planters' Association of Southern India, on the subject of the service of summonses on, and the execution of bailable warrants against, offenders under Act XIII of 1859. Legislation was undertaken both by Travancore and Cochin so long ago as 1865 on the lines of this enactment, but offenders under it escaping into British territories cannot be easily reached as the Foreign Jurisdiction and Extradition Act does not apply to offences other than certain of those of the Indian Penal Code. I do not think, however, that there is any reason why the Travancore and Cochin planters should not be placed in as good a position *quæ* British territories as planters in British India are *quæ* British territories and Native territories. I would therefore strongly support the request of the Durbar to this extent, provided that arrangements are made for the issue of processes only by First-class Magistrates and for these processes passing through the Resident so long as other processes take the same course. I have stated that any offenders in British India under Act XIII escaping into Travancore and Cochin can be dealt with in the same manner as those escaping into British India from those States, because there is no law preventing the execution of processes issued under this Act through the Political officer in accordance with the rules published under the Government of India notification, No. 31 J., dated 12th March 1875, but such cases must be extremely rare, as the labour of estates lying in British territory is drawn from British territory, which is also the main source of supply for estates in these States.

ENCLOSURES.

From the Diwan of Travancore, to the British Resident in Travancore and Cochin, dated Trivandrum, 18th October 1894, No. 5130—J.-1639.

I have the honour to forward herewith copy of a letter, dated the 29th ultimo, from the Secretary, United Planters' Association of Southern India, Madras, and its enclosure—a memorial addressed to the Government of Madras on the subject of affording the planting community facilities in the matter of the execution in British India of processes issued by the magistrates in Native States against defaulters, who have received advances, absconding into British territory—I consider the representations of the Association very reasonable considering the large interests involved. His Highness' Government will be glad if suitable arrangements could be made to afford relief in the direction indicated. As most of the coolies and maistries who receive advances come from the British districts into the plantations on this side of the ghats, the facilities for absconding with advances received in contracts are very great, and if the law could be made to reach them when they may go anywhere in British India, the temptation to the commission of the offence will receive a wholesome check and be of help to the cause of planting industry.

From G. S. YONGE, Esq., Secretary, United Planters' Association of Southern India, to the Diwan to His Highness the Maharajah of Travancore, dated Madras, 29th September 1894.

I have the honour to forward a copy of a letter which I have addressed to the Government of Madras, by direction of the United Planters' Association of Southern India, with reference to the jurisdiction difficulties as regards the execution of summonses and bailable warrants against offenders under Act XIII of 1859.

2. The Association respectfully invite the attention of His Highness the Maharajah to the gravity of the situation and to the heavy losses in advances now annually incurred by the planting community in His Highness' territories owing to the absolute absence of any judicial procedure by which defaulters under the Act can be brought to justice when residing in British territory.

3. The Association earnestly requests that this vital and important question may receive full consideration at the hands of His Highness' Government, and that they will take such steps as may be considered expedient to obtain the consent of the Governments of Madras and India to the enactment of some legal process by which the deadlock now existing may be removed.

Order—dated 8th December 1894, No. 3006, Judicial.

The memorial will be forwarded to the Government of India.

2. The Resident in Travancore and Cochin will be informed that the subject of his letter, dated 30th October 1894, is under reference to the Government of India. The Resident's allusions to the rules published in Judicial notification, No. 31 I., dated 12th March 1875, are not clearly understood, as the rules do not relate to arrests within Native States.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Secretary, United Planters' Association, of Southern India.
Resident in Travancore and Cochin.

Letter—to the Secretary to the Government of India, Home Department, dated 8th December 1894, No. 3007, Judicial.

I am directed to address you again on the subject of the extradition of persons who have committed criminal breach of contract. This matter was discussed in the last paragraph of my letter, dated 10th August 1892, No. 1458, Judicial, wherein it was proposed that arrangements should be made for the reciprocal service of summonses and execution of bailable warrants between this Government and the States of Mysore, Travancore and Cochin. In reply, however, this Government was informed (paragraph 4 of Sir E. C. Buck's letter, dated 19th May 1893, No. 1206-40, Revenue and Agricultural Department) that the Government of India foresaw grave

inconvenience if the three States named were treated exceptionally in the matter of extradition and that the introduction of the proposed concessions in connection with mere breaches of contract appeared to His Excellency the Governor-General in Council to be in any case undesirable.

2. This expression of opinion on the part of the Government of India was communicated to the Planters' Associations interested with the result that the planting community has addressed to this Government further representations on the subject. A copy of the letter from the United Planters' Association of Southern India is enclosed in this communication and a perusal of it leaves no doubt as to the magnitude of the interests involved and the gravity of the loss to which the planters are exposed in consequence of the present condition of the law. The mischief does not end with the loss by the planters of sums which amount in the aggregate to an enormous total; the facility for fraud which the contiguity of British and foreign territory provides must unquestionably have a most demoralizing effect upon the large cooly population employed on the various estates.

3. His Excellency the Governor in Council does not underrate the difficulties and inconveniences to which allusion is made in Sir E. C. Buck's letter, but he believes that the Government of India admits the necessity for applying different principles to different Native States and the condition of the three States of Mysore, Travancore and Cochin is certainly such as to justify concessions which could not safely be granted to all the territories under Native rule. It may be argued that the remedy for existing evils is the discontinuance of the system of money advances, but His Excellency in Council has been assured at an interview which he had with several leading planters that this system is, and must for long be, essential to the carrying on of business and he is convinced that such is the case.

4. The Madras Government has therefore resolved to address the Government of India again on the subject of providing means for the extradition of persons guilty of criminal breach of contract. In Mysore an enactment corresponding to Act XIII of 1859 is in force and there are similar laws in Travancore and Cochin. In Mysore also (as intimated in Captain Hope's letter, dated 9th November 1881, No. 225 I.J.) the processes of British Courts possess the same validity as those of the Courts of the State. The existence of such an arrangement in Mysore is not, of course, a sufficient reason for treating the processes of the Mysore Courts in the same manner as those of British Courts within British territory, but the administration of criminal justice in that State and in the States of Travancore and Cochin is in so satisfactory a condition that reciprocity of process can be granted without any danger. One way of granting such reciprocity would be by means of a special law empowering the British police to serve summonses and execute warrants (if necessary, bailable warrants only) which have been issued in respect of criminal breaches of contract by Courts in Mysore, Travancore and Cochin. If safeguards are considered necessary, the power of service and execution might be restricted to the processes of such Courts in the three States as may have been approved by the Government of Madras; and it might be further provided that no process shall be served or executed unless endorsed by a British magistrate. An alternative method would be to notify offences against Act XIII of 1859 to be extraditable offences within the meaning of Act XXI when committed within the states of Mysore, Travancore and Cochin; but this latter method appears less suitable than a special law to meet the special and peculiar circumstances of the case.

5. I am to add that the Travancore Darbar has expressed a desire that steps should be taken to meet the wishes of the planters resident in that State and that the Resident has strongly supported the proposals, on the understanding that the privilege of issuing processes to be served or executed in British India shall be confined to first-class Magistrates and that all such processes shall pass through his hands. The Government considers that such elaborate precautions are hardly necessary, but is willing to accept them and any others which the Government of India may deem essential if to do so will facilitate the removal of the existing impediments to the development of the planting industry.

(Signed) J. F. PRICE,
Chief Secretary.

G.O., dated 31st January 1895, No. 198, Judicial.

ABSTRACT.—Requesting the Advocate-General to prepare a draft of a Bill for the compulsory registration of maistries supplying coolies for tea, coffee and cinchona estates, and referring to that officer and the Hon'ble the Judges of the High Court, for favour of remarks, the draft of a Bill submitted by the United Planters' Association of Southern India for the punishment of breaches of contract by labourers on such estates and by contractors for supplying such labourers.

READ—also the following papers:—

From the Government Solicitor, Madras, dated 28th February 1895, No. 123.

ABSTRACT.—Forwarding the Advocate-General's opinion with reference to G.O., No. 198, dated 31st January 1895.

EXTRACT from Opinion of the Advocate-General, dated 28th February 1895.

II.—Bill for the Registration of Maistries.

9. With reference to this Bill, which I have drafted and have annexed hereto, I have the honour to make the following remarks.

10. I have adopted to some extent the definition of "Advance" given in the Bill just criticised.

11. The definition of "Contractor" includes all persons, by whatever name they may be locally known, who contract to supply coolies to work on plantations.

12. I have adopted the phrase "Gang labourer" from Act 30 and 31 Vict., c. 130, as it emphasizes the fact that the Bill deals with those contractors only who undertake to supply labour on a large scale. This necessitates a definition of "gang," but as I have no information to guide me as to the number of coolies usually hired at one time by one contractor, I have left the number to be filled in hereafter.

It may possibly be necessary to thus restrict the scope of this Bill, but, if so restricted, I fear it will be evaded by contractors hiring one labourer less than the number required to constitute a "gang." The result of such evasion may be that planters may have to employ several contractors in order to obtain a sufficient number of coolies, and not one of those contractors will be licensed, registered or subject in any way to the provisions of the Act.

As contractors must obtain licenses, and none but licensed contractors may be employed by planters, the difficulties pointed out in the Resolution of the Board of Revenue, dated the 22nd September 1893, No. 550, will cease to exist. If I am right in this supposition, there seems to be no reason why the scope of this Bill should be restricted to such maistries only as are suppliers of labour on a large scale.

13. The definition of "Estate" has been made similar to that given in the other Bill under consideration, for obvious reasons.

14. I have employed the word "Planter" to avoid the repetition of the phrase "owner of estates," and in the definition have included managers of estates.

15. In drafting this Bill, I have made no provision corresponding to suggestions VII to X inclusive, contained in Mr. Logan's letter of the 12th October 1876, No. 78, * because I think that they are unnecessary or should not be adopted. Suggestion VII is dealt with in the Bill to provide for the punishment of breaches of contract.

Suggestions VIII, IX and X are unnecessary, because the procedure suggested would be useless. An entry made by a Sub-Magistrate on the *ex-parte* statement of a maistry would be absolutely valueless in a Civil Court to which the parties must eventually resort. Even a "summary enquiry" would, under these circumstances, unnecessarily harass the planter and waste the time of the Sub-Magistrate.

* [In 1876]
Suggestion VII is included as an appendix to the Bill

16. The important subjects touched upon by Mr. Logan in paragraphs 8, 9 and 10 of his letter of the 13th February 1877, No. 11, do not come within the scope of this Bill.

17. The penalty imposed by section 6 carries out an admittedly just principle which has been accepted by the United Planters' Association, according to Mr. Yonge's letter dated the 15th October 1894.

While conceding its justice, I must point out that the operation of the provision may be easily defeated. Where both parties to a breach of the law are made punishable for such breach, the chances of discovery are slight. Neither is likely to inform against the other. Periodical official enquiry would be expensive and unnecessarily inquisitorial.

18. Section 7 relates to the Register. It is inserted because that is one of the matters with regard to which legislation is considered necessary; but I think that if the system of licenses be adopted and be properly worked, registration will be unnecessary.

Mr. Logan in his letter of the 12th October 1876, No. 78 (above referred to), remarked: "It would manifestly be of very little assistance to an employer if he had to search all the proposed registration offices in the district to ascertain if the maistry was telling him the truth or not, because the proposed registration offices would be numerous and would be distant and it would take days to ascertain the exact truth."

The license prescribed by the Bill will, I think, give all the information required by the planter who wishes to enter into a contract with the licensee for the supply of coolies and will obviate the necessity for any search. If this section be omitted then all references to registration in the Bill must be struck out.

19. Section 9 limits the duration of the license to one year and provides for renewals. By this arrangement, the officer who granted the license will be able to judge whether the contractor is a fit and proper person to be again entrusted therewith, and if he be not, then a refusal to renew gets rid of the contractor without doing that injury to the planter which a suspension or cancellation of a license might inflict. The contracts are for a year, and the licenses can be so dated or taken out as to prevent even the chance of the periods not corresponding and the contractor finding himself perhaps unlicensed by expiry of his license before the completion of his contract.

The renewal must be entered on the original license, because the record of contracts entered thereon must be continuous.

Section 12 practically allows the contractor one month beyond the period of his license within which to obtain a renewal, and to produce the renewed license before the Registrar.

Sections 13 to 16 inclusive carry out the suggestions made by Mr. Logan in his letter of the 12th October 1876, No. 78, the word "license" being substituted for "certificate."

The abstract should be recorded on the license because a planter must demand inspection of the license to avoid incurring the penalty imposed by section 6, and the license, when produced, will give him all the information he can fairly demand, viz., whether the licensee has entered into contracts with any one else and whether he has received advances which remain unadjusted.

The Bill contains no provision for revocation of a license, because revocation would injure the planter by making it impossible for the contractor to complete his contract. The risk of non-renewal of his license will be sufficient to prevent a contractor from doing or omitting to do anything which, if done or omitted to be done, would justify revocation of his license.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

*The Bill printed as a separate Bill
should come here -*

From the Acting Registrar of the High Court of Judicature, A. J. late Side,
Madras, dated 6th March 1895, No. 626.

ABSTRACT.—Forwarding a transcript of the minutes recorded by the Hon'ble Justices Parker, Shephard and Best on the Bill for the punishment of breaches of contract by labourers on coffee, tea and cinchona estates and by contractors for supplying labourers.

From DENZIL IBBETSON, Esq., C.S., Officiating Secretary to the Government of India, Department of Revenue and Agriculture (Emigration), to the Chief Secretary to the Government of Madras, dated Simla, the 1st May 1895, No. 592-32-1.

I am directed to reply to your letter, No. 3007, dated the 8th December 1894, forwarding a memorial from the United Planters' Association of Southern India, in which they again bring to notice the difficulties with which employers of labour in the planting districts situated within the territories of Mysore, Travancore, and Cochin have to contend in regard to the recovery of advances from defaulting coolies and contractors. The Association ask that the question of the extradition from British territory of persons who have committed criminal breach of trust in respect of such advances may receive the earnest consideration of the Governments of Madras and India.

2. The question of the reciprocal service of processes and execution of warrants between British Courts and the Courts of the Native States mentioned above was fully considered in 1893, and it was explained in Sir E. C. Buck's letter to the Government of Madras, No. 1206-40, dated the 19th May 1893, why certain proposals which had been made by the Planters' Association of Southern India to facilitate the execution of such processes could not be accepted by the Government of India. For the reasons given in paragraphs 2 and 3 of your letter under reply you ask that the question may now be reconsidered, and you submit two alternative proposals as possible solutions of the difficulties brought to notice. These proposals are—

(a) that a special law be enacted empowering British police to serve summonses and execute warrants (if necessary bailable warrants only) which have been issued in respect of criminal breaches of contract by Courts in Mysore, Travancore and Cochin, subject to such safeguards as may be considered necessary in regard to the Courts by which such processes may be issued, and to the endorsement of the processes by a British magistrate before service and execution; or

(b) that offences against Act XIII of 1859 be notified to be extraditable offences within the meaning of the Foreign Jurisdiction and Extradition Act, XXI of 1879, when committed within the States of Mysore, Travancore and Cochin.

The latter method appears to the Government of Madras to be less suitable than the former to meet the peculiar circumstances of the case.

3. In regard to these proposals I am to say that there is nothing in the papers now forwarded to lead the Government of India to alter the views expressed by them in Sir E. C. Buck's letter of the 19th May 1893, referred to above. The objections to declaring offences against Act XIII of 1859 to be extraditable offences within the meaning of the Extradition Act, XXI of 1879, are clearly and forcibly indicated in paragraph 3 of the letter from the Government of Madras to the Resident in Mysore, No. 194, Judicial, dated the 31st January 1887, a copy of which was forwarded to this Government with your letter, No. 1458, dated the 10th August 1892, and these objections still exist. It is stated that Acts similar to Act XIII of 1859 are already in force in Mysore, Travancore and Cochin, and that in Mysore the processes of British Courts possess the same validity as those of the Courts of the State. I am, however,

again to invite your attention to the despatches noted in the margin which were forwarded to you with Mr. Muir Mackenzie's letter, No. 931-33, dated the No. 77, dated 5th October 1891, paragraph 9. No. 13, dated 11th February 1892, paragraphs 13 and 14.

B

9th May 1892, and which contain the views of the Government of India and of Her Majesty's Secretary of State respecting the operation of Act XIII of 1859. It will be seen that in the opinion of the Secretary of State, the Act was never intended to be applied to such contracts as are made on tea and coffee estates with coolies and contractors, and that it is generally admitted to be objectionable in principle. It is a dangerous instrument, capable of being worked most oppressively. The working of any similar provisions calls for the closest scrutiny; and the Government of India are not prepared to lend themselves to any proposal which would facilitate the execution of processes issued in Native States under such a law and by Courts the operation of which they cannot watch or in any way control.

4. For the reasons above stated the Governor-General in Council regrets that he is unable to reconsider the orders of the Government of India contained in Sir E. C. Buck's letter of the 19th May 1893, or to sanction either of the alternative proposals now put forward by the Government of Madras.

ORDER—dated 19th June 1895, No. 1309, Judicial.

From the attitude assumed by the Government of India in the letter read above it is evident that it would be useless to proceed further with Mr. Yonge's draft Breach of Contract Bill, and the Government is therefore reluctantly compelled to relinquish the idea of legislation in this direction desired by the planting community.

2. The draft Bill for the compulsory registration of maistries which has been prepared by the Advocate-General will be referred to the United Planters' Association of Southern India for such remarks as they may wish to offer.

(True Extract.)

Chief Secretary.

To the Secretary, United Planters' Association of Southern India.

Hon'ble the Chief Justice, with C. L.

Copy to the Hon'ble Mr. G. Romilly.

APPENDIX.

A Bill to provide for the licensing [and registration] of all Contractors for the supply of gang labourers to work on tea, coffee and cinchona estates.

Whereas certain persons hire labourers with a view to contracting with tea, coffee and cinchona planters for the execution on their lands of agricultural work; and whereas it is expedient that such contractors should be licensed [and registered], and that no unlicensed person should be employed for the purpose of supplying gangs of labourers to work on such plantations. It is enacted as follows:—

- | | |
|------------------------|--|
| Short title. | 1. (a) This Act may be called the "Estates' Labour Contractors' Licensing Act, 1895." |
| Local extent. | (b) It extends to the whole Presidency of Fort St. George, and |
| Commencement. | (c) It shall come into force at once. |
| Interpretation Clause. | 2. In this Act, unless there is something repugnant in the subject or context |
| "Advance" | "Advance" means any money or thing given to any contractor as a prepayment in whole or in part of the consideration for his contracting to supply gang labourers, and includes any release of a balance due on a previous contract when such release is by mutual consent treated as an advance. |
| "Contractor" | "Contractor" means any person licensed [and registered] under this Act as a contractor for the supply of gang labourers to work on an estate for a specified time, or to do a specified work. |
| "Estate." | "Estate" means a tea, coffee or cinchona plantation. |
| "Gang" | "Gang" means a company of persons not less than in number, hired by a contractor to work as agricultural labourers for a specified time, or to do a specified work on an estate. |
| "Gang labourer." | "Gang labourer" means any person hired by a contractor to work in a gang. |
| "License." | "License" means a license granted under this Act. |
| "Planter." | "Planter" means the owner of an estate or, in his absence, the manager thereof. |
| "Register." | "Register" means the Register of Contractors prescribed by this Act]. |

Contractors to be licensed
[and registered].

3. No person shall contract to supply gang labourers to work on an estate unless and until he has been licensed [and registered] as a contractor.

4. Any person who acts as a contractor without having been licensed and registered as such shall, on conviction before a magistrate, be liable to a fine not exceeding five rupees for every day during which he so acts.

Penalty for acting as a
contractor without being
licensed [and registered].

No unlicensed [and un-
registered] person to be
employed as a contractor.

5. No planter shall contract with or employ any unlicensed [and unregistered] person to supply gang labourers to work on his estate.

6. A planter who enters into a contract with or employs any unlicensed [and unregistered] person to supply gang labourers to work on his estate shall, on conviction before a magistrate, be liable to a fine not exceeding five rupees for every day during which he so employs him.

Penalty for employing an
unlicensed [and unregis-
tered] person as a con-
tractor.

7. A register of licensed contractors shall be kept at such places by such officers and in such form as the Governor in Council may from time to time by notification direct.

[Register.

8. A license under this Act may be granted by the Sub-Magistrate within whose jurisdiction the applicant resides, and shall be in the form prescribed in Schedule A of this Act.

License.

9. Each license shall be in force for only twelve months but may be renewed by the Sub-Magistrate who granted the original license, or his successor in office. Such renewal shall be recorded on the license, and such record shall be signed and sealed by the renewing officer.

Annual license but re-
newable.

[Registration of original
license.]

[Registration of renew-
ed license.]

[Effect of failure to pre-
sent renewed license for
registration within one
month after the year for
which it was granted or
renewed.]

[10. Upon production of such license, the registrar appointed under this Act shall register the licensee as a contractor, and shall record the fact and date of registration upon the license.]

[11. Whenever a license is renewed the licensee shall produce his renewed license before the registrar appointed under this Act, who shall thereupon record the fact and date of such renewal in the register.]

[12. At the expiration of 13 months from the date of a license or of the renewal of a license, as the case may be, the registrar shall strike the name of the licensee out of the register if a renewed license is not produced as required by section 11 and such person shall be deemed to be unlicensed and unregistered.]

13. A correct abstract of every contract entered into by a contractor shall be written on his license in the place and form prescribed therefor and to the extent specified in such license. Each abstract shall be in English and in the Vernacular language which the maistry understands, shall be signed by the contracting parties as a true abstract, and shall bear the date upon which it was made.

Abstract of every con-
tract entered into by con-
tractor shall be written on
his license.

All advances to be enter-
ed in the abstract required
by section 13.

by the contracting parties.

14. Every advance made to a contractor under a contract shall be entered in the abstract mentioned in section 13 as and when such advances are made and such entries shall be signed

15. If a contractor contract to supply coolies to work on an estate not situated within the jurisdiction of the Sub-Magistrate who granted the license, such contractor shall within one week after entering into the contract produce the license before the Sub-Magistrate within whose jurisdiction the estate is situated, and such Sub-Magistrate shall affix his signature and seal to the abstract of the contract written thereon.

Contract to supply coolies
in estates beyond jurisdic-
tion of officer granting the
license.

Note of alteration or
termination by mutual con-
sent of contract before time
stipulated therein to be
entered on the license.

16. In the event of the parties to a contract for the supply of gang labourers to work on an estate agreeing to any alteration of such contract, and also where by mutual consent such contract is put an end to by the parties thereto before the time mentioned therein for its termination, a note of such alteration of, or agreement to put an end to, the contract shall be entered on the license and such entry shall be signed by the contracting parties and shall bear the date upon which it was made.

SCHEDULE A.

No. 1.

Fee

[Madras Act V of 1866] (Referred to in section 8.)

Contractor's License.

Office of the Sub-Magistrate of

A. B. is hereby licensed under Madras Act of 1895 to be a contractor for engaging persons to work on estates within the territorial limits of the Presidency of Madras as agricultural labourers.

This license will be in force for one year only from this date.

Dated the

day of 18

Seal

(Signed) C. D.,
Sub-Magistrate of

Renewals of License No. 1, dated

(Referred to in section 9).

1. The above license is hereby renewed for a further period of one year.

Dated the

day of 18

Seal

(Signed) C. D.,
Sub-Magistrate of

2. [All following renewals shall be similar to the above.]

Abstract of Contracts required by section 13.

[English].

[Vernacular].

No. 1 Contract.

" Estate,
Wynaad.

1. Contracting parties—

G. H., Planter.

I. J., Contractor.

2. Contract for supply of twenty labourers to
work for months, viz, from,
to on the " Estate,
Wynaad.[Contract for work here to be specified—if the
contract is for a specified work.]3. Date (and duration of contract if for labour-
ers only).

4. Total amount payable [Rs. A. P.]

5. (Here enter how payable.)

(Signed) G. H.
(") I. J.(Signed) G. H.
(") I. J.Advances made under above contract.
(Here enter all advances as required by sec-
tion 14.)

No. 2 Contract.

" Estate.

1. Contracting Parties—

..... Planter.

..... Contractor.

2. Contract for
(Here set out whether for labourers or for
specified work as given above).3. Date (and duration of contract if for labour-
ers only).

4. Total amount payable.

5. (Here enter how payable.)

6. Advances (see section 14).

All subsequent contracts to be in the above form and to give the particulars therein required.

Govt. of {1895} Madras.

JUDICIAL.

Issued

and

Encl.

G.O., 19th June 1895, No. 1309.

JUNE.

Labour Law.

Relinquishing the idea of legislation in respect of breaches of contract by labourers on the plant-
ing estates and by contractors for supplying such
labourers and referring the draft Bill for the
compulsory registration of maistries prepared by
the Advocate-General to the United Planters' As-
sociation of Southern India for remarks.

From

C. No. 1086 of 28/2/95 from Mr. Sol.

C. No. 1115 of 6/2/95 from High Court.

4 - 238081 1st May 95 from the G.O.
Dated 189

FOR ORDERS.

I don't see that there will be the least use in our pursuing this matter further. The planters must do as other people do also have their own axes to grind, viz., bring measures before the House and then, though the House of Commons, though generous, we cannot advise them to this effect.

RM
31/5/95

The letter from the G.O. shows that it would be useless to proceed further with the Contract Bill. The Bill regarding the registration of Associations might be referred for the remarks of the Planters' Association. I think it would help the Planters, & I think one why the G.O. is dissatisfied.

JG
1/6

There is no use going on with the Contract Bill - & the Planters' Association should see the correspondence on the subject. The Registration Bill should also go to the Ass^y for their remarks. W

At the present stage, at all events, it appears unnecessary to record a lengthy note on these papers. In G.O. of 31 Jan 1895, No. 198, Jud^l, the High Court & the Advocate-General were asked to express an opinion on Mr. George's Draft Breach of Contract Bill & the latter authority was requested to prepare a Draft Bill for the Compulsory Registration of Masters. The replies to this G.O. form the current.

2. The Contract Bill.

The Adv. Gen. thinks the proposed measure a somewhat harsh one but he seems to have overlooked the fact that the principal provisions of the proposed new law exist already in Act XIII of 1859. The Adv. Gen. is plainly of opinion that he could ought to be given some simple &

efficacious remedy in the event of the Planter withholding, or neglecting to pay, his wages; as a counterpoise to the powers granted to the Planter.

The Adv. Gen. further objects that sec. 7 & 9 empower the Planter to recover compensation twice over.

Mr. Justice Shephard sees no 'great' objection to the Bill & Mr. Justice Brist approves of it.

Mr. Justice Parker, however, opposes the Bill. He objects especially to oral contracts & considers that

- (1) Contracts should be entered into before a public officer;
- (2) a minimum rate of wages should be prescribed;
- (3) the advance should be limited in amount to one month's wage & should be recoverable by monthly deductions from wages after the second month;
- (4) the 'Explanation' to sec. 3 should be omitted;
- (5) sec. 8 should be modified to make it clear that imprisonment shall cease on payment of advance;
- (6) ~~that~~ the period within which criminal proceedings

may be taken under the Bill should be limited to 3 or 6 months after expiry of the contract;

(7) 'Advance' should be defined to include the release of a balance due on a previous contract &

(8) the Bill should be so worded as to make it quite clear that only fraudulent breach of contract are punishable hereunder.

The G. of I.'s recent refusal to permit the amendment of the Coffee-Stealing Prevention Act, 1872, renders it more than ever probable that it will refuse sanction to this Contract Bill. But, if H.M.s think it worth while to discuss the proposed measure further, it is submitted that the opinions of the Adv. Gen. & the High Court may be referred for consideration to the United Planters' Association before any further steps are taken.

Attention is also invited to the Hon. Mr. Bliss' suggestion (under cover of G.O. D. 31 Jan. 1895, No. 175, 123) that a Conference should be held with the Planters.

3. The Registration Bill.
As ordered, the Adv. Gen. has prepared a draft Bill to amend the registration of

100% - sometimes Compensatory.
It would be useless to
discuss his draft until
the Planters' Association
has had its say about
it. But, when referring
the Bill to that body, it
would perhaps be as
well to hint that there
is little probability that
the G. of I. will sanction
the introduction of such
a measure.

27 March 95.

This is one of the papers which
has been delayed owing to heavy
work.

I submit herewith the copy of
the G. of India to G.O. No. 3076-
3077 dated 8th Dec. 1894. This
shows pretty plainly what the
attitude of that Govt. is and
it is I fear highly probable that
it will continue the matter to
which this letter alludes and
further will be merely time
and trouble thrown away.

The bill the Draft of which is in
G.O. No. 198 dated 31st Jan. 1895
will undoubtedly be rejected both
at home by India and having
motion may only lead to the Planters
being deprived of such advantages
as they have under Act XIII of 1859.
The Draft bill regarding them
repitition & securing of maintenance
might pass muster with the
Govt. of India but this seems rather
doubtful. It is a decade ago or
with either or both the reference and
the note at necessary.

Respectfully
Yours
J. G. G. G. G.

Notes connected with G.O. 1307 & 19.6.95. prot.

NOTE FOR THE UNDER SECRETARY.

Refugee Committee

See what H. G. has

and regarding

Mr. J. C. G.

being the Committee

Refugee Committee

and

15/11

2

8/1

20

9th US

[

Let me know how

the situation is

at the present time

and what the prospects

are for the future

of the country

and the world

17/6

For Co.
See also
and to the

and then by way of damages in a civil

E
NOTE FOR THE CHIEF SECRETARY.

The No. when printed will con-
tain at length No. 78 Dec. 1894
No. 3006-7 (including the letter to
India), the part of Ladd's reply
(C. 2380) + pieces of the High &
Carts letter & the advocate General
The correspondence with India
will thus be commenced to
the Plaster Project as desired by
H.E.

2. With ref. to W. Russell's
letter, the file is sent up; with
the order will have to be to India
to be printed, & of C. Direct.
can have an advance copy sent
to W. Russell

2
17-630

Mr. Dear Sir
re: India. In
above note returned in case
you want it. I am advising
Russell to write & ask you
for an advance copy

V. Russell

For C.S. 18. 5
[The attached
for C.S.
for C.S.
for C.S.]

then by way of damages in a Civil

99

NOTE FOR THE UNDER SECRETARY.

F. Hamilton
T.I.
2200 State
Press to send
advance copy
direct to
Hon. W.
Romilly, to report to fact of
to 12-6-58

Wm. Lusk
Wm. Lusk

Opinion.

1. From the correspondence read in G. O. dated 19th July 1877, No. 1692, Judicial, it appears that two subjects were dealt with by the Planters Association, viz:

- (a) the punishment for breaches of contract, and
- (b) the registration of maistries.

2. The draft Bill submitted with Mr Yonge's letter of the 31st October 1894 deals with the first of the above subjects, and I have been asked to express my views in respect thereof.

3. With regard to the second subject above mentioned, I have been asked to draft a Bill "restricted in scope to such maistries as supply coolies for work on tea, coffee and cinchona estates, and to such of these maistries only as are suppliers of labour on a large scale".

1. BILL for the punishment for breaches of Contract.

4. The provisions of this Bill seem to be somewhat harsh, and may by their harshness cause planters much trouble hereafter in getting either contractors for the supply of labourers or labourers themselves. A sentence of three months rigorous imprisonment is very severe. No doubt that is the maximum sentence, but that fact will not impress itself so firmly in the native mind as the amount of possible punishment.

5. Besides the punishment of rigorous imprisonment, the defaulting maistry or cooly, as the case may be, is liable to be ruined in execution of a decree against him in a Civil Court, or to further imprisonment in a debtors jail, at the instance of the person who prosecuted him before the Magistrate.

6. Sections 7 and 9 taken together seem to allow of the planter receiving compensation twice over, first through the Magistrate out of the security for due performance of his Order under Section 7, and then by way of damages in a Civil

suit.

7. While these short and drastic remedies are provided in favor of the planter, the Contractor and the Cooly are left to seek relief a Civil Court when the planter breaks his part of the Contract by non payment or delay in payment of money due, or neglects or refuses to pay advances, the payment of which may form part of the Contract, yet the non payment of such moneys may make it very difficult for the Contractor or the Cooly to complete his contract.

8. Some alterations seem to be desirable in the wording of the Bill. I merely allude to a few, as no doubt the whole Bill will be fully criticised in Committee, if it ever reach that stage. The alterations to which I allude are the improvement of the definition of "Advance", verbal amendments in Section 3 by the omission of the words "as defined in this Act", substitution of the word "may" for "shall" before the words "issue a summons", insertion of "for the appearance" after "summons" and of "for the arrest of" after "warrant", and the omission of the words "as he shall think proper for bringing before him".

The Proviso should be recast on the lines of Section 203 of the Criminal Procedure Code.

II. BILL for the Registration of Maistries.

9. With reference to this Bill, which I have drafted and have annexed hereto, I have the honor to make the following remarks.

10. I have adopted to some extent the definition of "Advance" given in the Bill just criticised.

11. The definition of "Contractor" includes all persons, by whatever name they may be locally known who contract to supply coolies to work on plantations.

12. I have adopted the phrase "gang labourer" from Act 30 & 31 Vict c.130, as it emphasizes the fact that the Bill deals with those Contractors only who undertake to supply labor on a large scale. This necessitates a definition of "Gang", but as I have no information to guide me as to the number of coolies usually hired at one time by one Contractor, I have left the number to be filled in hereafter.

It may possibly be necessary to thus restrict the scope of this Bill, but, if so restricted, I fear it will be evaded by Contractors hiring one labourer less than the number required to constitute a "Gang".

The result of such evasion may be that Planters may have to employ several Contractors in order to obtain a sufficient number of Coolies, and not one of those Contractors will be licensed, registered or subject in any way to the provisions of the Act.

As Contractors must obtain licenses, and none but licensed Contractors may be employed by Planters the difficulties pointed out in the Resolution of the Board of Revenue dated the 22nd September 1893 No. 350 will cease to exist. If I am right in this supposition, there seems to be no reason why the scope of this Bill should be restricted to such maistries only as are suppliers of labour on a large scale.

13. The definition of "Estate" has been made similar to that given in the other Bill under consideration, for obvious reasons.

14. I have employed the word "Planter" to avoid the repetition of the phrase "owner of estates", and in the definition have included managers of estates.

15. In drafting this Bill, I have made no provision corresponding to suggestions VII to X inclusive, contained in Mr Logan's letter of the 12th October 1876, No. 78, because I think that they are unnecessary or should not be adopted. Suggestion VII is dealt with in the Bill to provide for the punishment of breaches of contract.

Suggestions VIII, IX and X are unnecessary, because the procedure suggested would be useless. An entry made by a Sub Magistrate on the ex parte statement of a maistry would be absolutely valueless in a Civil Court to which the parties must eventually resort. Even a "summary enquiry" would, under these circumstances, unnecessarily harass the planter and waste the time of the Sub Magistrate.

16. The important subjects touched upon by Mr Logan in paragraphs 8 9 and 10 of his letter of the 13th February 1877, No. 11, do not come within the scope of this Bill.

17. The penalty imposed by Section 6 carries out an admitted -ly just principle which has been accepted by the United Planters Association, according to Mr Yonge's letter dated the 15th October

* Papers read
19 July 1877
1876 p. 4

* Papers read
19 July 1877
1876 p. 11

1894.

While conceding its justice, I must point out that the operation of the provision may be easily defeated. Where both parties to a breach of the law are made punishable for such breach, the chances of discovery are slight. Neither is likely to inform against the other. Periodical official enquiry would be expensive and unnecessarily inquisitorial.

18. Section 7 relates to the Register. It is inserted because that is one of the matters with regard to which legislation is considered necessary; but I think that if the system of licenses be adopted and be properly worked, Registration will be unnecessary.

Mr Logan in his letter of the 12th October 1876 No. 78 (above referred to) remarked "It would manifestly be of very little assistance to an employer if he had to search all the proposed Registration offices in the District to ascertain if the maistry was telling him the truth or not, because the proposed Registration Offices would be numerous and would be distant and it would take days to ascertain the exact truth".

The license prescribed by the Bill will, I think, give all the information required by the Planter, who wishes to enter into a contract with the licensee for the supply of coolies, and will obviate the necessity for any search. If this Section be omitted then all references to registration in the Bill must be struck out.

19. Section 9 limits the duration of the license to one year, and provides for renewals. By this arrangement, the officer who granted the license will be able to judge whether the Contractor is a fit and proper person to be again entrusted therewith and if he be not, then a refusal to renew gets rid of the Contractor without doing that injury to the Planter, which a suspension or cancellation of a license might inflict. The Contracts are for a year, and the licenses can be so dated or taken out as to prevent even the chance of the periods not corresponding and the Contractor finding himself perhaps unlicensed by expiry of his license before the completion of his contract.

The renewal must be entered on the original license, because the record of contracts entered thereon must be continuous.

Section 12 practically allows the Contractor one month beyond the period of his license within which to obtain a renewal, and to produce the renewed license before the Registrar.

258
Sections 13 to 16 inclusive carry out the suggestions made by Mr Logan in his letter of the 12th October 1876, No. 78 the word "license" being substituted for "Certificate".

The abstract should be recorded on the license because a Planter must demand inspection of the license to avoid incurring the penalty imposed by Section 6, and the license, when produced, will give him all the information he can fairly demand viz whether the licensee has entered into contracts with any one else, and whether he has received advances which remain unadjusted.

The Bill contains no provision for revocation of a license, because revocation would injure the Planter by making it impossible for the Contractor to complete his Contract. The risk of non-renewal of his license will be sufficient to prevent a contractor from doing or omitting to do any thing, which if done or omitted to be done would justify revocation of his license.

M a d r a s ;
28th February 1895.

(Sd) J. H. Spring Branson.
Advocate General.

(True Copy)

Ernest S. S. S.
Government Solicitor.

1115
13 Abstract
Judicial {1895.} Department.

No.

FROM

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

Dated 6th March } 1895.
Received 7th

No. 626.
Enc.

Forwarding a transcript
of the minutes recorded by the
Honble justices Parker, Shep-
herd and Best on the Bill
for the punishment of
breaches of contract by
laborers on coffee, tea and
cinchona estates and by
contractors for supplying
laborers.

113/3/95

(Garden)

278
2382
No. $\frac{592}{32-1}$

FROM

DENZIL IBBETSON, Esq., C.S.,
Offg. Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF
MADRAS.

Dept. of Rev. & Agri.
Emigration.

Simla, the 1st May 1895.

SIR,

I AM directed to reply to your letter No. 5007, dated the 8th December 1894, forwarding a memorial from the United Planters' Association of Southern India, in which they again bring to notice the difficulties with which employers of labour in the planting districts situated within the territories of Mysore, Travancore, and Cochin, have to contend in regard to the recovery of advances from defaulting coolies and contractors. The Association ask that the question of the extradition from British territory of persons who have committed criminal breach of trust in respect of such advances, may receive the earnest consideration of the Governments of Madras and India.

2. The question of the reciprocal service of processes and execution of warrants between British courts and the courts of the Native States mentioned above was fully considered in 1893, and it was explained in Sir E. C. Buck's letter to the Government of Madras No. 1206-40, dated the 19th May 1893, why certain proposals which had been made by the Planters' Association of Southern India to facilitate the execution of such processes, could not be accepted by the Government of India. For the reasons given in paragraphs 2 and 3 of your letter under reply you ask that the question may now be reconsidered, and you submit two alternative proposals as possible solutions of the difficulties brought to notice. These proposals are:—

- (a) That a special law be enacted empowering British police to serve summonses and execute warrants (if necessary bailable warrants only) which have been issued in respect of criminal breaches of contract by courts in Mysore, Travancore, and Cochin, subject to such safeguards as may be considered necessary in regard to the courts by which such processes may be issued, and to the

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

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O., 8th April 1903, No. 299, Public.)

endorsement of the processes by a British magistrate before service and execution; or

- (b) that offences against Act XIII of 1859 be notified to be extraditable offences within the meaning of the Foreign Jurisdiction and Extradition Act, XXI of 1879, when committed within the States of Mysore, Travancore, and Cochin.

The latter method appears to the Government of Madras to be less suitable than the former to meet the peculiar circumstances of the case.

3. In regard to these proposals I am to say that there is nothing in the papers now forwarded to lead the Government of India to alter the views expressed by them in Sir E. C. Buck's letter of the 19th May 1893 referred to above. The objections to declaring offences against Act XIII of 1859 to be extraditable offences within the meaning of the Extradition Act, XXI of 1879, are clearly and forcibly indicated in paragraph 3 of the letter from the Government of Madras to the Resident in Mysore, No. 194-Judicial, dated the 31st January 1887, a copy of which was forwarded to this Government with your letter No. 1458, dated the 10th August 1892, and these objections still exist. It is stated that Acts similar to Act XIII of 1859 are already in force in Mysore, Travancore, and Cochin, and that in Mysore the processes of British courts possess the same validity as those of the courts of the State. I am, however, again to invite your attention

* No. 77, dated 5th October 1871, paragraph 9.
No. 13, dated 11th February 1892, paragraphs 13 and 14.

to the despatches * noted in the margin which were forwarded to you with Mr. Muir Mackenzie's letter No. 931-38, dated the 9th May 1892, and which contain the views of the Government of India and of Her Majesty's Secretary of State respecting the operation of Act XIII of 1859. It will be seen that in the opinion of the Secretary of State, the Act was never intended to be applied to such contracts as are made on tea and coffee estates with coolies and contractors, and that it is generally admitted to be objectionable in principle. It is a dangerous instrument, capable of being worked most oppressively. The working of any similar provisions calls for the closest scrutiny; and the Government of India are not prepared to lend themselves to any proposal which would facilitate the execution of processes issued in Native States under such a law, and by courts the operation of which they cannot watch or in any way control.

4. For the reasons above stated the Governor General in Council regrets that he is unable to reconsider the orders of the Government of India contained in Sir E. C. Buck's letter of the 19th May 1893, or to sanction either of the alternative proposals now put forward by the Government of Madras.

I have the honour to be,

SIR,

Your most obedient Servant,

Wm. J. Munro

Offg. Secretary to the Government of India.

[G.]
[21.]
[100-5390]

Papers to be read in proceedings:—

Judicial DEPARTMENT.

Again G.O., dated 8 Dec 1894, No. 3006

Again G.O., dated 31 January 1895, No. 148

Current No. 1086 of 1895, dated 6 March from the Registrar, with the Social Council
Pr Appr of 6/11/15
with file printed as appendix

A of Current No. 2320 of 1895, dated 28 Feb from the Govt of India

ORDER. dt 19th June 1895 No. 1309

From the attention ^{concerned} of the Govt of India in the letter read above it is evident that ^{old} ~~it is~~ ^{it is} ~~not~~ ^{not} ~~to~~ ^{to} ~~proceed~~ ^{proceed} ~~with~~ ^{with} ~~the~~ ^{the} ~~draft~~ ^{draft} ~~breach~~ ^{breach} ~~of~~ ^{of} ~~contract~~ ^{contract} and the Govt is therefore ^{of} ~~it is~~ ^{it is} ~~not~~ ^{not} ~~to~~ ^{to} ~~proceed~~ ^{proceed} ~~with~~ ^{with} ~~the~~ ^{the} ~~draft~~ ^{draft} ~~breach~~ ^{breach} ~~of~~ ^{of} ~~contract~~ ^{contract} and the Govt is therefore ^{of} ~~it is~~ ^{it is} ~~not~~ ^{not} ~~to~~ ^{to} ~~proceed~~ ^{proceed} ~~with~~ ^{with} ~~the~~ ^{the} ~~draft~~ ^{draft} ~~breach~~ ^{breach} ~~of~~ ^{of} ~~contract~~ ^{contract} and the Govt is therefore ^{of} ~~it is~~ ^{it is} ~~not~~ ^{not} ~~to~~ ^{to} ~~proceed~~ ^{proceed} ~~with~~ ^{with} ~~the~~ ^{the} ~~draft~~ ^{draft} ~~breach~~ ^{breach} ~~of~~ ^{of} ~~contract~~ ^{contract} and the Govt is therefore ^{of} ~~it is~~ ^{it is} ~~not~~ ^{not} ~~to~~ ^{to} 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A Bill

to provide for the Licensing [and Registration] of all Contractors for the supply of gang labourers to work on tea, Coffee and Cinchona estates.

Preamble.

Whereas certain persons hire labourers with a view to contracting with tea, Coffee and Cinchona planters for the execution on their lands of agricultural work; and Whereas it is expedient that such Contractors should be licensed [and registered], and that, no unlicensed person should be employed for the purpose of supplying gangs of labourers to work on such plantations: It is enacted as follows:-

- 1. (a) This Act may be called the "Estate Labour Contractors' Licensing Act, 1895."
- (b) It extends to the whole Presidency of Port Saint George, and
- (c) It shall come into force at once.

1/11/95

C. S. P.
(Planned)

Submitted assuming
1/11/95

Station Clause.

"Advance."

"Contractor"

"Estate"

"Gang"

"Gang labourer"

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

"Advance" means any money or thing given to any Contractor as a prepayment in whole or in part of the consideration for his contracting to supply gang labourers, and includes any release of a balance due on a previous Contract when such release is by mutual consent treated as an advance.

"Contractor" means any person licensed [and registered] under this Act as a Contractor for the supply of gang labourers to work on an estate for a specified time, or to do a specified work.

"Estate" means a tea, coffee or cinchona plantation.

"Gang" means a company of persons not less than an number, hired by a Contractor to work as agricultural labourers for a specified time, or to do a specified work on an estate.

"Gang labourer" means any person hired.

hired by a Contractor to work in a gang.

"License"

"Planter"

["Register"]

"License" means a license granted under this Act.

"Planter" means the owner of an estate or, in his absence, the manager thereof.

"Register" means the Register of Contractors prescribed by this Act.]

3. No person shall contract to supply gang labourers to work on an estate unless and until he has been licensed [and registered] as a Contractor.

Penalty for acting as a Contractor without being licensed [and registered]

4. Any person who acts as a Contractor without having been licensed and registered as such, shall, on conviction before a Magistrate, be liable to a fine not exceeding five Rupees for every day during which he so acts.

No unlicensed [and unregistered] person to be employed as a Contractor.

5. No Planter shall contract with or employ any unlicensed [and unregistered] person to supply gang labourers to work on his estate.

Penalty for employing
an unlicensed [and
unregistered] person
as a Contractor.

[Register

License

Annual license
but renewable.

6. A Planter who enters into a Contract with or employs any unlicensed [and unregistered] person to supply gang labourers to work on his estate shall, on conviction before a Magistrate, be liable to a fine not exceeding five rupees for every day during which he so employs him.

7. A Register of licensed Contractors shall be kept at such places, by such officers and in such form as the Governor in Council may from time to time by notification direct.

8. A License under this Act may be granted by the Sub. Magistrate within whose jurisdiction the applicant resides, and shall be in the form prescribed in Schedule A of this Act.

9. Each License shall be in force for only twelve months but may be renewed by the Sub. Magistrate who granted the original license, or his successor in office. Such renewal shall

be

be recorded on the license, and such record shall be signed and sealed by the renewing officer.

[10. Upon production of such
[Registration
of original license] License, the Registrar appointed under this Act shall register the Licensee as a Contractor, and shall record the fact and date of registration upon the license.]

[11. Whenever a license is renewed
[Registration of
renewed license] the licensee shall produce his renewed license before the Registrar appointed under this Act, who shall thereupon record the fact and date of such renewal in the Register.]

[12. At the expiration of 13 months
[Effect of failure
to present renewed
license for registra-
tion within one
month after the
year for which it
was granted or
renewed.] from the date of a license or of the renewal of a license as the case may be, the Registrar shall strike the name of the Licensee out of the Register if a renewed license is not produced as required by section 11 and such person shall be deemed to be unlicensed and unregistered.]

Abstract of every Contract entered into by Contractor shall be written on his license.

13. A correct abstract of every Contract entered into by a Contractor shall be written on his license in the place and form prescribed therefor and to the extent specified in such license. Each abstract shall be in English and in the vernacular language which the majority understands shall be signed by the Contracting parties as a true abstract, and shall bear the date upon which it was made.

All advances to be entered in the abstract required by Section 13.

14. Every advance made to a Contractor under a Contract shall be entered in the abstract mentioned in Section 13 as and when such advances are made, and such entries shall be signed by the Contracting parties.

Contract to supply coolies in Estates beyond jurisdiction of officer granting the license.

15. If a Contractor contract to supply coolies to work on an estate not situated within the jurisdiction of the Sub. Magistrate who granted the license, such Contractor shall within one week after entering into the contract produce the license before the

Sub

Sub Magistrate within whose jurisdiction the Estate is situated, and such Sub. Magistrate shall affix his signature and seal to the abstract of the contract written thereon.

16. In the event of the parties to a contract for the supply of termination by mutual consent gang labourers to work on an estate agreeing to any alteration of such Contract, and also where by mutual consent such contract is put an end to by the parties thereto before the time mentioned therein for its termination, a note of such alteration of, or agreement to put an end to the contract shall be entered on the license, and such entry shall be signed by the Contracting parties and shall bear the date upon which it was made.

Schedule

No. 1.

Schedule A

[Madras Act, IV of 1886] (Referred to in Section 8.)

Contractor's License.

Office of the Sub. Magistrate of
 A.B. is hereby licensed under Madras Act
 of 1895, to be a contractor for engaging persons
 to work on Estates within the territorial limits
 of the Presidency of Madras as agricultural
 labourers.

This license will be in force for one year
 only from this date

Dated the day of 18-
 (Seal) (Signed) C.D.
 Sub. Magistrate of

Renewals of license s.t. 1. dated
 (Referred to in Section 9.)

1. The above license is hereby renewed for a further
 period of one year.

Dated the day of 18-
 (Seal) (Signed) C.D.
 Sub. Magistrate of

2. [all following renewals shall be similar
 to the above.]

Abstract of Contracts required by section 13.
 [English] [Vernacular]

No. 1 Contract. "....." Estate
 Wynad.

1. Contracting Parties

G.H. Planter

I.J. Contractor

2. Contract for supply of twenty
 labourers to work for
 months, viz. from
 to on the "....." Estate
 Wynad.

[Contract for work here to be
 specified - if the Contract is
 for a specified work.]

3. Date & duration of Contract if
 for labourers only)
 4. Total amount payable [Rs. a. p.]
 5. (Here enter how payable)
 (Signed) G.H.
 I.J.

(Signed) G.H.
 I.J.

Advances made under above Contract
 (Here enter all advances as
 required by section 14.)

No. 2. Contract. "....." Estate

1. Contracting Parties
 Planter
 Contractor

2. Contract for
 (here set out whether for
 labourers or for specified
 work as given above
 3. Date (and duration of
 Contract if for labourers
 only)

4. Total amount payable

5. (Here enter how payable)

6. Advances - (see Section 14.)

All subsequent contracts to be in the above form and
 to give the particulars therein required.

Madras
 28th February 1895

J. H. Spring Craunson
 Advocate General.

(True Copy)

James Barclay
 Government Solicitor

Hom

of complete file
2-10-1940

GOVERNMENT OF INDIA

N^o 123

Dated. 28 February 1899 }
 Recd. 5/3 }
 Encl. 8 }

Forwarded with ^{enclosures with} reference
to the Order of Government
dated 31st January 1895
No 190. Judicial.

Robert Macleod
Governor of the Bank

us 2/8/5.

(Frieder

Sp. 198: 31 Jan 1895
 Arch Hooper

70. 11-11

[Handwritten signature]

276

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1096

Copy of letter from the Registrar of the High Court, Appellate Side, Madras, dated 6th March 1895, No. 626.

With reference to paragraph 2 of G.O., No. 198, Judicial, dated the 31st January 1895, forwarding, for the opinion of the High Court, a draft Bill for the punishment of breaches of contract by labourers on coffee, tea and cinchona estates and by contractors for supplying labourers, I am directed to forward a transcript of the minutes recorded by the Honourable Justices Parker, Shephard and Best, and to state that the Honourable the Chief Justice and Mr. Justice Subramania Aiyar have no observations to make.

ENCLOSURE.

Minutes.

Mr. Justice Parker.—The proposed Bill is practically an extension of the provisions of Act XIII of 1859 to labour contracts between planters on the one hand and their maistries and coolies on the other. Act XIII of 1859 may be regarded in many respects as a somewhat absolute enactment better suited to a more primitive state of society than that which now exists, but I take it that Government has satisfied itself of the necessity of penal legislation of the kind suggested and that it is to protect the planters from desertion at critical times that this Bill has been suggested, it being considered that the injury done cannot be sufficiently compensated by damages recoverable by suit in a civil court.

Accepting this as the reason for the proposed legislation, I would point out that the Bill is of a very one-sided character and that it might in practice operate with great harshness. Legislation which inflicts upon coolies criminal penalties for breach of contract ought at least to take care that the cooly thoroughly understands the contract into which he enters and that the contract itself is fair and reasonable. In such matters as education and foresight the cooly is at a disadvantage and before putting in his employer's hand a weapon which may be held *in terrorem* over him it is only fair to see that he enters into the contract with his eyes open and that the terms of the contract are not impossible or unreasonable. Similar protection is afforded to emigrants and to seamen. For this reason I take exception to oral contracts which would be fruitful of misunderstanding and capable of misrepresentation on either side. I think that all such contracts as are contemplated under the Act should be reduced to writing, that they should be entered into, if possible, before a public officer and that legislation should also prescribe a minimum rate of wages.

It also appears to me that legislation should fix the proportion of the advance given to the monthly wage. If this be not done it may be absolutely impossible for the cooly to repay the advance during the term of his contract and then even if he works out his whole term and does his best he will still be in debt to his employer at the end of the year and so compelled either to make a new contract in which the old debt shall stand for part or the whole of the advance or else run the risk of a criminal prosecution. I take it that the advances made by planters are mostly for the expense of the journey up to the estate and for warm clothing. If these are to be borne by the cooly it is clear that his wage should be fixed with reference to this consideration; for if the wage is only a bare living wage it will follow that the cooly can never repay the advance and that his servitude may become slavery. It would certainly

be the duty of the legislature to guard against such a contingency, and for these reasons I would suggest a provision that the advance should not exceed, say, one month's wages and that the planter should recover it by monthly deductions after the second month. By this means if the terms of the contract are not in themselves impossible the cooly may be a free man at the end of it.

I also think that the proposed explanation to section 3 should certainly not be allowed to be passed into law. Under it a cooly might have performed the whole contract he had undertaken or he might, his employer not objecting, have got his work performed by another man and yet if his cumbly were still unpaid for he might be liable to criminal penalties. Surely when the contract has been performed the planter has no need of the protection of penal provisions and the balance of the advance should only be treated as a debt civilly recoverable. No employer should be able to hold criminal penalties *in terrorem* over his servants for the recovery of such a balance of a debt. In this connection I would draw attention to section 8 which makes the person ordered to repay the advance still liable to rigorous imprisonment even if he manages to pay the sum after the order for imprisonment is passed. This is an advance upon section 2, Act XIII of 1859, which directed that, if the order be for the payment of a sum of money, the imprisonment should be for a term not exceeding three months "*or until such sum of money shall be sooner repaid.*"

The proposed Bill is of a reactionary character, but it may be necessary to protect the planting industry from wholesale desertion of labourers at critical times. I do not think, however, that any English legislature would pass it without the insertion of stringent provisions for the protection of the employed and thus deprive it of its "*clun*" character. I have no means of judging of the necessity for the measure, the papers supplied to the High Court not being sufficient to enable me to form an opinion on this subject. Speaking generally I should be inclined to believe that liberal wages and considerate treatment would be more efficacious than penal provisions. I am informed that no such labour law is required at the gold mines where the wages are higher than in the planting districts and the climate is at the same time more congenial to the cooly. As to this however the Government has more sources of information than are available to me.

In conclusion, I would suggest that some period of limitation should be fixed for the institution of criminal proceedings under the proposed Act. I should think that a period of three or six months from the date of expiration of any contract would be sufficient. Except for the facility with which the law can be evaded I should be inclined to advise the omission of explanation I, section II, and forbid the release of a balance due on a previous contract being regarded as part of the consideration for a new contract. Care should also be taken to make it clear in the enacting clause of the Act that it is only fraudulent breaches of contract which are criminally punishable since there may be a difficulty in restricting the operation of these sections by the preamble—*vide* judgment of Straight J. in I.L.R. XI, All, p. 262.

Mr. Justice Shephard.—I see no great objection to the draft Bill in itself, but as it is in effect a revised edition of Act XIII of 1859 (an Act of the Government of India), which remains unrepealed, I apprehend that the Bill can be passed only by the Governor-General in Council and should provide for the repeal of Act XIII of 1859.

Mr. Justice Best.—I see no objection to the proposed enactment. It is expressly limited to *fraudulent* breaches of contract and its provisions are intended to apply only to cases in which the magistrate finds that the defendant has "wilfully and without lawful or reasonable excuse" neglected or refused to fulfil his contract and to contracts "for a specified time not exceeding one year."

No honest man can object to the proposed legislation which appears to be absolutely necessary to check the dishonest practices of coolies and maistries.

From
THE REGISTRAR, HIGH COURT,
APPELLATE SIDE,
Madras.

No. 626.

Dated 6th March 1895.

Subject.

Forwarding transcript of minutes recorded
by the Hon'ble the Judges of the High Court
on the draft Bill for the punishment of
breaches of contract by labourers on coffee,
&c., estates.

No. 626.

High Court of Judicature,
Madras, 6th March 1895.

From

D. W. G. Cowie Esquire,
Acting Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To

The Honorable J. F. Price C.S.I.,
Chief Secretary to Government,
Fort Saint George.

Honorable Sir,

With reference to paragraph
2 of G. O. dated the 31st January 1895,
No. 198, Judicial, forwarding for the
opinion of the High Court, a draft Bill
for the punishment of breaches of contract
by labourers on coffee, tea and
cinchona estates and by contractors
for supplying labourers, I am directed
to forward a transcript of the minutes
recorded by the Honorable Justices
Parker, Shephard and Best and to
State

State that the Honorable the Chief Justice and Mr. Justice Subrahmanya Aiyar have no observations to make.

I have the honor to be,
Honorable Sir,
Your most obedient servant,
D. Govil
Acting Registrar.

Minutes.

Minutes 71

Mr Justice Parker:— The proposed Bill is practically an extension of the provisions of Act XIII of 1859 to labour contracts between planters on the one hand and their maistries and coolies on the other. Act XIII of 1859 may be regarded in many respects as a somewhat obsolete enactment better suited to a more primitive state of society than that which now exists, - but I take it that Government has satisfied itself of the necessity of penal legislation of the kind suggested, and that it is to protect the planters from desertion at critical times. That this Bill has been suggested, it being considered that the injury done cannot be sufficiently compensated by damages recoverable by suit in a civil court.

Accepting this as the reason for the proposed legislation, I would point out that the Bill is of a very one-sided character, and that it might in

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should also prescribe a minimum rate
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It also appears to me that
legislation should fix the proportion
of the advance given to the monthly
wage. If this be not done, it may be
absolutely impossible for the cooly to
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great objection to the draft bill
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which appears absolutely necessary
to check the dishonest practices
of coolies and maistries.

(True Copy.)

D. Howie

Acting Registrar,
Appellate Side.

Judicial Dept.

CURRENT No. 2383

44
No. 3006/7. 8.12.94 mis (ab)
No 1238 17.6.93 sc.
1458: 10.8.92 sc
174 31 Jan 1897 sc

From the Govt of India
Rev. Secy: Secy: / Registrar

No. $\frac{502}{32-1}$

Dated 4th
Recd 10th May 1895
Rqd 11th
Em: 11th

Subject

Expressing the views of the Govt
on the proposals submitted in
connection with the working of the
labour laws in Southern India.

11.15.95

To await return of No. 3006/7 mis
8.12.94
+ enclosed papers.

11.15.95

Judicial Dept.

1895.

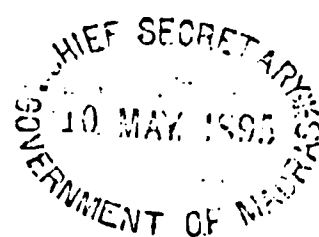
GOVERNMENT OF INDIA.
DEPARTMENT OF REVENUE AND AGRICULTURE.

EMIGRATION.

File No. 32 of
1895.
Serial No. 1.

To

THE CHIEF SECRETARY TO THE GOVERNMENT OF
MADRAS.



No. $\frac{592}{32-1}$

Dated Simla, the 1st May 1895.

SUBJECT.

In reply to letter No. 3007, dated the 8th December 1894, expresses the views of the Government of India on the proposals submitted by the Local Government in connection with the working of the labour laws in Southern India.

G. C. Press, Simla.—No. 65 R. & A. D. —3-5-95.—105.

BACK PAPER, No.

OF 129

FURTHER PAPER, No.

OF 132

READ AGAIN ORDER OF GOVERNMENT, DATED
189, No. , MISCELLANEOUS.

ENCLOSURE

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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ORDINARY, MS.

Journal DEPARTMENT.

G.O., DATE: *19.6.95*

No. *1209*

When given for copying.

[Despatch Abstract.]

Labour Law

*Papers connected
with the above.*