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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

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GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

19th July 1877, No. 1692.

Wynaad Planters.

Read the following papers:—

No. 104. *From W. LOGAN, Esq., Collector of Malabar, to the Chief Secretary to Government, dated Calicut, 12th October 1876, No. 78.*

With reference to paragraph 11 of G.O., Judicial Department, No. 851, dated 5th May 1876, I have the honor to forward a letter to your address from the Chairman of the Planters' Association at Vythery, and to submit the following remarks thereon.

2. The Chairman observes in paragraph 2 of his letter that the Association is inclined to agree with the views of "several high officials" that the passing of a special Labor Ordinance, similar to that in force in Ceylon, would be "inappropriate to this country, and would really imply a revolution of the principles which have hitherto been embodied in the legislation of India." I have perused the Ceylon Labor Ordinance attentively, and, in order not unnecessarily to lengthen this report, I have in a separate note examined, one by one, the provisions of the Ceylon Ordinance and pointed out in detail the provisions of the written law in India which seemed to me to be applicable under similar circumstances; and I have also in my note on Sections 11 to 14 thereof considered at some length the proposal which the Association has made in paragraphs 4 and 5 of their original address printed with the Government Order under reply, and have set forth in detail my arguments for supporting with certain additions the Association's proposal. It certainly is at first a little startling to think of a proposal for punishing *criminally* one or other, or both of the parties to an *ordinary* contract if they should fail in its performance. The Association's proposal is to punish one of the contracting parties only (viz., the employé) and apparently to allow the other contracting party, (viz., the employer) to go scot free. The Ceylon Ordinance, though it goes beyond the principles of Indian legislation in other respects, has nevertheless recognized (Sections 11 and 14) the equity of punishing both contracting parties alike, and this, no doubt, would have been also accepted by the Association had they given me an opportunity of pointing it out to them before their Chairman's letter was drafted, for their desire as well as their interest is to attract labor, and this has been recognized in paragraph 10 of the Government Order under report. Provided this point is conceded, I strongly support the proposal of the Association to make a contract enforceable though no advance has been given, and I may here recapitulate the argument in favor of that proposition which will be found at length in my note to Sections 11 to 14 of the Ordinance. The law of India has hitherto recognized the necessity of criminally punishing breaches of contract, first, where the master is more or less at the mercy of his servant, and, second, where a breach of the contract by the servant leaves the master without adequate compensation for the wrongfully suffered. Both of these sets of circumstances apply with peculiar force to the case of a coffee planter in Wynaad who is deserted by his coolies at the time of year when he most requires their services. Other employers of labor are no doubt in more or less the same position and subject more or less to the same ill-consequences, but then in the case of the coffee industry it must never be forgotten that it has been the policy of Government throughout to encourage this industry in a locality where one of the most essential elements of success is wanting, viz., a permanent and sufficient

supply of labor. It may often be good policy on the part of a Government to encourage some industry under otherwise unfavorable circumstances, and where that (as in this instance) has been done, it behoves the Government to come to the assistance of those who would not but for such encouragement have embarked their capital in such a doubtful enterprise. Finally, it has seemed to me that the most effective way of carrying out the proposal of the Association on this point is to borrow from the Ceylon Ordinance so much only as refers to *written* contracts of service, and to make the law a general one applicable either to some particular locality or to some special industry, according as the Governor in Council may, by notification in the Gazette, determine. It will be seen therefore that, while I reject so much of the Ceylon Ordinance as refers to verbal contracts of service as inapplicable and unnecessary in India, I differ from the Association in proposing to adopt some of its provisions. The particular sections which I propose, *with necessary local modifications*, to adopt are the following, viz., Nos. 7, 9, 10, 11, 13, 14, 18, 21, 24, 25, and 27.

3. In paragraph 3 the Chairman goes on to observe that the laws at present in force are adequate for the planters' wants if more efficiently administered, though as will be seen from what has above been said and from what is contained in paragraphs 4 and 5 of the original address and in paragraph 10, clause 3, of the Chairman's letter, the Association is in effect petitioning for a very important addition to the present law for an addition in fact, which by some may be regarded as even revolutionary in its character. And he then goes on in paragraph 4 *et seq.* to make certain specific proposals which I shall now proceed to discuss in detail.

4. The proposals are summed up in paragraph 10, and are as follow:—

- I. The existing law should be better executed, and
- II. Should be improved by a better interpretation and development with certain modifications, these improvements being—
 - (a). That an agreement to bring so many coolies be equally valid with a contract to perform a specified work.
 - (b). That a contract or agreement may be rendered legal without advance.
 - (c). That the punishment under the Act be increased.
 - (d). That the Police be utilized to arrest offenders under the Act.
 - (e). That maistries and contractors entering into agreements or contracts, with or without advance, be compelled by law to register, and that offices for this purpose be diffused throughout the district.

And two further proposals are made which do not refer to improvements of the Act, viz.:—

- III. Planters should be enabled to prosecute defaulters who are guilty of cheating or criminal breach of trust under the sections of the Penal Code providing for such offences, and
- IV. Extradition with the neighboring province of Mysore should be improved.

5. As regards the better execution of the laws, the Government are already in possession of my views (see my letter, No. 72, dated 24th November 1875). Not only I, but both of my predecessors have urged that the combination in one office of both civil and criminal jurisdiction and also of revenue administration was unsuited to that part of the country. As my report is still before Government, I need do no more than allude to the fact here.

6. As regards the improvements in the existing law suggested, I have to make the following remarks:—

- (a). The two conflicting judgments of the High Court, referred to in paragraph 4 of the Chairman's letter, are probably the following (I am not aware of any others bearing on the point):—
 1. Proceedings of Sadr Court, dated 8th December 1860.
 2. Proceedings of High Court, dated 13th July 1867.

On a reference to these Proceedings, it will be seen that the Association labors under a misapprehension of the actual facts. The Association wish that "a contract or agreement to bring a certain number of coolies to work for a given time at ordinary estate work be made equally valid with one specifying a certain quantity of work to be performed," and the latest authoritative interpretation of the law made on a reference from this district is "A contract for the supply of coolies to a coffee estate to perform work for a specified time is within Section 2. Act XIII of 1859" (*vide* Digest of Rules, &c., of the High Court, page 45, official edition, corrected to 30th June 1873, *vide* also High Court Reports, Vol. III, page 25 of Appendix).

(b). I had at first some difficulty in understanding what is referred to in the second proposal, viz., "That a contract or agreement may be rendered legal without advance," because the word "legal" is exceedingly vague, and because, unlike the rest of the proposals, it is not dwelt on at length in the body of the letter. However, I observed that paragraphs 4 and 5 of the original address printed with the Government Order under reply dealt with the question of contracts made without advances, and in drawing up this report and the accompanying note on the provisions of the Ceylon Labor Ordinance, I have taken for granted that this proposal is identical with that made in paragraph 5 of the original address, and which is, that the provisions of the Act "should be made enforceable without the necessity of a previous advance." I need not therefore further allude to the point as it will be found discussed in paragraph 2 above and in my note to Sections 11 to 14 of the Ordinance.

(c). The Chairman observes in paragraph 6 that the punishment under Act XIII of 1859 is inadequate as proved by the fact that it has practically no deterrent effect on the commission of the offence. I observe that the punishment is the same as that imposed by the Ceylon Ordinance, Section 11, and by the corresponding section relating to employers, Section 14, and *prima facie* three months in jail with hard labor in the company of thieves and ruffians of sorts ought to be sufficiently deterrent; my own opinion is that the punishment would be sufficiently deterrent if it were not that other circumstances connected with the administration of the law rendered it so difficult to enforce its provisions. I cannot, therefore, support this proposal.

(d). In paragraph 7 the Chairman observes that the Police will not undertake the apprehension of the offender under Act XIII, and requests that the Police may be compelled to arrest under the Act. To this I see no objection, and it certainly would facilitate the execution of the law. At present in this district the warrants may be sent to the Subordinate Magistrate whose head-quarters lie nearest to the defaulter's home for service at any time. The warrant is, therefore, always impending and cannot be evaded in the way that it used to be formerly, when the practice was to take out a fresh warrant each time the defaulter turned up, and this taking out of a fresh warrant was, of course, the signal for the defaulter to abscond till such time as the warrant had been sent to be executed, and had been returned with the endorsement that the man was not to be found. The new practice came into force last year about this time, and I understand that it has worked well, but it would obviously be a further improvement if the warrant could be sent to the nearest Police station instead of the nearest Magistrate, and if it could be executed by the Police instead of by a Magistrate's peon.

(e). In paragraph 9 the Chairman proposes to render compulsory a system of registration of contracts and contractors, of maistries and duffadars, and also proposes the opening of registry offices for the purpose—

I. At the different Courts.

II. At the local Post Offices, or (if that is inexpedient) then

III. At certain estates, an employe on each of which would be the Registrar.

He also proposes to make the thing self-supporting by the levy of suitable fees. The main end sought to be attained by this proposal has my hearty support, though I think the machinery which the Association proposes for attaining it is unnecessarily cumbrous. What an employer wishes to know before making an advance or entering into a contract with a maistry is, whether the said maistry has already entered into contracts with any one else, and particularly whether he has received advances which he has not yet worked out. 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. I think the same end might be more easily attained by enacting—

- I. That all contractors, maistries, duffadars, &c., who supply laborers to the coffee estate shall register themselves in one or other of the various local Sub-Magistrates' Offices, and obtain a certificate under the signature and seal of the Sub-Magistrate.
- II. This certificate should enable the contractor, &c., to exercise his calling within the local jurisdiction of the Sub-Magistrate who issues it, and if endorsed under the signature and seal of any other Sub-Magistrate in the local jurisdiction of that Sub-Magistrate also.
- III. The certificate should contain space for entering upon it, in an approved form, a summary of the particulars of all contracts with or without advances entered into by the certificate-holder.
- IV. Persons entering into contracts with such certificate-holders should be bound under penalty—
 - (a). To enter on the certificate, in the place set apart for it, full particulars of the contract in English and also in a native language which the certificate-holder understands, and
 - (b). To submit within seven days to each of the Sub-Magistrates who have signed and sealed the certificate an exact copy of the entry so made.
- V. A certificate-holder should also be bound under a similar penalty not to enter into any contract nor to accept any advance unless full particulars as above have been endorsed on his certificate.
- VI. Persons who have entered into such contracts should be bound to endorse on the certificate in its proper place and within a week of the time when the contract came to an end by mutual consent or of the time certain facts alluded to in the next section, whether the contract has been properly fulfilled by the certificate-holder.
- VII. The contract, whether with or without advance, should be for a time certain, and at the expiration of that time, any money found owing by the certificate-holder to the employer should be recoverable only through the Civil Courts.
- VIII. The certificate-holder should be at liberty to apply at any time before the time certain named in the contract to the Local Sub-Magistrate to have an entry made on his certificate that the contract had been broken by a refusal of the employer to pay to him any sum that may have become due to him.
- IX. On a summary inquiry, if the Magistrate found that such was the case, or that the state of accounts between them was such that he could not exactly ascertain what was the fact, he should make an endorsement on the certificate according to his finding and refer the parties to the Civil Courts or other means of settling their differences.

X. If, on the contrary, he found that the balance was in favor of the employer, he should dismiss the petition and return the certificate without making any entry thereon.

Sections 197, 198, 199, and 200 of the Indian Penal Code provide sufficient penalties for false certificates and false declarations and the forgery chapter and the cheating sections of the same for other offences that might occur in carrying out these suggestions.

7. As regards the proposal No. III (*vide* paragraph 4) I have already dealt with so much of it as refers to criminal breach of trust in my note on Section 22 of the Ceylon Labor Ordinance, and need here only observe that in asking for power to prosecute defaulters under the criminal breach of trust section of the Indian Penal Code, the Association merely claims a power which planters already possess, and that circumstances are in the way of their making any extensive successful use of that section of the Code. So too with cheating, if the facts are proved, the Magistracy have no option but to convict. Cheating maistries, like other people, are liable to the penalties, but as in the case of the criminal breach of trust section, I doubt much if the necessity for proving the *original* dishonest or fraudulent deception would not stand greatly in the way of successful prosecutions for cheating. I may add as matter of fact and with reference to the concluding portion of paragraph 5 of the Chairman's letter that no instance of any such refusal on the part of my subordinates to entertain charges under the criminal breach of trust or cheating sections of the Code as ever been brought to my notice, nor so far as I can ascertain to the notice of my predecessors.

8. As regards the last proposal, my views are entirely in accordance with those of the Association on this point, and I should be glad to see some mutual understanding come to on the subject of a less cumbrous less expensive, and less difficult mode of obtaining the extradition of defaulters from Mysore Territory. This is a matter which, as the Chairman says, has been already before Government, and as it involves principles of the greatest importance as regards the mutual relations of the two Governments, I fancy it will not be easily disposed of, meanwhile the coffee industry is suffering severely, and I can only commend the matter again to the consideration of Government.

9. Having reviewed the proposals made by the Association in detail, it only remains for me to recapitulate in what respects in my opinion the existing laws should be amended.

I. I would take from the Ceylon Labor Ordinance Sections 7, 9, 10, 11, 13, 14, 18, 21, 24, 25, and 27 and apply them with the necessary local modifications and only as regards *written* contracts of service to such localities and to such industries as the Governor in Council might by notification determine, and

II. I would institute a system of registration such as I have sketched in paragraph 6, clause (c) above.

10. The Association professes its inability to draft the proposed amendment in the law, and I would, therefore, suggest that the Law Officers of Government might be requested to do so as soon as the Government has decided on the principles which should guide the legislation, more especially with reference to the proposal made in paragraph 5 of the original address.

ENCLOSURE No. 1.

From E. THOMPSON, Esq., Chairman, Wynaad Planters' Association, to the Chief Secretary to Government, dated Vythery, 24th September 1876.

Referring to the Order of Government, No. 851, dated 5th May 1876, I have now the honor to lay before you the views of the members of this Association on the laws relating to laborers and contractors and their employers.

2. The Association is aware that the relations of master and servant, of employer and employed, form a subject involving considerations of the highest order, and that it has been the opinion, for some years past, of several high officials connected with the Madras Government, that

a Special Labor Ordinance, such as is in force in Ceylon, would be inappropriate to this country, and would really imply a revolution of the principles which have hitherto been embodied in the legislation of India. With this opinion, the members of the Association are inclined to agree, and it is not their wish to ask Government to legislate for them in this special manner.

3. Briefly and simply they would ask that the present laws, with certain modifications, may be made intelligible and strictly enforced by efficient Magistrates and Police.

4. By a former ruling of the High Court of Madras, Act XIII of 1859, was declared to be appropriate to the case of a maistry taking advance to procure a given number of coolies to perform ordinary estate work for a given period. The Court has recently ruled that a contract to be valid under this Act must specify a certain quantity of work to be performed, and that an agreement merely to bring so many coolies is not legal. The same tribunal has, therefore, given two opposite interpretations of the one law.

Looking at the nature of the work on an agricultural estate and the relative nature of the engagements between the planter and his laborers, it is clearly of absolute necessity that a contract or agreement to bring a certain number of coolies to work for a given time at ordinary estate work should be equally valid with one specifying a certain quantity of work to be performed.

5. In the opinion of the Association a maistry or contractor who takes an advance for a specific object and either makes away with the money or misapplies it in any way has clearly committed either "criminal breach of trust" or "cheating," and is liable to punishment under Sections 405 and 415 of the Indian Penal Code. A Magistrate on the Nilgiris ruled that certain defaulting maistries had been guilty of these Acts, and accordingly punished them under these sections. Magistrates in Wynaad have been applied to to prosecute defaulters in this manner, proof of the misappropriation having been offered, but have refused to do so. Apparently, therefore, there is one law for the Nilgiris and another for Wynaad.

6. The punishment under Act XIII of 1859 is inadequate, which is proved by the fact that it has practically no deterrent effect on the commission of the offence. The Association would recommend that the limit of punishment be increased to imprisonment of either description for a term which may extend to one year, or with fine, or with both.

7. At present the Police will not undertake the apprehension of the offender under Act XIII. The warrant or summons is occasionally entrusted to a Civil Officer of the Court, but is seldom or never served except through the instrumentality of the private servant of the complainant.

The Association beg that the Police may be compelled to arrest under this Act as they would under any section of the Penal Code.

8. It is a well-known fact, which has already been brought before the Government of Madras, that it has become almost impossible to apprehend a delinquent in the province of Mysore. The numerous and various processes that have to be gone through to get a warrant executed in that territory, and the offender brought back for trial, are so cumbrous and expensive and so difficult to carry through that the law, as regards inhabitants of Mysore, has become almost a dead letter. As this district is the chief source from which the planters derive their labor, the difficulty weighs most heavily upon them, and the Association would beg to point out the urgent need of some improved and simple form of extradition by which a man who commits an offence in Wynaad may be easily and readily brought to justice, whatever territory he may retreat to.

9. The Association is of opinion that a source of the greatest benefit would be to render a system of registration of contracts and contractors, of maistries and duffadars, compulsory, and that offices for this purpose be attached to the different Courts and Registry Offices, with minor ones in the various sub-districts. The cost of such to be met by a suitable fee; and as the number of agreements and contracts entered into is very large, the thing would readily be self-supporting.

To facilitate matters, the Association would suggest that such offices for the registration of contracts, &c., might be attached to all the local Post Offices, or, if that is inexpedient, that some employes on different coffee estates should be empowered as Registrars, with small salaries or fees.

10. To recapitulate, the members of this Association desire—

- I. That the existing law may be better executed, and that it may be improved by a better interpretation and development, with certain modifications.
- II. That arrangement to bring so many coolies be equally valid with a contract to perform a specified work.
- III. That a contract or agreement may be rendered legal without advance.
- IV. That the punishment under the Act be increased.
- V. That the Police be utilized to arrest offenders under the Act.

VI. That planters be enabled to prosecute defaulters who are guilty of cheating or criminal breach of trust under the sections of the Penal Code providing for such offences.

VII. That extradition with the neighboring province of Mysore be improved.

VIII. That maistries and contractors entering into agreements or contracts, with or without advance, be compelled by law to register, and that offices for this purpose be diffused throughout the district.

11. It would be impossible, without competent legal assistance, which they cannot command for the members of this Association to draft an amendment to the Act in proper form, but they trust that they have now been sufficiently explicit in expressing their wishes, and that, with the information given, His Grace the Governor in Council will cause the legal advisers of Government to frame such an amendment of the existing laws as will embody the desires of the memorialists.

12. In conclusion, and at the risk of repetition, I have the honor to say that this Association would most respectfully urge upon His Grace in Council that, while dealing with this question, he should remember that, to render any law effective, a reconstitution and improvement of the existing Magistracy is most immediately necessary, and they hope that, in addition to the official Magistrates, a number of Honorary Justices will be appointed throughout the district, whose sole or main duty shall be to assist in administering the laws between employers and employed.

ENCLOSURE No. 2.

Note on the Ceylon Labor Ordinance.

Section 1 interprets the word "servant," which, besides menial and domestic servants, is also meant to include laborers and others employed on agricultural, road, railway, and other like work.

Section 2 treats of Ordinances repealed.

Sections 3 to 6 treat of verbal contracts of hire of servants.

The law seems to be very much similar to the unwritten law administered by the Indian Civil Courts except that perhaps it is more favorable to the servant who, on being discharged, is secured a full month's wages if he has not had a full month's warning.

Sections 7 to 10 treat of written contracts of service. Section 9 expressly provides that when the contract has been made in India, it shall "be valid and binding according to the laws of India in force at the time of the entering into such contract;" and Section 10 takes particular care of the servant by enacting that in the event of such a contract being terminated by the permanent disability of the servant to work, the employer shall furnish him "with adequate means of returning to his own country."

Sections 11 to 14 treat of breaches of contract of service. Regarding these sections, I observe in the first place that Sections 490 to 492 of the Indian Penal Code also treat of certain criminal breaches of contract of personal service during a voyage or journey (Section 490), and as attendant on helpless persons (Section 491) and of service under written contract as artificer, workman, or laborer for a period not exceeding three years (the same maximum period of service as in Ceylon) in a part of India to which by contract the artificer, &c., has been or is to be conveyed at the expense of the employer (Section 492). And, finally, Act XIII of 1859 provides for breaches of contract on the part of artificers, workmen, or laborers who have received advances of money on account of work which they have contracted to perform. Wherein then does the law of Ceylon go beyond that of India? I have studied the sections above quoted carefully, and it seems to me that, while the law of Ceylon has provided criminally for breaches of ALL contracts of service whatever, the law of India imposes penalties only when the employer is more or less at the mercy of the employe and is unable otherwise to obtain compensation for his wrongs. The Association has proposed in paragraph 4 of the original address printed with the Government Order under reply, and in clause III of paragraph 10 of the Chairman's letter (now forwarded) that the provisions of Act XIII of 1859 "should be rendered enforceable without the necessity of a previous advance," and the argument for thus extending it is contained in paragraph 4, viz., that "an ample supply of labor is at all times essential to successful coffee cultivation, and there is this additional risk and difficulty in the case of coffee that at particular seasons of the year there are periods when a failure in the labor supply (for which a planter may have contracted and on which he is relying) will be absolutely disastrous. It is at these periods that the breaches of contract * * * are usually committed." Where a person has contracted with another to attend upon him during a voyage or journey, or where a person has contracted to attend to the wants of helpless persons, or where a person has contracted to convey others from one place for service at another place, or where a person has advanced money as a preliminary to

the performance of a contract, the law imposes penalties for breaches of such contracts, because one of the contracting parties has in each instance put himself at the mercy more or less of the other, and because in the case of the failure of that other to act up to his contract the person at his mercy is unable to obtain adequate compensation for the wrong he suffers. The Ceylon law goes a great deal further than this and punishes ALL breaches of ALL such contracts whatever irrespective of the wrongs suffered by either of the contracting parties. How far then does the Association's proposal as regards the enforceability of contracts made without advance lead as in the steps of the Ceylon legislature? It seems to me that even strictly adhering to the principles at the root of the existing Indian laws on the subject as described above, the proposal might safely be adopted in remodelling Act XIII of 1859. There is no doubt that a planter, who has contracted for a supply of labor at some particular time when labor is urgently needed for the proper cultivation of his estate, is as much at the mercy of his employees as is the employer in any one of the cases already provided for by the legislature. And, again, there can be no doubt at all that the ordinary remedy by civil suit is quite inadequate to right the wrong the planter suffers because the employees are men of no substance, and the damage caused to an estate by their breach of contract may exceed by a hundredfold or more the whole substance they possess. It is no doubt true that all employers of labor are more or less in the same position, and may suffer more or less the same consequences. But there is this essential difference that, as a rule, no one tries to commence an industry in a place where, for want of labor, he is not likely to succeed, whereas in the case of the coffee estates in Wynaad it has been determined on for many good reasons, and has been throughout the policy of the Government to encourage this industry in that locality, though the locality is wanting in one of the chief elements to its successful development, viz., an adequate local supply of labor. The Association may, therefore, justly step forward and say that planters have been encouraged by the Government to expend their capital in an industry which, above all things, requires an ample supply of labor at all times, and they, therefore, look to the Government to take steps to secure that end since in the locality in which they have been encouraged to settle there is not an adequate local supply, and their efforts hitherto have not succeeded in attracting a sufficient supply permanently to the locality. If I saw any chance that the estates were likely soon to attract to their neighborhood a sufficiency of labor permanently, I would certainly not support the Association's proposal, but as matters are, it has my hearty support. At the same time, however, it is obvious that in fairness to the employé, a breach of contract on the part of the employer should also (as in Ceylon) be punishable criminally (*vide* Section 14 of the Ordinance), and that obligations should also (as in Ceylon) be imposed on the employer in the case of a contract being interrupted by the sickness of the employé (Section 27) or terminated by the employé becoming permanently disabled to work (Section 10). The best form which it seems to me this proposal of the Association could take would be to embody in the Indian law *with necessary local modifications* such of the provisions of the Ordinance as apply exclusively to *written* contracts of service and also the breach of contract and certain other sections *so far as they relate to written contracts*. The sections referred to are the following, viz., Nos. 7, 9, 10, 11, 13, 14, 18, 21, 24, 25, and 27. The law thus framed should be declared applicable to such localities and to such industries as the Governor in Council might, by notification in the Gazette, determine. It would thus be at the option of the Government to extend the law founded on the above general principles to any other industry which the Government, as a matter of policy, might consider it necessary to encourage under otherwise disadvantageous circumstances. I trust that in time the coffee industry will attract a permanent supply of labor, and so soon as that is accomplished, this exceptional law may be allowed to die a natural death. If this suggestion is adopted, it will be seen that that portion of Ceylon Ordinance which relates to breaches of *verbal* contracts of service for periods under one month, and which is the portion of the Ordinance most widely divergent in principle from the Indian laws, will be excluded from the proposed legislation; whatever weight may be attached to the arguments above advanced regarding the control by legislation of the supply of labor to estates, it is clear that the circumstances of India do not require that the same provisions should be extended to the case of menial and domestic servants, the class who would be chiefly affected by the verbal contract provisions.

Sections 15, 16, and 17 relate to the giving of false characters, false statements of former employment, alterations in characters, and denials of former employment. I observe, with reference to the first portion of Section 15, that the case is sufficiently provided for by the general law of India (Cheating, Section 415, Indian Penal Code), though it is true that unless "damage" or "harm" was the result, the act would not be punishable. In Ceylon a man, who gave a false character to a servant, would seemingly be punishable, whether any one was thereby hurt or not, and even if it could be shown that benefit resulted therefrom; in India proof of hurt or damage would be necessary. But there would be nothing contrary to the general principles of justice administered in India to require a person when discharging a servant to give him a true certificate of character, if a certificate were given at all.

If this were enacted, the giving of a false certificate and the using of it afterwards would be punishable by Sections 197, 198, 199, and 200 of the Indian Penal Code. With reference to the last portion of Section 15 the words "untrue, false, forged, or counterfeit certificate or writing"

are rather hazy, but I have no doubt that the offences meant are exactly similar to what are punishable under Sections 463, 464, 465 *et seq.* of the Indian Penal Code (Forgery). As regards the first portion of Section 16, it is obvious that if a servant "asserts or pretends that he has served in any service or employment in which such servant shall not actually have served," he is committing no crime in India, nor does it seem necessary to compel him to make a true statement, for it is to be presumed that the master will not engage him without making the necessary inquiries.

The rest of Section 16 is fully provided for by the forgery chapter of the Indian Penal Code. As regards Section 17, its provisions seem to be rendered necessary by the Sections 19 and 20 which follow and which provide penalties for seducing servants, or employing them when bound to others, or harboring or concealing them, because proper inquiries made before entertaining servants would render invalid any excuse made by an employer charged under the latter sections and based on misrepresentations made by the servants. If he was actually in fact deceived, he would not be punishable under Sections 19 and 20. I shall speak of this section again when treating of Sections 19 and 20, and I may remark in passing that if a servant did in fact deceive an employer in the way contemplated by Section 17 and cause damage or harm to him, he would be guilty of cheating under Section 417 of the Indian Penal Code.

Section 18 makes wages a first charge on estates—a manifestly equitable rule which should be adopted in India.

Sections 19 and 20 treat of employers seducing "servants," or employing them when bound to others, or harboring or concealing them. These sections seem to me to embody logical consequences of the principle recognized in Section 492 of the Indian Penal Code, and the only question regarding them is whether the circumstances of this country require that they should be enacted here.

I forwarded to both of the Planters' Associations copies of the Ceylon Ordinance, and I presume from the reply that has been received on the general question that it would be unnecessary to legislate in this direction for Wynaad, for the drift of the suggestions which have been made points towards protecting the employers from the employés and not towards protecting one employer of labor from another employer. I am not at all sure, however, from information I have occasionally received that these sections are not required in Wynaad; but the registration of contractors, maistries, &c., and the other provisions described at length in paragraph 4, clause (e) of my letter will probably be as effective as these sections in protecting employers from each other. Section 374 of the Indian Penal Code regarding unlawful compulsory labor seems to be the only provision of the Indian legislature bearing on the point. Of course, if such provisions as Sections 19 and 20 contain are unnecessary for India, it is unnecessary also to have Section 17, of which I have spoken above; but if Sections 19 and 20 were enacted in India, then it would perhaps be necessary to make the written declaration of a servant contemplated by Section 17 receivable in evidence of the facts set out therein, in order that, if he made a false declaration, he might be made punishable under Sections 199 and 200 of the Indian Penal Code, for there might be cases where the cheating Section (417) of the Indian Penal Code would not be applicable.

Section 21 provides that servants are not liable to punishment for desertion, &c., if their wages are unpaid for one month, and I observe that Section 492 of the Indian Penal Code is inapplicable where the employer has "neglected to perform the contract on his part," a provision based on the same general principle. This is another of the sections which I would propose to borrow from the Ceylon law.

Section 22 expresses in a loose way the same general principles laid down in the criminal breach of trust Section (405) of the Indian Penal Code, and I may here observe, with reference to No. VI of the suggestions contained in paragraph 10 of the Association's letter, that the question of whether a person, who has received an advance of money and gives an unsatisfactory account of what he has done with it, has committed criminal breach of trust respecting that money is a question more of fact than of law, and can only be decided with reference to the facts of each case. In criminal breach of trust the essentials are—

- I. There must be a trust reposed in some other, either with reference to the trust property generally, or with reference to some dominion over the trust property.
- II. There must be a dishonest misappropriation conversion, use or disposal of the trust property.

When these two essential points can be proved, the law is as applicable to the case of a dishonest maistry as of any other person entrusted with property, but at the same time it is obvious that the difficulty of proving dishonest misappropriation of funds, which ordinarily are to be spent at long distances from the places where the advances are made and MOST FREQUENTLY IN FOREIGN TERRITORY, will prove well nigh insuperable, and that consideration is sufficient of itself to account for the paucity of cases which have been brought home to such offenders under this section of the Indian Penal Code. In asking that planters should be enabled to prosecute defaulters, who are guilty of

criminal breach of trust under the section of the Indian Penal Code, providing for that offence, the Association is merely asking for planters' undoubted rights, but I doubt if the planters in Wynaad will find the section named assist them much in their difficulties.

Section 23 is similar to Section 2 of the Indian Act XIII of 1859.

Section 24 provides that periods of absence without leave or of imprisonment are not to be counted as part of the period of service—another manifestly equitable provision which I have above proposed to adopt in India.

Section 25 relates to transfers of contract of service to a new proprietor or manager of an estate, with a proviso enabling a servant to determine his contract if he so elect when the estate becomes vested in, or, transferred, to some person other than the person with whom the contract was made. This too is founded on general principles of equity, and should be adopted in India.

Section 26 is similar to the proviso at the end of Section 2 of the Indian Act XIII of 1859.

Section 27 has already been alluded to (Sections 11 to 14 *supra*) as one of the sections which it would be as well to import into Indian Legislation on the subject.

Section 28 fixes the date on which the Ordinance came into operation.

CALCUT,
12th October 1876.

(Signed) W. LOGAN,
Collector.

No. 105. From W. LOGAN, Esq., Collector of Malabar, to the Chief Secretary to Government, dated Calicut, 28th October 1876, No. 82.

In continuation of my letter, No. 73, dated 12th instant, forwarding a letter from the Chairman of the Planters' Association in Wynaad, I have the honor to enclose copy of another letter from the Association, and to request that orders may be deferred in the matter pending the receipt of a further communication from the Association.

2. On receipt of the Government Order under reference, I suggested to the Association the advisability of naming a Committee to consider the question and to confer with me personally on the subject, in order, if possible, to secure unanimity between their views and mine in the proposals to be laid before Government. I heard nothing more on the subject until I received the Chairman's letter already sent. I mention this now in order that the Government may understand the reason why my proposals were not discussed with the Association before being submitted to Government.

3. It appears that paragraph 6, Section (e), Clause vii, of my letter is so loosely worded as not to express the idea meant to be conveyed. I have the honor, therefore, to request that that portion of my letter may be amended as follows:—

After the words "time certain" insert the words "not to exceed, say, three years." And for the words "and at the expiration of that time" substitute the words "and on the termination of a contract which has continued for the maximum period of, say, three years."

ENCLOSURE No. 1.

From H. B. WINTERBOTHAM, Esq., Honorary Secretary to the Wynaad Planters' Association, to the Collector of Malabar, dated South Wynaad, 27th October 1876.

I am directed by the Committee of this Association to thank you for copies of your letter and note to Government on the subject of a Labor Ordinance as set forth in our late Chairman's letter to the Chief Secretary to Government.

2. A Committee has been appointed to consider your suggestions, and to consult with the Association of North Wynaad in the matter; we trust that nothing further will be done in the matter until your propositions have been thoroughly discussed.

No. 106. From W. LOGAN, Esq., Collector of Malabar, to the Chief Secretary to Government, dated Calicut, 13th February 1877, No. 11.

In continuation of my letters to your address, No. 78, dated 12th October 1876, and 82, dated 28th October 1876, I have the honor to report that I have recently had many opportunities of discussing with some of the planters the details of the proposed

legislative measure to amend the law for punishing criminal breaches of contract of service, and to state that, while the views I expressed in my previous letters remain unaltered, I am of opinion that in one or two other respects legislative action would be beneficial.

2. In paragraph 7 of my No. 78, I reviewed the proposal of the Chairman to apply more extensively to the cases of defaulting maistries, the provisions of the Indian Penal Code relating to criminal breach of trust and cheating. I see no reason for altering the opinions I therein expressed; but, after some discussion with the Honorary Secretary of the Association, it occurred to me that what the planters really wanted, and what would perhaps serve all their needs (I have reason for thinking this will be the case), was to enact that a defaulting maistry should be treated exactly on the same footing as a defaulting bankrupt is treated in the Insolvent Courts.

3. The maxim "Nemo debet per seipsum accusare" has been imported into the Criminal law of India as of England. In India some relaxation of the strict interpretation put on it in England has been permitted; but such relaxations still fall far short of such an interpretation of it as would be required to meet the planters' wishes in respect of defaulting maistries.

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

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

6. All that the planter really wants is to be satisfied as to how his money went. The best and most successful planters are those who do not exact their "pound of flesh," who best read the native character and see that, above all things, a native is almost by virtue of necessity loyal to his superiors, and who therefore readily forgive a fault, being assured that it will be made up by increased diligence in the future. If the man has really and truly lost the money, as he alleges, he is easily forgiven, or the matter is amicably arranged. On the other hand, if the money has been misappropriated, it is perfectly just that the defaulter should be sent to jail just like his brother the defaulting bankrupt. They have both made away with other people's money, and cannot satisfactorily say what has been done with it.

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

8. Another point on which I should say something is that I consider it necessary, not only that the right of the servant to food, lodging, and medical attendance during sickness should be declared, as I propose, by borrowing Section 27 of the Ceylon Labor Ordinance, but that Government should have power to step in and satisfy itself on this point and, if necessary, frame rules for the carrying out of this provision and of other sanitary rules in any specified locality.

9. It will not, I consider, be convenient to lay down anything more precise in the Act itself on this point; for, as matter of fact, most European Planters already

do what I propose should be made binding on them. Still, there are a few notable exceptions, and I understand that few, if any, of the large native estates contribute to the maintenance of their coolies while in hospital, or seek for them the assistance of the private medical practitioners. Wynaad is peculiarly unhealthy at certain seasons, and the sick coolies who are turned out of the lines, and are picked up on the roads almost in a dying state, are not a few. I have a nominal roll of forty-six coolies discharged from estates, who were picked up on the roads (ten of them in a dying state) between 10th February 1876 and 2nd February 1877, and carried to Manantoddy Hospital. Until there is an adequate *local* supply of labor, it will be necessary to insist on proprietors taking care of their sick coolies, because, being far from their homes and friends, the coolies cannot take care of themselves.

10. Another point deserving of mention is that a planter has sometimes nothing whatever to do with the actual coolies working on his estate. He gives out so many pits to be dug, or so many miles of estate roads to be constructed, on contract. The contractor brings his own men, and does the work. It is only fair that the expenses of such coolies when they fall sick, as they are particularly apt to do, being harder worked than ordinary laborers, should be paid by the contractor; but, of course, as it is not his property, there might be difficulty in recovering from him. The planter must therefore be held liable; but he, again, should be empowered to recover such expenses from the contractor out of any amounts due to him for work performed.

11. I understand that, at the Conference of Planters' Associations to be held at Manantoddy next month, the question of the Labor Law will be fully discussed, and possibly a joint representation of their views drawn up by the combined Associations may be forwarded to Government on this subject.

12. As soon as I am in possession of the views of Government on the two points of general principle recommended by me for adoption, viz.,

- (1) rendering a breach of contract penal, though no advance of money may have been made; and
- (2) throwing on a defaulting maistry, who has received an advance, the burden of proving that the advance was properly spent;

I will, if required, submit a rough draft of a Bill, which I would propose to have passed on the subject.

13. The matter is a most important one as regards the Coffee planting interest, for the supply of labor varies so much. When labor is abundant, planters are tempted to open out land which (in other seasons when labor fails, *though it may have been contracted for*) must be thrown up for want of a sufficient number of coolies to cultivate it. I feel satisfied that when I am in a position to give details of the reasons for abandoning the large acreage which I find has been thrown up in the last ten years, it will be found that one of the chief causes was that the most unprofitable portions of estates were relinquished, because there were not enough coolies to cultivate them properly.

No. 107. *From H. B. WINTERBOTHAM, Esq., Honorary Secretary to the Wynaad Planters' Association, to the Collector of Malabar, dated Vythery, 20th February 1877.*

I am directed by the Committee of this Association to acknowledge receipt of copy of your communication, No. 14, dated 12th February, to the Chief Secretary to Government, Fort St. George, on the subject of the alteration in the law of treatment of defaulting maistries, and of maintenance of sick coolies on coffee estates.

2. I am specially desired to offer you the thanks of the Association for the kind consideration given to the wishes and interests of the planters in these subjects, and the able way in which their cause has been advocated. We believe that if the onus of proof of having properly expended advances can be thrown on the parties receiving them, one of the chief difficulties in coffee planting will be removed.

3. As regards the maintenance of the sick who have been brought in to work off advances received under agreement, the Committee of the Association will view with great satisfaction any arrangement whereby their estates can have the advantage of professional assistance, residing in each district, and available for the estates situated therein, if this can be secured at a moderate charge to those concerned. I have the honor to enclose, herewith, copy of a letter addressed to the Acting Deputy Collector, Wynaad, in December last, in answer to a communication from him on the subject of additional hospital accommodation, which will show that the idea was favorably entertained before there was any thought of making any such arrangement in connection with an improved Labor Law for the Planting Districts. And we should be glad to hear what share of the expenses of the establishments proposed in the Deputy Collector's letter would fall on the estates.

True copy forwarded to the Chief Secretary to Government for information in continuation to this office letter, No. 11, dated 13th instant.

CALCUT,
22nd February 1877.

(Signed) W. LOGAN,
Collector.

No. 108. *From W. LOGAN, Esq., Collector of Malabar, to the Officiating Chief Secretary to Government, dated Vythery, 31st May 1877, No. 57.*

I have the honor to forward a letter to your address, dated 26th instant, from the Honorary Secretary to the Wynaad Planters' Association, on the subject of breaches of contract in the Wynaad.

2. I will shortly submit some remarks on the subjects mentioned.

ENCLOSURE No. 1.

From J. W. DITMAS, Esq., Honorary Secretary to the Planters' Association of North Wynaad, and H. B. WINTERBOTHAM, Esq., Honorary Secretary to the Wynaad Planters' Association, to the Officiating Chief Secretary to Government, dated Wynaad, 26th May 1877.

In continuation of the Wynaad Planters' Association's letter of September the 24th, 1876, referring to the Order of Government, dated May the 5th of the same year, we have now the honor to address you in consideration of the proposals brought forward by that Association, and the suggestions thereon made by the Collector of Malabar in his letter of October 12th, No. 78, with notes on the Ceylon Labor Ordinance, and his further explanation in a letter, dated February 12th, 1877, on the subject of fraudulent breach of trust of maistries.

2. Since the Association's letter of September 24th was written, great opportunities of discussing the subject widely have arisen, and the suggestion made by the Collector of Malabar with a view to remedy the great evils which have so long weighed upon the Coffee industry have been very generally approved. More especially at the Conference held at Manantoddy during this spring, at which nearly the whole planting interest of Southern India was represented, the subject of the law between the planter and his people was considered. Many of the propositions, of which we have the honor to enclose a copy, had been passed more than a year ago at the Mercara Conference, and have now been rediscussed and confirmed; and the thanks of the Conference were voted to the Collector of Malabar for his insight into the difficulties with which we have to contend, and the valuable suggestions made to meet them.

3. The Collector of Malabar in his letter of February 12th, writes: "What I would propose is that, in case of defaulting maistries, the burden of proving that the money was really lost, or was properly spent, should lie on the maistry, and that on failure to prove this the maistry should be liable to imprisonment extending to three months; and that his contract should be enforceable under the other provisions of the proposed Act." We believe that if this were enacted one of our greatest difficulties would be removed. The Coffee industry has long been the prey of maistries and contractors, who whenever they got into difficulties misappropriated advances given them under contract to procure laborers, certain that whatever happened, the impossibility of a dishonest intention being proved against them would prevent their being punished for criminal breach of trust or cheating.

4. We propose here to take up in order for remark the propositions as passed at the late Conference at Manantoddy as nearly all the points have been more or less under discussion in the letters above referred to from the Association and the Collector of Malabar; and the Associations would here explain that though they wished to join the representatives of other planting communities, which from their position could only communicate direct with the Supreme Government in a common memorial to the Viceroy, they have every confidence that the evils now so generally and unanimously complained of will meet with speedy and complete redress from the Council of His Grace the Governor of Madras, who has already assured the planters "that he fully appreciates the importance to the country of the planting interest, and would gladly remove any obstacles to its development and well working."

5. With regard to the first proposal that enhanced powers of punishment under the Act should be given to Magistrates the Associations are of opinion that many cases occur of criminal breach of contract of a particularly heinous description in which the period of imprisonment of three months is by no means sufficient; while as regards proposition 3, it is a recognised principle in other branches of criminal law that the punishment of old offenders should be greatly increased, and with regard to proposition 4, it is manifest that a second offence, as well as contempt of Court is committed, when, as frequently happens, the party who is ordered by the Court to go and work out his advances on the estate for which he was engaged either declines in *in toto*, or takes the first opportunity of going off to his country or to some other estate.

Propositions 1, 3, and 4.

With regard to the treatment of defaulting contractors or maistries, the arguments put forward by the Collector of Malabar are so well expressed that we can add nothing to them. It is clear that not only is it almost impossible to practically punish the fraudulent maistry, but a very great temptation to make away with entrusted funds is suggested to the honest man who sees constant proof that the law is quite insufficient to punish the deliberate cheater.

It would seem that no clearer proof of the wish to cheat could be found than that of a coolie or maistry proceeding to work on some other estate than that for which he was engaged, but at present it is necessary to prove the original "dishonest intention" in receiving the advance or making the contract, and this is a bar to the party offending being prosecuted for cheating. We think that this provision will be a most useful one to the maistries who contract to bring in coolies, their constant complaint being that men whom they had despatched from their villages to the estate employing them had taken advances from the maistry of some other estate, on the road, on representing themselves to be unengaged.

Proposition 5.

This section explains itself. It is a most tedious and wearisome process to recover by civil remedy in the Courts of the outlying districts, and involves a great waste of time on the Estate Superintendent.

Proposition 6.

With regard to proposition 7, the suggestion has the approval of the Collector of Malabar who says (paragraph d), "It would clearly be a further improvement if the warrant could be sent to the nearest Police station, instead of to the nearest Magistrate, and if it could be executed by the Police, instead of by a Magistrate's peon."

Proposition 7.

This includes the principle of Section 24 of Ceylon Labor Ordinance proposed to be adopted by the Collector of Malabar. It is a well-known fact that fraudulent contractors have generally no fear of the present law, under which even if punished they are enabled to come out criminally free because they are aware that the delay and inconvenience of instituting a civil suit by a planter, living at any distance, are such that no one will undertake it except the amount involved be a large one.

Proposition 8.

There has been a good deal of misapprehension on the part of Magistrates in Coffee Districts as to whether a contract to bring so many coolies was equally binding with one in which a specified amount of work to be done was mentioned, and we think it would be a great help to the planter that a form of contract with examples should be appended to the proposed extension of the Act.

Proposition 9.

The custom between contracting maistries and their coolies in these districts is that sums of money varying from Rupees 2 to Rupees 10 per head should be given by the maistry to members of their families. It would seem therefore a hardship to the maistry making these advances that he should be obliged to procure a stamped contract paper of the value of 8 Annas, or in some cases a percentage of 25 per cent. before he can secure himself. The coolies themselves

Proposition 10.

attach great importance to a Government stamped paper, and we think it highly desirable that this suggestion should be adopted.

The principle embraced in this proposition has long been striven for by the planters of Wynaad, and we are glad to find them so well advocated by the Collector of Malabar.

Proposition 11.

The Coffee Farmer is at times peculiarly at the mercy of the coolies he employs. The news that satisfactory rain has fallen, or that good wages are being paid in his native taluq, is quite enough in many cases to induce the laborer to ignore the fact, of which he cannot be ignorant, that his employer, with whom he had agreed to serve, must get his work done at any cost, and unless an extra inducement to abscond in the shape of "advance" is also added, it is impossible that the planter can even try to seek redress.

At the same time we must deprecate the idea entertained apparently by the Collector in his letter under notice that any one-sided construction of the law was wished for. We believe there would not be the slightest objection to the breach of contract being made criminal on both sides, although the parties to the contract can hardly be considered on the same level, the one being in a position of trust and responsibility and at any time to be found in case of civil action, while the other party is in most cases worth nothing but the advance given him in trust and practically unassailable by civil remedy.

The draft of Registration Act proposed in the letter under consideration has our cordial approval. We think this if enacted will make a great deal of the cheating now going on impossible, and we are inclined to hope that it may be possible to construct on this basis some registration of our contractors and maistries in their own villages, in Mysore, or in Malabar, from which our labor supply is almost entirely drawn.

Proposition 12.

We are aware that the subject of extradition with the Province of Mysore is under the consideration of Government. The cost, delay, and uncertainty of getting a defaulter returned from that province are entailing so much loss on the district that we trust an early settlement of the subject may be arrived at.

Proposition 13.

With regard to this proposal that local Justices of the Peace should be appointed for entertaining complaints under the Act, the Associations are not aware that any steps have been taken in the matter, since the Collector of Malabar in G.O., No. 35, of 7th January 1875, was directed to report on the subject. The planter, have, as a rule, too little leisure to be able to afford the time necessary for magisterial work. What they wish to prevent is the constant waste of time involved when, perhaps for days together, the Magistrate being away from his headquarters, the planter has to ride long distances vainly endeavouring to obtain a warrant against some absconded contractor, who might easily have been secured had the necessary warrant been procurable at once.

Propositions 14 and 15.

There can be no doubt that coffee stealing in Wynaad is assuming very large proportions. Stunted as are the estates with a jungle boundary of miles, it is clearly impossible to guard ourselves from direct robbery from the trees at night, and a great deal doubtless is lost in this way. The value of our staple is so great compared with its bulk that a small quantity easily concealed about the person of a laborer during the day, and taken off at night to the nearest bazaar, will make a coolie comparatively rich during the season. The temptation to this kind of robbery is very strong, and the light sentences passed by the District Courts on the few offenders who have been caught have greatly increased the practice.

Proposition 16.

We have strong grounds for believing that almost every wayside bazaar, or arrack shop-keeper, is now a receiver of coffee stolen in this way; and towards the end of the season carts may be seen openly loading up with coffee (pounded out clean, so as to escape any chance of identification) from these wayside places, where a few dozen coffee trees are grown as an excuse in case of inquiry. And not only is the European's estate plundered by night and day, and the native population demoralized by the ease and impunity with which such robbery can be effected, but a system of stealing, changing, and mixing with rubbish the estate produce in transport to the curing-houses on the coast is now being carried out on a large scale by the cartmen and their connexions on the line of road in the low country. Owing to the difficulty of identifying any particular sample of coffee, it is almost impossible to obtain satisfaction in these cases, and, unless the parties found in possession of coffee can be called on to prove that it was honestly obtained, we greatly fear our industry will be seriously crippled. With a far larger proportion of small native holdings, any one of which can at any time be utilized to get up a stolen coffee receiving establishment, there is even greater need than in Ceylon of special protection of the description which has been found to work so satisfactorily in that colony.

The Government of Madras in G.O. No. 35 of 1875, before referred to, promised to favorably consider this matter "if the Ceylon Ordinance to check coffee stealing" was found to give satisfaction. This is so far the case that not only was the Ordinance re-enacted when its trial time had expired, but it was declared absolutely necessary for the protection of the coffee industry. We pray therefore that the Government will at once take steps to introduce this Act for the Coffee Districts of India.

With regard to the sale of waste lands we should urge that every encouragement should be given to those willing to embark capital in cultivation. Cases have occurred in which the supposed "indications" of gold bearing quartz have been sufficient to prevent the *bona fide* planter from commencing operations at the last moment, and after all arrangements were completed.

We venture to think that all mining rights being reserved there need be very little delay when the land is applied for. The Associations are aware that a suggestion of this kind has been advanced temporarily by the Collector of Malabar, with a view to give immediate employ to coolies who might otherwise be in want of work in this season of distress, and they hope that this practice may become hereafter the rule.

The Government of Madras are doubtless aware how necessary to our advancement—nay existence—are the main roads which bring in our grain, and our coolies, and take our produce to the coast. Large sums have been spent on our cart-roads; these districts have long outgrown the time when their life could flow along narrow tracks and send their produce off on pack bullocks. To have our main roads impassable for carts during the heavy rains of the western monsoon would mean continuous famine rates of food, for our laborers, and make it impossible for us to carry on the proper cultivation of our estates.

Considering the immense sums of money which are annually spent in Coffee cultivation, and which pass principally into the neighbouring Provinces of Malabar and Mysore, we trust that the Government of Madras will see the vital necessity of apportioning funds for having the roads in the district put into proper order. Owing to the withdrawal of the usual grant from the Provincial Funds, these roads have been allowed to fall into a great want of repair, and many of the bridges are even now impassable. We trust that a speedy order may be passed on this subject.

In conclusion we would venture to point out that the improvements in the working of the law between master and servant herein mentioned, and the other wants which we have brought forward, are no new matter of request. We can now safely assert that there is no difference of opinion between different planting communities as to what is required. Full time has been given for deliberation and discussion, and we now trust that Government will remember that these evils herein mentioned have been weighing upon us heavily for ten or twelve years past, and have been the subject of repeated representation and memorial.

With regard to the alterations in the law of Contract we still venture to think, and in this all the Associations agree, that an "amendment and extension" of Act XIII of 1859 would be much simpler and more convenient than an entirely new Act, because the working of the present Act is understood by Natives and Europeans; and our object is only to introduce improvements that shall stop the great defects of which our *employés* know so well how to take advantage. We would venture to suggest that the Collector of Malabar, to whom we already owe so much, with the law officers of the Government, should be directed to draw up, without delay, a draft of an improved Act, based on the principles herein enlarged on and unanimously declared necessary for the protection of the planting interest.

ENCLOSURE No. 2.

PROPOSITIONS passed at the COFFEE PLANTERS' CONFERENCE held at MANANTODDY, 1877.

I. That this Conference address a memorial to the Governor-General in Council, praying amongst other things that Act XIII of 1859 be enlarged and amended to meet the official requirements of the Planting Districts of Southern India.

II. That enhanced powers be given to Magistrates.

That a person contracting to labor or to supply labor, and committing a breach of such contract, shall be presumed *prima facie* to have done so wilfully.

III. That second and subsequent offences be recognised as more heinous offences than first ones, and be visited with severer punishment.

IV. That neglect to obey the order of the Court to carry out a contract be regarded as a second, or subsequent offence, and punished accordingly.

V. That a maistry or cooly having received an advance under an agreement found working upon an estate other than the one upon which he is under contract to work be presumed to have taken the advance with the intention of cheating, and be liable to prosecution under Section 415, Indian Penal Code.

VI. That when a person convicted of breach of contract under the Act shall have given security to the Court for the fulfilment of the work or repayment of money due on account thereof within a period fixed by the Court, and when such work has not been completed, or such money repaid in accordance with the order of the Court, that the Court be empowered to attach the property or person of the parties who have become sureties for the fulfilment of the work or repayment of the money in the same way that recognizances are recovered in other criminal cases, and that it be left to the discretion of the Court to award all, or any part of these moneys to the complaining party.

VII. That processes issued under the Act, being either summons or warrants, be served by the Police authority, and that a warrant once issued shall remain in force until the apprehension of the offender.

VIII. That a person convicted of a fraudulent breach of contract shall on the expiration of his sentence, be required to carry out his contract or repay the advance at the option of the complaining party, and that neglect or refusal to do so be treated as a second or subsequent offence.

IX. That a form of contract and sub-contract be appended by way of schedule to the Act proposed, which shall have the force of a binding contract when produced before a Magistrate.

X. That written agreements for service or for the performance of work when the advance given does not exceed twenty (20) Rupees be charged with stamp duty not exceeding one anna.

XI. That a breach of contract made without advance may be equally punishable with one in which money has been given.

XII. That all maistries and contractors be obliged by law to register themselves at the Cutcherry of their district, and to carry a book or certificate in which their engagements must be entered.

XIII. That before all things it is necessary for the Coffee Planting Districts that some cheaper, simpler, and more effective method of extraction with the Province of Mysore should be devised.

XIV. That the thanks of the Conference be tendered to Mr. Logan, the Collector of Malabar, for his earnest and elaborate investigation of, and attention to, the difficulties besetting planters, regarding the defects in the law relating to labor as evidenced by his letters on the subject to the Chief Secretary to Government proposing measures for removing the evils complained of, and that Government be urged to accept Mr. Logan's suggestions as far as they do not conflict with the other resolutions of this Conference.

XV. That local Justices of the Peace be appointed amongst the planting community for the purpose of entertaining complaints of breach of contract, and for issuing processes.

XVI. That, considering the prevalence of coffee stealing, and the inadequacy of the existing laws to check or suppress it, the Government be solicited to pass an Act, similar to the Ceylon Act, entitled an "Ordinance to check Coffee stealing."

XVII. That more expedition be shown in effecting the sales of Government waste lands.

XVIII. That the vital importance of keeping the main line of roads, from the coast through the planting districts to the grain-producing country in the interior in a proper state of repair, be strongly urged on the attention of the Viceroy.

ENCLOSURE No. 3.

Extract from the Speech of Sir WILLIAM GREGORY on leaving Ceylon.

"In 1874 the Ordinances to make provision for Colombo harbour, to amend and consolidate the Ordinances, for the construction and upkeep of branch roads, and to check the crime of coffee stealing, were the most notable. The last has, I am glad to say, put a complete stop to the organized system of robbery of coffee plantations. This system had attained the proportions of a regular business. When coffee became ripe the district was thronged with so called petty dealers who were nothing better than thieves and corrupters of the coolies. Although the Government was unwilling to resort to exceptional measures, yet it considered that the existing law was not competent to cope with the growing evil, and we were confirmed in that opinion by the Judges of the Supreme Court. We therefore passed the Ordinance, the existence of which has recently been extended for two years, it having according to the testimony of the Magistrates checked the crime in a remarkable degree. I may also add that it has performed this good service with no inconvenience to the honest trader, and so carefully has it been watched, that corporal punishment has only once been inflicted under its provisions."

No. 109. From W. LOGAN, Esq., Collector of Malabar, to the Chief Secretary to Government, dated Palghat, 27th June 1877, No. 65-A.

In continuation of my letter, No. 57, dated 31st May 1877, forwarding an address from the Planters' Associations in Wynaad, I have the honor to submit the following remarks on the propositions set forth in the enclosure to the address:—

Paragraph 6, Clause C of my letter, No. 78, dated 12th October 1876, and Propositions 1, 3 and 4. paragraph 7 of my letter, No. 11, dated 12th February 1877, refer to the sugges-

tions here made. I may repeat that I do not agree with the Associations in thinking that the term of imprisonment imposed by Act XIII of 1859 is not sufficiently punitive for a second or any subsequent offence, and that I have proposed that a defaulting maistry who is released from jail after suffering imprisonment should still be bound to carry out his contract.

Proposition 2 appears to refer to paragraphs 2 to 7 of my letter to you, No. 11, dated 12th February 1877.

Proposition 5 cannot, I think, be accepted. The case put is that of a maistry or cooly who has received an advance to work on one estate being found working on another, and the proposal is that he should *ipso facto* be presumed to have intended to cheat the person who originally gave him the advance, and that he should be punished accordingly under the cheating sections of the Indian Penal Code.

First and foremost the cheating sections of the Indian Penal Code are sufficiently definite as to what is, and what is not, cheating, and, as already observed, (paragraph 7 of my letter, No. 78, dated 12th October 1876), if the proper facts can be proved the Magistracy have no option in the matter but to convict.

To tell the Magistracy that when such and such a set of circumstances have happened they are to presume so and so and so and so would be to interfere with that discretion (as to the interpretation to be put upon facts) the exercise of which by the Magistrate is so essential to the administration of justice.

If a maistry were to accept advances from two parties to do certain work at the same time on two estates it would be open to him to plead a great many things which would at once raise the question of whether he really meant to misappropriate money in taking both advances. He might show, for instance, that he had really entered into such contracts as would have enabled him to perform his duty to both parties, but that certain of the contractors had failed him. It would be downright injustice, under such circumstances, to send him to prison for cheating. If a cooly, on the other hand, accepted advances from two estates to do certain work on each of them at the same time, and it was physically impossible for him to have done his duty to both parties, he might very properly be presumed to have intended such misappropriation as would have amounted to cheating or breach of trust. But what is the use of pointing that out to a Magistrate in a special section of the proposed law? The Magistrate's common sense would tell him the cooly could be dealt with under the Indian Penal Code Sections. I feel quite sure that such a proposition is wholly unnecessary.

Proposition 6 requires the application of the principles laid down in Sections 397, 503, and 514, Criminal Procedure Code, to the case of parties who have stood as sureties for a defaulter whom the Court has directed to fulfil his contract or to repay his advance. Section 3 of Act XIII of 1859 authorizes a Magistrate to demand security, and there is no reason why a summary method of recovering should not be framed.

Proposition 7—see paragraph 6 clause (d), of my letter, No. 78, dated 12th October 1876.

Proposition 8—see paragraph 7 of my letter, No. 11, dated 12th February 1877.

Proposition 9 is a very reasonable suggestion.

Proposition 10.—As I had proposed that *written* contracts only should be enforceable under the Act, it will follow that there will be a vast increase in the number of such written contracts. If such an agreement were taken from each cooly

under the present law (No. 11; Schedule II, Act XVIII of 1869), the Stamp duty would be a very heavy charge on estates. Taking the number annually employed on all estates in Wynaad at 40,000, the charge would be Rupees 20,000 annually. I recommend a reduction as suggested to one anna.

Proposition 11 has been fully discussed in paragraph 2 of my letter, No. 78, dated 12th October 1876, and in my notes to Sections 11 to 14 of the Ceylon Ordinance therewith sent.

Proposition 12—see paragraph 6, clause (e), of my letter immediately above quoted.

Proposition 13—see paragraph 8 of the same letter.

Proposition 15.—I fancy the difficulty of obtaining warrants has been exaggerated somewhat. There is *always* a Magistrate at Manantoddy, for if the Deputy Magistrate and Tahsildar are absent the Sheristadar Sub-Magistrate is of necessity present. Some delay might occasionally occur at Vythery if the Sub-Magistrate there were unavoidably absent for several days at a time, but such absences are infrequent. On the whole I consider it unadvisable to appoint Honorary Magistrates (Justices of Peace would not in any case be necessary unless European maistries had to be dealt with) for the purposes pointed out.

Proposition 16 deals with a very important subject, and I strongly support the suggestion made to extend to the Coffee Districts the Coffee Stealing Ordinance which has been found to work so well in Ceylon. Coffee stealing is the regular occupation of certain classes of the population, and it is impossible in the present state of the law to deal effectually with the matter. There are many notorious receivers whose occupation would be gone if the law made it necessary that they should keep true and exact accounts of their dealings. I have not seen the Act which has been passed in Ceylon, and the above must be taken as only approving of the principles which I understand are embodied in it. I should like to see a copy of the Act before deciding as to whether all its details are applicable to this district.

Propositions 17 and 18 do not refer to the proposed legislative measure, and will be more conveniently dealt with separately.

I have no further remarks to offer on the Labor question, and I trust that the Government will be pleased to pass early orders on a subject of so much importance to this district.

No. 110. ORDER THEREON, 19th July 1877, No. 1692.

These papers relate to the alleged need that is felt of an adequate Labor Law for the protection of the Coffee enterprise on the Wynaad. It is urged that the existing Breach of Contract Act XIII of 1859, together with several provisions of the Penal Code, are insufficient to reach cases of failure on the part of maistries to fulfil their engagements for the supply of labor to the estates, and of desertion on the part of the coolies themselves at times when the coffee cultivation is in a critical stage.

2. These difficulties were to some extent noticed in the above-quoted Proceedings of Government of the 5th May 1876, on the representation of the planters of the want of an efficient law to protect them, the inefficiency of the present law being understood to consist in its tardy operation in respect to a class of laborers who are not men of substance, and who from the nature of the country readily escape where their apprehension is no easy matter. The Collector of Malabar was accordingly directed to place himself in communication with the planters, in view to their preparing, for the consideration of Government, a draft of such an enactment as they would desire to see passed by the Legislature.

3. It was at one time considered by the Government that special legislation was not needed for the planting interests on the Wynaad, or on the Nilgiri Hills, because cultivation with exotic plants had expanded on these tracts notwithstanding the labor difficulty which it was admitted did undoubtedly exist, and because any law which the Government would be prepared to pass might probably prove in the end

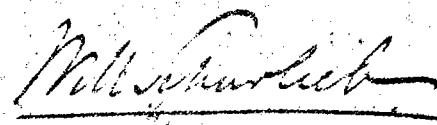
more onerous to the planters than the caprices of their laborers. But the reports now before Government show that the planting industry in the Wynaad is suffering from a substantial grievance, in the absence of a simple and complete remedy as regards breaches of contract, caused by desertion of laborers or fraudulent practices on the part of maistries. The season for gathering the crops is a critical moment, and the planters are liable to heavy loss for which an adequate remedy is difficult. The Government are therefore now disposed to give the planters all the assistance in their power, consistent with adequate protection to the *employés*.

4. Mr. Logan reports very carefully on the whole question, and he furnishes a most useful analysis of those portions of the Ceylon Ordinance which it is considered can be made to apply to the wants of the Wynaad Planters. Before giving any definite orders however for preparing a draft law to suit the requirements of the Wynaad Planters, the Government resolve to refer the whole of the papers to the Acting Advocate-General, in view to his reporting whether the proposals contained in them are within the ordinary principles of British Indian Law, and whether an enactment such as that contemplated is open to objection.

5. Ordered that application be made to the Government of Ceylon for a copy of their Ordinance to check the offence of coffee stealing.

(True Extract.)

D. F. CARMICHAEL,
Chief Secretary.



Assistant Secy. to Govt.

To the Acting Advocate-General.

„ Collector of Malabar.

„ Honorary Secretary to the Wynaad Planters' Association.

„ Revenue Department.

No. 4278 ✓

Com. initiated to the Board of
Revenue with reference to Crs. 19 May
1876 No. 476 Rev. Lett. and 30 idem No. 542 26.24

2^d. August/71

2 To H. of Lawrence 93-8-77

Feb 22 1903

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30 July

Figure 1. The effect of the concentration of the *Agrobacterium* suspension on the transformation efficiency of *Agrobacterium* strains. The concentration of the *Agrobacterium* suspension was 10⁶ cells/ml (○), 10⁷ cells/ml (□), 10⁸ cells/ml (△), and 10⁹ cells/ml (◇). The data represent the mean ± SD of three independent experiments.

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Further Ex 443/8

Revenue Department
No 2000

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Journal of Management Education 30(6)

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1. The first part of the paper is a review of the literature on the effects of the environment on human health. It discusses the physical, chemical, and biological factors that can influence health, as well as the ways in which these factors interact with each other and with individual susceptibility. The review also highlights the importance of understanding the mechanisms of environmental effects on health, and the need for further research in this area.

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1. The first step is to identify the problem or question that needs to be addressed. This involves understanding the context and the specific requirements of the task.

[illegible][illegible][illegible]

W. H. H. H.