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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	313.	Press.
B.P. No.		Mis.
Dated	6. 2. 1878.	197.

Not to be folded or roughly handled

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GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

29th January 1878, No. 190.

Bills—Legislative.

Read the following paper:—

No. 171. *From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 26th September 1877.*

With reference to the Order of Government, dated 19th July 1877, No. 1692, referring to me the papers submitted to Government by the Collector of Malabar upon the subject of certain proposals made by the Planters' Association of Wynaad for an alteration in the law affecting contracts made by Planters with their maistries or coolies and to check coffee-stealing upon coffee estates, I have the honor to state that I have given my best consideration to the various questions raised by the Planters' Association, and I beg to state the conclusions at which I have arrived for the information of His Grace in Council.

2. Various alterations in the law have been suggested by the Wynaad Planters' Association, but I understand that the Association do not, at least for the present, desire that the law should be altered except in respect of two points. They desire—

- (1) That a law should be passed, founded upon the Ceylon Ordinance No. 8 of 1874, to check the offence of coffee-stealing.
- (2) That the criminal law should be rendered more effective to punish breaches of contract by maistries and coolies and criminal offences, such as cheating or criminal breach of trust, committed by such maistries and coolies.

3. With regard to the first point, I think the Planters have made out a case for the interference of the Legislature, and that measures ought to be taken as speedily as possible to prevent coffee-stealing. I have prepared a Bill on the subject, following, as far as practicable, the Ceylon Ordinance above mentioned. I think the draft Bill ought to be submitted for the consideration of the District Officers in Malabar and of the Planters. It may turn out that some of the provisions of the Bill, though found to suit Ceylon, may not be adapted to Wynaad owing to local or other causes. It is also a question for consideration whether the Bill should be applicable to Wynaad only, or whether it should be extended to other areas in this Presidency in which coffee is grown. I have made it applicable to the whole Presidency.

4. With regard to the second point above mentioned, I think the law is at present as stringent as it ought to be. By Act XIII of 1859 an artificer, workman, or laborer who receives an advance of money on account of any work and who without reasonable excuse, neglects or refuses to perform such work is liable to the penalties specified in the Act, one of which is imprisonment with hard labor for a term not exceeding three months. By the Bill to define and amend the law relating to master and servant now before the Council of the Governor-General, it is proposed to repeal Act XIII of 1859, but its provisions are to be substantially re-enacted in Section 34 of the Bill, except that the Bill applies to every mechanical or agricultural servant who receives advances on account of any work which he has contracted to execute. By Section 16 of the Bill a master will be entitled to compensation from any person who knowingly entices away a servant from his master. This is, no doubt, the law at present, but it is perhaps not generally known.

5. It seems to me that the criminal law goes as far as it ought to do, and that where the servant has not received an advance, but has merely failed to fulfil his contract, the breach ought to be treated as only entitling the Master to recover damages in a civil suit, or, if the breach is to be treated as a criminal act, the breach by the master ought in fairness to be dealt with in the same way.

6. It appears to me also that it would not be expedient, in a prosecution under the Penal Code for cheating or criminal breach of trust brought by the Planter against his servant, to throw upon the servant the burden of proving the absence of a dishonest intent. In such cases the servant would not be a competent witness on his own behalf, and in many cases the servant would labor under as many difficulties as the Planter in procuring the attendance of witnesses who, if they could be compelled to attend, might show that the witnesses or others had acted dishonestly towards him. If convictions took place of maistries for having failed to account for advances made to them, although they had in truth expended the advances in endeavouring to procure coolies but were themselves deceived, because the maistries were unable to adduce the requisite legal proof, the law would be discredited, and it is doubtful whether maistries would be prepared to take part in transactions involving such onerous consequences.

7. If, however, it should be thought proper to amend the law in the direction suggested by the Planters' Association, this would probably have to be done by the Council of the Governor-General, for it is doubtful whether such legislation is within the power of the Legislative Council of Fort St. George.

8. I may add that if hereafter protection can be given to the planting interest by establishing registers of servants employed upon coffee estates, such protection ought in my view to be afforded, but such a system of registration would probably entail upon the Planters duties and obligations which might outweigh its advantages.

No. 172. *From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 26th September 1877.*

I have the honor to forward, herewith, the draft of a Bill to make special provision to prevent thefts of coffee for the consideration of His Grace in Council. The Bill is founded upon the Ceylon Ordinance No. 8 of 1874 to check coffee-stealing, which, there is reason to believe, has been found to work well in Ceylon. It would perhaps be advisable to print copies of the Ceylon Ordinance for circulation with the draft Bill, so that all who may be invited to state their views on the subject may have all the available information upon the subject before them.

2. I have omitted the sections in the Ordinance relating to common carriers, as those sections are connected with a law in force in Ceylon relating to carriers and there is no such law in India. But I have, instead of a license to a carrier as contemplated by the Ordinance, provided that a certificate shall be given to every person engaged in the transport or removal of coffee by the owner or manager of the estate, which, it is hoped, will serve the same end, that is to say, will tend to prevent the clandestine or unauthorized transport of coffee.

3. It will be matter for consideration whether the provisions in the Bill, which follow the Ordinance, requiring persons to produce their books and certificates for the inspection of any Police officer upon his requisition should be retained, or modified by rendering it obligatory to produce only on the requisition of a Police officer of a specified rank or generally or specially empowered to demand the production.

4. I have not inserted Section 12 of the Ordinance, as the Evidence Act (Section 54) declares that a previous conviction may be given in evidence as a relevant fact in the Penal Code relating to forgery are sufficient.

5. I return the copy of the Ceylon Ordinance which was sent to me.

No. 1947.

MEMORANDUM.

No. 173.

With reference to his letter, dated 26th September 1877, forwarding draft Bill for the prevention of coffee-stealing, the Acting Advocate-General is requested to be good enough to favor the Government with his opinion on the following points in connection with the draft Bill:—

PREAMBLE, CLAUSE 2.—Instead of making the Act applicable to the whole Presidency, whether it will not be more advisable to provide that the Act shall be applicable to such districts, divisions, or parts of districts to which the Governor in Council may by notification be pleased to extend its provision.

SECTION 1.—Whether the words "upon any coffee estate" and "upon such coffee estate" should not be omitted in providing against the loading or unloading of coffee within certain hours, as the insertion of such words which do not occur in the Ceylon Ordinance appears to act as a limitation and seems calculated to render the Act nugatory.

SECTIONS 4, 5, AND 6.—Whether the omission of corporal punishment and the mere provision of fine and imprisonment are not likely to lessen the fear of punishment in the case of mere coolies and tend only to fill jails with coffee-pilferers.

(By order.)

(Signed) D. F. CARMICHAEL,
Chief Secretary.FORT ST. GEORGE,
16th October 1877.

To the Acting Advocate-General.

No. 174. *From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 18th October 1877.*

In answer to your official memorandum, No. 1947, dated 16th October 1877, on the Bill to prevent coffee-stealing, I have the honor to forward herewith my opinion in regard to the suggestions contained therein.

ENCLOSURE No. 1.

OPINION.

With reference to the official memorandum of the Chief Secretary, dated the 16th October 1877, No. 1947, on the Bill to prevent coffee-stealing, I think the Preamble, Clause 2, may be altered for the present as suggested. But this is a question upon which local opinion may, I think, be invited. And it will be matter for further consideration whether the provisions of this Bill ought to be extended by notification, or whether the Bill itself should not set forth the limits to which it applies.

SECTION 1.—The words "upon any coffee estate" or upon "such coffee estate" had better be omitted, at all events at present. My recollection is that such words were in the copy of the Ceylon Ordinance which I saw, though they do not appear in the copy of the Legislative enactments of Ceylon which was sent to me yesterday.

SECTIONS 4, 5, and 6.—A punishment not exceeding sixty stripes with a rattan may be added for the present, but whether it is to be retained is a question for further consideration.

It is also worthy of consideration how far the provisions of Sections 3 to 9 ought not to apply at all times in such towns as Calicut and Tellicherry and the town of Madras, but this is a question upon which the views of the Planters might be useful, for, of course, it is not advisable to extend the Bill further than may be necessary to secure the object in view so far as it can be foreseen.

(Signed) P. O'SULLIVAN,
Acting Advocate-General.MADRAS,
18th October 1877.

No. 175. From A. McC. WEBSTER, Esq., Acting Commissioner of the Nilgiris, to the Chief Secretary to Government, dated Ootacamund, 14th November 1877, No. 100.

I have the honor to forward, for the favorable consideration of Government, a copy of a letter to my address from the Honorary Secretary, Nilgiri Planters' Association, enclosing a letter to Government on the subject of a coffee-stealing law.

2. I believe that the necessity of a law has been brought to the notice of Government by the Collector of Malabar, and that the subject has already received favorable consideration. The Association trust that no time may be lost in passing a law similar in effect to the Ceylon Coffee-stealing Ordinance, as the present crop is nearly ready for picking and a large increase in the number of thefts is anticipated owing to the prevailing distress.

ENCLOSURE No. 1.

From Mr. E. HAMLIN, Honorary Secretary, Nilgiri Planters' Association, to the Acting Commissioner, Nilgiris, dated Wynaad, 18th November 1877.

I have the honor to enclose, for your information, a communication addressed to the Chief Secretary to Government urging the necessity of immediate attention to the special "Coffee-stealing Ordinance" which is now under the consideration of the Legislative Council.

2. For the last few years the robberies from the coffee stores and drying grounds, apart from the growing crops, have considerably increased, and without the assistance of a law such as the above detection of the thieves is almost impossible.

3. Owing more especially to the effects of the famine the absence of a protective measure is a source of grave apprehension to the coffee planters at the present moment; instances have already occurred of the fruit having been stolen from the trees.

4. As you are probably aware, it is only by the prosecution of the purchasers of stolen coffee that we shall successfully put a stop to the practice of coffee-stealing; this Association hopes for your co-operation, and trusts that you will urge Government to expedite the final completion of the Ordinance and thus afford the coffee estates some protection from what has become a source of serious loss and trouble.

No. 176. ORDER THEREON, 29th January 1878, No. 190.

The Governor in Council approves the draft "Bill to prevent Coffee-stealing" as now sketched on the views expressed by the Members of Government, and directs that the Bill be referred to the Legislative Department in view to its immediate publication, with the Statement of Objects and Reasons, under Rule 25 of the Rules for the conduct of business in the local Council for making Laws and Regulations.

(True Extract.)

E. Hamlin

Chief Secretary.

To the Collector of Malabar.
 „ Advocate-General.
 „ Legislative Department.
 „ Revenue Department.

Exd. J. W. Fischer.

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Exd. A. F. Goodall.

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STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to check the extensive petty pilfering of coffee on the part of coolies employed on coffee plantations in Wynid and other coffee-growing tracts in this Presidency, which has been brought to the notice of Government.

2. The value of the coffee berry, and the facility with which it may be stolen and subsequently disposed of without detection, render special legislation necessary for the protection of owners of coffee estates.

3. Accordingly, the Bill provides—chiefly with the view of restricting the power of disposing of the stolen coffee and thus removing the main incentive to petty pilfering—that within certain notified localities no person shall in any way deal in coffee unless he shall have first obtained a license to do so from a Magistrate, who, however, is not to grant the license unless he is satisfied that the applicant is a fit and proper person to be licensed; and that every licensed dealer shall be bound to keep books and accounts, in which shall be regularly entered a true and full record of the particulars of each transaction. Penalties are attached to any breach of these provisions.

4. The Bill also renders punishable—

- 1st.—The dealing in coffee by any person other than a licensed dealer;
- 2nd.—The selling or bartering coffee to any person other than a dealer;
- 3rd.—The buying of green coffee from any other person than a licensed dealer or owner of a coffee estate or some person duly authorized in writing to act for him;
- 4th.—The possession of green coffee by a laborer employed on a coffee estate, who fails to account satisfactorily for such possession;
- 5th.—The removal of coffee from any premises without the express permission, in writing, of the owner or his authorized Agent; such permission to specify the quantity, number, date of removal, destination and names of consignor and consignee; and
- 6th.—The gathering, removal, or loading or unloading of coffee on any estate between sunset and sunrise.

5. Provision is also made that in the case of persons convicted for the second time of the offences of buying green coffee from any other person than a licensed dealer and of being found in possession of such coffee without being able to account for the same satisfactorily, it shall be at the discretion of the Magistrate to substitute or add flogging for or to the penalties provided by the Act, but that such substituted or additional punishment shall be awarded only as a punishment for the offence itself and not as a penalty for non-payment of fine.

6. The Bill saves from its provisions—

- 1st.—The purchase of coffee for purely private or domestic consumption from a licensed dealer; and
- 2ndly.—The receiving, carrying, or delivering of coffee by or to any officer or servant of the Railway Company in the course of his employment as such officer or servant.

7. Lastly, the Bill provides for the fees on licenses issued, and fines levied, under the proposed Act, being reserved for the purpose of furthering the objects of the Act; and empowers Magistrates to award, out of the fines realized, rewards to persons furnishing information leading to the conviction of offenders under the proposed law.

W. HUDLESTON.

MADRAS,
29th January 1878.

Revenue 1878. 1878. 1878.
No. 1314.
JANUARY,
Nos. 13-14.
LEGISLATIVE.
GOVT. OF 1878.
29th January 1878.
W. HUDLESTON.

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Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

A Bill to prevent thefts of Coffee.

Rec 31/3

Indu 6.6 Feb/58 L 2013.

(Statement of Objects and Reasons.)

No 313

Pro: Madras Government
Indu 6.6 Feb/58

Read the following
papers.

Pro: of Govt. Ind. Dept.
d/29th Jan/78 No 190
approving Draft Bill to
prevent Coffee-stealing
Indu

Pro: of Govt. Legislation
Dept. d/29th Jan/78 No 190
ordering the publication
of the Coffee-stealing Prevention
Bill in the Fort St.
George Gazette.

Communicated
to the Board of Revenue
in continuation of
L.O. 2048/1877
d/4/2/80

gum

7 To the Board of Revenue 7 Feb

Indu

Revenue 1878 Departs

Will be presented
N 313

Coffee Dealings
Proceedings of the
Madras Government

Dated 6th February 1878.

W. L. O. 6 Feb 1878
N 313

By order of the
Secretary