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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 403	Press / Mis.
90-91.	
Dated 11—3—	1894.

13/14

Not to be folded or roughly handled

11

Proceedings of the Madras Government, Financial Department,
11th March 1874.

No. 90. Read the following Proceedings of the Board of Revenue, dated 4th February 1874, No. 212 :—

Read the following letter from E. BARCLAY, Esq., Acting Government Solicitor, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 4th December 1873, No. 663 :—

With reference to the Proceedings of the Board of Revenue, dated 11th September 1873, No. 1798, requesting me to obtain the opinion of the Advocate-General as to whether ancient royalty and right of monopolizing ferries of South Canara District can be maintained by process of law, civil or criminal.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward, herewith, a copy of his opinion.

OPINION.

There is no criminal proceeding by which the Government can assert its claim to the monopoly of a ferry; a temporary order might be passed under Chapter XL. of the Code of Criminal Procedure in the events contemplated by that chapter; but the right must be ultimately decided in the Civil Court.

2. There are no materials before me which would enable me to form an opinion as to the probable result of contesting the matter in a suit; if it could be shown that the present Government, succeeding to the rights of the previous rulers of the country, had invariably levied a toll at a particular ferry, and had, as of right, excluded all other persons from ferrying at the spot, it is possible that the monopoly might be regarded as a piece of Crown property and its invasion by the public be made ground for compensation in damages. The Act certainly appears in Section 20 to contemplate the existence of ferry monopolies other than those created by itself.

3. The result of any such litigation is, however, far from certain. Difficulty might be experienced in showing the origin of the monopoly; the country, it is known, abounds in illegal, local exactions, which, having no rightful basis, would not be legalized by mere lapse of time; and again, though Government might have levied tolls, it might be contended that other persons had done the same; and so that no monopoly was made out. Some doubts of this kind appear to have been entertained, when the original Bill on the subject was introduced.—See Mr. H. D. Phillips' statement of Objects and Reasons, 7th December 1865. At any rate an Act dealing with ferries being now in existence, it would seem a safer and more convenient course to apply it in any case in which it became necessary to assert the legality of the toll, or to exclude the public from the right of ferrying. The objection to applying the Act, viz., that the proceeds of the ferry would have to be carried to the "Canal and Ferry Fund," might be got over by adding to Section 29, after the words "provisions of this Act may be applied" (four lines from the end), the words "or of roads, bridges and other means of communication;" or, if it was preferred, a second proviso might be added to the Section, making express provision for cases such as that now referred, and sanctioning in such instances a special employment of the fund.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

3rd December 1873.

(True Copy.)

(Signed) E. BARCLAY,
Acting Government Solicitor.

Submitted for the orders of Government.

2. Ferries are an anciently established means of raising revenue, and Rupees 95,400* of the proceeds are credited to the Road Fund of eighteen Local Fund Circles.

* According to the Local Fund Budgets of 1873-74.

3. On the Western Coast ferries are of greater importance than anywhere else, and the Road Fund could not meet its obligations without the revenue derived from this source, which is as follows :—

	Rs.
Calicut Circle	25,000
Tellicherry...	17,500
South Canara	22,600

4. There is no law securing to Government a monopoly of ferrying at specified localities except Madras Act I. of 1870, which provides that ferry-rents levied in accordance with it shall be applied only to maintaining ferries and channels. This provision has prevented the Act from being extended to the Circles where ferry-rents are absolutely required for maintaining roads, and there is little room for expenditure on ferries and channels, as is the case in Calicut, Tellicherry, and South Canara.

5. In South Canara, the Government monopoly has been successfully disputed; and it is a mere question of time when it will cease to exist there, and in Malabar, unless the law is altered.

6. The Board were at first inclined to believe that these ferries having been a royalty of Government from time immemorial, a prescriptive right to monopolize ferrying at specified localities existed, and could be enforced in the Courts, but the Advocate-General shows that the result of litigation in this matter is very doubtful, and the Board have now no hesitation in advising a modification in the law.

7. This can be effected in three ways, either by modifying the Local Fund Act, or by modifying the Ferry Act, or by enacting a law declaratory of the right of Government to monopolize ferrying wherever they may establish a ferry.

8. The Board think it unadvisable to meddle with the Local Fund Act at present, and they see many insuperable objections to a Declaratory Act which would have to apply to so large a portion of the Presidency, and to include many districts where the right of ferrying is less familiar to the people than it is in Malabar and South Canara.

9. It seems to follow that the Ferry Act should be modified. In Section 29, it should be enacted that collections under the Act shall be credited *either* to the Road Fund of the Circle in which they accrue or to the Canal and Ferry Fund, as may be directed by the Governor in Council.

(A true Copy and Extract.)

(Signed) J. GROSE,
Secretary.

No. 91. ORDER THEREON, 11th March 1874, No. 403.

The Governor in Council concurs with the Board of Revenue in opinion that "the Canals and Ferry Act, 1870," should be amended, as proposed in the last paragraph of their Proceedings above recorded ; and he resolves accordingly to direct that the necessary steps be taken in the Legislative Department for carrying out the Board's proposal.

3e

Proceedings of the Madras Government, Financial Department,
11*th March* 1874.

2. The law is defective in other respects, and this opportunity will be taken of entirely remodelling it.

(True Extract.)

Acting Chief Secretary.

To the Board of Revenue.
,, Legislative Department.
,, Revenue Department, } for information.
,, Public Works Department, }

Exd. J. Wright.

Govt. of 1874 Madras.

FINANCIAL.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated March, 11*th*.

Read.

G.O., 11*th March* 1874, *No.* 403.

MARCH.

Nos. 90-91.

Canals and Ferry Act.—Revenue Board's opinion that the "Canals and Ferry Act, 1870," should be amended as proposed by them agreed with, and the necessary steps ordered to be taken in the Legislative Department for carrying out the Board's proposal.

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5c

ACT No I. OF 1870.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[*Received the assent of the Governor on the 9th March* 1870, *and of the Governor-General on the* 13*th May* 1870.]

An Act to provide for the collection of tolls and license fees on canals, lines of navigation and ferries, for the management of ferries, and for the construction and improvement of lines of navigation within the Madras Presidency.

Preamble.

WHEREAS it is expedient to provide for the collection of tolls and license fees on canals, lines of navigation and ferries, and to provide for the management of ferries and the construction and improvement of lines of navigation in the Madras Presidency; It is enacted as follows:—

Interpretation.

1. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say:—

"Vessel."

The word "vessel" shall include any ship, barge, boat raft, timber, bamboos, or floating materials, propelled in any manner.

"Line of Navigation."

The words "line of navigation" shall mean any navigable channel subject to the provisions of this Act.

"Channel."

The word "channel" shall include any river, canal, or water-way, whether natural or artificial.

What navigable channels or ferries may be rendered, subject to the provisions of this Act

2. It shall be lawful for the Madras Government, from time to time, by Notification to that effect published in the *Fort Saint George Gazette* and in the Gazette of the District to which the notification shall apply, to declare that the provisions of this Act shall apply to any navigable channel or ferry specified in such notification; and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel or ferry.

By whom navigable channels may be made.

3. It shall be lawful for the Madras Government, from time to time, to authorize any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any water-course, or make any tracking path, or do any other act necessary for the making or improvement of any such channel; and any navigable channel made or improved under this section, shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding section.

Mode of obtaining land for the purpose.

The said Government may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of Act VI. of 1857 (*An Act for the acquisition of land for public purposes*), or of any other Act that may

now or hereafter be in force for the taking possession of land for public purposes.

Tolls to be paid on lines of navigation subject to this Act.

4. All vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act shall pay tolls or annual license fees at such rates as shall be fixed in manner herein after mentioned. Payment of the license fee shall exempt the vessel so licensed from all tolls payable under this Act upon any line of navigation during the period for which such license is in force.

The Government may fix and alter rates of toll.

5. The Madras Government may fix and, from time to time, alter the rates at which such tolls or license fees shall be levied. Provided that no toll or fee shall be levied, and no alteration of any rate of toll or fee shall have effect, until notice shall have been published in the *Fort Saint George Gazette* and the Gazette of the District to which such notice applies, for such period as the said Government may fix, of the intention to levy or alter such toll, or to impose or vary such fee, and of the rate and place at which such toll or fee is to be levied or made payable.

Notification of rate of toll to be exhibited at every toll-house.

6. Notification of the rates of toll and license fee, and of the places of collection, in English and in the vernacular language of the District, shall be at all times exhibited to public view at every toll-house where toll is levied under this Act.

Government to appoint persons to collect tolls, and the collection of tolls may be leased out.

7. The Madras Government shall appoint such persons as it may think fit to collect tolls or license fees under this Act, or may lease out the collection of tolls and license fees to any other person The lessee, or his duly authorized agent, shall be empowered to collect

the tolls or fees in the like manner as any person appointed as aforesaid.

Payment of tolls how to be enforced.

8. If any toll or license fee due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such vessel and any furniture thereof, and to detain the same; and such persons shall, within twenty-four hours of such seizure and detention, report the same to the Collector of the District in which the seizure has been made, or other public Officer duly authorized by Government in that behalf; and, on receipt of this report, the Collector, or other Officer as aforesaid, shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof. The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale; and, if the toll or fee and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the Collector, or other Officer as aforesaid, such Officer shall sell the vessel and furniture seized, or so much thereof as may be approximately necessary to pay the toll or fee, and also any expenses occasioned by non-payment. So much of the property seized as may not have been sold, and so much of the sale proceeds as may be in excess of the sum necessary for satisfying the toll or fee and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel.

Appointment of Supervisor with power to remove obstructions,

9. It shall be lawful for the Madras Government to appoint any person to be the Supervisor of any line of navigation subject to the provisions of this Act; and such person

shall be empowered to cut down and remove any tree which may have fallen, or may be likely to fall, into such line of navigation, and to remove any sunken vessel and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.

Mode of exercising such power.

10. Whenever such Supervisor shall consider that the cutting down and removal of any tree, or the removal of any other obstruction, is necessary, he may, in cases of emergency, at once remove the same, and may for that purpose enter on any private property. In cases not of an emergent nature, he shall serve a Notice in writing on the owner or occupier of such private property, or on some adult member or servant of his family, directing him to remove the same within a reasonable time. If the notice cannot be so served, it may be affixed on some conspicuous part of his last known place of abode, or of the nearest village. If the owner or occupier shall not remove the obstruction within the time given in the notice, the Supervisor may proceed to remove it himself, and may for that purpose enter on any private property. Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls in Section 8 of this Act, or, if such sale proceeds are insufficient, the balance may be recovered in the manner prescribed in the case of an arrear of revenue under Madras Act II. of 1864.

Supervisor may forbid the construction of fishing contrivances, &c.

11. Whenever, in the opinion of such Supervisor, the construction of any contrivance for fishing, or for any other purpose, in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner

or person in charge of such contrivance, in the manner prescribed in the previous section, forbid the construction or continuance of such contrivance.

Penalty for causing obstruction to line of navigation.

12. Any person who shall wilfully cause, or shall aid in causing, any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished, on conviction before a Magistrate, with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage. Provided always, that nothing in this Section shall be held to affect cases which would be punishable under Section 431 of the Indian Penal Code.

Proviso.

Government to establish ferries and license ferry-boats.

13. It shall be lawful for the Madras Government to establish ferries across any channel, at such points as may be selected, and to maintain or to license boats or rafts for the conveyance of passengers, goods, carriages carts, palanquins, or animals across such ferries, and to forbid, within such limits as may be prescribed, the transport of passengers, goods, carriages, carts, palanquins, or animals across such channel, in any boats or rafts, except such as are maintained or licensed as aforesaid.

Government to fix rates, license fees and tolls.

14. Whenever any such ferry shall have been established, it shall be lawful for the Government from time to time, to fix and vary the fees payable to Government by the owners of licensed ferry-boats or rafts, and also the tolls

payable for the conveyance of passengers, goods, carriages, carts, palanquins, or animals across such ferry. A Notification of such tolls shall be at all times exhibited to public view on each side of the ferry in English and in the vernacular language of the District.

Table of Tolls.

15. The Government shall be authorized to appoint all necessary persons to take charge of, and manage, such ferries and ferry-boats, or rafts, and to collect the license fees and tolls payable at such ferries. It shall also be lawful for the Government to lease out the right of maintaining or licensing such ferry-boats or rafts, and levying such tolls; and the lessee, or his duly authorized agent, shall thereupon be empowered to collect and receive such license fees and tolls in the same manner as any person appointed as aforesaid.

Management of ferries and collection of license fees and tolls.

16. In case of non-payment of toll on demand, the person authorized to collect such toll shall be empowered to seize any goods, carriage, cart, palanquin, or animal chargeable with such toll, and to proceed to sell the same in the manner prescribed by Section 8 of this Act.

Penalty for non-payment of toll.

17. When any ferry shall have been leased out, it shall be lawful for the Government, from time to time, to require security to be deposited by the lessee for the maintenance of proper boats, rafts, servants, and appliances. It shall be lawful for any Revenue Officer authorized by the Collector in that behalf, from time to time, to inspect such boats, rafts, servants, and appliances, and to satisfy himself as to their fitness or otherwise

Security may be required from lessee of ferries.

Inspection of ferries leased out.

for the business of the ferry, and to report thereon to the Collector of the District.

Procedure in case of defective management of ferries leased out.

18. Whenever the Collector shall be satisfied that the boats, rafts, servants, or appliances of any ferry which has been leased out are unsafe or insufficient, he shall call upon the lessee to make good the defect within a reasonable time which shall be specified in the notice, and shall inform him that, at the expiration of such time, he will be liable, in the event of non-compliance, to have his lease cancelled or to have the deficiency complained of, made good at his own expense. If the lessee shall not comply with the terms of the notice, the Collector shall be at liberty to make good the deficiency at the expense of the lessee, or, with the sanction of the Board of Revenue, to cancel his lease.

Recovery of expenses incurred on account of defaulting lessee.

19. Where the Collector shall have incurred any expense on behalf of the lessee under the preceding section, it shall be lawful for him either to deduct the same from the security deposited by the lessee, or to recover the amount in the manner provided for in the case of an arrear of land revenue by Madras Act II. of 1864.

Power to abolish any existing ferry and to grant compensation in respect thereof.

20. The Madras Government shall be authorized, by Notice to be published in the manner disrected by Section 5, to declare that any ferry hitherto in use shall no longer exist. But, whenever the Government shall think fit to abolish any ferry in which any person shall have acquired a legal interest, or to establish a new ferry within such a distance of such previous ferry as materially to diminish its income, the owner of such ferry shall be entitled to compensation for the injury done to

his vested rights. Such compensation shall be assessed and satisfied, as nearly as possible, by the same procedure as if the ferry were land which had been taken possession of by Government for public purposes under Act VI of 1857, (*An Act for the acquisition of land for public purposes*), or under any other Act that may now or hereafter be in force for the taking possession of land for public purposes. Provided always that any compensation payable under this Section shall be satisfied out of the proceeds of the Canal and Ferry Fund hereinafter mentioned.

No action to lie against Government in respect of acts done in pursuance of Section 3 and Section 20.

21. No action or suit shall be brought against the Secretary of State for India in Council or the Government in respect of any injury or damage caused by, or resulting from, any act done under Section 3 or under the last preceding Section.

Rules relating to lines of navigation.

22. It shall be lawful for the Madras Government, from time to time, to make Rules not repugnant to any law in force, for the management of any line of navigation or ferry subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act, and to repeal, alter, and amend the same; and the said Government may affix fines as penalties for the infringement of such Rules, not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such Rules may contain directions for any of the following, amongst other, matters:—

For determining the tonnage of vessels and their measurement; for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast; for determining the length of time, during which vessels may remain stationary on any line

of navigation, and the amount of demurrage to be paid by vessels remaining stationary beyond such time; for regulating the mode in which, and the places at which, tolls or license fees are to be levied under this Act; for the removal of sunken vessels and obstructions; and for the storing, custody, and disposal of the cargo of vessels, or of any animal or thing seized under this Act.

Publication of such Rules.

23. Rules shall not be passed until the same shall have been published in the *Fort Saint George Gazette* and in the Gazette of any District to which they may apply, for a period of six weeks, and, after that time, the Rules shall be published as passed, with such alterations, if any, as to the Madras Government shall seem fit. The Rules so published as passed, shall not have effect until the expiration of two weeks after such last publication, and all Rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act. Copies of all Rules, in English and in the vernacular language of the District, shall be exhibited to public view at every place where tolls or license fees are collected.

Penalty for evasion of Toll.

24. Any person who shall refuse to pay, or evade, or attempt to evade the payment of any toll or license fee due under this Act, or shall infringe any right of ferry, shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment, in lieu of fine, which may extend to one month.

Penalty for unauthorized levy of toll, &c.

25. Any person other than the persons authorized under this Act, who shall levy or demand any tolls or license fees, and also every person who shall knowingly demand

any higher toll or license fee than this Act permits, or who shall, under colour of this Act detain, seize, or sell any property or animal, knowing such detention, seizure, or sale to be unlawful, or shall wilfully fail to comply with all the requirements of section 8, or shall in any manner extort money or any valuable thing from any person under colour of this Act, shall be deemed to have committed the offence of cheating, and shall be liable to such punishment as is provided for that offence by the Indian Penal Code.

Offences against this Act by whom punishable.

26. If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed; and such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and, in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Proviso.

Provided always that nothing in this Section shall authorize any Magistrate to try any case which would not have been cognizable by him if the offence had been committed within his local jurisdiction.

Mode of recovering fines.

27. All fines imposed under this Act may be recovered in the mode prescribed by the Code of Criminal Procedure.

28. All actions against any person for any thing done or intended to be done under the provisions of this Act, shall be commenced within three months after the act complained of; and notice in writing of the action and of the cause thereof, and of the damages claimed, shall be given to the defendant one month at least before the commencement of such action. If tender of sufficient amends shall have been made before action brought, then the plaintiff shall recover such amount only, and shall pay all the defendant's costs. If a sufficient sum of money shall have been tendered after action brought and before the final hearing, then the plaintiff shall recover such amount and his costs up to the time of tender, and shall pay all costs incurred by the defendant after such tender.

Period of limitation as to Actions in respect of proceedings under this Act.

Tender of amends.

29. All rents, license fees, tolls, and fines collected and levied under this Act shall be paid into the Public Treasury, and carried to the credit of a Fund to be entitled the "Canal and Ferry Fund." Such Fund, after payment of all salaries payable and expenses incurred and all claims for compensation payable under this Act, shall be applied to the construction, improvement, repair, maintenance, and extension of the channels and ferries to which the provisions of this Act may be applied. Provided always that the Government shall be under no obligation to expend in any particular district the whole or any part of the surplus fund realized in that district.

Disposal of fees, tolls, &c., collected under this Act.

30. All persons employed by the Government of Madras are hereby indemnified for all acts done by them or any of them in the collection heretofore of any tolls on the navigable channels in the Madras Presidency.

Indemnity for certain acts done heretofore in the collection of tolls, &c.

Government may delegate powers.

31. Government may delegate, under such restrictions as may seem fit, any of the powers conferred on it by sections 7, 13, 15, and 17 of this Act, to any Officer specially authorized in that behalf.

Short Title.

32. This Act may be cited as "The Canals and Ferry Act, 1870."

Act I of 1870.

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No. 212.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 4th February 1874.

Read the following letter from E. BARCLAY, Esq., Acting Government Solicitor, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 4th December 1873, No. 663:—

WITH reference to the Proceedings of the Board of Revenue, dated 11th September 1873, No. 1,798, requesting me to obtain the opinion of the Advocate-General as to whether ancient royalty and right of monopolizing ferries of South Canara District can be maintained by process of law, civil or criminal.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward, herewith, a copy of his opinion.

OPINION.

THERE is no Criminal Proceeding by which the Government can assert its claim to the monopoly of a ferry: a temporary order might be passed under Chapter XI of the Code of Criminal Procedure in the events contemplated by that chapter; but the right must be ultimately decided in the Civil Court.

2. There are no materials before me which would enable me to form an opinion as to the probable result of contesting the matter in a suit; if it could be shown that the present Government, succeeding to the rights of the previous rulers of the country, had invariably levied a toll at a particular ferry, and had, as of right, excluded all other persons from ferrying at the spot, it is possible that the monopoly might be regarded as a piece of Crown property and its invasion by the public be made ground for compensation in damages. The Act certainly appears in Section 20 to contemplate the existence of ferry monopolies other than those created by itself.

Madras Act I of 1870.

3. The result of any such litigation is, however, far from certain. Difficulty might be experienced in showing the origin of the monopoly; the country, it is known, abounds in illegal, local exactions, which, having no rightful basis, would not be legalized by mere lapse of time; and again, though Government might have levied tolls, it might be contended that other persons had done the same; and so, that no monopoly was made out. Some doubts of this kind appear to have been entertained, when the original Bill on the subject was introduced. See Mr. H. D. Phillips' statement of Objects and Reasons, 7th December 1865. At any rate an Act dealing with ferries being now in existence, it would seem a safer and more convenient course to apply it in any case in which it became necessary to assert the legality of the toll, or to exclude the public from the right of ferrying. The objection to applying the Act, viz., that the proceeds of the ferry would have to be carried to the "Canal and Ferry Fund," might be got over by adding to Section 29, after the words "provisions of this Act may be applied," (four lines from the end)

the words, "or of roads, bridges and other means of communication :" or, if it was preferred, a second proviso might be added to the Section, making express provision for cases such as that now referred, and sanctioning in such instances a special employment of the fund.

3rd December 1873.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

(True Copy.)

(Signed) E. BARCLAY,
Acting Government Solicitor.

SUBMITTED for the orders of Government.

2. Ferries are an anciently established means of raising revenue, and Rupees 95,400* of the proceeds are credited to the Road Fund of eighteen Local Fund Circles.

* According to the Local Fund Budgets of 1873-74.

3. On the Western Coast, ferries are of greater importance than any where else, and the Road Fund could not meet its obligations without the revenue derived from this source, which is as follows :—

	RS.
Calicut Circle	25,000
Tellicherry...	17,500
South Canara	22,600

4. There is no law securing to Government a monopoly of ferrying at specified localities except Madras Act I. of 1870, which provides that ferry-rents levied in accordance with it shall be applied only to maintaining ferries and channels. This provision has prevented the Act from being extended to the Circles where ferry-rents are absolutely required for maintaining roads, and there is little room for expenditure on ferries and channels, as is the case in Calicut, Tellicherry, and South Canara.

5. In South Canara the Government monopoly has been successfully disputed, and it is a mere question of time when it will cease to exist there, and in Malabar, unless the law is altered.

6. The Board were at first inclined to believe that these ferries having been a royalty of Government from time immemorial, a prescriptive right to monopolize ferrying at specified localities existed, and could be enforced in the Courts, but the Advocate-General shows that the result of litigation in this matter is very doubtful, and the Board have now no hesitation in advising a modification in the law.

7. This can be effected in three ways, either by modifying the Local Fund Act, or by modifying the Ferry Act, or by enacting a law declaratory of the right of Government to monopolize ferrying wherever they may establish a ferry.

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(A true Copy and Extract.)

J Grote
Secretary.

To the Chief Secretary to Government, Financial Department.

Copy to the Acting Government Solicitor.
" " Collector of South Canara.
" " " of Malabar.

(26)

Fwd 1874. Dept

Board of Revenue,

MADRAS.

PROCEEDINGS, 4TH FEBRUARY 1874, No. 212.

Dept 7 Feb 74

Encl.

Received 9th Feb. 74

No 276

FEBRUARY.

No. 212.

Ferries—of South Canara District.—Letter from Government Solicitor, forwarding copy of Advocate-General's opinion as to whether ancient royalty and right of monopolizing — can be maintained by process of law, submitted for orders of Government, with suggestion that Ferry Act should be amended.

With Orders

I invite attention to the note at the bottom of the Board's letter

Sd

B 217 413

B'Board 74 Leol 403

The Govt in Council concurs with the Board of Revenue in opinion that "The Canals & Ferry Act, 1870," should be amended, as proposed in the last para. of their Pro. above recorded, and he resolves accordingly to direct that the necessary steps be taken in the Legve Dept for carrying out the Board's proposal.

The Govt is of opinion that the practice in these respects and this determination will be taken advantage of by the Board of Revenue in framing the new Rules

To The Board of Revenue
The Legve Dept
The Revue Dept (for information)

Sd

c 23/2
B 214
c 214
R 2/3
C 2/3
126

Govt. of {1874} Madras.

Financial

To

The Board of Revenue.

Dated Mar. 11.

Recd.

G. O. 11 Mar. 1874, No. 403.

Nos. 90. 91.

Canals & Ferry Act. Rs with Bd's opinion that the "Canal & Ferry Act 1870" Sh^d be amended as proposed by them, agreed with & the necessary steps ordered to be taken in the Leg. Dept. for carrying out the Bd's proposal.