

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following paper :—

G.O., dated 19th August 1893, No. 1691, Judicial.

ABSTRACT.—Circulating lists of enactments which appear to be in force in the Agency tracts to the Agents in Ganjam and Vizagapatam with instructions to report whether they contain or omit any enactments which have always been held by the local officers not to be or to be in force in the tracts, in view to the preparation of a compendious list of the enactments in force in the Agency tracts.

READ—also the following papers :—

From F. D'A. O. WOLFE-MURRAY, Esq., Acting Agent to the Governor, Vizagapatam District, to the Chief Secretary to Government, dated 25th June 1894, E.D. No. 727.

I have the honour to reply to G.O., No. 1691, Judicial, dated 19th August 1893.

2. *Paragraph 3.*—I shall state my remarks in order of the groups and their sections.

*Group I, Section (a).*—Regulation II of 1819 (the State Prisoners Regulation) is not in force except as having been extended by section 7 of Act XXIV of 1839. It is included in Schedule II (a) of Act XV of 1874.

*Group I, Section (d).*—Act XXV of 1867 (Printing Presses and Books Act) is included in Schedule II (a) of Act XV of 1874, and requires to be declared as being in force on the principle enunciated in paragraph 2 of the Government Order under reply.

The provisions of section 8 of Act V of 1876 (the Reformatory Schools Act) have been ordered not to be applied to the hill tribes belonging to the Ganjam and Vizagapatam Agencies in G.O., No. 2886, Judicial, dated 17th December 1887.

Act XI of 1878 (the Indian Arms Act) is not wholly in force. Only the sections which refer to the manufacture and sale of sulphur, gunpowder, &c., are enforced.

Act XIV of 1882 (the Civil Procedure Code) is certainly not in force. Sections 223 to 229 were extended to the scheduled districts of Madras (*vide* Judicial notification, No. 84, dated 19th February 1889).

Act II of 1886 (the Income-tax Act) is enforced in the Agency tracts only with regard to Government employes.

3. *Group II.*—No remarks have been passed by the Assistant Agents whom I have consulted on the subject regarding the Acts and Regulations included in this group nor have I any of my own to add.

4. *Group No. III.*—The remarks on the Regulations and Acts included in this are intimately connected with those called for by Government in paragraph 5 of the Government Order under reply. I shall therefore deal with them together.

To begin with, all Regulations except VII of 1816 noted in paragraph 5 referred to above are included in Schedule II (a) of Act XV of 1874. The exception, Regulation VII of 1816, which relates to district panchayets, has never been practically applied in this Agency, though Rule VII, clause 1, of the revised Agency rules, directs that every opportunity should be taken by the Agency officers to get the hill people to resort to district panchayets. The Temporary Deputy Collector in charge of the Senior Assistant Agent's division has reported that this is enforced in his division, but this is not supported by the civil returns submitted from that division for the last three years. The files of the Agency Munsifs, who may presumably be treated as District Munsifs, are as a rule not heavy. Only the Agency Munsifs

of Gunupur and Jeypore have somewhat heavy work, but there are none in these localities educated enough to associate with the District Munsifs for the purpose of a panchayet except a few vakils and Government employes whom it is not desirable to employ. Further, parties would rather settle their disputes through Court.

Regulation V of 1804 is not in force. The Agency estates of Jeypore, Bissem-katak and Payakapad now under management are being managed under the executive orders issued by Government under Rule VIII of the revised Agency rules (*vide* G.Os., Nos. 1804, 40 and 623, dated 22nd October 1889, 15th January 1890 and 1st April 1889).

Regulation IV of 1816 is in force in the Senior Assistant Agent's division, where there are three village munsifs exercising jurisdiction under this regulation.

I give in the margin the number of suits settled by them during the last three years. In other divisions there are no village munsifs. My Special Assistant Agent states that it would be impossible to enforce the regulation in his division as no one would be available to undertake the duties of a village munsif in at least 80 per cent. of the villages in his division. The Agencies of the Head and Principal Assistant Agents are equally, if not more, devoid of the means of enforcing this regulation.

| Court.                 | Year. | Number. |
|------------------------|-------|---------|
| Gunupur .. .. .        | 1891  | 11      |
|                        | 1892  | 13      |
|                        | 1893  | 0       |
| Rayaghada .. .. .      | 1891  | 2       |
|                        | 1892  | 2       |
|                        | 1893  | 2       |
| Narayanapatnam .. .. . | 1891  | 2       |
|                        | 1892  | 2       |
|                        | 1893  | 3       |

Regulation V of 1816 has been rarely enforced in the Special Assistant Agent's division. The Temporary Deputy Collector in charge of the Senior Assistant Agent's division has reported that it is in force in that division, but has not given any statistics in support of his statement.

Regulations XI of 1816, VII of 1817, I of 1819 (since repealed by Act I of 1876) and IX of 1822, have never been enforced. The first three are hardly required, as nearly three-fourths of the Agency consists of the Jeypore estate and its dependencies and special customs prevail therein regarding matters falling within the purview of the last two of these enactments.

Regulation XI of 1816 might be applied, but it would only be necessary to enforce it in very rare cases. There have never been any cases of sub-division or separate assessment in the Jeypore estate. It is desirable to apply Regulations IX of 1822 and XII of 1816. The reasons for the application of the former are obvious. It affords a summary remedy for dealing with the embezzlements committed by Revenue officials.

Regulation VI of 1831 has never been applied nor are there hereditary offices held in the Agency tracts.

Acts II of 1864 and VIII of 1865 have always been enforced and should be applied. Without the former our collection of Government dues (abkari, opium, &c.) will suffer. The latter is hardly suited to a primitive people like the genuine hill tribes of this district, but nearly the whole of the Agency has been under management since Fasli 1299 and cowles and mudilkas have been exchanged and the Act worked with as little hardship as possible. It will be a dangerous weapon in hasty hands, as the people are not educated enough to stand by their rights as in the plains, but it may be gradually introduced with much caution on the part of the officers entrusted with the administration of this part of the country.

India Act XX of 1863 has never been applied. There are no religious endowments falling under this enactment in the Agency outside the Jeypore estate and special customs govern those existing therein.

Act VI of 1844 is not at all in force in this Agency. The Principal, Senior and Head Assistant Agents have remarked that its application to their divisions is unnecessary. The Special Assistant Agent has not reported about it. But it is apparently unnecessary even here. It has never been applied heretofore.

With regard to Madras Act VIII of 1878 (the Coffee-stealing Act), I do not think it necessary for the present to extend the same to the Agency tracts. Coffee is only grown at present at Sammasingi, in the Gudem hills, close to the boundaries of the ordinary tracts, and at Anantagiri more largely by the Maharajah of Vizianagram. The latter locality is also close to the boundaries of the ordinary tracts. No thefts of coffee have ever occurred, as far as I know, nor is it likely that such will occur, the habit of coffee-drinking being almost unknown in these parts.

From C. J. WEIR, Esq., Acting Agent to the Governor in Ganjam, to the Chief Secretary to Government, dated Chatrapur, 30th June 1894, Dis. No. 23 Ag. of 1894.

I have the honour to reply to G.O., No. 1691, Judicial, dated 19th August 1893. I regret the delay which has taken place in submitting this report. References to the Assistant Agents and searches in the Agency records were, however, necessary in order to answer the questions put by Government. The matter, moreover, is somewhat intricate and various other emergent duties prevented me from dealing with it up to this date.

2. Referring to paragraph 3 (ii) of the Government Order, I have the honour to state that I have not been able to discover that any Act, which has been regarded as being in force, has been omitted from all three groups in the appendix to the Government Order. The question in paragraph 3 (i) refers, I presume, to the Acts mentioned in Groups I and II. Very many of these Acts, providing as they do for all contingencies in a highly-civilised society, have, of course, never been and are not likely to be soon enforced among the primitive inhabitants of the Agency tracts. Government has, however, pointed out that this does not affect the question of whether they are in force or not. As regards the Acts and portions of Acts referred to in Group I, I am unable to trace any instance where it was held by the local officers that an Act shown therein is not in force. Of those shown in Group II, Regulation XXV of 1802 has not, I think, been heretofore regarded as in force in these maliahs, and a great deal of it is entirely opposed to the system under which we have administered this part of the country, e.g., sections 2, 8 and 11.

3. Passing then to Group III and dealing 1st with the Acts and Regulations which Government declared probably are in force, I would offer the following remarks:—

*Regulation XXIX of 1802.*—In none of the maliahs—with perhaps the exception of the Tumba Mutta, Jalandra Maliahs, where there is one karnam—for which sannads were issued to zemindars in 1874, are there karnams in the proper sense of the word; a zemindar may have from time to time appointed a subordinate to make out the demand against all his maliah villages and to collect the money or assist in its collection, but none of the accounts specified in the regulation have ever been maintained. It would be quite impracticable to enforce the regulation.

*Regulation VII of 1817.*—There are in the maliahs no such endowments as are mentioned in the regulation and consequently the regulation has never been enforced, and is not required.

*Act II of 1864.*—has, I believe, always been regarded as in force and it is absolutely necessary to collect the revenue. The abkari revenue is at present considerable and very rapidly increasing under the system of selling the shops by auction.

*Act VIII of 1865.*—As far as I can ascertain, this Act has not been regarded as in force in the Ganjam Agency. I am informed that the Gumma Bissoyi once distrained some property of his sourahs, which resulted in a rising against him. I have not been able to get the papers on the subject. The Assistant Agents are, however, unanimous that the Act should not be in force, and in this view I agree. In the greater part of the maliahs it would be difficult to say whether the relation of landlord and tenant really existed. It does not exist as between the zemindars and the patros and it is very doubtful if it exists between patros and cultivators. In many parts of the maliahs, patros received only what are known as "mamuls," i.e., customary presents on certain occasions. The Assistant Agents point out that the

summary procedure by distraint authorized by the Act would, if put in force, lead to disturbances. The Act is not required and as disputes arising under it would have to be settled by the Divisional officer, who is, as a rule, at a great distance, no convenience to anybody would accrue. At present in the case of any dispute about land, which they cannot settle among themselves, the parties go to the Agency Munsifs' Courts which lie close to them and the suit is dealt with under the ordinary law.

*Act III of 1869.*—This is required.

*Act I of 1876.*—This Act is not applicable, as alienation by zemindars and hill chiefs is not permitted.

(d) *General Acts—Act XX of 1863.*—*Vide* remarks against Regulation VII of 1817.

### 3 (ii) ENACTMENTS PROBABLY NOT IN FORCE.

*Regulations 1 and 2 of 1803.*—Rule XXIX of the Agency rules lays down that the Agents of the Governor shall be guided by the rules now in force and exercise the same powers as are vested by the regulation in the collectors of land revenue, both as regards the realization of the public revenue and the trial of public servants charged with malversation and corruption. And it further directs that they and their assistants will continue in their revenue capacity subject to the Board of Revenue. These two regulations are therefore apparently required.

*Regulation V of 1804.*—At present certain portions of estates of minors under Court of Wards, situated in the maliahs, are being managed under the supervision of the Court of Wards, in the same way as the rest of the estates. The regulation is in my opinion necessary. I understand that the Jeypore estate which lies entirely in the Vizagapatam Agency tracts has been for many years under the management of the Court of Wards.

*Regulation II of 1806.*—There is only one Government karnam in the Agency tracts, viz., for all the villages in the Chokkapad muttah.

*Regulations IV, V and VII of 1816.*—These regulations are in force as rules: rule Rule VII, clause 1, of the Agency rules. The Special Assistant Agent reports that Regulation VII of 1816 is in constant use, but that Regulations IV and V have fallen into disuse, if indeed they ever were followed. There are indeed in the maliahs no regular heads of villages. The molikos, &c., are subordinates of the patros. Many disputes no doubt are settled amicably and informally in the village itself, but if anything beyond this is necessary, the patro is appealed to. I do not think the regulations are required. They could only be worked by the patro and he is not a head of a village as defined in section 3, Regulation IV of 1816.

*Regulation XI of 1816.*—The same remarks apply to this regulation. The late Special Assistant Agent, Mr. Elphinstone, considered it inadvisable that patros should exercise the powers conferred on village munsifs by the regulation of dealing with petty offences; he writes as follows:—

"*Regulation XI of 1816* would, I think, be objectionable. Petty cases of theft or affrays and of course adultery are frequently settled by patros, but they are dealt with more as civil than as criminal cases, and patros if given power to fine and imprison without any appeal would most certainly use their powers for their own advantage. Sections 11 and 13 are practically enforced, heads of muttahs and villages generally reporting cases of suicide and accidental deaths without any delay, while stolen property is usually discovered by the losers and then the case is reported to the village maji and by the latter to the police."

On the whole I do not think the regulation is needed.

*Regulation XII of 1816.*—Mr. Elphinstone writes as regards this regulation:—

"In petty cases where a boundary is in dispute, it is always a piece of land that is in question, and this can be settled by the ordinary district panchayat, while in an important boundary dispute between two patros, a panchayat could not be trusted, though it might save the Divisional officer a great amount of trouble."

I agree with this view.

*Regulation I of 1819.*—As already pointed out, neither this regulation nor Act I of 1876 should be enforced.

*Regulation IX of 1822.*—Rule XXIX of the Agency rules puts this regulation in force as a rule; this and Regulation VII of 1828 seem to be required.

*Regulation VI of 1831.*—In this connection I would refer Government to G.O., No. 340, Judicial, dated 20th May 1882, where the point is discussed. My predecessor read the Government order as laying down that the regulation was in force in Agency tracts and directed that one claim to a hereditary office which came before him should be dealt with thereunder.

I do not read the Government order as laying down that the regulation is in force, but that the Agent was right in following the procedure of the regulation as a rule.

The Assistant Agents seem to consider the regulation is not needed, and I am not prepared to say that it is. If the regulation is to be regarded in force as a rule then I presume claims to hereditary offices and their emoluments cannot be decided in the Courts of the Agency Munsifs.

*Act XXXVI of 1837.*—If the Regulations IX of 1822 and VII of 1828 are enforced, this Act should be also.

*Act X of 1849*—might be required. The other Acts mentioned in Group III (2) do not seem to be required.

As regards the last portion of paragraph 5 of the Government order, I am informed that Act VI of 1844 is not enforced. I presume that inquiry relates to section 12 *et seq.* of the Act. It seems to me that it might be desirable in the case of some kinds of goods, especially after the through road now under construction to Boad and the Central Provinces is completed, to determine the route by which they should be imported or exported. I observe, however, that the section applies to all kinds of goods, and unless a very large number of chonkis were established—which would be impracticable—enforcing the Act would work hardship.

ORDER—dated 5th October 1894, No. 2420, Judicial.

Before issuing final orders on the correspondence read above, the Government desires to be favoured with the views of the Advocate-General. The main question to be decided is whether Act XXIV of 1839 bars the operation in the Agency tracts of Ganjam and Vizagapatam of the following enactments, viz.—

|            |                       |                    |    |    |             |
|------------|-----------------------|--------------------|----|----|-------------|
| Regulation | II of 1819            | ..                 | .. | .. | } Group I   |
| Act        | XXV of 1867           | ..                 | .. | .. |             |
| "          | V of 1876             | ..                 | .. | .. |             |
| "          | XI of 1878            | ..                 | .. | .. |             |
| "          | XIV of 1882           | ..                 | .. | .. |             |
| "          | II of 1886            | ..                 | .. | .. | } Group II  |
| Regulation | XXV of 1802           | ..                 | .. | .. |             |
| Regulation | XXIX of 1802          | } Sub-group (1) .. |    |    | } Group III |
| "          | VII of 1817           |                    |    |    |             |
| Madras Act | II of 1864            |                    |    |    |             |
| "          | VIII of 1865          |                    |    |    |             |
| "          | III of 1869           |                    |    |    |             |
| "          | I of 1876             |                    |    |    |             |
| Act        | XX of 1863            |                    |    |    |             |
| Regulation | I of 1803             |                    |    |    |             |
| "          | II of 1803            |                    |    |    |             |
| "          | V of 1804             |                    |    |    |             |
| "          | II of 1806            |                    |    |    |             |
| "          | IV, V and VII of 1816 | } Sub-group (2) .. |    |    |             |
| "          | XI of 1816            |                    |    |    |             |
| "          | XII of 1816           |                    |    |    |             |
| "          | IX of 1822            |                    |    |    |             |
| "          | VII of 1828           |                    |    |    |             |
| "          | VI of 1831            |                    |    |    |             |
| Act        | XXXVI of 1837         |                    |    |    |             |
| "          | X of 1849             |                    |    |    |             |

The enactments mentioned above have been arranged in the order adopted in G.O., dated 19th August 1893, No. 1691, Judicial. It is particularly necessary to note that the mere fact that an enactment has never been enforced in practice in the Ganjam or the Vizagapatam Agency is not sufficient reason for holding that its operation there is barred by the terms of Act XXIV of 1839.

2. At the present stage the following remarks seem to be called for:—

(1) *Regulation II of 1819*.—Mr. Wolfe-Murray gives his opinion that this Regulation is not applicable and points out that it appears in the schedules to Act XV of 1874. The latter remark is correct, though it appears in the schedules as Regulation II of 1817. But the inclusion of the enactment in the schedules is no reason for considering that it is inapplicable to the scheduled districts and it has been held on previous occasions that Regulation II of 1819 is in force in the Agency tracts of Ganjam and Vizagapatam. There is not the slightest reason for doubting the applicability of the Regulation.

(2) *Act XXV of 1867*.—As Mr. Wolfe-Murray points out, this enactment also appears in the schedules to Act XV of 1874, but there is no reason to doubt that it is enforceable in the Agencies.

(3) *Act V of 1876*.—Mr. Wolfe-Murray observes that Government ordered in G.O., dated 17th December 1887, No. 2886, Judicial, that this Act should not be enforced in respect of the hill-tribes. This is correct, but there is no reason to doubt that it is enforceable in the Agencies, although by executive order it is not, as a fact, applied.

(4) *Act XI of 1878*.—By notification the hill tribes have been exempted from certain of the restrictions imposed by this Act, but that it applies to the Agency tracts cannot be doubted.

(5) *Act XIV of 1882*.—Mr. Wolfe-Murray seems to have overlooked the fact that the appendix to G.O., dated 19th August 1893, No. 1691, Judicial, shows only sections 1, 3 and 223-229 as being in force.

(6) *Act II of 1886*.—The inhabitants generally of the scheduled districts have been exempted from paying income-tax, but the fact that such an exemption has been granted under section 6 of the Act proves, of course, that the Act *proprio vigore* applies.

(7) *Regulation XXV of 1802*.—Mr. Weir observes that Regulation XXV of 1802 has not generally been regarded as being in force in the Ganjam Agency. It may be the case that there are no permanently-settled estates in that locality, but the Jeypore Estate in the Vizagapatam Agency is held under a sanad issued under Regulation XXV of 1802 and there is no question therefore that the enactment must be held to be applicable to both Agencies, although, as a fact, it may never have been applied in Ganjam.

(8) *Regulation XXIX of 1802*.—If Regulation XXV of 1802 is in force, it seems to follow that this Regulation is in force too, but, of course, it is not a necessary consequence that karnams must be appointed where there are none at present.

(9) *Regulation VII of 1817*.—Both Agents report that this enactment has never been enforced within their territorial charges. It is very doubtful whether the terms of Act XXIV of 1839 are such as to bar the operation of the Regulation, but in an uncertain case of this character it seems safest to accept the result of the "historical inquiry" and to hold that the Regulation is not in force.

(10) *Madras Act II of 1864*.—This enactment has been worked in both Agencies and its applicability must, therefore, be regarded as proved, there being nothing in Act XXIV of 1839 which distinctly bars its application.

(11) *Madras Act VIII of 1865*.—This Act has been worked in Vizagapatam, but not in Ganjam. The difference is doubtless due to the fact that there is a proprietary estate in the former Agency, while it is difficult to say whether any of the occupiers of land in the Ganjam Agency are "land-holders" within the meaning

Date 25th June 1894

From

H. D. O. Wolfe Murray

W. A. Whiston Esq.

Ag. Agent to the Governor.

Vizagapatam District.

To

The Honorable J. H. Price

CHIEF SECRETARY TO GOVERNMENT.

MADRAS.

SIR,

I have the honor to reply to Government Order No 1691 Judicial dated 19th August 1893.

2. Para 3. I shall state my remarks in order of the groups and their sections.

Group I Section (a)

Regulation II of 1819 (the State Prisoners Regulation) is not in force except as having been extended by section 7 of Act XXIV of 1839. It is included in Schedule II (a) of Act XV of 1874.

Group I Section (d) Act XXV of 1867 (Printing Presses and Books Act) is included in Schedule II (a) of Act XV of

1874 and requires as declared 2  
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The provisions of Section 8 of Act II  
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Act IX of 1874. The Regulation III of 1816, which relates to District Panchayats has never been practically applied in this Agency though Rule III clause 1 of the Revised Agency rules directs that every opportunity should be taken by the Agency officers to get the hill people to resort to District Panchayats. The Temporary Deputy Collector in charge of the Senior Assistant Agents' Division has reported that this is enforced in his division but this is not supported by the Civil Returns submitted from that division for the last three years. The files of the Agency Munsiffs who may presumably be treated as District Munsiffs are as a rule not heavy. Only the Agency Munsiffs

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Regulation IV of 1816 is in force in the Senior

Senior Assistant Agents' division where  
there are three village Munsiffs exercising  
jurisdiction under this Regulation.

I give in the margin Court. year. Number.  
the number of suits settled Gunupur. 1891 . 81  
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No thefts of coffee have ever occurred  
as far as I know nor is it likely  
that such will occur, the habit of coffee-  
drinking being almost unknown in  
these parts.

I have the honor to be  
Your most obedient servant  
M. [Signature]  
Sub Agent to the Commr.

1894. *Judicial*  
Revenue Department.

FROM  
Agent to the Governor  
THE COLLECTOR,  
VILLAGAPATAM.

TO  
Chief Government  
THE SECRETARY TO THE GOVT  
OF WARDS,  
MADRAS.

CHIEF SECRETARY  
GOVERNMENT OF MADRAS  
2 JUL 1894

DATED 25<sup>th</sup> } June 1894.  
DESPATCHED 80  
RECEIVED

No. 727

ENCLOSURES.

SUBJECT.

Submitting report on the  
applicability of certain  
Acts and Regulations  
in the Agency tracks of  
this District.

Sc. 1691: 19.8 93 a.m.  
40: 15.1 90 m. (at)  
1804: 22.10.89 Sc.  
603: 1.4.89 S.C.  
2886: 17.12.87 S.C.  
Agency rule.

Disposal No. 23 of 1894.

From

Charles James Weir Esquire IV

Agent to the Governor in

To Gaujam

The Chief Secretary to Government.

Judicial Department

Fort Saint George.

Dated to be taken up 30<sup>th</sup> June 1894.

Sir,

I have the honor to reply to G.O. No. 1691 Judicial dated 19<sup>th</sup> August 1893. I regret the delay which has taken place in submitting this report. References to the Assistant Agents and searches in the Agency records were however necessary in order to answer the questions put by Government. The matter moreover is somewhat intricate and various other emergent duties prevented me from dealing with it up to this date.

2. Referring to para 3(ii) of the G.O. I have the honor to state that I have not

not been able to discover that any act, 13  
which has been regarded as being in force,  
has been omitted from all three groups in  
the appendix to the R.O. The question in  
para 3(1) refers I presume to the acts  
mentioned in Groups I and II. Very many  
of these acts providing as they do for  
all contingencies in a highly civilised  
society have of course never been and  
are not likely to be soon enforced in  
amongst the primitive inhabitants of the  
Agency tracts. Government has however  
pointed out that this does not affect the  
question of whether they are in force or not.  
As regards the acts and portions of acts  
referred to in Group I, I am unable to  
trace any instances where it was held  
by the Local Officers that an act shown  
therein is not in force. Of those shown  
in Group II, Regulation XXV of 1802 has not  
I think been heretofore regarded as in force  
in these malikhs and a great deal of it

is entirely opposed to the system  
under which we have administered this part  
of the country, eg, sections 2, 8 & 11.

3. Passing then to Group III and dealing  
1<sup>st</sup> with the acts and regulations which go-  
vernment declared probably are in force, I  
would offer the following remarks:

Regulation XXIX of 1802. In none  
of the malikhs with perhaps the exception  
of the Jumba Mutla, Jalautra Malikhs, where  
there is one Carnani, for which sunnads were  
issued to Zemindars in 1874, are there Carnanis  
in the proper sense of the word, a Zemindar  
may have from time to time appointed a sub-  
ordinate to make out the demand against  
all his malikh villages and to collect the  
money or assist in its collection but none  
of the accounts specified in the regulation  
have ever been maintained, it would be  
quite impracticable to enforce the regula-  
tion.

Regulation VII of 1817. There are in the

the malikhs no such endowments as are mentioned in the regulation and consequently the regulation has never been enforced and is not required.

Act II of 1864. Has I believe always been regarded as in force and it is absolutely necessary to collect the revenue. The Abkari revenue is at present considerable and very rapidly increasing under the system of selling the shops by auction.

Act VIII of 1865. As far as I can ascertain this act has not been regarded as in force in the Ganjam Agency. I am informed that the Gumma Bisoyi once distrained some property of his Sowads which resulted in a rising against him. I have not been able to get the papers on the subject. The Assistant Agents are however unanimous that the act should not be in force and in this view I agree. In the greater part of the malikhs it would be difficult to say whether the relation of landlord and tenant really existed

existed. It does not exist as between the zamindars and the Patros and it is very doubtful if it exists between Patros and cultivators. In many parts of the malikhs, Patros received only what are known as "Mamuls" i.e. customary presents on certain occasions. The Assistant Agents point out that the summary procedure by distraint authorised by the act would if put in force lead to disturbances. The act is not required and as disputes arising under it would have to be settled by the Divisional Officer who is, as a rule, at a great distance no convenience to anybody would accrue. At present in the case of any dispute about land, which they cannot settle among themselves, the parties go to the Agency Munsiffs' Courts which lie close to them and the suit is dealt with under the ordinary law.

Act III of 1869. This is required.

Act I of 1876. This act is not applicable as alienation by Zamindars and Hill Chiefs is not permitted.

d. General Acts - Act XX of 1863. Vide  
remarks against Regulation III of 1817.

3(11) Inactments. Probably not in force.  
Regulations 1 and 2 of 1803. Rule XXIX of the  
Agency rules lay down that the agents of  
the Governor shall be guided by the rules now  
in force and exercise the same powers as are  
vested by the Regulation in the Collectors of  
land Revenue, both as regards the realiza-  
tion of the public revenue and the trial  
of public servants charged with malver-  
sation and corruption. And it further di-  
rects that they and their Assistants, will  
continue in their revenue capacity sub-  
ject to the Board of Revenue. These two  
regulations are therefore apparently re-  
quired.

Regulation I of 1804. At present  
certain portions of estates of minors under  
Court of Wards, situated in the malikhs,  
are being managed under the supervision  
of the Court of Wards, in the same way as the

the rest of the estates. The regulation is in  
my opinion necessary. I understand that  
the Jeypore Estate which lies entirely in  
the Vizagapatam Agency tracts has been  
for many years under the management  
of the Court of Wards. Regulation II of 1806. There is only  
one Government Curram in the Agency  
tracts viz, for all the villages in the  
Chokkapad Muttah.

Regulations IV, V, and VI of 1816. These  
regulations are in force as Rules. Vide -  
Rule VIII clause 1 of the Agency rules. The  
Special Assistant Agent reports that  
Regulation VIII of 1816 is in constant  
use but that Regulations IV and V  
have fallen into disuse if indeed they  
ever were followed. There are indeed in  
the malikhs, no regular heads of villages.  
The molikors are subordinates of the  
Patros. Many disputes no doubt are  
settled amicably and informally in the

Regulation I of 1819. As already 21  
pointed out neither this regulation  
nor act I of 1876 should be enforced.

Regulation IX of 1822. Rule xxix of  
the Agency Rules puts this Regulation in  
force as a rule; this said regulation III  
of 1828 seem to be required.

Regulation VII of 1831. In this in  
connection I would refer Government  
to G. O. no 340 Judicial dated 20 May  
1882, where the point is discussed. My  
predecessor read the Government Order  
as laying down that the Regulation was  
in force in Agency Tracts and directed  
that one claim to a hereditary office  
which came before him should be dealt  
with thereunder.

I do not read the G. O. as laying  
down that the Regulation is in force,  
but that the Agent was right in  
following the procedure of the Regulation  
as a Rule.

The

22. The Assistant Agents seem to con-  
sider the Regulation is not needed and  
I am not prepared to say that it is. If  
the Regulation is to be regarded in  
force as a rule then I presume claims  
to hereditary offices and their emoluments  
cannot be decided in the Courts of the  
Agency Munsiffs.

Act xxxvi of 1837. If the Regulations  
IX of 1822 and III of 1828 are enforced this  
act should be also.

Act IX of 1849. might be required.  
The other acts mentioned in group III(2)  
do not seem to be required.

As regards the last portion of  
para 5 of the G. O. I am informed  
that Act VI of 1844 is not enforced. I  
presume that inquiry relates to Sec  
12 et seq of the Act. It seems to me  
that it might be desirable in the  
case of some kinds of goods especially  
after the thorough road now under con-  
struction.

Construction to Board and the Central 22  
Provinces are completed to determine  
the <sup>route</sup> ~~route~~ by which they should be imported  
or exported. I observe, however, that the  
section applies to all kinds of goods,  
and unless a very large number of  
Chouks were established which would  
be impracticable enforcing the Act, would  
work hardship.

I have the honor to be

Sir

Your most obedt. Servt.

for Agent.

Geo  
Geo

From

The Agent to the  
Governor in Ganjam

To

The Chief Secretary  
to Government  
Judicial Department  
Fort Saint George

CHIEF SECRETARY  
GOVERNMENT  
6-JUL 1894  
MADRAS

Dated 30<sup>th</sup>  
Despd 30<sup>th</sup> } June 1894  
Recd 6<sup>th</sup>  
Dispd 6<sup>th</sup>  
Dispd at 23<sup>rd</sup> of 1894

Subject

Reporting on the enact-  
ments in force in  
the Agency Tracts of  
Ganjam, which have  
been held by the local  
officers as being or as  
not being in force.

To be put in type & forwarded  
1st 3247/94

1894/7

1925 43-1691-12

20-5-1894

24

25  
TH JULY 1894, No.

JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following paper:—

G.O., dated 19th August 1893, No. 1691, Judicial.

ABSTRACT.—Circulating lists of enactments which appear to be in force in the Agency tracts to the Agents in Ganjam and Vizagapatam with instructions to report whether they contain or contain any enactments which have always been held by the local officers not to be or to be in force in the tracts, in view to the preparation of a compendious list of the enactments in force in the Agency tracts.

Read—also the following paper:—

From F. D'A. O. WOLFE-MURRAY, Esq., Acting Agent to the Governor, Vizagapatam District, to the Chief Secretary to Government, dated 25th June 1894, F.D. No. 727.

I have the honour to reply to G.O., No. 1691, Judicial, dated 19th August 1893.

2. Paragraph 3.—I shall state my remarks in order of the groups and their sections.

Group I, Section (a).—Regulation II of 1819 (the State Prisoners Regulation) is not in force except as having been extended by section 7 of Act XXIV of 1839. It is included in Schedule II (a) of Act XV of 1874.

Group I, Section (d).—Act XXV of 1867 (Printing Presses and Books Act) is included in Schedule II (a) of Act XV of 1874, and requires to be declared as being in force on the principle enunciated in paragraph 2 of the Government Order under reply.

The provisions of section 8 of Act V of 1876 (the Reformatory Schools Act) have been ordered not to be applied to the hill tribes belonging to the Ganjam and Vizagapatam Agencies in G.O., No. 2886, Judicial, dated 17th December 1887.

Act XI of 1878 (the Indian Arms Act) is not wholly in force. Only the sections which refer to the manufacture and sale of sulphur, gunpowder, &c., are enforced.

Act XIV of 1882 (the Civil Procedure Code) is certainly not in force. Sections 223 to 229 were extended to the scheduled districts of Madras (vide Judicial notification, No. 84, dated 19th February 1889).

Act II of 1886 (the Income-tax Act) is enforced in the Agency tracts only with regard to Government employes.

3. Group II.—No remarks have been passed by the Assistant Agents whom I have consulted on the subject regarding the Acts and Regulations included in this group nor have I any of my own to add.

4. Group No. III.—The remarks on the Regulations and Acts included in this are intimately connected with those called for by Government in paragraph 5 of the Government Order under reply. I shall therefore deal with them together.

To begin with, all Regulations except VII of 1816 noted in paragraph 5 referred to above are included in Schedule II (a) of Act XV of 1874. The exception, Regulation VII of 1816, which relates to district panchayets, has never been practically applied in this Agency, though Rule VII, clause 1, of the revised Agency rules, directs that every opportunity should be taken by the Agency officers to get the hill people to resort to district panchayets. The Temporary Deputy Collector in

It is in force

It is in force

to God! said

It is in force

charge of the Senior Assistant Agent's division has reported that this is enforced in his division, but this is not supported by the civil returns submitted from that division for the last three years. The files of the Agency Munsifs, who may presumably be treated as District Munsifs, are as a rule not heavy. Only the Agency Munsifs of Gunupur and Jeypore have somewhat heavy work, but there are none in these localities educated enough to associate with the District Munsifs for the purpose of a panchayet except a few vakils and Government employes whom it is not desirable to employ. Further, parties would rather settle their disputes through Court.

Regulation V of 1804 is not in force. The Agency estates of Jeypore, Bissamkatak and Payakapad now under management are being managed under the executive orders issued by Government under Rule VIII of the revised Agency rules (*vide* G.Os., Nos. 1804, 40 and 603, dated 22nd October 1889, 15th January 1890 and 1st April 1889).

Regulation IV of 1816 is in force in the Senior Assistant Agent's division, where there are three village munsifs exercising jurisdiction under this regulation.

I give in the margin the number of suits settled by them during the last three years. In other divisions there are no village munsifs. My Special Assistant Agent states that it would be impossible to enforce the regulation in his division as no one would be available to undertake the duties of a village munsif in at least 80 per cent. of the villages in his division. The Agencies of the Head and Principal Assistant Agents are equally, if not more, devoid of the means of enforcing this regulation.

| Court.                 | Year. | Number. |
|------------------------|-------|---------|
| Gunupur .. .. .        | 1891  | 81      |
|                        | 1892  | 113     |
|                        | 1893  | 70      |
| Rayaghada .. .. .      | 1891  | 2       |
|                        | 1892  | ..      |
|                        | 1893  | ..      |
| Narayanapatnam .. .. . | 1891  | ..      |
|                        | 1892  | 22      |
|                        | 1893  | 35      |

Regulation V of 1816 has been rarely enforced in the Special Assistant Agent's division. The Temporary Deputy Collector in charge of the Senior Assistant Agent's division has reported that it is in force in that division, but has not given any statistics in support of his statement.

Regulations XI of 1816, VII of 1817, I of 1819 (since repealed by Act I of 1876) and IX of 1822, have never been enforced. The first three are hardly required, as nearly three-fourths of the Agency consists of the Jeypore estate and its dependencies and special customs prevail therein regarding matters falling within the purview of the last two of these enactments.

Regulation XI of 1816 might be applied, but it would only be necessary to enforce it in very rare cases. There have never been any cases of sub-division or separate assessment in the Jeypore estate. It is desirable to apply Regulations IX of 1822 and XII of 1816. The reasons for the application of the former are obvious. It affords a summary remedy for dealing with the embezzlements committed by Revenue officials.

Regulation VI of 1831 has never been applied nor are there hereditary offices held in the Agency tracts.

Acts II of 1864 and VIII of 1865 have always been enforced and should be applied. Without the former our collection of Government dues (abkari, opium, &c.) will suffer. The latter is hardly suited to a primitive people like the genuine hill tribes of this district, but nearly the whole of the Agency has been under management since Fasli 1299 and cowles and muchilkas have been exchanged and the Act worked with as little hardship as possible. It will be a dangerous weapon in hasty hands, as the people are not educated enough to stand by their rights as in the plains, but it may be gradually introduced with much caution on the part of the officers entrusted with the administration of this part of the country.

India Act XX of 1863 has never been applied. There are no religious endowments falling under this enactment in the Agency outside the Jeypore estate and special customs govern these existing therein.

Act VI of 1844 is not at all in force in this Agency. The Principal, Senior and Head Assistant Agents have remarked that its application to their divisions is unnecessary. The Special Assistant Agent has not reported about it. But it is apparently unnecessary even here. It has never been applied heretofore.

With regard to Madras Act VIII of 1878 (the Coffee-stealing Act), I do not think it necessary for the present to extend the same to the Agency tracts. Coffee is only grown at present at Rammasingi, in the Gudem hills, close to the boundaries of the ordinary tracts, and at Anantagiri more largely by the Maharajah of Vizianagram. The latter locality is also close to the boundaries of the ordinary tracts. No thefts of coffee have ever occurred, as far as I know, nor is it likely that such will occur, the habit of coffee-drinking being almost unknown in these parts.

From G. J. WEIR, Esq., Acting Agent to the Governor in Ganjam, to the Chief Secretary to Government, dated Chatrapur, 30th June 1894, Dis. No. 23 Ag. of 1894.

I have the honour to reply to G.O., No. 1691, Judicial, dated 19th August 1893. I regret the delay which has taken place in submitting this report. References to the Assistant Agents and searches in the Agency records were, however, necessary in order to answer the questions put by Government. The matter, moreover, is somewhat intricate and various other urgent duties prevented me from dealing with it up to this date.

2. Referring to paragraph 3 (ii) of the Government Order, I have the honour to state that I have not been able to discover that any Act, which has been regarded as being in force, has been omitted from all three groups in the appendix to the Government Order. The question in paragraph 3 (i) refers, I presume, to the Acts mentioned in Groups I and II. Very many of these Acts, providing as they do for all contingencies in a highly-civilised society, have, of course, never been and are not likely to be soon enforced among the primitive inhabitants of the Agency tracts. Government has, however, pointed out that this does not affect the question of whether they are in force or not. As regards the Acts and portions of Acts referred to in Group I, I am unable to trace any instance where it was held by the local officers that an Act shown therein is not in force. Of those shown in Group II, Regulation XXV of 1802 has not, I think, been heretofore regarded as in force in these maliahs, and a great deal of it is entirely opposed to the system under which we have administered this part of the country, e.g., sections 2, 8 and 11.

3. Passing then to Group III and dealing 1st with the Acts and Regulations which Government declared probably are in force, I would offer the following remarks:—

Regulation XXIX of 1802.—In none of the maliahs—with perhaps the exception of the Tumba Mutta, Jalandra Maliahs, where there is one karnam—for which sannads were issued to zemindars in 1874, are there karnams in the proper sense of the word; a zemindar may have from time to time appointed a subordinate to make out the demand against all his maliah villages and to collect the money or assist in its collection, but none of the accounts specified in the regulation have ever been maintained. It would be quite impracticable to enforce the regulation.

Regulation VII of 1817.—There are in the maliahs no such endowments as are mentioned in the regulation and consequently the regulation has never been enforced, and is not required.

Act II of 1864.—has, I believe, always been regarded as in force and it is absolutely necessary to collect the revenue. The abkari revenue is at present considerable and very rapidly increasing under the system of selling the shops by auction.

Act VIII of 1865.—As far as I can ascertain, this Act has not been regarded as in force in the Ganjam Agency. I am informed that the Gumma Bissoyi once dis-trained some property of his sourahs, which resulted in a rising against him. I have not been able to get the papers on the subject. The Assistant Agents are, however, unanimous that the Act should not be in force, and in this view I agree. In the greater part of the maliahs it would be difficult to say whether the relation of land-lord and tenant really existed. It does not exist as between the zemindars and the

It is in force though it has never been applied

he doubts, but this does not prove that it is in force

So far then the Act would do some harm

patros and it is very doubtful if it exists between patros and cultivators. In many parts of the maliahs, patros received only what are known as "mamuls," i.e., customary presents on certain occasions. The Assistant Agents point out that the summary procedure by distraint authorised by the Act would, if put in force, lead to disturbances. The Act is not required and as disputes arising under it would have to be settled by the Divisional officer, who is, as a rule, at a great distance, no convenience to anybody would accrue. At present in the case of any dispute about land, which they cannot settle among themselves, the parties go to the Agency Munsifs' Courts which lie close to them and the suit is dealt with under the ordinary law.

*Act III of 1869.*—This is required.

*Act I of 1876.*—This Act is not applicable, as alienation by zemindars and hill chiefs is not permitted.

(d) *General Acts—Act XX of 1863.*—*Vide* remarks against Regulation VII of 1817.

### 3 (ii) REGULATIONS PROBABLY NOT IN FORCE.

*Regulations I and II of 1803.*—Rule XXIX of the Agency rules lays down that the Agents of the Governor shall be guided by the rules now in force and exercise the same powers as are vested by the regulation in the collectors of land revenue, both as regards the realization of the public revenue and the trial of public servants charged with malversation and corruption. And it further directs that they and their assistants will continue in their revenue capacity subject to the Board of Revenue. These two regulations are therefore apparently required.

*Regulation V of 1804.*—At present certain portions of estates of minors under Court of Wards, situated in the maliahs, are being managed under the supervision of the Court of Wards, in the same way as the rest of the estates. The regulation is in my opinion necessary. I understand that the Jeypore estate which lies entirely in the Vizagapatam Agency tracts has been for many years under the management of the Court of Wards.

*Regulation II of 1806.*—There is only one Government karnam in the Agency tracts, viz., for all the villages in the Chokkapad muttah.

*Regulations IV, V and VII of 1816.*—These regulations are in force as rules: *vide* Rule VII, clause 1, of the Agency rules. The Special Assistant Agent reports that Regulation VII of 1816 is in constant use, but that Regulations IV and V have fallen into disuse, if indeed they ever were followed. There are indeed in the maliahs no regular heads of villages. The molikos, &c., are subordinates of the patros. Many disputes no doubt are settled amicably and informally in the village itself, but if anything beyond this is necessary, the patro is appealed to. I do not think the regulations are required. They could only be worked by the patro and he is not a head of a village as defined in section 3, Regulation IV of 1816.

*Regulation XI of 1816.*—The same remarks apply to this regulation. The late Special Assistant Agent, Mr. Elphinstone, considered it inadvisable that patros should exercise the powers conferred on village munsifs by the regulation of dealing with petty offences; he writes as follows:—

"Regulation XI of 1816 would, I think, be objectionable. Petty cases of theft or affrays and of course adultery are frequently settled by patros, but they are dealt with more as civil than as criminal cases, and patros if given power to fine and imprison without any appeal would most certainly use their powers for their own advantage. Sections 11 and 13 are practically enforced, heads of muttahs and villages generally reporting cases of suicide and accidental deaths without any delay, while stolen property is usually discovered by the losers and then the case is reported to the village maji and by the latter to the police."

On the whole I do not think the regulation is needed.

*Regulation XII of 1816.*—Mr. Elphinstone writes as regards this regulation:—

"In petty cases where a boundary is in dispute, it is always a piece of land that is in question, and this can be settled by the ordinary district panchayat, while in an important boundary dispute between two patros, a panchayat could not be trusted, though it might save the Divisional officer a great amount of trouble."

I agree with this view.

*Regulation I of 1819.*—As already pointed out, neither this regulation nor Act I of 1876 should be enforced.

*Regulation IX of 1822.*—Rule XXIX of the Agency rules puts this regulation in force as a rule; this and Regulation VII of 1823 seem to be required.

*Regulation VI of 1831.*—In this connection I would refer Government to G.O., No. 340, Judicial, dated 20th May 1882, where the point is discussed. My predecessor read the Government order as laying down that the regulation was in force in Agency tracts and directed that one claim to a hereditary office which came before him should be dealt with thereunder.

I do not read the Government order as laying down that the regulation is in force, but that the Agent was right in following the procedure of the regulation as a rule.

The Assistant Agents seem to consider the regulation is not needed, and I am not prepared to say that it is. If the regulation is to be regarded in force as a rule then I presume claims to hereditary offices and their emoluments cannot be decided in the Courts of the Agency Munsifs.

*Act XXXVI of 1837.*—If the Regulations IX of 1822 and VII of 1823 are enforced, this Act should be also.

*Act X of 1849.*—might be required. The other Acts mentioned in Group III (2) do not seem to be required.

As regards the last portion of paragraph 5 of the Government order, I am informed that Act VI of 1844 is not enforced. I presume that inquiry relates to section 12 *et seq.* of the Act. It seems to me that it might be desirable in the case of some kinds of goods, especially after the through road now under construction to Boad and the Central Provinces is completed, to determine the route by which they should be imported or exported. I observe, however, that the section applies to all kinds of goods, and unless a very large number of chonkis were established—which would be impracticable—enforcing the Act would work hardship.

C. No. 3247 &amp; 3319

From

Dated

189

## FOR ORDERS.

It is quite out of the question for me to find time, at all events at present, to deal with this question. Should say the best I can would be to refer the paper to the Adm. Secy, who is in a better position to make a decision.

If it can be referred to the Adm. Secy, I think it is better. If he has no more to say on the subject, he may say so.

W  
9 Sep

K 8/9

X There is a very careless blunder at page 492 of the Official edition of the Act 1867-76. The Reg. is here shown as of 1817. Mr. Bellamy has shown I think it says that he has shown this.

XIV 1819 & using the year should be 1816.

I regret that more urgent work has prevented me from putting up these replies to G.O. 17 Aug 1893, No. 1691, before.

2. The first point to be considered is whether Group I in the Appendix to the said G.O. needs any alteration.

Mr. Weir has no remarks to offer regarding this Group. Mr. Wolfe-Murray makes observations upon 6 of the Acts in Group I to the following effect:-

(1) Reg. II of 1819; Mr. W.M. says this Reg. is not in force & that it appears in the Schedules to Act XV of 1874.

The former remark is incorrect, the latter correct. The previous discussions regarding this matter are set out on p. 15 of

the note for orders in the G.O. of Aug. 1893. The only question is whether the appearance of Reg. II of 1819 in the Schedules to Act XV of 1874 renders a holiday under sec. 3 of Act XIV of 1874 necessary in respect of it. In para. 6 of Mr. Mackenzie's letter read in Feb. 29. 1893.

1298, R.D., (bound file) it was  
laid down as a rule that  
the appearance of an enactment  
in any of the Schedules to Act  
XV of 1874 is a sufficient  
reason for notifying that it is  
in force in a Scheduled District  
by an order under sec. 3 of  
Act XIV of '74 instead of by a  
mere Executive order. Sir H. L.  
Stokes always contested this  
ruling of the G. of I. as illegal  
& improper but it has been  
generally adopted in the prepara-  
tion of the Appendix to the G.O.  
of Aug. last. As regards the very  
enactment now in question, the  
Madras Govt. in Ld. L. letter of 4  
March 89, No. 398, (bound file) con-  
tended that no notif. under  
sec. 3 is necessary & the G. of  
I. did not contest the opinion  
expressed by this Govt. (G.O. of  
9-7-89, No. 1176, - bound file).  
The question now to be decided  
is whether Govt. shall go back  
on the opinion expressed in  
1889 - which opinion was  
undoubtedly correct - & include  
Reg. II of 1889 in a notif. under sec.  
3, or whether the principle  
of issuing notif. under sec.  
3 in respect of all enactments  
which appear in the Schedules  
to Act XV of 1874 shall be  
abandoned in this one case  
alone.  
On the whole, to preserve con-  
sistency of plan, it seems  
better to transfer Reg. II of 1889  
to Group II & issue a notif. under  
sec. 3 in respect of it.

- 2) Act XXV of 1887. H. P. S. H.  
points out that this Act is  
included in the Schedules of  
XV of 1874; this is correct  
it was not observed before  
in consequence of a misprint  
in the Schedules (one of many).  
A notif. under sec. 3 should  
issued in respect of this Act  
which should be transferred  
from Group I to Group II.
- 3) Act V of 1876. See notif. for  
Orders - 1-47 - in G.O. of Aug.  
last. H. P. S. says that, in  
G.O. of 17-12-87, No. 2586, Govt. said  
this Act was not to be applied  
to the hill-tribes. This is so,  
but, nevertheless, the Act is in  
force in the Agencies.
- 4) Act XI of 1878. See p. 48 of  
notif. for Orders in G.O. of Aug. 1892.  
H. P. S. says that only the  
sections which refer to the  
manufacture & sale of sulphur,  
&c. are in force. This is not  
quite correct for the restriction  
of the Act relative to cannon  
& rifles apply throughout the  
Agencies. The Act must be  
shown as being in force but  
an explanatory note can be  
added.
- 5) Act XIV of 1882. H. P. S. seems  
to have overlooked the fact that  
the Appendix to the G.O. of Aug.  
1893 shows only sec. 1, 3 &  
223-229 as being in force.
- 6) Act II of 1886. It is true that  
all persons, except Govt. officials  
resident in the Agencies have  
been exempted from income-tax  
under sec. 6 but the Act is

in force notwithstanding, although  
Exemptions have been granted  
under it.

Subject to the question about  
Reg. II of 1817, Group I has  
now merely to be approved  
by Executive order. A correct  
list of the laws which  
are unquestionably in force  
in the Agencies. To the group  
may, however, be added Acts

II (Land Acquisition), III  
(Amendment Penal & Crim. Proc. Code),  
VI (Stamp Act amendment), VII  
(Prisoners Act amendment), VIII  
(Tariff), IX (Prisons) & X  
(Crim. Proc. Code Amendment)

of 1894 & Madras Act V of 1893

(Public Servants Inquiries) & if any  
of which have been repealed, they

4. Group II contains the enact-

ments which are, on the face

of them, in force in the Agencies

but which appear in the

Schedules of Act XV of 1894.

Under the rule laid down in

Mr. Mackenzie's letter above

alluded to, a list under sec

3 of Act XIV of 1894 is necessary

in respect of these enactments.

Mr. Wolfe Murray accepts Group

II without remark.

Mr. Weiss observes that Reg. XXV

of 1802 has not generally

been regarded as being in force

in the Ganjam Agency. It would

be more correct to say that it

has not been applied to estates

in the Ganjam Agency, which is, I

believe, the case. In Vizag, the

Reg. has been applied in the

case of Vizag. Its application

in Vizag shows that the passing

issue of the  
must be

of Act XXIV of 1837 has not  
affected its operation & its  
application to Ganjam comes  
therefore to be saved. It should  
be shown, finally, as in force  
in both Agencies.

5. Group III contains the  
doubtful laws & is divided  
into two sub-groups, viz, the  
Acts which probably are in  
force & the Acts which probably  
are not.

1) First, as to the Acts which  
probably are in force.

(a) Reg. XXIX of 1802 (Karnams).

Mr. Weiss says there is only one

proper Karnam in the Agencies

& that the enforcement of the

Regulation is impracticable.

Regarding this please see p. 5

of the note for Orders in the G.O.

of Aug. 1898. Mr. Wolfe Murray

says nothing about this enact-

ment but it is probably in

force to a limited extent in the

Seypore Zamindari. If Reg.

XXV of 1802 is in force, so must

be Reg. XXIX of 1802 & there is

nothing in Act XXIV of 1837 to

bar either of them. It seems

necessary to declare that

the Reg. is in force but it

can be pointed out to the

Agents that the declaration

will not necessitate the

appointment of Karnams who

they do not exist at present.

(b) Reg. VII of 1817 (Endowments).

Both Agents say that Reg. VII

of 1817 has never been worked.

their charges because there

are no endowments to which

35  
6  
it would apply. Regarding this please see p. 14 of the Madras Orders in the G.O. of Aug. last. It was therein suggested that the Reg. is barred by Act xxiv of 1839 but this consideration is very uncertain & called for an historical inquiry. On the whole the best plan seems to be to declare under sec. 3 that this Reg. is not in force; it can be brought into force by notif. under sec. 5 if at any future time it is wanted.

(c) Madras Act II of 1864 (Consolidation of Revenue)

Both Agents say that this Act has always been regarded as being in force & that it is necessary. It may be notified under sec. 3 accordingly.

(d) Madras Act VIII of 1865 (Annuity of Rent)

Mr. Wolfe Murray says the Act has always been worked in Vizag. But Mr. Weir reports that it is not in force in Ganjam. The cause of the difference is no doubt that there is a proprietary estate (Vizag) in Vizag, whereas it is difficult to say whether any of the occupiers of land in Ganjam fall within the definition of proprietor in the Act.

The question whether the Act is barred by Act xxiv of 1839 is discussed at p. 30 of the note for Orders in the G.O. of Aug. last. I think there can be little doubt that Act VIII of 1865

\* This open argument but is doubtful question.

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\* In this instance, however, on the assumption that Act xxiv of 1839 has no prospective force — an assumption which has been abandoned.

is not barred by Act xxiv of 1839. Galt has twice recorded an opinion to this effect (in 1872 & 1876) & it is clear that the Act has been worked in Vizag. If not in Ganjam, the application of the Act is, no doubt, objectionable, but this consideration would not justify Galt in declaring the Act not to be in force if it really is. It is not likely that disturbances will result, if the Agency officers are instructed to see that no new houses are conferred on the Act which is not clearly entitled to do so; this will prevent the application of the Act, almost throughout the Ganjam Agency where there are few landholders proper.

(e) Madras Act III of 1869 (Summoning of witnesses)

Neither of the Agents says whether this Act has ever been worked. But Mr. Weir says it is needed. The applicability of the Act was discussed on pp. 31 & 32 of the previous note for Orders & Mr. Stokes expressed the opinion that the Act is probably not in force & that it ought to be extended by a notif. under sec. 5 of Act xxiv of '70. The Act might certainly be applied & whether it is modified by notif. under sec. 3 or by one under sec. 5 is of little moment. Govt. has recently (G.O. of 21.2.94, N. 441, Ind. — in bonded file) empowered

6

Act. Agents to exercise the powers of Divisional officers in the ordinary limits, so that they will have power to act under III of 1867, but in some instances (f) Indian Act I of 1876. This enactment provides for the separate assessment of alienated portions of permanently settled estates. Its applicability is discussed on p. 32 of the previous note for Orders. Mr. Weir says it is not applicable because where by Hill Chiefs & Zamindars is not prohibited from this enactment is based on a misapprehension. Act I of 1876 does not give the power to alienate, it merely provides for separate assessment when alienation has taken place. Its application in Gurgaon will not give any person authority to alienate who does not possess the power at present & in regard it must be applied in order to meet the case of Deypore. Subm. that the Act may be declared to be in force by notif. under sec. 3.

(g) Act XX of 1863 (Religious Endowments). Mr. Butte Agents say that this Act does not apply. The question was discussed on p. 43 of the previous note for Orders. The applicability of the Act is doubtful & as the Agents pronounce that it is not in force, it is subm. that their view should be accepted & a notif. issued accordingly under sec. 3. Sec. 22 of the Act is, however,

9

of general application & must be excluded from the notifs.  
 (2) Secondly, as to the Acts which probably are in force.  
 (a) Reg. I & II of 1803 (Board of Rev. & Collectors). Mr. Weir thinks that these Regs. are required because unless they are, Agency Rule XXX must remain more or less a dead letter. It will be seen from p. 5 of the previous note for Orders that Mr. Weir differed as to the applicability of these Regs. as to Reg. I, the only sections which could be said to be in force are 5, 31-33, 35, 36, 37, 38, 39. There is nothing in these sections which is directly opposed to Act XXIV of 1839 & there seems no objection to declaring under sec. 3 that Reg. I is in force. The applicability of Reg. II is even more doubtful, for its general effect is to place Collectors in entire subordination to the Board of Revenue & this position seems hardly consistent with Act XXIV of 1839. It seems on the whole best to declare both Regs. I & II not to be in force. Agency Rule XXX provides sufficiently for the general subordination of the Agent to the Board.  
 (b) Reg. V of 1804 (Court of Sads). Mr. Weir says this enactment is not in force. Mr. Weir says that the Court of

Wards manage certain British  
estates. This is probably  
correct, for the Court of Wards  
manages the Parliamentary  
estates under the impression  
that they formed part of the  
Laminari. Many of the  
same Laminaris have British  
lands attached & no doubt  
it is convenient that the  
Court should manage the  
whole estate in such cases.  
But (v. p. 7 of previous note  
for Orders) there is really no  
doubt that Reg. V of 1804 is  
not in force & this has been  
assumed in Agency Rule VIII.  
If the Reg. is declared not to  
be in force, there is no way  
any serious inconvenience  
should follow) for the Agent  
will (under Agency Rule VIII)  
manage the British portion of  
a Laminari subject to the  
orders of the Board, i.e., practice  
of the Court of Wards; there  
will thus be no real division  
of authority.

(c) Reg. II of 1806. This contains  
only one clause which places  
Karmans under the authority  
of the Coll. I am suggesting  
in another connection that  
this fragment of law should  
be repealed by the Bill to repeal  
II of 1831, so it seems hardly  
worth while to declare it to be  
in force.

(d) Reg. IV, V & VII of 1816 (Village  
humsifs, Village Panchayats &  
District Panchayats)  
Mr. Weir says that IV & V have

\* It has now been put in  
operation in Vizag.

gone out of use but that  
VII is still in use.  
Mr. Murray reports that  
there are 3 humifs exercising  
powers under V that V is  
occasionally used.  
The question is discussed in  
pp. 11 & 12 of the previous note.  
There were pretty well decided  
that IV, V & VII were all  
repealed by xxiv of 1839.  
It is said that IV & V, etc.,  
should be declared to be not  
in force. Admittedly they are  
hardly used at all & IV has  
been repealed elsewhere  
by Act II of 1889. This  
last Act recites that the  
fact that Village headman  
in the Laminari should  
exercise civil powers  
by exercising them from its  
scope & it was probably  
understood, when Act II of  
1889 was passed, that IV of  
1816 is equally inapplicable  
to the Laminari & to.

As to VII of 1816, it is said  
to be frequently in use in the  
Ganjam Special Asst's Division.  
This is remarkable, for it  
is an obsolete sort of  
enactment. It has been repealed  
everywhere but in the G. & V.  
Agencies & was certainly  
repealed by Act xxiv of 1839.  
It must be declared to be  
not in force under sec. 3 but  
there is no harm in so amending  
Agency Rule VII as to leave  
the Act in operation in the  
form of Rules having the  
force of law.

41  
(c) Reg. XI of 1816 (Criminal jurisdiction of Village Headmen)

This Reg. seems not to be in use in either of the Agencies & it appears to be barred by Act XXIV of 1837 (v. p. 12 & 13 of previous note). There is moreover a doubt whether these Agency Headmen are Village Headmen within the meaning of the various enactments conferring powers upon them. It seems obvious that this Reg. should be declared to be not in force.

(f) Reg. XII of 1816 (Boundary Disputes Panchayats)

This does not seem to be in force in either Agency. The question is discussed on p. 15 of the previous note. Some it may be declared not to be in force.

19) Reg. I of 1819 Was repealed by Act I of 1876 (v. p. 15 of previous note). It has been suggested above that I of 1876 is applicable to the Agency tracts & if so, then Reg. I of 1819 need not be further considered.

(h) Reg. IX of 1822 & VII of 1828 (Malversation)

Mr. Weir observes that Agency Rule XXIX brings these enactments in force as Rules having the force of law.

Mr. W. M. says they have never been enforced.

Both Agents think that Reg. IX of 1822 is necessary. Regarding IX of 1822 please

12  
\* Mr. W. M. remarks on p. 15 of the previous note that it seems to be in force of extending XII of 1816 to the Agencies but does not say so.

42  
see p. 18 of previous note. This Reg. ought really to have been entered as probably being in force but is subm. that it may now be declared to be so; it is by no means a dead letter as Mr. W. M. Garstin supposed.

13  
Reg. VII of 1820 is on a different footing & should, for reasons given on pp. 20 & 21 of the previous note & confirmed in my all other, be declared to be not in force. It may be asked "if VII of 1820 be declared to be not in force, will not Post Agents be deprived from exercising powers conferred upon them (Article 10)?" The answer is "No", for p. 21 of 21 Feb 94, 1894, Mr. W. M. (in bound file) has conferred the requisite authority.

(i) Reg. VI of 1831 (Village Officers)  
This Agency Reg. has never been enforced. Mr. Weir refers to a G.O. of 1852 which he rightly interprets to mean that the procedure prescribed in the Reg. should be followed as a Rule of procedure. The matter is dealt with on p. 22 of the previous note.

The Reg. will soon be repealed but the repealing Act will not affect the Scheduled Districts. The best plan seems to be to notify that Reg. VI of 1831 is not in force & to provide that the Agency Rules that relate to hereditary Village officers in the Agency tracts shall be disposed of by the Agents or their Assistants in accordance with the Act, subject to an appeal to the Agent. This is really all that is

43 14

*Chrysomelidae*

President's Foundation of Col. & Rev.  
 and Reg. 18 of 1822 to the  
 of the subject -

A Com<sup>rs</sup> of Revenue at London

Regarding this, please see p. 26  
of previous note. But Blair says  
the Act might be occasionally  
useful.

Com' of Revenue at London

Com' of Revenue at London

Com' of Revenue at London

Com' of Revenue at London

Com' of Revenue at London

Com' of Revenue at London

1/9/34

1/9/94

DEPARTMENT.

From

Dated

189

FOR ORDERS.

DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated

19 Aug

Again G.O., dated

Current No.

3247

of 1899, dated

19 Aug

No. 1671

No.

from Agent to Gov. Vizay.

Current No.

3247

of 1899, dated

30 Aug

from

Order of the

It has been thought expedient to issue the following orders, which will be incorporated in the line of the present order, and will be published in the Gazette of India, XXIV of 1899, as a matter of general policy, and as the orders are a series, they may produce a confusion, and will multiply all the work that was necessary before the 17th Aug 1899, and 1671, and could cause a delay in the execution of its orders as to the applicability of laws to the Agencies with out reference to the Adv. Gen.

I don't myself see, whether previous orders may have been issued, and why should the Adv. Gen. work for him.

Have no doubt this draft is correct. But should like to know why the question of the laws which apply to the

Before issuing final orders on the subject, the orders read above, the Gov. Orders have been issued with the view of the Adv. Gen. and the question to be decided is whether Act XXIV of 1899 have the operation in the Agency Branch of Panjaut, & vizay of the following machines, viz:

- Regulation II of 1879
- Act XXV of 1877
- V of 1876
- XL of 1878
- XIV of 1882
- II of 1886

Group I.

Regulation XXV of 1802 - Group

Regulation XXIX of 1802

VII of 1817

Ordinance Act II of 1864

VIII of 1865

III of 1869

I of 1876

Act XX of 1863

Reg I of 1803

II of 1803

V of 1804

II of 1806

IV, V & VII of 1816

IX of 1816

Sub-group (1)

Sub-group (2)

Reg. XII of 1916  
 IX of 1922  
 VII of 1928  
 VI of 1931  
 Act XXVI of 1917  
 X of 1917

For Davis Agency  
 Instrument  
 27/7/19

The enactments mentioned above have been arranged in the order adopted in G.O. 17 Aug 1913, N. 1691. It is particularly noteworthy to state that it was not until an enactment has been enforced in practice in the Ganjam or Vizag Agency is it a reason for holding that its operation is unassured. Thus by the terms of Act XXIV of 1905, 2. At the present stage the following remarks seem to be called for.

(1) Regulation II of 1917. Mr Wolfe-Murray gives his opinion that this Regulation is not applicable to the out that it appears in the Schedules to Act XV of 1914. The latter remark is correct, though it appears in the Schedules as Reg. II of 1917. But the inclusion of the enactment in the Schedule is no reason for inferring that it is inapplicable to the Scheduled Districts & it has been held on previous occasions that Reg. II of 1919 is in force in the Agency tracts of Ganjam & Vizag.

For Davis Agency  
 Instrument  
 27/7/19

Draft prepared  
 3/10/94

There is not the slightest reason for doubting the applicability of the Reg. II of 1917. Mr Wolfe-Murray points out, his statement also appears in the Schedules to Act XV of 1914, but there is no reason to doubt that it is enforceable in the Agencies.

(2) Act V of 1916. Mr Wolfe-Murray observes that it is ordered in G.O. 17 Dec 1917, N. 1886, that this Act should not be enforced in respect of the hill-tribes. This is correct, but there is no reason to doubt that it is enforceable in the Agencies, although by intention or in fact it is not, as a fact, applied.

(3) Act XI of 1900. By notification the hill-tribes have been exempted from operation of the restriction imposed by this Act, but that it applies to the Agency tracts cannot be doubted.

(4) Act XIV of 1902. Mr Wolfe-Murray seems to have overlooked the fact that the Appendix to G.O. 3, 1 Aug 1913, N. 1691, Ind. shows only sects 1, 3 & 223-229 as being in force.

(5) Act II of 1906. The inhabitants generally of the Scheduled Districts have

been exempted from paying  
income-tax, but the  
fact that such an exemption  
has been granted under  
sec. 6 of the Act, however,  
of course, that the Act  
proprio vigore applies.  
XXXXXX.

(7) Reg. XXV of 1802.

49  
The observer that  
Reg. XXV of 1802 has not  
generally been regarded as  
being in force in  
Ganjam Agency. It may  
be the case that there are  
no permanently settled  
colonies in that Agency.  
But the Mysore Estate in  
Ganjam Agency is held  
under a grant issued  
under Regulation XXV of  
1802. There is no question  
therefore that the enactment  
must be held to be applic-  
able to both Agencies,  
although, as a fact, it  
may never have been applied  
in Ganjam.

(8) Reg. XXIX of 1802

If Reg. XXV of 1802 is in  
force, it seems to follow  
that this Reg. is in force  
too, but, of course, it is  
not a necessary consequence  
that Karmas must be  
appointed where there are  
none at present.

(9) Reg. VII of 1817.

Both Agents report that  
this enactment has never  
been enforced within their  
territorial charges. It is

40  
very doubtful whether  
the terms of Act XXIV of  
1839 are such as to bar  
the operation of the Reg.  
but in an uncertain case  
of this character it seems  
safest to accept the  
result of the historical  
inquiry. It is held that  
the Reg. is not in force.  
Reg. XXIV of 1839.  
This enactment has been  
worked in both Agencies  
of its applicability must,  
therefore, be regarded as  
proving, here being in force  
of 1839, that the Act applies.  
(10) Reg. VII of 1817.  
This Act has been worked  
in Pignataram but not  
in Ganjam. The difference  
is doubtless due to the  
fact that there is a pro-  
prietary estate in the  
former Agency while it is  
difficult to say whether  
any of the occupiers of  
land in the Ganjam Agency  
are 'landholders' within  
the meaning of the Act. If  
Act XXIV of 1839 does not  
bar the application of the  
enactment in the Pignataram  
Agency, it cannot do so  
in the Ganjam Agency & it  
must therefore be held  
that the Act is in force  
in both Agencies. Whether  
the Act should be practically  
applied in Ganjam is  
another question the  
answer to which must  
depend upon the nature.

the nature of land in that  
country. The matter is of  
the first importance that  
Act VIII of 1865 will pro-  
bably be repealed <sup>before</sup> ~~some~~  
very long.

(12) Madras Act XXIV of 1874.  
It seems probable that  
this enactment is covered  
by Act XXIV of 1839, but  
it contains a clause to be  
added, if this is so, the  
extension can be  
effected by means of  
a Statute under Sec. 5 of  
Act XXIV of 1874.

(13) Madras Act I of 1876.  
Mr. Bir says that this  
Act is not in force because  
alienation by Will Chief  
is prohibited. This remark  
is based on a misappre-  
hension. The Act does not  
give the power to alienate  
where it is not at present  
possessed; it merely  
provides for separate  
agreements in alienation  
has taken place. The Act  
is clearly in force in Pondicherry  
& must, therefore, be in  
force in Ganjam, but  
the fact that this is so  
will in no wise affect  
the prohibition against  
alienation by Will Chief.

(14) Act XX of 1863.  
Section 22 is of general  
application, but the  
Agents' reports show  
that the rest of the Act  
has never been enforced.  
It is doubtful whether

Act XXIV of 1839 is in force  
of itself is an  
application of the Act  
only in view of the results  
of the historical inquiry,  
it seems best to declare  
that the Act is not in  
force.

(15) Reg. V of 1803.  
Mr. Bir says that the  
enactments are required  
to give life to the  
Rule XXIX. The only  
declarations of  
Reg. which could affect  
the Agents are sections  
5, 33, 37, 38, 42 & 45-51.  
It is doubtful if there  
is anything in Act XXIV  
of 1839 to show the operation  
of these sections. The first  
part of Reg. is, however,  
in place & is in  
entire subordination to  
the Board of Revenue &  
his position is hard by  
contrast with Act XXIV  
of 1839. On the whole it  
seems best to declare  
that neither of the Regs  
is in force. Agency Rule  
XXIX provides sufficiently  
for the general subordination  
of the Agents to the Board.

(16) Reg. V of 1804.  
Mr. Bir says that the Court  
of Wards manages certain  
British estates, but, if  
this is so, it is probable  
that the management  
extends only to those  
tracts which are attached

to Landholders on the  
claims. Mr. Wier is incorrect  
in his belief that the  
Agency Rule VIII is repealed  
by the Act of 1839 & that  
is no reason for saying that  
the Agency Rule VIII is repealed  
by application of Reg. V of  
1809 is borne by Act  
XXIV of 1839. It must  
therefore, be declared to be  
not in force & his will  
cause no change in  
commencement from  
the Court of Wards will  
not manage the portions  
of Landholders within the  
territory the trials, these  
portions will be managed  
by the Agent under Agency  
Rule VIII, subject to the  
orders of the Board of  
Revenue, which amounts to  
much the same thing.

17) Reg. II of 1806.  
There is no reason to doubt  
that this enactment applies,  
but, as it will probably  
be repealed shortly, the  
matter is of little consequence.

18) Reg. IV, V & VII of 1816.  
According to Mr. Wier, Reg.  
VII is still worked but  
not Reg. IV or V. Mr. Wolfe-  
Murray says that three  
village Munsifs exercise  
jurisdiction under Reg. IV  
& that Reg. V is occasionally  
used. Reg. VII has never  
been enforced in Vizag.  
There is little reason to  
doubt that all three

enactments were enacted  
by Act XXIV of 1839 &  
there was probably a clause  
in the Act of 1839  
which repealed the  
enactments which were  
passed. Similarly, Reg.  
IV & V are hardly con-  
sidered in practice & to  
provide for the continu-  
ance of Reg. VII  
the Agent is left sufficient  
to manage the Agency Rule  
VII, as to leave the pro-  
visions of the enactments  
in force in the force of  
the law, as in the force  
of law. If this is done,  
all three enactments can,  
in case of emergency, be  
declared to be in force.

19) Reg. XI of 1816.  
It seems that this enactment  
is not applied in practice  
& there is little doubt that  
it was repealed by Act  
XXIV of 1839. It should be  
notified accordingly.

20) Reg. XII of 1816.  
The same remarks apply.

21) Reg. I of 1819.  
This enactment was repealed  
by Act I of 1876 & if that  
Act is in force, as seems  
certain, then Reg. I of 1819  
has been repealed in  
the Agency tracts, as clearly.

22) Reg. IX of 1822 & VII of 1828.  
Mr. Wier observes that Agency  
Rule XXX brings these  
enactments into force as

35  
Rules having the force of  
Law. It is to be said  
they have never been enforced  
but that they are  
Reg. VII of 1820 is  
declared to be in force, by  
Reg. VII of 1820 in an  
independent  
was an act of the  
position of the  
to the  
not contemplated by the  
XXIV of Reg. VII of  
1820 should be  
Govt. thinks, he  
when not to be  
this such course  
cause any inconvenience  
because G.O. 3, 4 Feb 1851,  
No. 441, Indl., has conferred  
upon the Assistant Agents  
the powers ~~conf~~ given to  
Subordinate & Asst. Collectors  
by sec. 3 of Reg. VII of  
1820.

(23) Reg. VI of 1831.  
This enactment has never  
been enforced in Vizag. It  
H. W. in rightly interprets  
G.O. 3 20 May 1852, No. 340, Indl.,  
as meaning that the provisions  
of the Reg<sup>l</sup> should be followed  
as a mere rule of procedure.

70  
the Reg<sup>l</sup> will soon be  
repealed in the ordinary  
acts of the Govt. thinking  
that the best plan will be  
to declare it not to be  
in force in the Vizag. It  
to make provision for  
the hearing of suits for  
Village officers by means  
of an amendment of the  
Reg<sup>l</sup> may rules or by the  
introduction of the new Act.  
as a more suitable  
arrangement.

(24) Act XXXVI of 1831.  
This must be in force, if  
Reg. IX of 1822 is.

(25) Act X of 1849.  
This is a useful enactment  
but it is doubtful if Act  
XXIV of 1831 gives it  
a limitation. But, if Reg<sup>l</sup>  
I & II of 1849 are declared  
not to be in force, it will  
be better to take  
the same course as regards  
Act X of 1849.

(26) As regards the other  
enactments falling under  
Group III in the Appendix  
to G.O. 3, 19 Aug. 1853, No.  
1691, Indl., it is understood  
that the Agents hold the  
same views as Govt.

(27) Act VI of 1844  
This enactment is unquestioned  
in force & it should have  
been added to Group I, but  
there is no need to bring  
it into actual operation  
as it has never been applied.



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[Despatch Abstract.]

Enactments in force in the  
Agency Tracts

Requesting the opinion  
of the Adv. Genl. on the  
question whether Act No.  
of 1839, bears the operation  
of certain enactments in  
the Agency Tracts of  
Ganjam and Vizag.

2. 12-10.

31-7-84 II

13/6/36 I