Legislative (18) Department.

1/32

ORDINARY MS.

G.O., No. 31. 32

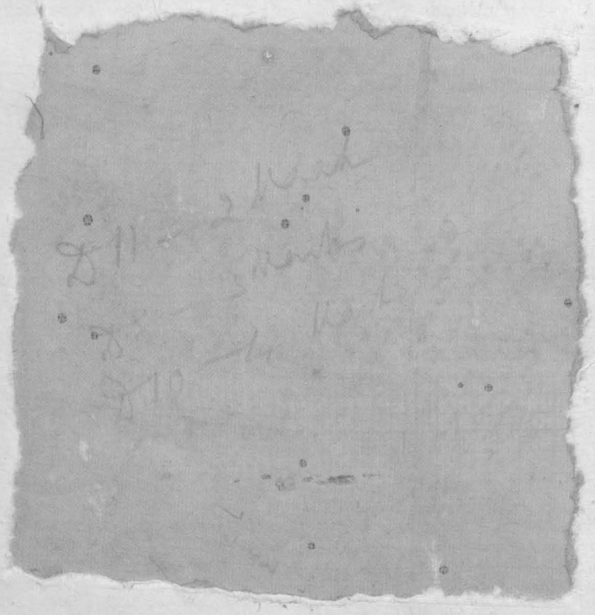
Dated 9th April 1894

INDEXED.

[Despatch Abstract.]

MADRAS PROPRIETARY ESTATES VILLAGE SERVICE ACT II OF 1894

Transmitting to the Gover[illegible]mt of India, Legislative Depart[illegible]
[illegible]ition to the Secretary [illegible] State from the Zemindars of
Kalahasti and Kanjeeva[illegible] praying that their estates
[illegible]ded from the operation o[illegible] the [illegible].



பரதவாய்வு பிரிவு -1

செப்பனிடுபவர் பெயர் : பா.வினாயகமூர்த்தி

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள். 4/09

செப்பனிட்டு முடித்த நாள். 4/09

சரிபார்க்கும் 1வது முதியவர் பார்வை — சரிபார்க்கும் 2வது முதியவர் கையொப்பம் — தொடர்புடைய உதவியாளர் கையொப்பம்

(1895) Department.

1 / 32

From R. C. C. Carr Esq I.C.S.

The Private Secretary to the Right Honorable the Governor.

To

The Chief Secretary to Government, Legislative Department.

CHIEF SECRETARY 11 MAR 95 PUBLIC & LEGISLATIVE DEPTS.

Dated 8 } March 1895.
Received

Enclosure. 54

Subject.

TRANSFERS a petition from the Rajas of Kalahasti, Kalahasti and Venkatagiri praying that the Memorial to the Secretary of State may be forwarded.

APP 2 94

D11 – 2 Nos
D3 – 3 Nos
D10 – 4 Nos

Letter

Petition from the Rajas of Venka
Kalahasti and Karvetnagar.

DATED 28 February 1895.

TRANSFERRED to the Chief Secretary
Legislative Dept
Government for disposal. Please circ
to the Executive.

(By Order.)

Recd
4 Private Secretary

GOVERNMENT HOUSE,
Fourth
8 March 1895.

3
3 4/32

[G/P]
2,000-23-1-95.

Current No.

Legislative DEPARTMENT.

From The Rajah of
Venkatagiri

No. -

Dated 31st May } 1895.
Received 2nd June }
Regd. 5th do
Enclosures 2

SUBJECT.

beg a spare copy of the memorial
to S of S. with Enclosures, sent by the
ils of Venkatagiri, Kalahasti &
rvetnagar against the application
Sunday Act II of 1894 to their estate

Submitted
11
10/6

4

AN

APPEAL MEMORIAL

OF THE

RAJAHS

OF

VENKATAGIRI, KALAHASTI

AND

KARVETNUGGAR

AGAINST THE APPLICATION OF THE

MADRAS PROPRIETARY ESTATES' VILLAGE SERVICE ACT No. II OF 1894.

WITH ENCLOSURES.

MADRAS.
PRINTED AT THE LAWRENCE ASYLUM PRESS, MOUNT ROAD.
1895.

The Right Hon'ble

THE SECRETARY OF STATE FOR INDIA

IN COUNCIL.

The Humble Memorial of the RAJAHS OF VENKATAGIRI, KALAHASTI AND KARVETNUGGAR.

MOST RESPECTFULLY SHEWETH,

The Memorialists beg to appeal against the application of the Madras Proprietary Estates' Village Service Act II of 1894 to their estates, as the Act is unjust and opposed to the terms of the Permanent Settlement. The Memorialists' prayer for exemption of their estates from the purview of the Act has not been complied with either by the Madras Government or the Supreme Government, and therefore, they are under the necessity of appealing to you against the enclosed Proceedings of the Government of India declining to interfere in the matter without assigning reasons for it.

2. The Memorialists' ancestors held a regal status and their dominions were of the nature of a Raj.

3. The arguments of the Hon'ble Mr. Garstin concerning the original history of their estates are one-sided. He rests upon some statements made in the Manual of the Nellore District, and concludes that the ancestors of the present Rajahs were simply Desakavals and that their troops were only armed Police. Evidently he did not properly read the District Manual, his authority, which says :—

"The great Poligars maintained their large establishments for Military Service and Police. They were obliged to keep up large or small bodies of troops continually equipped for military service, they had to provide for the protection of their own communities, to resist and suppress marauders, to bring to justice offenders against person and property." (Nellore District Manual, page 262.)

4. The Sannads that were issued from the Emperors of Delhi and the Nizams of Hyderabad show clearly that the Memorialists' ancestors were more than Desakavals in their status. They were required by the terms of the Sannad to furnish military aid in times of war and were thanked for services rendered, by the Emperors from time to time, as is evidenced by the old documents in possession of the Memorialists. They established forts and garrisoned the same. They had military weapons and arms including big cannon which were destroyed only 30 years ago, so [illegible] the Mutiny, some small guns being still allowed by the Government [illegible]te. Even after the advent of the British here, military aid was sought and thankfully acknowledged, when rendered, by persons like Lord [illegible]ive, Lord MacCartney, Lord Cornwallis and General [illegible]ris. The ancestors of the Memorialists had Military as well as Police establishments like the States of Pudukotta and Cochin and other native states.

That the ancestors of the Memorialists exercised independent power in [illegible] administration is clear from the Proclamation of the Government, dated [illegible] and August 1800, which says :—

"Whereas it has been customary for the Zemindars aforesaid to exercise Civil and Criminal [illegible]adiction within their respective Zemindaries."

The ancestors of the Memorialists even just before the Permanent Settlement were independent princes. If they were dependent on the Mahommedan rulers and the Nabob of Carnatic, their political status was not destroyed thereby any more than that of the Nabob who was subject to the Nizam, and of the Nizam himself who was subject to the Emperor of Delhi. The treaty between the East India Company and the Nabob alluded to by Mr. Garstin, to which the Rajahs were *exparte*, proves nothing more than the fact of the transfer of power to the former from the latter. It is a well known historical fact that the very first acquisition of the British India, the site on which the Fort St. George was built, was the State grant in 1639 of an ancestor of the Rajah of Kalahasti one of the Memorialists. This clearly illustrates the status and importance of the ancestors of the Memorialists.

5. The Hon'ble Mr. Garstin says that Lakhiraj lands were by mistake omitted from calculation in the Sannads of the three Zemindaries, therefore, their Sannads are illegal and that they are bound by the same terms as those regulating other Zemindaries. In the instructions issued to Collectors, dated 15th October 1799, paras 15, 16, 22, 23, 25, 26, Village Service Inams were excluded from alienated and Lakhiraj lands, as the Service Inam lands were held in lieu of wages, and they were treated as Circar lands and were declared responsible for the public revenue assessed on the Zemindary.

Para. 15. "It is also to be fixed exclusive of the salt revenue, and independent of all existing alienated lands whether exempt from the payment of public revenue, with or without due authority (the village mauniums, or lands held by public and private servants in lieu of wages excepted,) the whole of which, are to be considered annexed to the Circar lands, and declared responsible for the public revenue assessed on the zemindary."

Para. 16. "All allowances of cowries and Government revenue officers, (Karnams excepted), heretofore paid by landholders as well as any public pensions hitherto paid through the landholders are to be added to the amount of jumma, and to be provided for by Government, under prescribed regulations."

Para. 22. "It is further to be understood, that Government will impose such assessment, exclusive of the permanent settlement, as they may deem equitable, on all lands at present alienated and paying no public revenue, which may have been, or may be proved to be held under illegal or invalid titles, and the revenues of which, is not included in the Committee's accounts. Rules will be prescribed for trying, in the regular judicial Courts, the validity of the titles of persons holding, or claiming a right to hold such lands, and for determining the amount of the annual assessment to be imposed thereon by Government, if exceeding a certain extent, otherwise to be considered the property of the Zemindar."

Para. 23. "Fixed rules will also be enacted in regard to all lands paying the revenue to Government (the [illegible] which may be continued) in case of the [illegible] some of which are for the assessment by Gruscheating [illegible] the [illegible] also be liable to additions which the permanent jumma is capable [illegible] resources of the District or [illegible]."

Para. 25. "All private lands [illegible] appropriated by the Zemindars and [illegible] subsistence of the proprietors and families, as well as all lands held [illegible] dependants, will be considered as forming part of the Circar [illegible] sible for the public jumma."

Para. 26. "All Police allowances in land or money, at present, appropriated [illegible] department, is to be considered exclusive of, and unconnected with, the [illegible] ment, and resumable by Government, should they take the conduct of [illegible] ds; but in that case, to be solely applicable to that purpose. [illegible] hand [illegible] to take the necessary measures for ascertaining the particulars of each. [illegible] our information, [illegible] regulations under which [illegible] to include the fees [illegible]

[illegible] Vol. I [illegible] Report of the Select Committee, Madras [illegible]

"The principles on which it had been proposed to assess the lands received the approbation of the Bengal Government" (Fifth Report, page 50). "The leading principle of the measure had already received the approbation of the Court of Directors" (Fifth Report, page 51).

"Referring the House, therefore, for general information on that head, to the instructions issued to the Collectors in the year 1799 as containing a practical application of the principles according to which the arrangement was progressively adopted" (Fifth Report, page 55).

These Village Service Inams and the private lands of the proprietors, their relatives and their dependants were included in the assets for calculating the peishcush. Even assuming that the mode of calculating peishcush on assets be the same in these three Zemindaries as in others, according to this argument the Government will not be entitled to any claim to Village Service Inams, and in fact it has no lands to resume in the three Zemindaries and the Government is not legally entitled to any claim over Village Servants. But the Memorialists have an additional and much stronger argument in the fact that the calculation of peishcush in these Zemindaries was quite different from that obtaining in other Zemindaries, the peishcush being only a commutation of military service without reference to assets as admitted by all authorities. Mr. Garstin himself says that :—

"Lord Clive wrote a letter to the Venkatagiri Poligar and relieved him of the duty of keeping up the force of about 10,000 men whom he maintained and fixed the peishcush of his Zemindary at about 111,000 pagodas, of which about 89,000 or about four-fifth was stated to be *equivalent for military service*, and the rest on account of established peishcush." (Mr. Garstin's second speech, dated 12th December 1893.)

"I have already shown now in the cases of these three Zemindaries the Permanent Settlement was not made on their assets." (Mr. Garstin's second speech, dated 12th December 1893.)

The peishcush according to the Permanent Settlement was nothing but a commutation of military service to the Government, and the established peishcush alluded to in Mr. Garstin's speech was only a tribute paid by the Rajahs to the Mohammedan rulers. This established peishcush or tribute was not on the assets. There are several Zemindaries in the Nizam's dominions like Gudwal, Judprole, and Vanaparthi which pay tribute to the Government without reference to assets, and even now they have absolute control over all the village servants including Kurnums and over the Village Service moniems. While such is the state of things in the Native State at this time, there is nothing for the Government to show that the Service Inams of the estates of the Memorialists were the State property of the Paramount Power and were given by [illegible] the calculation of peishcush was not on the assets, there was occasion and necessity to specify what should be included in the assets and what should be excluded from them as in other Zemindaries. By the very nature of the arrangement, the power of Government to interfere with Lakhiraj lands was intentionally omitted from the Permanent Sannads. The omission could never be from oversight. In accordance with this principle, the contention of the Arni Jaghiredar that the Government was not entitled to Artisan Inams on the ground that the peishcush of his estate was not calculated on the assets, but it was a commutation of the Nuzzur of the Jaghiredar to the Sovereign, was accepted even recently; and all interference with these Inams was prohibited.

6. Mr. Garstin says :—

"It merely proves that by oversight the Government omitted to insert in these Sannads the whole of the provisions which they apparently intended to insert in them. It is impossible to suppose that the Government deliberately omitted the reference to Lakhiraj lands because such action would have been in direct defiance of the Law." (Mr. Garstin's second speech, dated 12th December 1893.)

This is untrue and untenable. The Proceedings of the Government of Fort St. George, dated 24th August 1802, to the President and Members of the Special Commission, para. 2, says that :—

"The important question of the commutation of military service of those Zemindars and the documents which has been made, satisfy the Governor-in-Council that your recommendations are the result of mature deliberation founded on a comprehensive knowledge of the subject."

This must finally settle the wrong contention of Mr. Garstin. Mr. Garstin lays great stress on the Sannad being subsequent to the Regulation, and contends that the Sannad omitting the Lakhiraj lands being inconsistent with the Regulation, it must be illegal. The Sannad is nothing but the contract deed, and the Regulation is nothing but the codification of general instructions for Permanent Settlement. Even if it be taken as a distinct contract, unless the contract is illegal and immoral by itself, the subsequent contract must supersede and nullify the previous engagement, if the terms of the first contract be inconsistent with the subsequent contract. As remarked already, the Regulation contains only general instructions.

With regard to Lakhiraj lands, it is distinctly provided that :—

"The Government having reserved to itself the entire exercise of its discretion in continuing or abolishing temporarily or permanently the articles of revenue included under the head of Lakhiraj lands (or lands exempt from the payment of public revenue) and of all other lands paying only favourable quit-rents the permanent assessment of the land-tax shall be made exclusively of the said articles now recited." (Sec. 4 Regulation XXV of 1802.)

The exclusion or inclusion of Lakhiraj lands or the omission of them was entirely within the discretionary power of the Government, and the permanent contract was made in the exercise of the discretionary power must be final. The Sannad granted to the Zemindars and the agreement contained therein are permanently binding on both parties. So early as in 1818 the Provincial Court of Central Division in its Original Suit No. 13 of that year, knowing clearly the terms of the Sannads which was almost fresh with them decided that the Lakhiraj lands were not resumable by the Zemindars, as the reservation of the Government of the right of resuming Lakhiraj lands was specially omitted in the permanent Cowle. The same was held by the District Court of North Arcot, in Original Suit No. 336 of 18[illegible] and confirmed by the Madras High Court in Second Appeal, No. 974 of 1881. Now a Member of the Legislative Council with little judicial experience in *ex parte* speech after about a century condemns boldly that the successive Governors, Members of Council and Judges of Sudder Court and High Court made a series of mistakes and misunderstood the scope of the Sannad, as if he alone were right and all others were wrong. The Government might as well resume the Amaranams, Kattubadi Inams, largely in existence at the time of the Permanent Settlement as they should also be classed among Lakhiraj lands according to the erroneous idea of Mr. Garstin.

There are instances of the settlement officers and the Governme[illegible] time of the Permanent Settlement treating differently in different Ze[illegible]

the Lakhiraj lands and lands for the maintenance of police establishment over which they were given discretionary power.

In Original Suit No. 13 of 1818 of the Provincial Court of Central Division it was decided that :—

"In the opinion of the Provincial Court the reservation of Government, of the right of resuming Lakhiraj lands having been also especially omitted in the permanent Cowle granted to the defendant, the plaintiff has no right whatever to the two villages sued for and the Court accordingly disallow his claim dismiss his suit and award that he shall pay all costs as follows."

The Government thereupon decided that :—

"The Provincial Court have decided against the claim on the part of Government and the Board are of opinion that an appeal to the Sudder Adawlut under the circumstances of the case is not advisable."

Finding the indefeasible character of the claims of the Zemindars with regard to the Inams, the Government would not appeal against the decision of the Provincial Court, but directed the payment of the Court costs which amounted to Rs. 1,059-12-0. Proceedings of the Board of Revenue, dated 2nd May 1823, concerning a similar dispute about the resumption of an Inam Village Pedda Poloor in Kalastry Zemindary, the Board of Revenue in its Proceedings, dated 4th March 1839, said that :—

"The validity of the Zemindar's claim is such as could not be resisted in a Court of Law. It remains for the Government, to decide whether it shall be voluntarily conceded or otherwise."

Seeing that the Zemindar's claim was simply "irresistible," the Government in its order, dated 9th April 1839, directed the voluntary surrender of the village to the Zemindar without even attempting to establish its claim in a court of justice.

Proceedings of the Inam Commissioner, dated Palmanair, the 3rd September 1860 :—

"The peishcush was not fixed upon the assets of the estate, but was a proportion of the cost of the Zemindar's military establishment, inclusive of Amurams and Kattubadis, diminished by the amount of revenue derived from salt, sayer, and Abkari which were reserved by Government. The Inams were not included by the terms of the settlement, and the Government have therefore no right of reversion in them."

The decision of the District Court of North Arcot A. S. No. 74 of 1881, upheld by the High Court Second Appeal No. 974 of 1881 says that :—

"Special exceptions were made in this respect in the case of the above four Zemindaries and as that case showed that the Moturpha tax levied in this Zemindary was included in the assets of the Zemindary so likewise in the case of Lakhiraj lands in this Zemindary the Sannad shows that Government also reserve to itself the right to deal with those lands. The Zemindar has the right of resuming them free of Government interference."

It is inconceivable with what propriety could Mr. Garstin be allowed to refute the weightiest opinions of competent judicial authorities and the previous Governments, and the Legislative Council could go to pass the Act including the Memorialists, which have been treated [illegible] differently from others on account of the very [illegible] of the Permanent [illegible]

7. The contract between the [illegible] the three Rajahs on the other [illegible] be held sacred, and [illegible] to be illegal and be condemned now [illegible] by Mr. Garstin, after having [illegible] upon for nearly a century. Accepting the [illegible] as sacred contracts, the Government from time to time granted the Memorialists compensation in respect of Moturpha taxes and

withdrew the operations of the Inam Commission from them. As the Peishcush was admittedly not fixed with reference to assets, these Lakhiraj lands were not taken into account, and the Government cannot claim them now. The Government gave up their claims 30 years ago to personal grants when the Inam Commission wished to enfranchise them. The Government cannot now with any justice claim Service Inams. The scope of the High Court's judgment referred to in his speech is misunderstood. In it neither the Zemindar nor Government was a party; though both were asked to join it. This case was only with reference to Moturpha levied by some minor Inamdars *after the Moturpha compensation was given to the Rajah.* The decision of Mr. Plumer, Civil Judge of Chittoor, upheld by the High Court, was dealing directly with Lakhiraj lands. The Zemindar was a party to it and the Government Village Munsif was the other party. Suit No. 13 of 1318 of Fowzdari Adawlut was between Zemindar and Government. Such decisions would appear to be acceptable as final.

8. That the Memorialists beg, therefore, that full justice be done to them, by excluding their Zemindaries by a special provision in the Act itself from its operation, as the peishcush was not fixed on their assets as in the case of other zemindaries, and by thus saving them from the loss by the imposition of the new cess in violation of the terms of Permanent Sannad which is leviable on demand but not on actual collection in good or bad seasons, whether the tenants pay their share or not, and by the proprietors being deprived of the control over their village servants.

For which act of justice, the Memorialists will ever pray.

11 7 8

LEGISLATIVE DEPARTMENT.

Proceedings of the Madras Government.

Read the following paper :—

From the Government of India, Revenue and Agricultural Department dated 27th July 1894 No. $\frac{2143}{44}$.

Order 18th August 1894, No. 99.

The Rajahs of Venkatagiri, Karvetnuggur and Kalahasti will be informed that the Government of India has considered their petition dated the 13th February 1894, wherein they protested against the application to their Zemindaries of the Madras Proprietary Estates' Village Service Act 1894 and has declined to interfere on their behalf.

(True Extract.)

(Signed) A. H. G. SHELLEY, CAPT., R. E.,
Under Secretary, P. W. D.,
for Chief Secretary.

TO

THE RAJAHS OF VENKATAGIRI, &c.

12

8/1894

List of Enclosures accompanying the Appeal Memorial on the Madras Proprietary Estates' Village Service Act No. II of 1894 to the Secretary of State for India in Council.

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A.

To

His Excellency the Right Honorable

BARON BEILBY LAWLEY WENLOCK, G.C.I.E.,

GOVERNOR AND PRESIDENT IN COUNCIL,

FORT ST. GEORGE.

The humble Memorial of the RAJAHS OF VENKATAGIRI, KALAHASTI AND KARVETNUGGAR.

MOST RESPECTFULLY SHEWETH :—

The Zemindaries of Venkatagiri, Kalahasti and Karvetnuggar (called in Mr. Stratton's Report of 1801-1802 as Bommaraju) are different from the other Zemindaries in certain respects. The points of difference are as follows :—

(1) Sannads-i-Milkiat-i-Istimirar were not granted to them under Regulation 25 of 1802, and these Zemindaries are not, therefore, governed by that Regulation (*vide* Board's Proceedings, dated 8th July 1860, paras. 9, 10, 11, 12 and part of 21).

(2) The Government did not reserve to itself the right to deal with Lakheraj lands.

(3) Even though Regulation 6 of 1831 was passed more than 60 years ago, and even though Government pronounced an opinion that it was to be enforced in these Zemindaries also, there has not been a single instance during these 60 years when the Zemindars' control in the matter of appointment and dismissal of all the village servants except the Karnams has been interfered with. The Sannads granted enjoin on the Zemindars the necessity to keep up the requisite number of Karnams only and does not so much refer to the other village servants.

II. The reason for the existence of the above distinction and difference is not far to seek. These Zemindars exercised before 1802 magisterial and judicial powers as independent Chiefs possessing a status (*vide* the Title Book of the Carnatic Circar during the time of H. H. the Nawab Wallajah) like the present States of Cochin, Travancore and Pudukottah. The proclamation that was issued in 1802 under the signature of Mr. Webb, the then Chief Secretary to the Government, recognises such a status. As these three Zemindars held their Zemindaries on military tenure, the peishcush fixed on them is only a money commutation of the military services rendered. They were distinctly made to understand at the time of the settlement of 1802, which was something like a treaty, that the powers that they exercised in other matters would not be in the least interfered with. Such solemn pledges should have been kept inviolate. Under the Government of the Karnatic Nawabs they had full control in their territories. Previous to the

rule of the Karnatic Nawabs, the Chiefs of these Zemindaries were thoroughly independent, having acquired their territories by dint of arms. They had, therefore, complete control over their village establishments, and the Inams and other emoluments must be presumed to have been annexed to the village officers by these Chiefs. It is thus clear why Regulation VI. of 1831 could not apply to these Zemindaries, and it would be an unwarrantable violation of solemn pledges to curtail the powers of such Zemindars. A printed copy of the Judgment in Appeal Suit No. 74 of of 1881 on the file of the District Court of North Arcot by Mr. C. G. Plumer, a very learned and experienced Judge, is appended in support of the above view. Paras. 4 to 20 (both inclusive) deserve careful perusal. The case for these three Zemindars cannot be stated in language stronger than that of this distinguished Judge. This judgment has been upheld by the High Court of Madras in Second Appeal No. 974 of 1881.

III. The imposition of a new cess as contemplated in the new Bill entails upon these Zemindars an additional taxation of some thousands of rupees. They are authorized to recover one half of the additional burden, bearing the other half themselves. Under the present defective Rent-laws, they have been unable to recover even their just rents in full. Nearly 20 or 30 per cent. of their rent remains unrealised, owing to the technical defects in their pattas, which are all drawn up by Karnams who either deliver or tender them to the tenants and obtain Muchilikas from them. Under Section VII. of the Rent Act VIII. of 1865 the Courts can dismiss the suits for just rents and road-cess and other fees admittedly due for some minor defects either in the pattas or mode of tendering them. Zemindars find it difficult to recover the whole of the tenant's share of the road-cess which generally remai[illegible]s unrealised to the extent of 30 per cent. of the actual demand. It is, therefo[illegible] most unlikely that Zemindars would be able to recover more than 30 per cent. [illegible]what may be justly recoverable from the tenants and Inamdars according to the new Village cess intended to be introduced. Nearly 70 per cent. of the new cess will, therefore, have to [illegible]borne by the Zemindars alone. Under para. 3 of the Sannad these Zeminda[illegible]re assured that the permanent peishcush payable by them shall never be li[illegible]o change under any circumstances. In violation of this pledge, the road-[illegible]was introduced a few years ago. This additional tax has been growing year [illegible]year by leaps and bounds, and while the Zemindars were intending to appeal to Government to revise the Road-cess Act in view to exempt them from any inability under it either of paying a moiety thereof or being held responsible for the collection of the tenant's share of it, they are now threatened with another tax which will be heavier than the road-cess now levied. These facts lead them to apprehend that solemn pledges may be easily violated, and the Zemindars subjected to difficulties in the future of which they can form no idea at present.

IV. The duties of the six classes of village servants excluding Munsiffs, for whose remuneration the new Bill provides, may be stated in detail to show how useful they are at present to the Zemindars in recovering the rents and fees due to them.

1. Karnams :—Their duties at present are :—

(1) To prepare the cultivation account.
(2) To prepare the account showing the demand.

(3) To keep the Register of collections.
(4) To prepare Pattas and Muchilikas and distribute them.
(5) To fill up particulars of the assessment, area, &c., in the forms of applications for lands.

A number of other accounts detailed in Sec. 11 of Regulation $\frac{29}{1802}$.

2. Monegars or Peddakapus :—

(1) To collect the rents due by the ryots.
(2) To have the custody of the collections and to remit them monthly to the Taluk Treasury.
(3) To countersign Darkhast forms, Istipha forms and Reports on important matters.

3. Nirganti :—

To distribute and regulate the supply of water to the lands of the ryots.

4. Kavalgar or Talayari :—

(1) To watch the crops harvested before sharing the produce.
(2) To watch and preserve the Rajah's share stored up.
(3) To preserve other properties of the Rajah's in the village.

5. Toti or Vetty :—

(1) To obey general orders of Monegar or Peddakapu in bringing ryots to him.
(2) To help the Kavalgar.
(3) To repair leather buckets of the ryots.
(4) To carry the village officers' arzies, &c., to the Taluk Cutcherry.
(5) To attend o[illegible] the Rajah's officials visiting the village, &c., &c., &c.

6. Shroffs :—

To test coins collected.

From time immemorial when these officers were created up to a few years ago, when the British Government desired to be furnished with a few vital and agricultural statistical returns by the *Karnams* alone, these village servants were working entirely for the Zemindars. They were not in the least created for any other purpose. They watched the interests of the Zemindars by seeing that good crops were raised, that the crops were not stolen by thieves, and they assisted in the collection of the landlord's rent in kind or coin. If the object of Government be merely to obtain vital and agricultural statistics and nothing more, why should servants other than Karnams be included in the Bill and why remove them from the control of the Zemindars. In addition to the duties required of them at present by the existing Regulations and Acts, the Karnams may be ordered to submit through the Zemindars such accounts as may be required by the Local Government, and it may be enacted that neglect on their part in furnishing the returns correctly and punctually would be visited with fines, suspension and even dismissal according to the circumstances of the case as reported by the Zemindars.

…dy for any supposed difficulty in securing the submission of statistical …s as shown above simple and manifest. If it is contended that unless K…ms get good and timely remuneration without being obliged to sue for re…ery of the same in Courts of Justice at a heavy cost, they cannot be expected to turn out good work or be held responsible for their work, a section may be introduced in the existing Regulations authorising the proprietors to levy money fees in commutation of the grain fees now levied from the tenants and to collect and pay them regularly. This is now being done very satisfactorily in a large number of the villages of Venkatagiri Zemindari. While such simple remedies exist, it is beyond the comprehension of the Zemindars why this new Bill should have been framed in violation of solemn pledges made in treaties and sannads, and why chaos and confusion should be caused in the management of their estates besides creating grave dissatisfaction and discontent not only to the Zemindars, but also to large numbers of the existing village servants, as nearly 80 per cent. of the latter will be thrown out under the salary system contemplated by the Bill and be driven to adopt disreputable modes of life to earn the means of livelihood, not to speak of the innumerable difficulties which the tenants will be put to by the nonperformance of their legitimate duties for which they, the tenants, are taxed, and the additional expenditure they will have to incur to engage men to do timely service which the paid village servants will surely fail to render.

While the Civil Courts had control over our Village Karnams, we had very rarely to resort to them for punishments. Even in those very rare cases, the Civil Courts dealt impartially. As the Judges presiding over these Courts are not generally prejudiced, they are kept within proper bounds by the Codes they have to administer and the rules of practice and procedure prescribed from time to time by the High Court for the conduct of judicial officers. The judicial officers are besides curbed to a very great extent by the existence of a very intelligent and independent bar now practising all over the Presidency, also by the vigilant supervision of the High Court presided over by Judges of remarkable independence and force of character. Such will not be the case if we have to seek justice at the hands of Revenue officials who from the nature of their duties frequently come in contact with your memorialists, and thus have numerous occasions to enter into discussion with them even in trivial matters concerning the administration of their estates. These Revenue officers are controlled neither by the influence of the bar, nor by such judicial supervision as that of the High Court. Appeals against the orders of the District Judges lie in the High Court where the aggrieved parties get the benefit of the best possible counsel. Whereas in appeals against the orders of the Revenue officers to their controlling authority, the Board of Revenue, the aggrieved parties, who will be mostly Zemindars, will not be allowed to have their cases argued by any counsel at all.

V. *Inams.*—One of the sections of the new Bill empowers the Government to enfranchise the service Inams by fixing an assessment upon them, leaving the present servants in possession of them. To this your memorialists feel bound to object strongly, their ancestors having acquired their estates by conquest and held them as so many States and Principalities. The mere fact of their Military services having been dispensed with in consideration of their commutation into money payments does not enable the Government to assert that the Inams were

granted by the British Government or the State which it replaced. The Inams must be presumed to have been granted by the ancestors of your memorialists, and the presumption becomes all the more reasonable from the fact that in more recent years new Inams have been granted to servants who from mere accident or otherwise did not, equally with others, possess any Inam lands, and in a few cases where old Inams granted have become useless from inundations or otherwise, fresh ones in their stead have been granted by your memorialists. In these circumstances it is just and reasonable that these Inams should, when your memorialists are required to pay separately for these village servants, be made over to them who granted them to compensate partly for the heavy sums they are required to contribute for the maintenance of the village service, for which purpose these Inams have been hitherto assigned. It may be in point to state here that your memorialists' troops and regimental officers were not paid in cash, but remunerated by what were called Kattubandi Inams and Amaram grants, and the Government of 1802 were just to your memorialists in not depriving them of their Kattubandi Inams and Amaram villages when they asked them to pay to Government the cost of their military establishment, and when they said to them that they would have a better trained force in the place of their troops.

Your Excellency's memorialists beg in conclusion to submit to your Excellency that except in the matter of their tenure, their status has not been changed, by force of circumstances; it is true that their ancestors were deprived of the Civil, Magisterial, Military and Police powers for the better administration of the country early in this century, when wars raged, peace was scarce, and there was a number of enemies to the British Raj. There is nothing of the kind existing at present to justify the interference of the British Government in the matter of the only limited power that your memorialists possess—the Revenue administration of their estates; and in these circumstances and while in so many features their Zemindaries differ from other Zemindaries, they beg that the Proprietary Village Service Bill, even if passed into law, may be made inapplicable to their Zemindaries under the provisions of exemption mentioned in Section 2 of the Bill.

For this act of charity, your humble memorialists will ever pray for your Excellency's long life and prosperity.

17*th October*, 1893.

B.

To

His Excellency the Right Honorable

BEILBY LAWLEY BARON WENLOCK, G.C.I.E.,

GOVERNOR AND PRESIDENT IN COUNCIL,

FORT ST. GEORGE.

The humble Memorial of the RAJAHS OF VENKATAGIRI, KALAHASTI AND KARVETI-NUGGUR.

MOST RESPECTFULLY SHOWETH,

That your Memorialists were not mere renters or farmers of Revenue as was the case with the majority of the Zemindars. That they possessed almost a *regal* status from the 14th century downwards is a fact that can be proved to the satisfaction of any Civil Tribunal. That they possessed Mints of their own, as admitted by Mr. Stratton in his Report of 1801, exercising sovereign authority of issuing their own coins. That they exercised all powers before the permanent settlement which a sovereign exercises in his own territory. That the language employed in their letters by Lord Clive and others in 1802 (*vide* enclosures annexed) using such words as *territory, tribute*, &c., as applicable to the estates of your Memorialists, places beyond doubt that the Government of the day recognised the regal status of your Memorialists' ancestors.

2. That the Government in their deed of settlement with the Memorialists did not take away their power over their Lakhiraj lands under which category *Village Service Inams* form one class. That from the time of the transfer of the Carnatic to the British, just a century ago, when their rights to collect the Salt-tax, the Sayar, the Abkari-tax, and *more recently* the Motarfa, were found desirable to be restricted in the interests of Govern[illegible]t, sufficient compensation was awa[illegible]ed. That if the Government now find it [illegible]cessary to withdraw Village Inam[illegible]om the control of your Memorialists, sufficient compensation should be awarded to them. That when the work legitima[illegible] required for the performance of certain Revenue functions was paid for in the shape of incom frome lands assigned and certain fees in grain allowed to be collected, no legal authority has been adduced to support the over-riding of the special terms of the settlement made to add to the burden of the Proprietors by introducing salary system.

3. That the fact of your Memorialists having submitted to the Road cess is not a sufficient ground for submitting them to other cesses, as two wrongs do not make one right. That if any further efficiency is required of the present village servants for the purpose of improving Civil, Criminal, Police, and Agricultural administration of villages, the Government are bound by equity and good con-

science to pay for it from the Imperial Revenue, which is collected for purposes of such administration.

4. That even if the Memorialists should be considered no better than mere renters of Land Revenue, the Government, as lessors, have no right whatever to seek the protection of Legislature to increase the rent under the Cowle and Kabuliat agreement under which the rent has been permanently fixed under the designation of *permanent peishcush*. That the terms of the deed of permanent settlement should be strictly adhered to which was distinctly called a Cowle.

5. That when it had become an open question between the Government, as lessors on one side, and the Zemindars, as lessees on the other, whether the lessors have the right to levy any additional fees or cesses—and thus enhance the permanent assessment, such disputes should be first settled by a Court of Justice before Government, one of the contracting parties could set Legislature in motion against the other party to the contract.

6. That therefore your Memorialists humbly beg that the Government be good enough to initiate proceedings and establish their right before a Court of Judicature, or permit them to do the needful and obtain a judicial declaration of their legal rights and liabilities under the Cowles and Kabuliats between themselves and Government under which your Memorialists contend that they are not bound to pay even a single pie in addition to the permanent demand.

For which act of kindness your Memorialists, as in duty bound, shall ever pray.

MADRAS,
8th December 1893.

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13

C.

The Memorandum of the Counsel that appeared before the Select Committee of the Madras Legislative Council.

With reference to the Memorial of the three Rajahs of Venkatagiri, Kalastry and Karvetnugger, the papers appended will shew that Regulation VI of 1831 has been declared inapplicable as regards the three Zemindaries by the Highest Court in the Presidency, and that the Inam Commissioner and other officers of Government under instructions from Government acting on the belief that that Regulation did not apply committed certain acts and omitted to do certain acts which ought to have been done if that Regulation had been applicable in these cases also. It is requested therefore that these three Zemindaries be excluded from the operation of the Bill except as regards the office of Karnam; or section 2 be so worded as to contain the following :—"This act shall extend to those estates from whose assets the emoluments of village officer's were excluded at the time of the permanent settlement."

MADRAS,
18th November 1893.

D.

To

His Excellency the Right Honorable

THE VICEROY & GOVERNOR-GENERAL IN COUNCIL

OF INDIA.

The Humble Memorial of the RAJAHS OF VENKATAGIRI, KALAHASTI AND KARVETINUGGAR.

MOST RESPECTFULLY SHEWETH,

1. That the Memorialists are members of the Madras Landholders' Association, whose memorial protesting against the Madras Proprietary Estates' Village Service Bill is being submitted to Your Excellency simultaneously with this memorial.

2. That the Memorialists adopt in entirety what is urged in the said Association's Memorial, and beg to add thereto as follows:—

3. The Memorialists' ancestors held a regal status and their dominions were of the nature of a Raj.

4. That the peishcush in respect of their estates was fixed not with reference to any assets but with reference to, and in commutation of, military service thereto rendered by their ancestors.

5. That therefore whatever plausible arguments might be urged with regard to other proprietary estates to justify the proposed interference with their internal economy and administration, the same cannot apply to the Memorialists' holdings with respect to which the Sannads are distinct in scope and character.

6. That if Inams in their estates be enfranchised, the Memorialists submit they are entitled to compensation in the same way as they were considered entitled to, when they had to abandon the levy of moturpha taxes.

(1) The arguments of the Honorable Mr. Garstin are one-sided. He rests upon some statements made in the Manual of the Nellore District, and concludes that the ancestors of the present Rajahs were simply Desakavals and that they were only armed police. Had Mr. Garstin made this speech in the presence of Memorialists' Counsel it would have been effectually refuted.

(2) The Sannads that were issued from the Emperors of Delhi and the Nizams of Hyderabad show clearly that Memorialists' ancestors were not mere Desakavals. They were required by the terms of the Sannadt o furnish military aid in the times of war and were thanked for services rendered by the then Emperors from time to time, as is evidenced by old documents in the possession of the Memorialists. They established forts and garrisoned the same. They had military weapons and

arms, including big cannon, which were destroyed only 30 years ago, soon after the Mutiny, some small guns being still allowed by the Government for purposes of salute. The letters of Lord Clive and the Sannads bear testimony to the fact that the status of these three Rajahs was a great deal higher than what the Honorable Mr. Garstin endeavours to make out it was. When by Sannads the said Rajahs were relieved of all their police functions, it is illegal to demand from them any cess for the maintenance of Village Police. The ancestors of the Memorialists had military as well as police establishments like the States of Pudukota and Cochin.

(3) The contract between the Government on one side and the three Rajahs on the other ought to be held sacred, and they cannot now be said to be illegal and condemned now as is done by Mr. Garstin, after having been acted upon for nearly a century. Accepting them as sacred contracts, the Government from time to time granted the Memorialists compensation in respect of moturpha taxes and withdrew the operations of the Inam Commission from them. It cannot for a moment be said that successive Governors, and Members of Council, and Judges of Sudder Adawlut and the High Court made a series of mistakes and misunderstood the scope of the Sannads as the Honorable Mr. Garstin would contend.

7. The Honorable Mr. Garstin says that Lakhiraj lands were by mistake omitted from calculation in the Sannads of the three Zemindaries. As the Peishcush was admittedly not fixed with reference to assets, these Lakhiraj lands were not taken into account, and the Government cannot claim them now. The Government gave up their claims 30 years ago to personal grants when the Inam Commission wished to enfranchise them. The Government cannot now with any justice claim service Inams, which as well as personal grants come under the common name of Lakhiraj lands. The scope of the High Court's judgment referred to in his speech is misunderstood. In it neither the Zemindar nor Government was a party; though both were asked to join it. This case was only with reference to moturpha levied by some minor Inamdars after the moturpha compensation was given to the Rajah. The decision of Mr. Plumer, Civil Judge of Chittoor, upheld by the High Court, was dealing directly with Lakhiraj lands. The Zemindar was a party to it and the Government Village Munsif was the other party. Suit No. 13 of 1818 of Fowzdari Adawlut was between Zemindari and Government. Such decisions would appear to be acceptable as final.

8. That the Memorialists beg to refer Your Excellency to copies annexed to their memorials to His Excellency the Governor of Madras against the Bill, of September and December 1893, which, they crave, may be read as part and parcel of this memorial.

9. That the Memorialists pray that Your Excellency will refuse assent to the Bill and direct the exclusion of these three Zemindaries from the purview of the Bill, as the Peishcush was not fixed on their assets, as in the case of other Zemindaries.

For which act of justice, Memorialists will ever pray.

13th February 1894.

PROCLAMATION.

Whereas it has been necessary to the preservation of order and good government and to the maintenance of the British authority in the Zemindaries of Vencatagherry, Calastry, and Bomarauzepolliam, that the Rajahs of those places should be respectively restrained from exercising independent power, and should be subjected to the established regulations and laws of the State. Wherefore the Right Hon'ble Edward Lord Clive, Governor-in-Council of Fort Saint George, has been pleased to appoint a British Collector for the purpose of residing in the Zemindaries above mentioned and of receiving directly from the Zemindaries above mentioned and of receiving directly from the Zemindars respectively the amount of their Peishcush.

Be it known therefore to the Zemindars aforesaid and to all Talukdars, Polygars, Ryots, and others residing within the said Zemindaries, that His Lordship in Council has further been pleased to nominate Mr. George Stratton to be Collector of Peishcush.

Now whereas it has been customary for the Zemindars aforesaid to exercise Civil and Criminal jurisdiction in their respective Zemindaries, and whereas the exercise of such arbitrary power by dependent Zemindars is contrary to good government, and to the respect due to the authority of the British Government. It is hereby proclaimed that is the intention of the Right Honorable Edward Lord Clive, Governor-in-Council of Fort St. George, to establish regular and permanent Courts for the administration of justice, the security of person and property and for the punishment of crimes under limited and defined laws to be executed by the sole power and authority of the British Government. Wherefore the said Zemindars of Vencatagherry, Calastry, and Bomarauzepolliam and all Officers and others acting on their behalf and by their orders are hereby required to refrain in all time to come, from the exercise of Criminal jurisdiction and to submit all cases which may hereafter occur involving life or limb to the exclusive cognizance of the said Collector of Peishcush.

And whereas the Right Honorable Edward Lord Clive, Governor-in-Council of Fort St. George aforesaid, has judged it expedient and proper to institute an enquiry into the internal government, history, produce and resources of the Zemindaries of Vencatagherry, Calastry and Bomarauzepolliam. Be it further known to the Zemindars aforesaid that the said Collector of Peishcush has been instructed and ordered to enquire into and to take accurate accounts of the actual state of the Revenue in each Taluk, Purganah and Village, of the exact state of population, manufactures and trade, of the soil, climate, and natural products of each Zemindary, of the former and present modes of administering justice, police and law, as well as of the Civil, Military and Personal establishments of the said Zemindars. Wherefore the said Zemindars are hereby ordered and directed to take notice of the same and to aid and assist the said Collector in the execution of these extensive and important duties. But if (which God forbid) the said Zemindars or their officers acting by their authority, shall be found to oppose the progress of the necessary enquiries, such a disobedience of orders, will subject the offender to the most serious displeasure of the British Government.

In proclaiming then his intentions, the Right Honorable the Governor-in-Council, judges it expedient to assure the Zemindars and Inhabitants of Vencatagherry, Calastry and Bomarauzepolliam, of the moderation, justice, protection and security which are the characteristics of the British Government and to invite to a ready and cheerful obedience to the authority of the Company in the confidence of enjoying under the protection of public and defined laws, every just and ascertained Civil right with a free exercise of Religious institutions and domestic usages of their ancestors.

Fort Saint George, 22nd August, 1800.

By order of the Right Honorable the Governor-in-Council.

(Signed) I. WEBB,
Chief Secretary to Government.

PROCLAMATION.

Whereas by a Proclamation bearing date the 2nd day of August 1800 the Right Honorable Edward Lord Clive, Governor-in-Council proclaimed to the Zemindars of Vencatagherry, Calastry and Bomrauzepolliam his determination to subject those Zemindars respectively to the established regulations and laws of the British Government; and whereas for the better execution of that intention, it was further proclaimed that the Right Honorable Edward Lord Clive, Governor-in-Council aforesaid, had instituted an enquiry through the channel of the Collector into the actual state of the Revenue of each Taluk, Purgannah and Village, of the exact state of population, manufactures and trade, of the soil climate and natural products of each Zemindary, of the former and present modes of administering Justice, Police and Law, as well as of the Civil, Military and Personal establishments of the said Zemindars; and whereas the Right Honorable Edward Lord Clive, Governor-in-Council aforesaid, has deemed it to be necessary to the further progress of the measures described in the Proclamation aforesaid, for establishing the regular administration of justice, the security of persons and property and the punishment of crimes, that the military establishments maintained according to usage by the said Zemindars respectively for the service of the State should be entirely abolished and discontinued for ever; The Right Honorable Edward Lord Clive, Governor-in-Council aforesaid, has resolved to relieve the said Zemindars from the burthen and expense of supporting the said Military establishments and in conformity to their engagements, and to commute the military services of the Zemindars of Vencatagherry, Calastry, Bomrauzepolliam, and Sydapoor respectively for a tribute to be paid in ready money in addition to their established Peishcush. It is therefore made known and hereby proclaimed accordingly that the said Zemindars respectively have been relieved from and after the first day of the current fusly year 1212 from the obligation of furnishing troops for the service of Government of maintaining forts or garrisons and of furnishing military stores or implements.

In consequence of which commutation the Right Honorable Edward Lord Clive, Governor-in-Council aforesaid, has charged the British Government with the protection and defence of the Zemindaries of Vencatagherry, Calastry, Bomrauzepolliam, and Sydapoor, against all enemies, the possession of fire arms and of weapons of offence, having therefore become unnecessary to the safety of the said Zemindars or to the inhabitants of their Zemindaries the Right Honorable Edward Lord Clive, Governor-in-Council aforesaid, further proclaims and publishes the determination of the British Government to suppress the use and exercise of arms and military weapons and accordingly requires all persons inhabiting the said Zemindaries to discontinue the use of such arms and weapons. In order that no inducements may be wanting to the surrender of muskets, matchlocks and pikes and in order that no person may be subjected by this Proclamation a loss of his personal property, the Right Honorable Edward Lord Clive Governor-in-Council aforesaid, further proclaims that he has authorised the Collector to pay the value of such weapons to the person delivering them at the following rates :—

For each	Musket	... ...	10 Rs
,,	Matchlock	... ...	5 Rs
,,	Pike	... ...	2 Rs

But whereas it has been usual for the said Zemindars to keep in their pay, for purposes of external pomp and personal splendour, certain establishments of peons bearing arms, and whereas the Right Honorable Edward Lord Clive, Governor-in-Council, is desirous of complying with the wishes of the said Zemindars to the extent necessary to the purpose, and consistent with the other objects of this Proclamation, public and formal authority has been granted to the said Zemindars respectively to maintain the number of peons for the purpose of personal attendance according to the register to be kept of the said peons in the Cutcherry of the Collector.

It is unnecessary to assure the Zemindars of Vencatagherry, Calastry, Bomrauzepolliam and Sydapoor that the Right Honorable Edward Clive, Governor-in-Council aforesaid, in the

[illegible]mination of carrying these measures into effect, can be governed by no other motives than t[illegible] connected with the duty of providing for the permanent tranquillity of the Zemindaries. The Governor-in-Council disclaims every wish of subjecting the Zemindars to any humiliation, but the use of arms being no longer requisite under the change of the condition of their tenure and the discontinuance of that usage being indispensably necessary to the preservation of regular Government and the increase of prosperity, the Right Honorable the Governor-in-Council expects that the Zemindars of Vencatagherry, Calastry and Bomrauzepolliam will relinquish a custom now become useless and yield a cheerful obedience to those orders in the assurance of enjoying with their families, tenants and ryots, under a system of defined and public law, every civil right, together with the domestic usages and religious institutions of their ancestors.

Fort Saint George, 24th August 1802.

Published by order of the Right Honorable the Governor-in-Council.

[True Copy].

Not legible.

Secretary to Government.

To

The Zemindar of Calastry.

Under the change of circumstances which has occurred affecting the internal tranquillity and government of the Deckan, the British administration has endeavoured to direct its attention to the comfort and welfare of those who are dependent on its protection. It is known to you that in conformity to this principle your Peishcush has never been augmented, nor the usual nuzers exacted from you during the time when the administration of the Carnatic has been occasionally brought under the management of the Company.

2. With the view of perpetuating to you and to your posterity, the secure possession and enjoyment of your lands, it was provided by a treaty between the British Government and the late Nabob Mahomed Ally, bearing date in the year 1792, that your connection with His Highness should cease, and that you should be subjected exclusively to the British Government. From that time accordingly you have continued to pay the established Peishcush free from all demand of nuzer, and have enjoyed your Zemindary free from all other public charge than that attending the military establishments attached to the condition of your tenure.

3. The prosperous course of events which has attended the exertions of the British Government to fix the tranquillity of the Deckan upon a permanent foundation has rendered it necessary for me to revise the state and condition of all the military establishments dependent on this Government. For this purpose I directed the Collector of the Western Peishcush to transmit to me copies of the sunnuds in your possession with returns of the troops maintained by you, in conformity to your engagements. These documents have accordingly been furnished to me. I observe that none of the instruments produced by you specify the number of troops to be maintained by you or the quantity of warlike stores to be furnished by you as a Munsubdar of the Empire, but I find by the authentic papers transmitted by your authority to the Collector, the number of armed men now actually supported by you amounts to 5,077 and that the annual expense incurred by you in money and in lands on that account amounts to Star Pagodas (52,150) fifty-two thousand, one hundred and fifty.

4. It is a distinguishing feature of the arrangements I am about to introduce for the military protection of these territories that all the troops maintained for that purpose shall be in the immediate pay and service of the British Government. Experience has shewn this to be the most effectual means of applying the resources of the country to the protection of the whole; while the improbability of danger from foreign enemies under the late exertion of those means, renders the military establishments supported by you, according to engagement,

are heavy burthen on your resources without contributing in an adequate degree to the military strength of the State. It is not my intention on this occasion to revive the consideration of the manner in which your military establishment has been employed upon some recent occasions in direct disobedience of my orders, but is my wish that you should be apprized of the grounds on which the British Government is proceeding to reform the condition of your military serivce.

5. I have accordingly resolved that you shall be released from that obligation of your existing engagements by which you are bound to furnish troops and military stores for the service of Government, and that you and your posterity shall never be hereafter liable to demands of military aid of whatever description.

6. In consequence of this release the British Government will be deprived of a portion of its military resources, which must be supplied by other means, and you will derive from it an addition to your income equal to the amount of the expense of maintaining your military establishments. It is therefore just that your augmented resources should contribute to the support of the State an equivalent for the services now relinquished.

7. The relief of your finances will derive from the disbandment of your military peons will, according to the accounts furnished by yourself, be equal to the Star Pagodas 52,150, and independently of the discontinuance of charges for ammunition, military store garrisons, and forts; and independently also of the Revenue to be produced on the reversion of the lands now held by your Amaram and Cuttabuddy peons. I have therefore resolved to fix the equivalent to be paid by you in money at the sum of Star Pagodas (49,225) exclusively of the established Peishcush, but it being my intention to reserve in the hands of the Company the administration of the revenues derived from Sayer, Salt, and Spirituous liquors, I have deducted from your commuted equivalent the total amount of those branches of revenue being according to accounts furnished by you Star Pagodas 5,602 per annum, so that your payments will in future be fixed as follows:—

Star Pagodas		Equivalent for Military.	
Sayer	5,082	Service	43,623
Spirituous liquors ...	465	Established Peishcush	10,795
Salt	55		
Total...	5,602	Total...	54,398

8. The above sum being the total amount of the public demand for your portion of the expenses of general protection, I transmit to you under the seal and signature of the Governor-in-Council a Sunnud-i-Milkeut Istimrar, fixing the said sum of Star Pagodas 50,398 to be the permanent contribution of your Zemindary under the above heads.

9. I have also transmitted full instructions on this subject to the Collector of Peishcush who will afford to you such further explanations as may be requisite, but in conformity to the motives which have induced me to explain to you at such length the principles of this commutation I think it necessary to apprize you that my resolution is fixed on the grounds already stated, and that I have accordingly ordered the Collector to carry the arrangement into effect from the commencement of the present fusly.

10. In consequence of that arrangement it will become necessary for you to disband the whole number of military peons now maintained by you, and it is my desire that you immediately proceed to do so; it is not my intention that you should deprive yourself of a reasonable number of attendants on your person, and I accordingly consent to your retaining to the extent of 100 peons for that purpose.

11. I am aware that many adherents and connexions of your family have claims on our bounty which may be incompatible with the entire discontinuance of their stipends, and it is for this reason that I have not included in the calculation of your equivalent the whole

amount of the revenue granted for the support of the Ameram and Cuttabuddy peons, but it is no longer necessary that those lands should be held on military tenure, and I desire that the peons may be accordingly released from that condition.

12. In order that no immediate loss may arise from this arrangement to the peons in your service who have furnished arms at their own expense, I have instructed the Collector to receive the arms of those peons and to pay them individually an adequate price for their value.

13. Having thus entirely relieved you from the burthen of your military establishments, I have great pleasure in pointing out to your notice that the prospects of tranquillity connected with that measure invite you to reclaim your military peons from the pursuits of an unprofitable profession to the improvement of agriculture, and that your own releasement from the expense and anxiety of your military service offers to your immediate possession the enjoyment of peaceful life. I therefore exhort you to discharge the important duties now devolving on you by cultivating the improvements of agriculture, and by facilitating the progress of commerce within your Zemindary.

What more?

(Signed) CLIVE.

(True Copy).

(Signed) HODGSON,
Secretary to Government.

FORT ST. GEORGE,
24th August 1802.

Sunnidi Milkeut Istimirar or deed of permanent property granted by the Right Honorable Edward Lord Clive Baron Clive of Walcot in the County of Salop and Baron Plassy of the kingdom of Ireland, Governor-in-Council of Fort St. George, on the part of the Honorable the United Company of Merchants of England trading to the East Indies, to Damarla Kumar Timma Naid, Zemindar of Calastry.

It is known to you that by the ancient constitution of the Government of the Carnatic, you held possession of your Zemindary subject to payment of an annual Peishcush, to the discharge of military service and to the payment of Nuzzer and fines; that the amount of the Peishcush and the extent of the military service were undefined; and that the amount of the contribution in the Nuzzers was determinable according to the pleasure and, enforced according to the power of the Nabobs of the Carnatic. It is also known to you that the Peishcush paid by you was never augmented nor the usual Nuzzers exacted from you during the time when the administration of the Carnatic has been brought under the management of the British Government, that with the view of perpetuating to you the secure possession and enjoyment of your lands it was provided by treaty between the British Government and His late Highness the Nawab of the Carnatic Mahomed Ally bearing date the 12th of July 1792, that your dependence on His Highness should cease and that you should be subject exclusively to the British Government. From that time accordingly you have continued to pay the customary Peishcush free from Nuzzer and have enjoyed your Zemindary free from demands for Nuzzers and all other public charge than that attending the military establishment attached to the condition of your tenure.

2. British Government having now resolved that all the troops to be maintained for the protection of the territories, subject to that Government, shall be in the immediate pay and service of the British Government, has relieved you from the condition of military service, from the obligation of furnishing troops and military stores, from the service of the Government and of maintaining forts or garrisons in all times to come, it has commuted the said military service for an equivalent to be paid in money by you and your posterity.

3. In consideration of the relief which your finances will derive from the relinquishment of your military service and the discontinuance of the expense to which you have on that

account been liable, in consideration also of charging itself with the entire protection of the territories dependent on its power; the British Government has fixed your annual contribution including equivalent for military service and the established peishcush and for ever at the sum of Star Pagodas (54,398) Fifty-four thousand three hundred and ninety-eight, which said amount shall never be liable to change under any circumstances, and is hereby accordingly declared to be the permanent annual demand of Government on your Zemindary.

4. Under the Constitution erected by the British Government for the security, protection and prosperity of its territories, regulations will be framed from time to time for the improvement of the condition of the people; these regulations will be administered by independent Judges in constituted Courts of Judicature governing their decisions by the law only. The decrees of these Courts will be founded on the regulations of Government, printed, published and translated for the information and security of its subjects, and on the institutes of the Hindoo or Mahommadan laws which are open to the enquiry of all persons; the proceedings of the Adawlut will be held in open Courts accessible to persons of every description; all parties will be at liberty to attend to their own interest by their presence in the Courts during such proceedings or to employ their Vakils with such instructions regarding the mode of prosecution or defence as may appear to be most eligible to themselves; the sentences of the Court will be pronounced in the same public manner and executed by civil authority without the interposition of military force; the Collectors and other public servants of the Government will be compelled to answer in the Courts of Judicature for all acts done by virtue of their offices contrary to the regulations of Government and by which Zemindars or others may feel themselves injured, and finally the greatest practicable degree of security has been extended to the Native subjects of British Government by the establishment of a gradation of appeals from Zillah Court to the Provincial Court and from the Provincial Court to the Court of Suder Udalut at the Presidency and in the last resort from the Court of Suder Udalut to the Governor-General-in-Council of Bengal.

5. The permanent demand fixed by this Sunnud on your Zemindary is exclusive of the revenue derived from the manufacture and sale of Salt and Saltpetre; exclusive of the sayer or duties of every description, the entire administration of which the Government reserves to itself, exclusive of the tax on the sale of spirituous liquors and intoxicating drugs; exclusive of all land and roosooms heretofore appropriated to the support of Police establishments. The Government reserves to itself the entire exercise of its discretion in continuing or abolishing, temporarily or permanently, the articles of revenue included according to the custom and practice of the country under the several heads above stated.

6. You are regularly to pay in all seasons the amount of the permanent assessment above fixed, no remission will be granted on account of drought, inundation or other calamity of the season and if (which God forbid) you should fail to discharge your engagements, your personal property and your Zemindary shall be answerable for the consequence of such failure; but under the terms of the assessment on your Zemindary this event can never happen except in consequence of your own default, for the Court of Judicature will protect you against such an injury unless warranted by your failure.

7. You shall be at free liberty to transfer without the previous consent of Government or of any other authority to whomever you may think proper, either by sale, gift or otherwise, your proprietary right in the whole or in any part of your Zemindary; such transfers of land shall be valid and recognized by the Courts and Officers of Government, provided they shall not be repugnant to the Mahommadan are Hindoo Laws or to the Regulations of the British Government, but unless such sale, gift or transfer shall have been regularly registered at the office of the Collector, such sale, gift or transfer shall be of no legal force or effect, nor shall such transaction exonerate you from the payment of any part of the public land tax assessed on your entire Zemindary previously to such transfer, but your whole Zemindary shall continue to be answerable for the total land tax in the same manner as if no such transaction had occurred.

8. Your Zemindary will be liable to be sold either wholly or in part in satisfaction of a decree of a Court of Judicature, but this event under the terms of assessment can only happen from neglect of your own interests from extravagance and dissipation: to preserve your Zemindary from the consequences of past imprudence the Courts of Judicature will not be competent to entertain suits for the recovery of such debts as may have been incurred by you previously to your subjection to the British authority in the year 1792.

9. In the event however of the sale of any part of your Zemindary by gift, sale or otherwise, you shall furnish the Collector with true and correct accounts of your entire Zemindary and of the portion of the Zemindary to be so separated for a period not less than the three years preceding such sale and transfer, in order that the due proportion of the public revenue may be fixed thereon. The assessment to be settled on the separated parts of your land shall always bear the same proportion to the actual produce of the separated portion as the total permanent jumma on your Zemindary bears to actual produce of the whole Zemindary, so if the accounts to be furnished by you should be correct no partial assessment can happen nor any increase of the fixed jumma be ever made, under whatever changes or improvements your interests or your pleasure may lead you to introduce into your Zemindary.

10. Although you have free right and liberty to transfer by sale, gift or otherwise any part of your Zemindary not repugnant to the Regulations of Government, yet it shall not be competent for you to form any part of you lands into a separate estate paying its jumma directly to Government, unless the public assessments on such separate estate shall amount to the annual sum of five hundred Star Pagodas and upwards.

11. In order that you may at all times be enabled to comply with the conditions of the Article of this Sunnud by which you are bound to furnish true and correct accounts of Zemindary when required by the Collector, you shall support the established number of Kurnums in the several villages of your Zemindary. Kurnums shall be appointed from time to time by you and shall obey all regular orders issued by your authority, but they shall not be liable to be removed from their offices except by the sentence of a Court of Judicature.

12. The Government having entrusted you with the Police of your Zemindary, you shall so long as this trust shall be reposed in you apprehend and secure offenders of all descriptions and shall send all such offenders to the Magistrate.

13. You shall enter into written engagements with your ryots either for rent in money or in kind clearly defining the amout to be paid to you by such ryots individually and explaining every condition of the engagement, and you shall grant or cause to be granted regular receipts to the ryots for all discharges in money or in kind made by them to you or for your accounts.

14. The foregoing conditions contain an abstract of the obligations and duties which you shall incur and of the right which you have acquired under the constitution of the Government for the British territories of Fort St. George. Being therefore sensible of the benefits conferred on you by these institutions, and confident of enjoying the fruits of your industry, you shall be punctual in the discharge of your public engagements, you shall conduct yourself with good faith towards your ryots whose prosperity is inseparably connected with your own. You shall treat them with tenderness, encourage them to improve and extend the cultivation of the land and lay the foundation of your own happiness in the permanent prosperity of your Zemindary.

15. Continuing to perform the above stipulation and to fulfil the duties of allegiance to the British Government [illegible] law and Regulations, you are hereby authorized and empowered to hold in perpetuity a[illegible]our heirs, successors, and assigns, at the permanent assessment herein named the Zemin[illegible] of Calastry.

Given in Fort St. George this twenty-fourth day of August in the year 1802 by and in the name of the Right Honorable the Governor-Council.

(Signed) CLIVE.
„ F. STUART.
„ W. M. PETREE.
„ M. DICK.

J. N. HODGSON,
Secretary to Government,
Revenue Department.

To

THE PRESIDENT AND MEMBERS OF THE
SPECIAL COMMISSION.

GENTLEMEN,

The Right Honorable the Governor-in-Council has received your Proceedings on the reports of the Collector of Western Peishcush on the extent of the resources of the Zemindaries of Venkatagherry, Calastry, Bomrauzepolliam and Sydapoor and on the extent of the military establishment of each Zemindar.

2. Bestowed on the important question of the commutation of the Military service of those Zemindars and the investigation of authentic documents which has been made, satisfy the Governor-in-Council that your recommendations are the result of mature deliberation founded on a comprehensive knowledge of the subject.

3. The discussions which the subject of commuting the Military service of the Polygars has provoked at different periods of time; the specific manner in which it has been brought under the notice of the Court of Directors; the repeated communications of the sentiments of the Honorable Court and their recent orders for the suppression of all subordinate military establishments, render it unnecessary to retrace the grounds on which those orders have been founded.

4. The laborious and able investigations of the Special Commission have established that the extent of the Military Service which the Western Zemindars owe to the State is not defined by any existing sunnuds; these investigations have also established that Military service has been exacted from and has been performed by the Western Zemindars and the right of the sovereign power to commute that service for an equivalent in money has been substantiated by the evidence of the late Nabob Walajah having exercised that right.

5. The right of commuting the military commutation are therefore as little to be questioned, as the existence of Military Departments is incompatible with the introduction of order and Civil Government into these territories, the operation of the benevolent intentions of the Honorable Court to institute Courts of Judicature for the protection of lives and property of their subjects, would be withheld from the portion of those subjects, now suffering, under the oppression of those Zemindars, unless the commutation is made and the new constitution of Government established in the Western Zemindaries because it is idle to suppose that independent military dominion and the administration of defined laws can exist in one and the same province.

6. It has already been declared that the increase of Peishcush derivable from the commutation of Military Service is not so much a consideration of Revenue as of indispensable polity; an opinion to which the Honorable Court of Directors have fully subscribed. It is not therefore now a question whether the reform of Government in the Western Zemindaries shall take place, and whether their Military Service shall be commuted for an equivalent in money, but by what rule the estimate of that equivalent shall be defined.

7. The investigations of the Collector of Peishcush have furnished sufficient information of the extent of the resources derived by the Zemindars from their Zemindary and the amount of the resources appropriated to the discharge of the expense of that establishment in land and in money.

8. From the result of these investigations it appears that the military establishment of the Western Zemindars consists of 20,933 persons, that the annual expense of the establishment amounts to Star Pagodas 2,26,407 and it would naturally follow that the amount of the commutation should be regulated by the actual expense incurred by each Zemindar for the maintenance of military force. It has been satisfactory however to the Governor-in-Council to observe that a spirit of moderation has guided the recommendation of the Commission and that the amount of the equivalent in money for Military Service has been fixed in consideration of the claims that the Amaram and Cuttabuddy Peons may have established on the bounty of the Zemindars at a sum below the amount of the Military establishments of Star Pagodas 48,041.

9. The principles of this assessment, while it relieves the finances of the Western Zemindars from the embarrassment of military expenditure, continues them in the enjoyment of an income considerably above the usual proportion of Zemindary assessment; will leave to them ample means of gratifying every lawful pursuit, will remove every obstacle to the introduction of and secure those Zemindars from future internal commotion.

10. Under the impression of the sentiments the Governor-in-Council has no hesitation in adopting your recommendation in full and has accordingly resolved that the Military Service of the Western Zemindars shall be commuted for an equivalent in money and that the amount of that equivalent shall be the sums proposed in column 11 of your statement. The Governor-in-Council accordingly directs that you will immediately make the necessary arrangements for carrying the measure into effect.

11. The Sayer revenue being proposed to be excluded from the commutation above adopted and to be reserved in the hands of Government, the Governor-in-Council thinks that it will be admirable that the collection of internal Sayer should be suspended until it shall be determined under what modifications this branch of Revenue shall be collected, the Governor-in-Council accordingly directs that the Collector of Peishcush may be instructed to abolish for the present the collection of internal Sayer.

12. In order that the Western Zemindars may be fully apprized of the intentions of the Governor-in-Council and of the Principles which have guided the commutation of the Military Service, Lord Clive has addressed a letter to them of which a copy enclosed for your information.

13. To remove all doubt from the minds of the Zemindars of *the permanency of the present arrangement*, Sunnuds-i-Milkeut-Istimirar have been prepared under the seal and signature of the Governor-in-Council, and are herewith forwarded for transmission to the Western Zemindars.

14. These letters and the Sunnuds so fully explain the grounds of this change that the Governor-in-Council hopes it will be unnecessary for the Collector to add materially to those communications, but in the event of the Zemindars being slow to comprehend the grounds of the measure, the Governor-in-Council directs that you will instruct the Collector to assist them by patiently listening to their enquiries and by using persuasion and conciliation in reconciling them to the change by explaining that the measure adds nothing to their disbursement, but that on the contrary it leaves an additional source of revenue at their disposal. The Collector should point out that this mode of relieving their military charges has not deprived them of the means of external pomp and the Zemindars must be reminded that no doubt can exist with respect to the right now exercised of commuting their Military Service for a payment of money and the actual exercise of this right by His Highness the Nabob, in the case of the Calastry Zemindar, must be specified, and finally the Collector must apprize the Zemindars that the measure now to be executed has not been recently determined that it has been

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under the contemplation of the British Government more than seven years, that it has been repeatedly submitted to the Honorable Court of Directors and to the Governor-General-in-Council, that the arrangements now adopted are not only conformable to the wishes and intentions of those superior authorities, but in submission to their express commands, the Collector should therefore assure the Zemindars that a resolution so formally and deliberately passed will not be liable to change, and that he should guard them against the eventual danger to which they may be exposed by listening to the advice of ill-disposed persons whose interests may lead them to inflame the anxiety and to suspend the hopes of the Zemindars.

15. The Governor-in-Council has declared in a Proclamation of which I am directed to transmit you 5 copies, his determination to suppress the fire arms and weapons of offence, which he desires the Collector may be instructed to publish throughout the Western Zemindaries.

I have the honor to be,

Gentlemen,

Your most obedient and humble Servant,

(Signed) JOHN HODSON,
Secretary to Government.

FORT ST. GEORGE,
24th August 1802.

To

THE COLLECTOR OF WESTERN PEISHCUSH.

SIR,

The Special Commission having submitted to the consideration of the Right Honorable the Governor-in-Council your reports of the 15th December 1800 and 14th July 1801 on the territorial revenue and military establishment of the Zemindars of Vencatagherry, Calastry, Bomarauzepolliam and Sydapoor, His Lordship in-Council has been entirely satisfied with the care and ability with which you have conducted that investigation.

2. It having become an indispensable measure that the troops maintained for the protection of the territories subject to this Government shall be in the immediate pay and service of the British Government, the Governor-in-Council has decided that the Military Service of the Western Zemindars shall be commuted for an equivalent in money and on the recommendation of the Commission has determined that that equivalent shall be as follows:—

The Zemindar of Vencatagherry equivalent for Military Service ...	98,327
The Zemindar of Calastry equivalent for Military Service ...	49,225
The Zemindar of Bomrauzepolliam equivalent for Military Service.	27,414
The Zemindar of Sydapoor equivalent for Military Service ...	3,400
Equivalent for Military Service from the Western Zemindars ...	178,366

3. The foregoing sums include the calculation of the revenue secured to the Zemindars from Salt, Sayer, Road duties, and Spirituous liquors, but as these articles will be retained, in the hands of Government in all possible cases, the Governor-in-Council has resolved that the following deductions shall be made from the total amount of the commuted equivalent.

Vencatagherry	S. P.	8,942
Calastry	,,	5,602
Bomrauzepolliam	,,	6,382
Sydapoor	,,	576
Total S. P.		21,502

4. By these means the future contribution of the Zemindars will be fixed according to the following rates, viz.:—

Vencatagherry.

Equivalent for Military Service exclusively of Sayer, Salt and Spirituous liquor	89,385
Former Peishcush	21,673
	111,058

Calastry.

Equivalent for Military Service exclusively of Sayer, Salt and Spirituous liquor	43,623
Former Peishcush...	10,775
	54,398

Bomrauzepolliam.

Equivalent for Military Service exclusively of Sayer, Salt and Spirituous liquor	21,032
Former Peishcush	32,586
	53,618

Sydapoor.

Equivalent for Military Service exclusively of Sayer, Salt and Spirituous liquor	2,824
Former Peishcush...	6,600
	9,424
Grand Total	228,498

5. The enclosed statement will explain to you the principle in which the equivalent has been fixed in proportion to the expenses supposed to be incurred by the Zemindars for their military establishments as well as the grounds on which the revenue derived on the Zemindars from Salt, Sayer and Spirituous liquors has been determined.

6. Until some general plan shall be determined for the collection of the Sayer in the Western Zemindaries, the Governor-in-Council has resolved to suspend the collection of that branch of revenue and the Commission accordingly direct that you will proceed to abolish all the Sayer Chokies and to publish that no internal duties are to be levied until further orders. The Zemindars are however to be responsible for the Police and for the safety of merchants and travellers and their property passing through their respective Zemindaries so long as Government shall see it proper to confide to them this trust.

7. Regulations will be transmitted to you at a further period for the collection of the salt revenue and revenue derived from the sale of spirituous liquors; in the meantime you will resume and retain under your authority the collection of these branches of revenue.

8. The commutations of the Military Service of the Western Zemindars rendering it expedient that the Military peons of the Zemindars should be disarmed, the Commission transmit to you a Proclamation which you will publish in the Western Zemindars after completing the settlement by which you will be guided in the collection and purchase of arms.

9. For your information and for your guidance the commission transmit to you the copies of the Right Honorable the Governor's letters to the Western Zemindars announcing the reform of Government which His Lordship-in-Council has deemed it to be expedient to introduce in the Western Zemindaries, the resolution of His Lordship-in-Council to adopt this reform being fixed, you will explain to the Zemindars that it is not the intention of the Governor-in-Council to release from that resolution.

10. To remove from the minds of the Zemindars all doubt of the permanency of the present arrangement, the Governor-in-Council has caused Sunnuds in Milkeit Istimirar to be prepared under the seal and signature of His Lordship-in-Council for the purpose of being delivered to the Zemindars, Cabooliats corresponding with these Sunnuds are also transmitted and the Special Commission desire that you will require the Zemindars to sign and to return them to you duly executed, to this Cabooliats you will annex a Kistbundy fixing the Kists according to the seasons of produce.

11. The Enaitnamah of the Governor so fully explains to the Zemindars the grounds of his change, that the Special Commission hope it will be unnecessary for you materially to add to that communication. But if the Zemindars should be slow to comprehend the grounds of the measure, the Commission directs you to assist them by patiently listening to their enquiries and by using those modes which you shall judge to be most persuasive and conciliatory reconciling them to the change. You will particularly explain that the measure adds nothing to their disbursement but that on the contrary it leaves an additional source of revenue at their disposal which they have never yet derived from the Amerum and Cuttabuddy lands besides the great advantages to be derived from attending exclusively to the improvement of their Zemindaries. You will point out that this mode of receiving their Military charges has not deprived them of the means of external pomp; but that Government, aware of the importance which they attach to such exhibitions, has left to them full latitude to gratify those wishes. You will remind the Zemindars that no doubt can exist with respect to the right now exercised of commuting their Military Service for a payment of money; for this purpose a definition of the tenure will probably be sufficient; but they cannot fail to understand the example of the Zemindar of Calastry, when the late Nabob Wallajah commuted a part of his Military Service for a part of his annual Peishcush. You will apprize the Zemindars that the measure now to be executed has not been recently determined, that it has been under the contemplation of the British Government more than seven years, that it has been repeatedly submitted to the Honorable Court of Directors, to the Governor-General-in-Council, that the arrangements adopted are not only conformable to the wishes and intentions of the superior authorities, but in submission to their express commands. You will therefore assure the Zemindars that a resolution so formally and deliberately passed will not be liable to changes; and finally you will be fully explicit in guarding them against the expenses and eventual danger, to which they may be exposed, by listening to the advice of ill-disposed persons whose interests may lead them to influence the anxiety and to suspend the hopes of the Zemindars.

I am, Sir,
Your Most Obedient Servant,

Fo[illegible]. George, }
25th [illegible]ust 1802. }

Foujdaree Adalut.

TO THE JUDGES OF THE PROVINCIAL COURT OF CIRCUIT IN THE CENTRE DIVISION.

Gentlemen,

I am directed by the Judges of the Foujdaree Adalut to transmit to you the accompanying extract from their Proceedings of this date, for the information and guidance of the Magistrate in the Northern Division of Arcot.

I have the honor to be,
Gentlemen,
Your most obedient Servant,
(Signed) A. D. CHAMPBELL,
Register.

Foujdaree Adalut Register's Office,
24*th September* 1829.

Extract from the Proceedings of the Foujdaree Adalut, under date the 24*th September* 1829.

Read letter dated the 3rd instant, from the Provincial Court of Circuit in the Centre Division forwarding copy of a communication from the Magistrate in the Northern Division of Arcot with a translation of an Arzee to his address from the Zemindar of Calastry, requesting to be relieved from the personal performance of the Police duties.

Read also Petition presented by Tirmulrow, Vakeel, in behalf of the said Zemindar, making the same application to this Court.

The Court entirely concur in the opinion expressed by the Judges of the Provincial Court that the alternative proposed by the Magistrate of North Arcot, *viz.*, of (the Zemindar) either superintending in person the duties of Police, or of his forwarding to the Magistrate's Court the amount of monthly pay of a Native Head of Police to be appointed and paid by the Magistrate, could not with propriety be given to the Zemindar, for this would be to tax him with the expense of the Police contrary to the implied, if not the expressed, pledge given at the period of the permanent settlement. If the arrangement detailed in this Court's letter to Government, of the 22nd December 1828, is properly explained to the Zemindar, he will see that it imposes hardly any personal trouble, the detailed duties devolving on those under him, and that he is no more subject to answer unfounded complaints, than the Magistrate himself, who may be prosecuted in the Civil Court. If however the Zemindar declines to execute the Police duties or the Collector deems it inexpedient to entrust them to him there seems no alternative but the appointment, or re-establishment, of Police Aheens by the Magistrate, under the authority contained in the latter part of section XXXVIII Regulation XI of 1816 at the expense of Government.

Ordered, that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Centre Division to be communicated together with a Copy of their letter to this Court recorded above, for the information and guidance of the Magistrate in the Northern Division of Arcot.

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DECREE OF THE PROVINCIAL COURT.

ORIGINAL SUIT No. 13 OF 1818.

Plaintiff.—Mr. Thomas Fraeser, Collector of Nellore for Government

(*vs.*)

Defendant.—Woomaday Rajah Raja Valugutti Bungarooyasum Naidu Bahadur. Zamindar of Venkitaghery.

(Signed) H. LEORD, 2nd Judge.

" I. O. TODD, 3rd Judge.

1st. Plaintiff on the part of Government claims the two Lackerajee Village named Poody and Pereanuthum the first yielding annually 290-2-3 and the other 140-3-10 may be recovered from the defendant and placed under his authority. He alleges that these Villages were originally granted as Inam to Engoova Ramasawmy by the adoptive father of the Defendant, that they were subsequently enjoyed by Ramasuvamiah's two sons Purushothum, and Ramasuvami from the latter of whom defendant sequestered them on the 22nd September 1816. That the accounts will show that those Villages were excluded when the Sist was fixed and that there are Sunnuds to prove that they are regularly exempted lands not included in the jamma of the Venketaghery Zemindary and that the defendant has consequently no right to sequester them and Plaintiff therefore sues on the part of Government for restitution of the Villages of Poody and Parumanattum yielding collectively Rs. 4,315-12-3.

2nd. Defendant says the claim set up against him contrary to Regulations, to permanent Cowle granted to his adoptive father by the Government, as well as to the Cabooliat granted by him in return. He urges that he is entitled to resume the villages because having been originally granted to Engoova Ramasuvami for his subsistence so long as he officiated as Vakeel at the court of the Nabob and the Government, they were resumed on the death of the Ramasuvami. The same office having been conferred on his son Poorushothum, the villages were granted to him also and resumed at his death—Ramasuvami afterwards held them because he embezzled some money that was under his charge.

3rd. The Court in coming to a decision on the Plaintiff's claim are of opinion that the cause of action is not distinctly laid inasmuch as the nature of the deed by which the Village of Poody and Pereanuthum were granted by the adoptive Father of Defendant to the father of Engoova Soobarayadu has not been described by the Plaintiff nor has any Sunnud been produced in Court, showing on what account the Villages were placed in his possession. The Plaintiff has produced two vouchers which are called copies of extracts from Mr. Stratton's account, but in one of these the Villages are designated Enams and in the other they are appropriated for the support of a chuttrum. In the absence of the original Sunnuds, the Court do not consider these documents sufficient to prove that the Villages sued for were granted under an invalid title or that they were illegally resumed by the defendant. The defendant has also filed Copies of various letters and proceedings as well as the Sunnud Mulkiat Puttahirar which is more than sufficient to invalidate the claim set up by the Plaintiff.

4th. It is evident from the documents before the Court, that the defendant cannot be considered in the light of the other Zemindars. His family has always been Munsubadars of the Empire, and at the time of Permanent Settlement of the land Revenue the Zemindary was charged with the payment of an established Peishcush of 21,673 Pagodas to the British Government, whilst the Zemindar for the time being was bound by his tenure to maintain military establishment for the service of the State.

5th. When the Government resolved on maintaining only regular troops in their service, the Zemindar was called upon to disband those he had in his employ and as he would

in consequence have had at his disposal the amount which would otherwise been paid to his troops, he was compelled to pay an additional tribute to Government in lieu of their services; see defendant's document No. 24.

6th. The permanent tribute or sist was therefore fixed on the Zemindari of Vencatagherry without any reference to its assets and accordingly the deed of permanent settlement granted to the Zemindar unlike the deeds granted to other Zemindars, makes no mention of the Government, having reserved to itself the right of resuming Lakerajee lands or of the Permanent assessment having been fixed exclusively of Revenue derivable from such lands.

7th. It appears from the documents filed by the defendant that the plaintiff once attempted to collect the Moturpha tax in the Defendant's Zemindary and that upon a reference to the Board of Revenue in consequence of the Defendant having remonstrated the Board authorized the plaintiff to abandon all claim on the part of Government to the collection of that tax on the ground that in the permanent Cowle granted to the Zemindar the reservation of Moturpha (or professional taxes) has been specially omitted.

8th. In the opinion of the Provincial Court the reservation of Government of the right resuming Lackerjee lands having been also especially omitted in the permanent Cowle granted to the defendant, the plaintiff has no right whatever to the two villages sued for and the Court accordingly disallow his claim, dismiss his suit and award that he shall pay all costs as follows.

Costs of suit incurred by the defendant Rs. 97-0-0. The above sum to be made good by plaintiff to the defendant.

	Rs.	A.	P.
To Defendant's Pleader's fees	481	6	0
To Plaintiff's Pleader's fees	481	6	0
	962	12	0

The above sum made good by the Plaintiff. Given under my hand and the Seal of the Court this 25th day of November A. D. 1822. Delivered in Court this 25th day of November 1822.

To

THE CHIEF SECRETARY TO GOVERNMENT.

SIR,

I am directed by the Board of Revenue to transmit for the information of the Hon'ble the Governor-in-Council copy of a decree of the Provincial Court in the Northern Division in a suit instituted by the Collector of Nellore with the sanction of the Board on behalf of Government for the recovery of two Villages lately assumed by the Zemindar of Vencatagherry which originally formed a part of his Zemindary but were alienated on Inam tenure previous to the permanent settlement.

January 1823.

2. The Provincial Court have decided against the claim on the part of Government and the Board are of opinion that an appeal to the Sudr Adawlut under the circumstances of the case is not advisable.

3. The permanent Peishcush of the Zemindary of Vencatagherry was fixed upon the same principles as upon Bomarauze and Calastry and for the same reasons which induced the Board to state upon a former occasion that they considered the Zemindar of Bomarauze not to be entitled to remission on account of certain Villages having been taken from him by a decree of Court inasmuch as by the operation of that decree there was taken from him nothing on which his contribution to Government was fixed, they are now of opinion that the Zemindar of Vencatagherry is entitled to benefit by the resumption of any Village formerly alienated from his Zemindary without question on the part of Government; or being liable to assessment on the increase to his resources thereby acquired.

To Government, 20th February 1823.

4. The costs incurred in the suit are directed to be paid by the Plaintiff and the Board recommend that sanction may be granted for their payment on account of Government.

To

THE PRESIDENT AND MEMBERS

OF THE BOARD OF REVENUE.

GENTLEMEN,

I am directed to acknowledge the receipt of your Secretary's letter of the 24th ultimo, 176, and to state that the Honorable the Governor-in-Council sanctions payment by the Collector of Nellore of the costs in the suit in question amounting to Rs. 1,059-12-0.

I have, &c.,

FORT ST. GEORGE,
2nd May 1823.

(Signed) D. HILL,

Secretary to Government.

REVENUE DEPARTMENT, No. 87.

To

THE CHIEF SECRETARY TO GOVERNMENT.

SIR,

I am directed by the Board of Revenue to request that you will submit for the consideration and orders of the Right Honorable the Governor-in-Council the accompanying letter* from the Principal Collector of North Arcot, and the papers connected therewith, relative to a claim preferred in a Petition* to the Board by the Zemindar of Calastry to the village of Pedda Poloor and the profits therefrom since its assumption by Government by whom it is now held.

* 30th January 1839.

* No. 1041/38.

2. This village appears to have been granted in 1783 by former Zemindar as an Inam to one Neelaconta Naick in lieu of another village called Sookanadagul. In 1802 it was resumed by the Zemindar and held by him without interruption until 1811 when a suit was preferred in the Zillah Court of Chittoor for its recovery by one Doondoo Pundit claiming as the relation and Guardian of the heirs of Teroomul Row for whose benefit he asserted the grant was intended (though prepared in the name of Neelaconta Row). The Court decreed in favour of Doondoo * Pundit, on the ground that as the land was Lakherage the right to resume, if any existed, rested under Regulation XXXI of 1802, in the Government only not in the Zemindar reserving at the same time the right of the Government to sue if it chose.

* Enc: A in No. 3050 from the Pl: Collector of N. A. 24th December 1821.

3. As Doondoo Pundit possessed no claim to the village by inheritance and the family of Neelacon[illegible] Naik the grantee seemed to extinct, Mr. Greeme, the Collector of Chittoor, with reference to the above decision required him either to surrender the village or defend his claim in Court. Doondoo Pundit under the foregoing circumstances resigned it by Razeenamah in the year 1818 and the Collector took possession.

4. In the meanwhile Kistna Row and Streenivasa Row descendants of the Terumal Row, before alluded to, had preferred a suit in the Zillah Court against Doondoo Pundit for a moiety of the village and obtained a Decree in their favour which on appeal was affirmed by the Central Provincial Court, and when on the ground of the cession by Doondoo Pundit to

Government the Collector demurred to put them in possession, the Provincial Court overruled the objection observing that Doondoo Pundit's cession could not affect the half of the village then under litigation and since decreed to the plaintiff's who had a right to contest any claim brought by Government thereto under Regulation XXXI of 1802. The half of the village was accordingly put in their possession, and the Collector, under instructions from the Board, used them in the Court for its recovery and gained a Decree* in his favour under which the village has subsequently, up to the present time, been held by the Government.

* July 30, 1823, Enclosure A in No. 19 from their Principal Collr., No. 27, December 1825.

5. The Zemindar now rests his claim on the ground that as his permanent Cowle was framed without any reference to its assets, and as it contains no reservation in respect to the right of resuming Lakherage land as in the case of the Northern and other Zemindaries, the right to resume Inams or Lakherage lands in the position of Pedda Pooloor, belonged of right to him and by no means to the Government, and he cites a Decree by the Provincial Court of the Northern Division in favour of the Zemindar of Venkatagherry in a suit brought by the Collector of Nellore for the recovery of a village under similar circumstances.

6. On referring to this Decree, the Board find that it is strictly in point and that in submitting it to Government,* the Board advised that it should not be appealed from observing that the permanent Peishcush of the Zemindary of Venkatagherry was fixed upon the same principle as upon Bomarauze and Calastry and for the same reasons "which induced them (the Board) "to state upon a former occasion* that they considered the Zemin- "dar of Bomarauze not to be entitled to remission on account of "certain villages having been taken from him by a Decree of Court "inasmuch as by the operation of that Decree there was taken from him nothing on which "his contribution to Government was fixed, they are now of opinion that the Zemindar of "Venkatagherry is entitled to benefit by the resumption of any village without question on "the part of Government or being liable to assessment on the increase to his resources thereby "acquired." The Government appear to have "assented to this reasoning, as they author- "ized payment of the costs of the suit, without remark."

* To Chief Secretary, 24th April 1823.

* To Chief Secy. to Govt., dated 20th February 1823.

7. On the other hand the Decree of the Zillah Court of Chittoor and of the Provincial Court of the Centre Division are in favour of the right of Government to resume in preference to that of the Zemindar. But it will be noticed that they contain no allusion to the dissimilarity in the terms of the Permanent Settlement of Calastry and the other western Polliems assuming that the Peishcush was fixed as on the Zemindaries in the Northern districts upon the assets and that Regulation XXXI of 1802 applies to the former as well as to the latter. By a reference to the Kabooliat of the Zemindary of Calastry and the correspondence which passed at the time a Permanent Cowle was granted to him it will be seen at once that the Peishcush was not so fixed, and as already shewn the Regulation above-mentioned was not considered to apply to the case of the Vencatagherry Zemindar.

8. Having thus stated the circumstances of the case for the information of Government, it only remains for the Board to add their entire concurrence in Mr. Ogilvie's opinion, that the validity of the Zemindar's claim is such as could not be resisted in a Court of Law. It remains for the Government to decide whether it shall be voluntarily conceded or otherwise.

Revenue Board Office,
FORT ST. GEORGE,
4th March 1839.

(Signed) P. B. SMOLLETT,
Secretary.

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Extract from the Minutes of Consultation, dated 9th April 1839.

The Honorable the Governor-in-Council having given his attentive consideration to the circumstances set forth in the foregoing letter and to the correspondence therein referred to, concurs in opinion with the Board of Revenue as to the propriety of giving to the Zemindar of Calastry possession of the village of Pedda Poolloor in the District of North Arcot, and desires in consequence that the Principal Collector may be instructed to make over the property of the Zemindar.

(Signed) N. J. CHAMIER,
Chief Secretary.

Extract from the Proceedings of the Board of Revenue, dated 15th April 1839.

Ordered that transcript of the foregoing extract from the Minutes of Consultation with Copy of the letter to the Chief Secretary to Government to which it relates be furnished to the Principal Collector in the Northern Division of Arcot for the information and guidance with reference to his letter of the 30th January last.

[A true Extract.]

(Signed) P. B. SMOLLETT,
Secretary.

Copy of the North Arcot District Gazette, dated 3rd and 10th August 1861.

Proceedings of the Inam Commissioner, dated Palamanair, the 3rd September 1860.

Read Memorandum by Deputy Collector D. D. Darmaraya Mudally, dated 13th August 1860.

Letter from Deputy Collector A. Ramachandra Row, dated 29th August 1860.

1. The Commissioner issues the following instructions for the guidance of the Deputy Collectors employed in the Inam Commission investigation of the North Arcot District.

2. The District forms the Northern portion of the Arcot Subiah ceded by the Nabob of the Carnatic to the British Government in the year 1801. It also comprises the Palayams of Chittoor ceded at the same period, the extensions Western Palayams of Calastry and Karvatinagar transferred to British control by treaty with the Nabob in 1792, the small Taluq of Venkatagherry, the Palayam of Kungondy ceded by Tippoo Sultan of Mysore at the conclusion of the war in 1792 and the Palayam of Punganur obtained from the same territories in 1800, and recently transferred to this Collector from Cuddapah, the District originally consisted of the Taluqs north of the Palar, but in Fasli 121, some Taluqs south of that river including the Jaghire of Arni were added to it from the Southern Division of Arcot.

3. The private estates will be first noticed. The Zemindaries of Kalahasti and Karvatinagar were like the Zemindar of Venkatageri in the Nellore District permanently settled in 1803 on the principle of commutation of the Military Service tenure attached to them. The Peishcush was not fixed upon the assets of the estate, but was a proportion of the cost of the Zemindar's military establishment, inclusive of Amurams and Kattubadis, diminished by the amount of Revenue derived from Salt, Sayar and Abkari which were reserved by Government. The Inams were not excluded by the terms of the settlement, and the Government have therefore no right of reversion in them. But all lands and Russums (or fees) appropriated to the support of the Police establishments were reserved by para. 5 of the permanent Kaul. There are however no Palayaputs other General Police Service tenures coming under the above head, in either Zemindari. The Inams and other emoluments which continued to be attached to the Village Police Officers in both the estates, were declared to fall under Regulation VI of 1831, but it seems unnecessary to take any record of them at present.

Sadr. Adalut, 5th August 1851. Government, 15th, 1851.

JUDGMENT.
In the District Court of North Arcot.

PRESENT.

C. G. PLUMER, Esq., *District Judge.*

Original Suit No. 336 of 1879.

On the file of the District Munsiff's Court of Tripatty.

Appeal Suit No. 74 of 1881.

Plaintiff.

Sawcar, Krishnadass Balamukundass of Madras.

Defendants.

1. Peddareddivari Munireddy (died) his son.
2. Krishnareddy (minor) his mother and guardian Rungammah, residing in Kempoolapalam in Narayanavanam Taluq.

This is a suit brought by the plaintiff to recover a sum of Rs. 342-14-2, being the balance of teerva and road-cess with interest due by the defendant for fuslies $\frac{1875\text{-}76}{1285}$ $\frac{1876\text{-}77}{86}$ and $\frac{1877\text{-}78}{87}$.

The plaintiff alleges that the Zemindar of Karvetinagar after the abolition of the office of Receiver and Manager for the Narayanavanam Taluq of his Zemindary mortgaged the said Taluq with possession to the plaintiff for Rs. 6,90,000 and executed to him on the 20th January 1878 a possessory mortgage document and placed him in possession of the villages, &c., comprised in it that the Zemindar on the same date executed to the plaintiff a power of Attorney, that with respect to the teerva of the lands in Casum Mitta in the said Taluq cultivated by the defendant for fuslies 1285-86 and 87, the plaintiff prepared Puttahs and Muchilikas and tendered them with notice to the defendant on the 21st June 1876, 26th June 1877, and 25th June 1878, respectively, for fuslies 1285-86 and 87, that the kists for the payment of teerva and road-cess for the lands cultivated by the defendant fell due on the 30th October, 25th January, and 27th May of each of the said fuslies, that the defendant nevertheless paid a portion of the same as detailed in the plaint and put off by promises the payment of the remainder, and that teerva and road-cess due by the defendant to the plaintiff according to the above Puttahs amount to Rs. 342-14-2. Hence the suit to recover the same with interest and costs.

The defendant states that the plaintiff's claim to the teerva of the third kist of fusly 1285 is barred by law of Limitation, that the power of Attorney relied on by the plaintiff is invalid under Section 37 of Code of Civil Procedure, that the suit is affected by Section 7 of the Rent Recovery Act, that no Puttah was tendered, that the sum of Rs. 186-6-1 which is improperly included in the amount claimed, forms the teerva of Moniem Maniyam land, that the defendant's father held the office of Monigar and Munsiff, that the said land not being watered by tank, the excessive teerva charged for the same is improper, that 50 guntahs in Punja and 20 in Nunja are Moniem lands enjoyed hereditarily by the defendant from before the permanent settlement of the Karvetinagaram Zemindary, that these Moniem lands became shavi in fusly 1286 owing to the failure of showers, that as the 7 circar guntas of Nunja land entered in the Puttah for fusly 1286, have a deficiency of 2¼ guntas, the teerva of the same for fuslies 1286 and 87 should be proportionately reduced in the Puttah by Rs. 13-15-0,

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that the 39/16 guntas of land entered in the Puttah for fusly 1286 were irrigated by well, owing to want of water in the tank, that the teerva thereof should therefore be reduced by Rs. 4-2-3, that Punja rate alone is payable for the Poolathota Punja land for fusly 1287, that the excessive teerva Rs. 27-15-8 is not due, that particulars are not given for the amounts specified in Puttah as collected and for the Sadalwar amount and value of straw which are excessive, that road-cess of Rs. 0-9-1 on fruit trees for fusly 1285 is improperly included and is not due, that the ground-nut crop raised in the Punja land of $12\frac{3}{4}\frac{7}{4}$ guntas in Mittapoliem entered in the Putta failed, that Rs. 2-13-9 for the same and Rs. 1-14-0 for the Navaray and Caroo crops in the Nunja land of $1\frac{1}{4}$ guntas which also failed making in all a total of Rs. 4-11-9 are excessively charged, that teerva is not due for the two withered mango trees and for tamarind trees which are past-bearing, that Rs. 55-3-7 on the 9th October 1876 for fusly 1285, Rs. 32-0-3 for fusly 1287, and Rs. 7-0-10 for the second and third Candayams of fusly 1286 were paid, that the last mentioned sum of Rs. 7-0-10 is improperly credited to the M[illegible]m Maniyam Inam land for the first Candayam, that the value fixed for grain is not right, [illegible] payment should be made in grain alone, that some of the lands entered in the Puttah [illegible] fruit trees were in Fusly 1285 when there were crops in them taken possession of by the [illegible]indar through Receiver, that subsequent to the time they were so taken possession of no teerva is due for the lands which became shavi or for the fruit trees which were past-bearing and withered, and that this suit is the result of enmity borne by the Kurnam and others.

The following issues were settled by the District Munsiff :—

1. Whether the plaintiff's claim is unsustainable under Section 37 of the Civil Procedure Code.

2. Whether the plaintiff has no right to bring this suit under Section 7, Madras Act VIII of 1865.

3. Whether the Puttas sued upon were not duly tendered to deceased defendant.

4. Whether the deceased defendant ceased to be a Moniem in the year Sukla.

5. Whether any Moniem land was given to the deceased on account of the office of Village Munsiff.

6. Whether the said Moniem land was irrigated by the tank-water.

7. Whether the rent claimed on Nunja land is payable, if the land be irrigated by rain-water or well-water.

8. Whether the land alluded to by the 2nd defendant was granted as a Moniem before the permanent settlement, if so whether no rent is payable on the land.

9. Whether the crops on the said Moniem land dried from drought in fusly 1286.

10. Whether the remission of rent on dried crops is optional or compulsory.

11. Whether the measurement of seven guntas of Nunja land as inserted in the Putta for fusly 1286 is incorrect. If so whether the defendant is entitled to deduction of rent in proportion to the deficiency.

12. Whether 39/16 guntas of land specified in the Puttah for fusly 1286 was irrigated by well-water.

13. Whether the rent objected to by the 2nd defendant in para. 11 of his written statement is land rent.

14. Whether the contingent charges and value of straw included in the Puttahs for fuslies 1285 and 1286 are correct.

15. Whether road-cess is payable on the fruit trees for fusly 1285.

16. Whether the crops alluded to in para. 14 of the written statement dried from want of rain water in fusly 1285.

17. Whether the two mango trees alluded to in para. 15 of the written statement dried.

18. Whether the tamarind trees alluded to in the said para. of the written statement yielded no tamarinds.

19. Whether rent is not payable on the tamarind trees, if they yielded no tamarinds.

20. Whether the 3rd instalment of fusly 1285 is not due.

21. Whether the rent is usually paid in cash or in kind.

22. Whether the value of the grain alluded to in the Puttahs is correct.

23. Whether the defendant harvested the crops in fusly 1285 on lands taken possession of by the Receiver.

24. What is the correct rate of rent on Nunja land when it is irrigated by well-water.

The following additional issues were framed by the District Munsiff :—

1. Whether the office of Moniem said to have been held by the deceased, 1st defendant, was a hereditary village office within the meaning of Regulation VI of 1831.

2. Whether the Revenue authorities have any control over the land claimed to be the 1st defendant's Moniem Maniyam.

3. Whether the said land was resumed by the Karvetnagar Zemindar in the year Sukla.

The District Munsiff passed a decision directing the 2nd defendant to pay to the plaintiff the rent claimed for the third instalment of fusly 1285, and the rent claimed for fusly 1286 with proportionate costs, minus the rent of the two dried mango trees and minus the rent of the Moniem Maniyam land included in the Puttah for that fusly Exhibit B. and disallowed the remaining part of the plaintiff's claim.

The plaintiff appeals on the following grounds :—

1. That the decree of the lower Court is against the weight of evidence.

2. The District Munsiff was wrong in holding that the office of Moniem formerly held by the deceased, 1st defendant, was a hereditary office within the meaning of Regulation VI of 1831.

3. The District Munsiff was worng in viewing the land formerly held as Moniem Maniyam as still continuing to be such Moniem Maniyam.

4. The District Munsiff was wrong in holding that the power of appointing persons to the office of Moniem and of dismissing them from such office is vested in the Collector and not in the Zemindar.

5. The District Munsiff was wrong in holding that the Revenue authorities had any control over the land formerly held by 1st defendant as Moniem Maniyam.

Mr. Subramaniem appeared for plaintiff appellant.

Vakeel Sivaramiah for defendant respondent.

1. It was conceded at the hearing of this appeal that the only questions to be decided are whether the lands claimed by defendant as Maniyam land or lands, which he is entitled to hold rent free and whether as held by the District Munsiff. Regulation VI of 1831 applies so as to oust the jurisdiction of the Court from deciding plaintiff's claim for rent on those lands.

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2. The defendant's claim is that his father was the Moneyagar of Casamitt Village, that that is an hereditary office within the meaning of Regulation VI of 1831, that he is entitled to succeed his father, that the laws referred to in the written statement of the defendant as Moniem lands are lands set apart to be held free of rent by the Moneyagar and Village Munsiff, that the plaintiff's claim to recover rent on those lands is not cognizable by a Civil Court, that though his father was dismissed from the office of Moneyagar, that act was ultra vires that the powers of appointment and dismissal of Moneyagars rests with the Collector and not with the Zemindar.

3. The plaintiff traversed all the above pleas, the District Munsiff found all the above points in favour of the defendant, and it is against that part of the judgment of the District Munsiff that the plaintiff appeals.

4. In my opinion that the defendant wholly failed to prove that the office of Moneyagar was an hereditary village office to which certain revenues were annexed by the State within the scope of Regulation VI of 1831.

5. In my opinion that Regulation has no application to the present suit.

6. There is not a particle of evidence adduced to show when this office of Moneyagar was first made in this Zemindary; all that the evidence shows is that for one or two generations, the defendant's family discharged the duties of Moneyagar and that in payment of his services, he enjoyed a certain piece of land rent free.

7. In the view that I take, the Zemindar has a perfect right to abolish the office of Moneyagar to-morrow all over his Zemindary if he thinks proper and to collect rent on the lands which those who discharge the duties of Moneyagar now hold rent free, he could appoint any one he chose on fixed salaries to collect the rents in his village and could resume all the so-called Moniem Maniyams.

8. I cannot find that the Zemindar is bound by statue to keep up the office of Moneyagar.

9. By Section 11, Regulation 25 of 1802, Zemindars are compelled to support the regular and established number of Curnams.

10. The preamble of Regulation 29 of 1802 abolishes all other Village officers, but that of Curnam and the sunnud I. Milkint Istimirar granted to this Zemindar renders it incumbent on him to support the established number of Curnams.

11. But there is no regulation and there is no provision in his sunnud whereby the Zemindar is bound to keep up the appointment of Moneyagar.

12. If the Government had considered this necessary, a regulation would have been passed as in the case of Curnams and a similar provision have been inserted in the sunnud.

13. It is true that Section 4, Regulation 25 of 1802 recites that Government reserved to itself the exclusive right on the articles of revenue included according to the custom of the country under the several heads of * * * * * * of Lakheraj lands and of all other lands paying only favourable quit rents and that the permanent assessment of the land tax should be made exclusively of the said articles.

14. But in the case of this Zemindary of Karvetinagar as of the Zemindaries of Venkatagiri, Calastry and Sydapur, the sunnud granted to those Zemindaries shows that Government did not avail itself to the full of the powers of reservation granted to it by the above regulation as I showed in my judgment in A. S. Nos. 147 to 158 of 1872 which was upheld on Special Appeal by the High Court. Special exceptions were made in this respect in the case of the above four Zemindaries and as in that case I showed that the Moturpha tax levied in this Zemindary was included in the assets of the Zemindary on which the perma-

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nent assessment was fixed so likewise in the case of Lakheraj lands in this Zemindary the sunnud shows that Government did not reserve to itself the right to deal with those lands and that they were included in the assets on which the permanent assessment was fixed.

15. Para. 5 of the sunnud runs thus "the permanent demand fixed by this sunnud on your Zemindary is exclusive of the revenue derived from the manufacture and sale of salt and saltpetre exclusive of the sayer or duties of every description the entire administration of which the Government reserves to itself exclusive of the tax on the sale of spirituous liquors and intoxicating drugs exclusive of all kinds and russooms heretofore appropriated to the support of the Police Establishments." Not a word is said about Lakheraj lands which, as a matter of fact, were included in the assets on which the permanent assessment of this Zemindary was settled, so that in this Zemindary certainly even if these so-called Moniem lands were Lakheraj lands at the time of the permanent assessment (a point on which the defendant adduces no evidence) still as they were included in the assets on which the assessment was settled, the Zemindar has the right to resume them free of Government interference. See Selwyin's decisions, S. W., No. 8 of 1816, I. 138 : See also the 23rd rule for the adjudication and settlement of Inam lands in which it was decided by Government that such of the Inams situated in Zemindaries *as were excluded* from the assets on which the permanent assessment was fixed were to be included in the adjudication and settlement by the Inam Commissioner 'Expresso unius est exclusio alterius' Inams which were included in the aforesaid assets were not to be adjudicated on.

16. It is found by the District Munsiff that the right of appointing and dismissal of Moneyagars in this Zemindary rests with the Collector.

17. As I have said, in my opinion, the Zemindar is not bound to have any such Officer in his Zemindary. A Moneyagar is merely the name for a person who collects the revenue. Now the Government has nothing to do with the collection of the reveuue or more properly speaking the rents in Zemindaries. Why should Government interfere with the appointment of persons named by the Zemindar to collect his rents. As a matter of fact, the documentary evidence filed in this and A. S., No. 81 of 1881, which was heard with this case shows clearly that the Zemindar himself has always appointed, dismissed, and suspended Moneyagars and this power is impliedly assented to by the Collector in his letter marked "F" in A. S., No. 81 of 1881.

18. Regulation 4 of 1816 to which the District Munsiff refers does not appear to me to have any bearing on the present case. All that that Regulation (if it applies to Zemindaries at all) provides is, that the person who collects the revenue shall be ex-officio Village Munsiff and so we find in his letter "F" the Collector, following the law, writes to the Zemindar that whenever he dismisses a Moneyagar and appoints a successor he should inform the Collector, so that he may grant a sunnud as Village Munsiff to the successor so appointed.

19. Regulation 4 of 1816 does not make compulsory the appointment of a Moneyagar; it only provides that whoever shall collect the revenue shall be Village Munsiff, it provides that a renter residing in the village shall be Village Munsiff—so that clearly does not contemplate the necessary existence of a separate officer for the collection of the revenue.

20. It certainly seems open to argument whether Regulation 4 of 1816 applies to Zemindaries for, it seems to assume that in every village revenue will be collected, of course, in all Government villages revenue will be collected, but so far as the Government was concerned, it had nothing to do with the collection by the Zemindars of their rents so long as the Zemindars paid their peishkush, they might or might not so far as it concerned the Government collect rent in their villages but whether the regulation applies to Zemindaries

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or not it certainly, in my opinion, does not confer any right of appointment of Moneyagars or Collectors, nor, can I find any regulation or act obsolete or in existence which conferred or confers that power, and reasons seem to suggest that as the Zemindar alone is interested in the collection of his rents to him above should it be left to appoint persons to collect them.

21. In the present case I am of opinion that the 2nd defendant cannot of right claim the appointment of Moneyagar nor can he claim to hold the lands referred to in his written statement as Moniem Maniyam lands rent free, that the lands have been enjoyed by his father and by him since they ceased to discharge the duties of Moneyagar and that the 2nd defendant is bound to pay the rent claimed for those lands for the 3rd instalment of fusly 1285 and for fusly 1286 and I adjudge that the 2nd defendant do pay to plaintiff the said rent as abovesaid and that he do pay plaintiff the proportionate costs in the Lower Court on the amount of rent now allowed and he do pay the costs of this appeal.

Pronounced in open Court this 13th September 1881.

(Signed) C. G. PLUMER,
District Judge.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the fifth day of April,

One thousand eight hundred and eighty-two.

PRESENT:—

THE HONOURABLE SIR CHARLES A. TURNER, KNIGHT, C.I.E., *Chief Justice.*

THE HONOURABLE MR. JUSTICE MUTTUSAMI AIYER, C.I.E.

SECOND APPEAL No. 974 OF 1881.

Krishna Reddi, minor, by his mother and guardian Rungamma. ... *Appellant (Defendant.)*

Sowcar Krishnadass Balamukundas... *Respondent (Plaintiff.)*

Second Appeal against the decree of the District Court of North Arcot in Appeal Suit, No. 740 of 1881, presented against the Decree of the Court of the District Munsiff of Tirupati in Original Suit No. 336 of 1879.

JUDGMENT.

With the exception that the Judge has doubted whether Regulation IV of 1816 will, under any circumstances, apply to Zemindari Estates, his judgment appears to us sound, in reference to the facts found in this case. Although as the Judge has pointed out, a Zemindar is bound to appoint Curnams, there is no Regulation which imposes on him the obligation to appoint Moneyagars. There is no proof that the lands now in question, were at any time assigned by Government for the support of the Moneyagar, and there is no proof that, at the time the permanent sanad was issued, these lands, which are admittedly within the area of the Zemindari, were excluded. The sanad in this case excludes lands appropriated to the support of the Police, but there is no mention of the exclusion of lands held by Moneyagars, and the office of the Village Magistrate was not constituted at the date when the sanad was issued. This being so, the Zemindar was at liberty to refrain from appointing a Moneyagar and to resume any lands he had allowed the Moneyagar to hold as remuneration for his service.

The Respondent was, therefore, at liberty to resume and assess the lands, held rent free by the Appellant and his predecessor.

We are, however, unable to share the Judge's doubt whether Regulation IV of 1816 is applicable to Zemindaries, though the decision of the point is not essential to the decision of this case. It appears to us, that, when an officer has been appointed by a Zemindar, on whom the functions of a Village Munsiff could devolve, he, in virtue of his office, acquires the powers and is subject to the liabilities conferred on Village Munsiffs by the Regulation.

We dismiss the Appeal with costs.

Signed T. WEIR,
Registrar,
Appellate Side.

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REGULATION SUIT NO. 16 OF 1890.

Pathakamuri Subbayya of Chimata Podili Division—Plaintiff.

1. Zemindar of Venkatagiri, 2. Amil of Podili—Defendants.

The Plaintiff in this suit sued to obtain possession of the Shroff's Inam land in the village of Chillamkur and entered as the Defendants in this suit the names of the Rajah of Venkatagiri and his Amil at Podili, the village being included in the Zemindari of Venkatagiri.

2. The Amil alone was summoned but he does not appear.

3. The Plaintiff cited 5 witness, of whom 4 appeared, one of these, the village Kernam, was examined and he proves that certain land in the village is set apart as Shroff's Inam, that Plaintiff is entitled to the Shroff's post by mirasie right and has been doing Shroff's work for the last 2 years, though not regularly appointed by any one. He also proves that one V. Narayanasawmy Chetty who temporarily did Shroff's work under orders of the Amil claims the produce of the Inam and that this produce for the last 2 years has been kept under attachment by the Amil.

4. The Deputy Tahsildar of Podile made a departmental enquiry into this case and it appears from that enquiry also that the Plaintiff is entitled to the Shroff's post by mirasie right.

5. The appointment of all village servants, except the Kernam, in Zamindari villages rests with the Revenue Department and the Zemindari authorities have no right to interfe.e with such Inam.

6. I find that Plaintiff is entitled to the post of Shroff's in the village by mirasie right. I confirm him in that post and as there is evidence to show that he has discharged the duties of the office for the last two years, I direct that the produce of the Inam for the last two years, now said to be under attachment, be handed over to the Plaintiff. I further direct that Plaintiff be put into possession of the Inam land.

7. The Deputy Tahsildar of Podili will endeavour to give effect to this decree. If the parties concerned decline to abide by it, the Plaintiff should apply to a civil court for execution.

11—7—93. (Signed) F. H. HAMNETT.
Ag. Sub-Collector.

(True copy.)

F. H. HAMNETT.

Forwarded to the Plaintiff Pothakamuri Subbayya of Chimata, Podili Division.

49. 29/32

Parties who are dissatisfied with this decision may either apply to the ctor of Nellore for revision or appeal to the Board of Revenue within three nths from the date of this decision.

(Signed) F. H. HAMNETT.
Ag. Sub-Collector.

To

The Plaintiff through Deputy Tahsildar of Podili.

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IN THE COURT OF DISTRICT MUNSIF AT KANIGIRI.

Original Suit No. 915 of 1890.

Wednesday, the 23rd day of September 1891.

PRESENT : M. R. R. R. ETHIRAJULU NAIDU GARU,
B. A., B, L., AG. DIST. MUNSIF.

Vutukuri Narayanaswami setti Komati trader, employee and a resident of Chilamakur Podili Division. — Plaintiff.

Versus.

1. Potakamuru Subbarayudu Kamsala living by employment &c. at Chimata Podili Division.
Supplemental.
2. Unde Rajaha Raje the Honorable Sir Raja Velugoti Sri Rajagopala krishna Yachendra Bahadar K. C. I. E Panchahazar Munsabdar Raja of Venkatagiri. — Defendants.

Suit to recover possession of a piece of land measuring 2 gorrus, valued at Rs 50-0-0, and situate at Chilamakur, Podili Taluk. Venkatagiri Zemindari. The plaint states that the plaint land is the Inam attached to the shroff's service in the village of Chilamakur; that the Raja has power to appoint competent persons for village offices, when the duties connected with them are either neglected, or not performed owing to the illness of the incumbent holding the offices; that (1) as the late Potakamuru Subbarayudu was very old and fell ill, (2) as the shroff's duties were not performed by him during that state, (3) as there were none (either his sons or brothers) able to perform them, and (4) as the said Subbarayudu consented for the service being bestowed on others, and the duties being done by them, the Raja appointed this Plaintiff as shroff of the village on 22nd July 1885 and delivered possession of the emoluments attached to the office to Plaintiff; that ever since, the Plaintiff himself has been performing the service of shroff and enjoying the emoluments; that the 1st Defendant has occupied the plaint land in August or September 1890, with the help of Plaintiff's enemies, V. Chennapa Nayudu and others; that subsequently the Plaintiff came to understand that the 1st Defendant sued the Amil of Podili before the Sub-Collector of Nellore under Reg: VI of 1831 for the recovery of the land in dispute; and that 1st Defendant took possession of the land on the strength of the Sub-Collector's decision in that case; that the Sub-Collector had no power to pass such a desision; that he had no Jurisdiction to maintain such a suit under Reg: VI of 1831; that even if he had, this Plaintiff was no party to that suit and is therefore not bound by that decision that therefore the 1st Defendant is a trespasser upon the suit land; and hence the suit for its recovery.

2. The 1st Defendant pleads that Plaintiff has no Mirasi right to the suit Inam; that the land in dispute was not taken possession of by 1st Defendant improperly while under Plaintiff's possession; that the Raja of Venkatagiri should have been added as a party to this suit; that the late Subbarayudu,

Junior paternal uncle to 1st Defendant, was entitled to the Mirasi right of shroff's Inam, and has been for a long time doing the duties of shroff and enjoying the suit Inam land; that he died 4 years ago; that the 1st Defendant is his heir and entitled to the said Miras; that Plaintiff has nothing to do with the said land; that during the absence of 1st Defendant in the south, Plaintiff got himself appointed by the Amil of Podili to the Shroff's service in 1885 for only one Fasli in collusion with the Karnams and kapus of the village, with the evil intention of depriving 1st Defendant of his *Mirass* right; that 1st Defendant came to know this, and submitted a petition in 1888 to the Raja of Venkatagiri to confirm his *Mirass* right and deliver possession of the suit land to him; that thereon the Raja ordered that the produce of the suit land should be kept in deposit, without being given to Plaintiff, till the final disposal of 1st Defendant's petition; that in accordance with the said orders, the Amil of Podili issued a *Takid* to the village officers of Chilamakur to that effect in November 1888: that ever since, the Plaintiff has been kept out of possession of the suit land, and it has been in the possession of the Raja; that as no final orders were passed on 1st Defendants petition the 1st Defendant sued the Raja and the Amil before the Sub-Collector of Nellore in 1890 under Reg. VI of 1831 for establishing his *Mirass* right to the shroff's Inam, and recovering the land; that the said case was decreed in 1st Defendant's favor; that according to the said decree, the Deputy Tahsildar of Podili, delivered possession of the Inam in question with the produce of previous 2 years, to 1st Defendant, and obtained a receipt from him; that on the date of his filing the above said summary suit before the Sub-Collector, the suit land was not in Plaintiff's possession but was in that of the Raja; that it was therefore that Plaintiff was not made a party to it; that the Plaintiff's suit in S. C. 31 of 1890 on the file of this court for the recovery of the produce of the suit land from one T. Narsayya, was dismissed on the contest of the said Narsayya that the produce of the land was ordered by the Raja to be kept in deposit till the disposal of the 1st Defendant's petition and that for all these reasons, this suit must fail.

3. The Raja of Venkatagiri was added as 2nd Defendant. He fully supports Plaintiff's case and opposes 1st Defendant's contention.

4. The issues settled are.

I. Has 1st Defendant's family a *Mirasi* right to the land in dispute, and is 1st Defendant entitled to the *Mirasi*, or, is it merely at the disposal of 2nd Defendant for the service alleged by Plaintiff and is 2nd Defendant free to appoint any one he pleases for the service?

II. Was Subbarayudu removed by the 2nd Defendant from service, on proper and sufficient grounds, or did the said Subbarayudu resign the said office.

III. Had the Sub-Collector jurisdiction to pass the decision relied on by 1st Defendant, and is Plaintiff bound by it and why,?

5. Plaintiff examined the following witnesses.

1. Chilamakuri China Kotayya, 2. Kakani Lakshminarsu, 3. Virella Chennapa Nayudu, 4. Vutukuri Narayanaswami Setti.

6. The 1st Defendant examined the following witnesses: 1 Makineni Pilla Kondayya. 2. Vutukuri Mangayya Setti.

7. Plaintiff filed the following documents.

Ex. A. Dated 1st September 1890. Takid issued to Plaintiff by the Amil of Podili.

Ex. B. (Produced by 2nd Defendant's Vakil) Dated 6th July 1889. Hukum issued to the Tahsildar of Podili by the Dewan of Venkatagiri.

Ex. C. (Produced by 2nd Defendant's Vakil) Dated 2nd July 1885. Kyfiat given by the Kapus and Karnams of Chilamakur before the Podili Tahsildar.

Ex. D. (Do.) Dated 22nd July 1885. Kyfiat given by this Plaintiff before the Podili Tahsildar.

Ex. E. Collection account for the village of Chilamakur for Fasli 1297.
" F. Do. Do. 1295.
" G. Do. Do. 1296.
" H. Shroff's Chittah book of Chilamakur for Fasli 1300 (entries not filled up).

8. 1st Defendant filed the following documents.

Ex. I. (Produced by 1st Defendant's 1st Witness) Dated 7th November 1888. Takid issued to the village authorities of Chilamakur by the Podili Amil.

Ex. II. (Produced by 1st Defendant's 2nd Witness) Dated 12th August 1890. Takid issued to the village Munsif of Chilamakur by the Deputy Tahsildar of Podili.

Ex. III. Decision of the Sub-Collector of Nellore in Case No. 16 of 1890.

Date of presentation of plaint, 8th December 1890.
Do. Written statement, 23rd January 1891.
Do. Settlement of issues, 4th July 1891.

9. This is a Suit by Plaintiff for the recovery of Shroff *Maniem* lands situate in the village of Chilamakur of Podili Taluk of the Raja of Venkatagiri. One Potakamuru Subbarayudu was this village Shroff 6 years ago and he was in the enjoyment of this *Maniem* till his death. The evidence before me proves that the deceased Potakamur Subbarayudu was not able to attend to his Shroff duties for a few months before his death and that Plaintiff was then doing his duties.

It is all conceded by 1st Defendant that Plaintiff was in the enjoyment of the emoluments of this office for the first 3 years of his appointment. 2nd De-

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fendant in the Suit, is the Raja of Venkatagiri. He supports Plaintiff's contention that he was appointed by him; and that he could not be ousted of his appointment by the Sub-Collector. 1st Defendant in the Suit is a nephew to the deceased Subbarayudu and a rightful owner to the appointment. He, as such, laid out his claims for the appointment of Shroff of the village of Chilamakur before the Sub-Collector of Nellore and obtained a decision in his favor. That decision is marked in this case as Ex. III.

10. Has 2nd Defendant any right to appoint any one he pleases for the services of Shroff, overlooking the rights of 1st Defendant to it, and has 1st Defendant any right to the appointment in question? The 1st Defendant is admittedly the Nephew (Elder Brother's Son) to the deceased Subbarayudu died issueless; and, therefore, it is evident, that the 1st Defendant is the proper inheritor of the rights and privileges to the appointment which the deceased uncle of his, was enjoying till his death. The theory of resignation or dismissal of Subbarayudu is not borne out by evidence. Examined A. B. C and D filed by Plaintiff simply prove that he was doing duties of Shroff for the first 3 years after Subbaraydu's death. If Plaintiff was actually appointed as Shroff in the life time of Subbarayudu where is the Takid conferring the appointment on him. Examined 'E to H.' do not avail him much. They are the accounts prepared by him during the tenure of his office as Shroff. That this office is a hereditary one, is an undisputed fact. If really, it is not a hereditary one, the 2nd Defendant who is strongly supporting Plaintiff, would come forward with all the documents in his possession to gain say 1st Defendant's contention. And it is reasonable to suppose that the 2nd Defendant is in possession of enough of information that the village office is a hereditary one. I will certainly hold the opinion, that the 2nd Defendant is not fighting out his cause through Plaintiff very honestly. Regulation VI of 1831, lays down very clearly that the Zemindars have no right to interfere with the appointments to the village officers within their Zemindari Plaintiff's Vakil Cases his argument in support of contention that the appointment vested with the 2nd Defendant on a printed decision of Mr. Plumer the late District Judge of North Arcot. I am not bound to follow that decision, and it does not seem, in my opinion, consistent either with reason or with fraction or with the explanation given by the Board of Revenue in its standing orders No. 172. Mr. Plumer in paras 7 to 9 of his Judgment says "In the view that I take, the Zemindar has a perfect right to abolish the office of Moneyagar to-morrow all over his Zemindary if he thinks proper and to collect rent on the lands which those who discharge the duties of Moneyagar now hold rent free," he could appoint any one he chose on fixed salaries to collect the rents in his village and could resume all the so-called Maniem Maniems. I cannot find that the Zemindar is bound by statute to keep up the office of Moneyagar. By section 11, Regulation 25 of 1802, Zemindars are compelled to support the regular and established number of Karnams. But the Vakil for Plaintiff did not deem it his business to prove, that the 2nd Defendant had ever exercised the wished for power of appointing, dismissing, or suspending Shroffs of this or any other village within his Zemindari. Standing order No. 172 runs thus :— The Regulation (VI of 1831) is applicable to all village officers, whether situated in Zemindary estates or elsewhere, except in the particular case of Karnam or

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village accountant in a permanently settled estate, which appointment is especially provided for by a separate enactment. It has been held by the late Court of Sudder Adalat that the Regulation applies to the hereditary offices held by village artisans"! This sets at naught the contention of 2nd Defendant. Regulation VI of 1831, confers on him no power whatever to interfere with the appointment or dismissal of village officers within his Zemindary. This power is vested only in the Revenue authorities of the Government. 1st Defendant sued, before the Sub-Collector of Nellore, to obtain possession of the Shroff Inam land in the village of Chilamakur, and entered as the Defendants in that suit, the 2nd Defendant in this suit and also the Amil of Podili. The Sub-Collector rightly decided the case against the 2nd Defendant and his Tahsildar of Podili; and he held that the appointment of village servants in Zemindari villages rested with the Revenue Department and the Zemindary authorities had no right to interfere with such Inams. In virtue of this decision, 1st Defendant obtained possession of plaint property which the Plaintiff in this suit now seeks to recover. This Regulation is intended also, in my opinion, as a safeguard against the evil-doings of the Zemindar's officials and the beneficial effects contemplated under it by its framers as pointed out by the Board of Revenue in its Standing order No. 172, would be frustrated if the contention of the 2nd Defendant is allowed. For these various reasons, I am constrained to give my findings on the issues 1 and 3 against Plaintiff and dismiss his suit. No separate finding is necessary on the issue No. 2. This Suit must also fail for the reason that the Regulation VI of 1831, prohibits the Civil Courts from taking cognisance of the suit of the nature before me (vide Madras High Court reports Vol. IV page 70) In the result, I dismiss Plaintiff's suit and direct him to bear 1st Defendant's Costs.

Pronounced in open Court this 23rd day of September, 1891.

(Signed) R. ETHIRAJULU NAIDU;
Acting District Munsif.

Signed on 30th October, 1891.

(Signed) R. E.
Ag. District Munsif.

(True Copy.)

200 Copies, 11-8-94.

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IN THE DISTRICT COURT OF NELLORE.

Thursday, the thirtieth day of November

one thousand eight hundred and ninety three.

PRESENT:—C. RAMACHENDRIER ESQUIRE, *District Judge.*

Appeal Suit No. 495 of 1891.

Vutukur Narayanaswamisetti, Komati and trader &c., of Chilamakur, Podili Division. — APPELLANT (plaintiff).

Versus.

1. Potakamur Subbarayudu, Goldsmith living by employment at Chimata, Podili Division.
2. Undey Rajaha Raja, the Honourable Sir Rajah Velugoti Sri Rajagopala Krishna Yachendrulavaru, Bahadur, K. C. I. E., Panchahazar, Munsubdar, Raja of Venkatagiri. — RESPONDENTS (defendants).

Appeal Suit No. 489 of 1891.

1. Potakamur Subbarayudu, Goldsmith living by employment at Chimata, Podili Division.
2. Undey Rajaha Raja, the Honourable Sir Rajah Velugoti Sri Rajagopala Krishna Yachendrulavaru, Bahadur, K. C. I. E., Panchahazar, Munsubdar, Raja of Venkatagiri. — APPELLANT (2nd defendant.)

Versus.

1. Potakamur Subbarayudu, Goldsmith living by employment at Chimata, Podili Division.
2. Vutukur Narayanaswamisetti. Komati and trader of Chilamakur, Podili Division. — RESPONDENTS (1st defendant and plaintiff).

Appeals against the Decree of the District Munsiff's Court of Kanigiri in Original Suit No. 915 of 1890 dated 23rd September 1891.

These regular appeals coming on for hearing this 30th day of November 1893, the Court delivered the following

Judgment :—

The subject matter of the suit is certain land attached to the office of Shroff in the 2nd defendant's Zemindary village of Chilamakur in Podili Division in the Taluq of Ongol.

2. The office was held by one Potakamur Subbarayudu of goldsmith caste and paternal uncle of the 1st defendant. Subbarayudu fell ill ; and the 2nd defendant, the Rajah, appointed the plaintiff, Komaty, to the office in July 1885, who did duties and held the Inam which was made over to him.

3. The 1st defendant sued the Raja and his amildar in Regulation Suit No. 16 of 1890 on the file of the Sub-Collector for possession of the Shroff Inam

asserting his mirasi right thereto. The amildar alone was summoned, but he did not appear. The Sub-Collector passed the following decision directing that the 1st defendant be put in possession of the Inam.

"The appointment of all village servants except the Karnam in" "Zamindary villages, rests with the Revenue Department; and the Zemin-" "dary authorities have no right to interfere with such Inams."

"I find that plaintiff is entitled to the post of Shroff in the village by "mirasi right. I confirm him in that post, and as there is evidence to show that "he has discharged the duties of the office for the last two years, I direct that "the produce of the Inam for the last two years, now said to be under attachment, "be handed over to the plaintiff. I further direct that plaintiff be put in "possession of the Inam land.

"The Deputy Tahsildar of Podili will endeavour to give effect to this "decree. If the parties concerned decline to abide by it, the plaintiff should apply to a Civil Court for execution."

4. The Sub-Collector has not quoted his authority for his jurisdiction over the Shroff's office in a Zemindary village, and the Inam attached thereto. The office was created by the Zemindar, and the Inam land attached to it as emolument, belonged to him. He might abolish the office and resume the Inam if he had not made it hereditary, which would entitle the grantee's heirs to claim possession as against him.

5. Regulation VI of 1831 has no application to the plaintiff's case; for it is not said that the emoluments were assigned by the State. This is not a Karnamship which would fall under the provisions of Regulation XXIX of 1802.

6. The decree of the Sub-Collector has no legal force and will not affect the plaintiff and 2nd defendant, nor will it confer right or title on the 1st defendant, who had been out of possession from 1885 to July 1890. The 2nd defendant admits having appointed the plaintiff as Shroff, and his right to hold the Inam. The proper course for the 1st defendant is to sue the 2nd defendant for a declaration of his mirasi or hereditary right, and for possession of the property from him and plaintiff, and this question cannot be tried in the present suit. The 2nd defendant had denied his hereditary right to the office, and had kept the produce under attachment.

7. I reverse the Lower Court's decision and direct that the 1st defendant do make over the plaint land to plaintiff and bear all costs of the plaintiff in both the Courts.

8. This judgment disposes of the appeal in No. 489 of 1891 preferred by the 2nd defendant.

9. The 1st defendant will bear all costs of the 2nd defendant in both the Courts.

Pronounced in open Court this 30th day of November 1893.

C. RAMACHENDRIER,

District Judge.

(True copy). C. RAMACHENDRIER,

District Judge.

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MADRAS ACT No. II OF 1894.

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

[*Received the assent of His Excellency the Governor on the 8th February and of His Excellency the Viceroy and Governor-General on the 29th March* 1894.]

An Act to amend the Law relating to Village Officers in Permanently-settled and certain other Estates

WHEREAS it is expedient to amend the law relating to village officers in p[illegible]manently-settled estates, in unsettled pálaiyams, and in inam villages, and to make better provision for their appointment and remuneration, and for the prevention and summary punishment of misconduct or neglect of duty on their part, and, generally, for securing their efficiency; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Madras Proprietary Estates' Village Service Act, 1894. Short title.

2. The Government may, by notification, extend this Act or any portion thereof to any estate within the Presidency of Madras, and to the office of any of the following classes of village officers, by whatever designations such village officers may be locally known, in such estates:— Extent.

(1) Village accounts.

(2) Heads of villages.

(3) Village watchmen or police officers.

In case of doubt whether a village officer in any estates falls under any of the above classes, the Government shall have power to decide whether such village officer comes under any of the above classes and, if so, under which of them.

3. Upon the extension of this Act or of any portion thereof to the office of Village Accountant in any estate, section 11 of Madras Regulation XXV of 1802 and Madras Regulation XXIX of 1802 (A Regulation for establishing the office of karnam and defining the duties of said office) shall cease to be in force in such estate. Repeal

4. In this Act, unless there is something repugnant in the subject or context, "Estate" means— Interpretation clause.

(*a*) any permanently-settled estate, whether a zamíndárí, jághír, mitta or pálaiyam; Estate.

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam;

(*d*) any inám village of which the grant was made or confirmed by the British Government;

(*e*) any portion, consisting of one or more villages, of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure.

Proprietor. "Proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated and, in respect of an estate specified above in clause (*e*), the holder thereof.

Where an estate is so registered in the names of two or more persons as joint-owners thereof, the proprietor shall, for the purposes of this Act, be the person who is recognized by the other joint-owners as the manager of the estate or who, in case of dispute, is recognized and registered by the Collector as senior joint-owner.

Village. "Village" means any local area situated in or constituting an estate to which this Act or any portion thereof has been extended and which is now recognized as a village or which may hereafter be declared by Government for the purposes of this Act to be a village.

Village office and Village officer. "Village Office" means, in respect of any estate, an office in such estate to which this Act or any portion thereof has been extended by notification under section 2; and "Village Officer" means a person holding or discharging the duties of such office.

CHAPTER II.

VILLAGE ESTABLISHMENTS; THEIR STRENGTH, APPOINTMENT AND CONTROL.

Register of village officers to be prepared and submitted to Collector on requisition.

5. Every proprietor shall, within three months after requisition from the District Collector, prepare a register containing particulars of all the village officers and village servants employed in his estate and of their emoluments and duties in a form to be prescribed by the Board of Revenue, and shall submit it to the District Collector.

Provided that the said Collector may at his discretion extend the period for the submission of the said register.

Division and grouping of villages.

6. (1) Whenever it appears to the District Collector that, as a matter of administrative convenience, it is desirable that any portion of a village should be registered as a separate village, or that two or more villages or portions thereof in any estate should be grouped or amalgamated, he shall, by notice in writinge, require the proprietor of the estate in which the village or villages is or are situated and also the village officers likely to be affected by the proposed change to show cause, within three months after service of such notice, why such portion of a village should not be so registered or such villages or portions thereof be so grouped or amalgamated.

(2) If the proprietor or the village officers aforesaid fail to show such cause the said Collector shall submit the regards of the proceedings to the Board of Revenue and shall then, with the previous sanction of the said Board, declare by notification in the District Gazette such portion of a village or such villages or portions thereof so grouped or amalgamated to be a village for the purposes of this Act and shall cause such notification to be published in the said village and a copy thereof to be furnished to the proprietor. Before according such sanction the Board of Revenue shall consider any representations which may be made to it within three months of the Collector's submission of the record by the proprietor or by the village officers aforesaid or by others affected.

(3) The cost, if any, of all proceedings under sub-sections (1) and (2) shall be paid from the Proprietary Estates' Village Service Fund constituted under section 28.

Such establishment as Collector requires to be maintained in each village.

7. In every village there shall be maintained so many and such village officers as the District Collector, subject to the orders of the Board of Revenue, may direct.

Vacancies in village offices to be reported by proprietor.

8. Every vacancy caused by the death or resignation of a village officer shall, within [illegible] the occurrence thereof, be reported by the proprietor to the Revenue officers in charge of the division of the district wherein such village is situated.

Proprietor to appoint new officer but to report fact to Divisional Officer.

9. When a vacancy has occurred in a village office or the District Collector directs that a village officer shall be appointed to a newly created village office, the proprietor of the village shall, within six weeks, appoint a person to such vacant or newly created village office and send notice of the appointment in writing, in such form as the Board of Revenue may, by rules made under section 32, prescribe, to the Revenue officer in charge of the division of the district in which the village is situated.

Rules to be observed in making appointments.

10. In making an appointment under section 9 the proprietor shall observe the rules contained in the following sub-sections:—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment to any village office, who

(*a*) is not of the male sex;

(*b*) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test prescribed for the office in question by the Board of Revenue by rules made under section 32;

(*e*) has been convicted by a Criminal Court of any offence which in the opinion of the Revenue officer in charge of the division or of the District Collector, disqualifies him for holding the office.

Primogeniture to be observed in case of hereditary office.

(2) The succession to all hereditary village offices shall devolve on a single heir according to the general custom and rule of primogeniture governing succession to impartible zamindáris in Southern India.

In certain cases person other than direct heir may be appointed.

(3) Where the next heir to an hereditary village office is not qualified under sub-section (1) the proprietor shall appoint the person next in order of succession who is so qualified, and in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1)

Divisional Officer may, after, in certain cases, holding enquiry, require proprietor to appoint another person.

11. (1) If the Revenue officer to whom notice of appointment is sent under section 9 considers the person appointed to be disqualified under sub-section (1) of the preceding section he may, at any time within three months from the date of the receipt by him of the said notice of appointment, and, in cases falling under clauses (*c*) and (*e*) in sub-section (1) of section 10, after giving notice to the parties concerned and making enquiry, record his objections and call upon the proprietor to appoint another person, and the proprietor shall thereupon do so and send notice of such new appointment to the said Revenue officer within six weeks after such requisition. Provided that the person first appointed by the proprietor shall discharge the duties of the office and be entitled to the emoluments thereof until his appointment is set aside and another person is appointed in his place.

In certain cases Divisional Officer may himself make the appointment.

(2) If the notice of appointment referred to in section 9, or the notice of the new appointment referred to in sub-section (1), is not received within the prescribed time, or if the person newly appointed under sub-section (1) is also considered by the said Revenue officer, after giving notice and making enquiry as aforesaid, to be disqualified as aforesaid, such officer may make the appointment himself by selecting a person duly qualified under section 10.

Appeal allowed.

(3) Whenever an appointment is disallowed under this section an appeal shall lie to the District Collector within one month or, if the officer disallowing the appointment is the District Collector, an appeal shall lie to the Board of Revenue within three months.

In certain cases appointment of member of family of last holder may be prohibited.

12. Where an hereditary village office has become vacant by the dismissal or suspension of the last holder, the authority by whom he was dismissed or suspended may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) of section 10 who is not an undivided member of the family of the dismissed or suspended officer, to be appointed by the proprietor subject to the approval of the Revenue officer in charge of the division.

Provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3) of section 10.

Procedure to be adopted where heir of last holder is a minor.

13. (1) When the person who would otherwise be entitled to succeed to an hereditary village office is a minor, the proprietor shall submit his name to the Revenue officer in charge of the division for registration as the heir of the last holder and shall, at the same time and subject to the approval of the said Revenue officer, appoint some other person qualified under sub-section (1) of section 10 to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) of section 10 to discharge the duties of the office himself, when he shall be appointed thereto by the proprietor.

If the person registered as heir under this section dies, or if he remains disqualified under sub-section (1) of section 10 for three years after attaining majority, the vacancy shall be filled up in accordance with the provisions of sub-sections (2) and (3) of section 10.

Procedure to be ordinarily adopted in case of resignation, dismissal, removal or suspension of officer.

14. (1) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an hereditary village office and the authority by whom he was dismissed or suspended does not give the direction referred to in section 12, the vacancy shall be filled up in accordance with the provisions of this Act as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

(2) The provisions of section 11 shall, *mutatis mutandis*, apply to appointments to be made under this section and sections 12 and 13.

Appointments how to be made in grouped and divided villages.

15. (1) When two or more villages or portions thereof are grouped or amalgamated under this Act to form a single new village, or any village is divided into two or more villages, all the village offices of the village or villages so grouped, amalgamated or divided shall cease to exist and new offices which shall be hereditary if any of they offices the replace were hereditary shall be created for the new village or villages. In choosing persons to fill such new offices the proprietor shall select the persons whom he may consider the best qualified from among the holders of the offices which have been abolished and shall report his action to the Revenue officer in charge of the division.

Who to be retained in case of reduction of establishment

(2) If in any village two or more village offices of any one class exist and the District Collector, acting under section 7, considers that a reduction in the number of such offices is necessary, he shall give notice to that effect to the proprietor who shall thereupon dispense with the services of the officers no longer required, shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices and shall report his action to the Revenue officer in charge of the division.

Divisional officer to exercise powers of proprietor in certain cases.

(3) If the proprietor fails to submit the report referred to in sub-sections (1) and (2) within six weeks of the creation of the new offices or of the issue of the District Collector's notice directing a reduction in the number of village offices, the powers vested in the proprietor by sub-sections (1) and (2) may be exercised by the Revenue officer in charge of the division.

Proprietor if specially empowered may punish village officers by fine, subject to appeal.

16. (1) A proprietor empowered in this behalf by the Board of Revenue may, after enquiry, fine any village officer, to the extent of three rupees, for misconduct or neglect of duty as such village officer and shall record his reasons for so doing in writing and furnish a copy of [illegible] to such village officer and to the Revenue officer in charge of the division. [illegible] within one month from the date of furnishing such copy against such fine [illegible] Revenue officer whose decision shall be final.

The powers conferred under this sub-section by the Board of Revenue on any proprietor may, at any time, be withdrawn.

Collector and Divisional Officer may fine, suspend, dismiss or remove village officers.

(2) The District Collector or Revenue officer aforesaid may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any village officer for misconduct or for neglect of duty or incapacity as such village officer or for non-residence in the village, and shall record his reasons for so doing in writing and furnish a copy of the same to the proprietor and to the village officer concerned. Every village officer convicted of an offence of the kind mentioned in sub-section (1) (*e*) of section 10 shall be dismissed.

Appeals against orders passed under sub-section (2).

(3) Against every order passed by the District Collector or Revenue officer aforesaid under sub-section (2) an appeal shall lie to the Board of Revenue within three months or to the District Collector within one month, as the case may be.

The decision on appeal of the Board of Revenue or the said Collector, as the case may be, shall be final; provided that a second appeal shall lie within three months to the Board of Revenue against the order of the District Collector confirming on appeal the order of the Revenue officer in charge of the division dismissing a village officer.

CHAPTER III.

The Village Service Cess; its amount and apportionment and the method and incidents of its levy.

Government may enfranchise Village-service inams by imposition of quit-rent.

17. If the remuneration of a village office consists in whole or in part of lands, or assignments of revenue payable in respect of lands, granted or continued in respect of or annexed to such village office by the State, the Government may enfranchise the said lands from the condition of service by the imposition of quit-rent under the rules for the time being in force in respect of the enfranchisement of village-service inams in villages not permanently settled or under such rules as the Government may lay down in this behalf; such enfranchisement shall take effect on or after the date fixed in the notification issued under section 19 for the levy of a village Service cess.

Date from which enfranchisement to take effect.

Proviso.

Provided that the said enfranchisement shall be applicable to all lands or assignments as aforesaid even though, at the time this Act comes into force, they may not be devoted to the purpose for which they were originally granted; and provided, further, that any lands or emoluments derived from lands which may have been granted by the proprietor for the remuneration of village service and which are still so held or enjoyed may be resumed by the grantor or his representative.

Proprietor to collect the quit-rent on enfranchised inams.

18. The proprietor shall collect the quit-rent imposed upon lands in his estate under the last preceding section, and pay it to Government in such instalments and at such times as the Board of Revenue, by rules made under section 32, may prescribe. The proprietor shall be entitled to a deduction of 10 per cent. of the amount to be collected by him to cover the cost of such collection, and such quit-rent shall be recoverable, from the proprietor, as if it were an arrear of land revenue under Madras Act II of 1864, and, by the proprietor from the holder of the enfranchised inám, in accordance with the provisions of Madras Act VIII of 1865, as if it were an arrear of rent; such quit-rent shall be a first charge upon the lands in respect of which it is leviable.

Compensation to proprietor for cost of collection.

Mode of recovery of arrears.

The Proprietary Estates' Village Service cess.

19. It shall be lawful for the Government to direct, from such date as it may notify, in respect of all or any of the estates in any district, the levy of a money cess, to be called the Proprietary Estates' Village Service cess, at a rate not exceeding ten pies in the rupee on the annual rent-value of all occupied lands comprised within the limits of such estates. The rate shall be a uniform one for each district and shall be fixed as nearly as possible so as to raise an amount which, together with the other assets of the Proprietary Estates' Village Service Fund constituted under section 28, will suffice to meet the cost of all village establishments brought

Rate how to be fixed.

within the scope of this Act and of all charges connected with the discharge of their duties in connection with the administration of the Proprietary Estates' Village Service Fund and of all proceedings taken under section 6 within such district.

Annual rent-value of lands, how to be calculated for purposes of cess.

20. The annual rent-value aforesaid shall be calculated in the following manner:—

In case of lands occupied by tenants.

(i) In the case of lands occupied by tenants the annual rent payable to the proprietor by such tenants, together with any water-rate which may be payable to Government for their irrigation, shall be taken to be the annual rent-value of such lands. Where the lands are occupied by the proprietor himself, or by any person holding the same from him free of rent, or at a rent lower than that ordinarily paid for lands of a similar description and quality in the neighbourhood, the annual rent-value shall be taken to be the rent ordinarily payable for neighbouring lands of similar description and quality, together with any water-rate which may be payable to Government for the irrigation of the lands so occupied by the owner himself or by the person holding the same from him as aforesaid.

In case of lands held by proprietor or from him free of rent or at a favourable rent.

Where rent is paid in kind.

(ii) Where rent is paid in kind the annual rent-value shall be taken to be the rent paid for neighbouring lands of similar description and quality, together with any water-rate payable to Government for the irrigation of the lands of which the rent is paid in kind.

In case of lands held from Government and enfranchised Village service inâms.

(iii) In the case inâm lands held from Government wholly or partially free of assessment and of inâm lands enfranchised under section 17, the annual rent-value shall be taken to be the full assessment which such lands would bear if they were not inâm, together with any water-rate which may be payable to Government in respect of such lands; and such full assessment and water-rate shall be determined by the District Collector under the general orders of the Board of Revenue.

Provided that where any proprietor has been permitted by the Collector under the provisions of clause iv, section 11, Madras Act VIII of 1865, to increase his rent in consequence of any additional payment by way of water-rate made by him to Government, the annual rent-value shall be the balance remaining after deducting such increase of rent up to the amount of water-rate from the sum ascertained as aforesaid.

Proprietor to furnish on requisition a list of occupied lands.

21. Whenever required by the Revenue officer in charge of the division to do so, the proprietor of every estate shall, within three months after such requisition, furnish that officer with an accurate list of all lands in his estate occupied during the last preceding fasli, specifying therein the annual rent-values of such lands calculated as prescribed in the last preceding section exclusive of the water-rate, if any, payable by his tenants to Government.

When list not furnished Divisional officer may himself fix rent-value of [illegible] rate.

22. When a proprietor has failed to furnish the list as required by the preceding section, the Revenue officer in charge of the division may, at any time, himself calculate the annual rent-value of the estate in question exclusive of the water rate, if any, payable to Government by the tenants of such proprietor, and in that case shall, without delay, notify to the proprietor the amount so calculated and the amount of the cess leviable thereon under section 19, and shall, at the same time, furnish him with the data upon which such calculation has been based.

Divisional officer to fix cess payable and may amend list.

23. If the Revenue officer in charge of the division is satisfied with the accuracy of the list furnished by the proprietor under section 21, he shall assess such proprietor according to such list to the cess payable by him in respect of his estate under section 19. If the said Revenue officer is not satisfied with the accuracy of the said list, he may amend the same, and shall, without delay, send a copy of the amended list to the proprietor with a notice of the amount of the cess leviable from him as aforesaid, and shall, at the same time furnish him with the data upon which such amendment has been made.

Appeals against orders under sections 22 and 23.

24. When the Revenue officer in charge of the division has calculated the rent-value of an estate under section 22 or has amended a list under section 23, the proprietor concerned shall be at liberty to appeal to the District Collector at any time within two months from the date on which the decision was notified to him, or, if the decision is that of the District Collector, to the Board of Revenue at any time within three months from the said date. The decision on appeal of the District Collector or the Board of Revenue, as the case may be, shall be final.

Proprietor to pay total cess due in respect of estate.

25. (1) Every proprietor shall, subject to the following provisos, pay to Government the cess due under this Act in respect of all occupied lands in his estate in such instalments and at such times as the Board of Revenue, by rules made under section 32, may prescribe.

Proprietor may recover half the cess from his tenants.

Proviso (i).—In the case of all lands occupied by tenants, it shall be lawful for the proprietor to recover from such tenants, in accordance with the provisions of Madras Act VIII of 1865, half the cess payable by him in respect of the lands so occupied, as if it were an arrear of rent.

Cess on water-rate to be paid by tenants in certain cases.

Proviso (ii).—In cases in which water-rate is paid to Government by the tenants of a proprietor, such tenants shall pay, together with the water-rate, the cess due on the amount of such water-rate.

Proviso (iii).—In the case of an inâm not constituting a whole inâm village, it shall be lawful—

Proprietor may recover full cess on minor inâms subject to certain deductions.

firstly, for the proprietor of the estate in which the inâm is situated to recover from the holder of the inâm, in accordance with the provisions of Act VIII of 1865, as if it were an arrear of rent, (*a*) the cess payable by the proprietor in respect of the rent-value of the inâm, after deducting from the said rent-value such amount as may be payable to himself annually in respect of such inâm, and (*b*) half the cess payable in respect of the amount so deducted;

Minor inâmdar may recover half cess from his tenants.

and, secondly, for the holder of the inâm to recover in like manner from his tenants half the cess payable in respect of lands occupied by them.

Arrears of cess to be a first charge.

(2) Arrears of cess recoverable by the proprietor and the holder of an inâm under this section shall form a first charge upon the land concerned.

Remission of one-half of cess on amount of proprietor's permanent assessment.

26. Every proprietor of an estate of the classes (*a*), (*b*), (*c*) and (*e*) specified in section 4 shall be entitled to a remission of one-half of the cess payable by him on so much of the whole annual rent-value of his estate as is equal to the amount of the permanently-settled revenue payable by him to Government in respect of such estate. Provided that the amount recoverable by such proprietor from the tenants or holders of inams in his estate under section 25 shall be calculated upon the whole amount which would have been payable by him to Government if no such remission had been allowed.

Proviso as to recovery from tenants.

Illustration.

The rent-roll of an estate is	Rs.	10,000
The permanent assessment is	,,	4,000
The rate of village service cess is 5 per cent.		
In this case the proprietor has to pay 5 per cent. on Rs. 10,000 =	,,	500
less 2½ per cent. on ... ... ,, 4,000 =	,,	100
Nett amount payable =	,,	400

But the proprietor is entitled to recover from his tenants 2½ per cent. on Rs. 10,000, *i.e.*, Rs. 250; so that, while the proprietor pays Rs. 150, his tenants pays Rs. 250.

27. On or after the date notified under section 19—

Payments in excess of permanent assessment lawful in certain cases.

(1) If in any estate the cost of village establishments was provided for by a reduction of the permanent assessment on the condition that the amount of such reduction should be devoted to paying the village establishments, it shall be lawful for the

Government to require the proprietor to pay, along with the present permanent assessment, such sum, not exceeding the amount of such reduction, as represents the annual remuneration at the time of such reduction of the classes of village officers brought within the scope of this Act.

(2) Where the said cost of village establishments was provided for by a deduction from the assets of an estate before its permanent assessment was fixed, it shall be lawful for the Government to require the proprietor to pay, along with the present permanent assessment, a sum equal to that by which it would have been increased had no such deduction been made on account of the remuneration of the classes of village officers brought within the scope of this Act.

In either of the cases referred to in sub-sections (1) and (2) the proprietor shall no longer be liable for the payment of such classes of village officers; and the payments made along with the permanent assessment shall be credited to the Proprietary Estates' Village Service Fund.

Permanent assessment shall be reduced in certain cases.

(3) Where the cost of maintaining any office to which this Act has been extended under section 2 and which is in existence in an estate at the date upon which this Act is extended thereto was included in the assets upon which the permanent assessment of the estate was fixed, the said permanent assessment shall be reduced to the amount which it would have been fixed had no such inclusion in the assets taken place.

Rent may be raised or reduced in certain cases.

(4) If, in any case, the rent payable to a proprietor in respect of any land has been fixed under an agreement, subsisting on the date of this Act coming into force, to the effect that any portion of the remuneration of the village officers shall borne by the tenant or the proprietor, as the case may be, it shall be lawful for the proprietor or tenant to apply to the Collector for sanction to increase the said rent or to demand its reduction; and the Collector shall, upon receipt of such application and upon satisfactory proof of the justice of the claim, grant such sanction and increase or reduce the rent to the amount at which it would have been fixed had no such agreement been entered into.

CHAPTER IV.

THE VILLAGE SERVICE FUND: ITS CONSTITUTION AND THE PAYMENT OF SALARIES THEREFROM.

Proprietary Estates' Village Service Fund.

28. On or after the date notified under section 19, there shall be constituted in each district a fund to be called the Proprietary Estates' Village Service Fund. The said fund shall consist of the proceeds

(i) of the quit-rents imposed on inams enfranchised under section 17, exclusive of jodi, if any, payable to Government;

(ii) of the cess levied under section 19;

(iii) of the payments made along with the permanent assessment under the last pre ing section;

(iv) of all penalties and fines imposed under this Act;

(v) of all contributions, if any, made from general revenues for the purposes this Act;

and it shall be lodged in the District Treasury and shall be under the control of the District Collector subject to rules made by the Board of Revenue under section 32.

Salaries and allowances of village officers to be paid from fund after date to be notified.

29. On or after the date notified in any estate under section 19, the village officers shall be paid from the aforesaid fund of the district in which the estate is situated the salaries and other allowances to which they may be entitled according to such scale and in such manner as may be prescribed by the Board of Revenue by rules made under section 32.

No fee, &c., to be collected or demanded in respect of village officers after date to be notified.

30. On or after the date notified in any estate under section 19, all fees, contributions and allowances collected or demandable in such estate for the remuneration of village officers shall absolutely cease and determine.

Penalty for demanding fees, &c.

Whoever, thereafter, in such estate demands, collects or receives such fees, contributions or allowances shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees.

CHAPTER V.

Penalties.

31. Every proprietor who wilfully omits—

(a) to furnish a register as required by section 5;

(b) to submit the name of a minor heir as required by section 13;

(c) to furnish the Collector with the list required by section 21;

shall be liable to the imposition by the District Collector of a penalty not exceeding Rs. 100 for every such omission. Provided that a proprietor wilfully omitting to furnish the register required by section 5 shall be liable to a further penalty not exceeding Rs. 25 for each day during which the omission continues after the imposition of the first penalty. A penalty imposed under this section shall be recoverable in the manner provided in Madras Act II of 1864 for the recovery of arrears of land revenue.

(2) An appeal shall lie within three months against every penalty imposed under this section to the Board of Revenue.

Power to make rules.

32. The Board of Revenue may, with the approval of Government and after previous publication, make rules not inconsistent with this Act in regard to the following matters:—

(i) the division, grouping and amalgamation of villages;

(ii) the educational qualifications required of village officers;

(iii) the form of register to be prepared under section 5 and the form of notice of appointment to be sent under section 9;

(iv) the salaries and other allowances to be assigned to village officers and the method of their payment;

(v) the duties of the several village officers and the descriptions and forms of the accounts and registers to be kept by them;

(vi) the procedure to be followed in conducting enquiries under section 16;

(vii) the custody, production and transfer of the accounts and other records kept by village officers;

(viii) the management and audit of the fund constituted under this Act and the accounts to be maintained in connection therewith;

(ix) the dates for payment by instalments of quit-rent and cess and the amounts of such instalments;

(x) any other matters calculated to enhance the efficiency of the village service.

Jurisdiction of Civil Courts ousted in certain cases.

33. No Civil Court shall have authority to take into consideration or decide any claim to the enjoyment of any portion of the fund constituted under this Act, or any question regarding the amount of the annual rent-value of any estate or the rates or amounts of the quit-rents, cess, or payments under section 27, imposed or levied under this Act. Provided that nothing in this Act shall debar a proprietor from recovering by suit any sums recoverable by him from inamdars or tenants under sections 18 and 25 or the holder of an inam from recovering in like manner any sums recoverable by him from tenants under section 25. Proviso.

In certain cases Board of Revenue to dispose of appeals made to District Collectors.

34. If the officer to whom an appeal is presented under this Act in the capacity of District Collector happens to be the officer who passed the decision which is appealed against in the capacity of Revenue officer in charge of a division, he shall report the fact to the Board of Revenue, and the appeal shall be disposed of by the said Board whose decision shall be final.

1936
Encls. No. 1
To
C. No. 1736

Papers to be read in Proceedings :— DEPARTMENT.

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31st May 1895.

Venkatagiri Zemr.

To,

J. Price Esqr C.S.I.

Chief Secy to the

Govt of Madras

Sir,

In obedience to the Proceedings of the Madras Government No 53 dated 29th inst. which reached me today, I have the honour to send per separate book-post three copy of the

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memorial to the Secretary of State with enclosures, of the Rajahs of Venkatagiri Kalahasti & Karvetinagar, against the application of the Madras Proprietary Estates' Village Sanitation Act II of 1894, to their Estates.

I have the honour
Sir,
Your obedient Servt
V. R. Krishna
Yachendra

Rev. DEPARTMENT.

[5]
48—21-12-93.

Papers to be read in Proceedings:— 68

Again G.O., dated 18 , No.

Again G.O., dated 18 , No.

Current No. 55 of 1895, dated 5 March from the Zamindars of Venkatagiri Kalahasti & Karvatnagar.

Current No. of 18 , dated Order Misc. 9 April 1895, No 31

The memorial will be forwarded to the ~~Secretary~~ Govt. of India.

W. 4/4/95

JS 7/4

In 25 March

To the memorialists (Q & P Letter No 32. dated 17/4/95)

To the Sec. to the G. of I. Rev. D.

Sir,

I am directed, with advert to para. IV of the Rules relating to the submission of memorials addressed to the Sec. of State, to trans to the Govt. of India a petition to the Sec. of Sta from the Zamindars of Venkatagiri, Kalahasti & Karvatnagar.

2. The prayer of the memo is that the Madras Prop Estates' Village Sanita Act, 1894, (Madras Act II of 1894) should be modified by the enactment of a provision excluding their Estates from its operation. It unlikely that the Act

declined to take into consideration a request of so unusual a character as H.E. the G. in C. therefore deems it unnecessary to deal at length with the subject matter of the petition.

3. The position of the three Zamindárs was debated by the Select Committee appointed to consider the Bill which became Madras Act II of 1894, the Zamindárs were heard by counsel before one of the Select Committees & the status of the petitioners was again discussed by the Legislature Council itself. The conclusion arrived at was that the Zamindárs had not made out a case for exceptional treatment.

The Zamindárs then addressed the G. of I. in a petition which was forwarded with my letter dt. 1st March 1894, No. 41, Legislative, & after consideration of the memorial, H.E. the Governor-General did not see sufficient reason to withhold his assent from the new law. This Govt. was, however, invited in Mr. Ibbetson's letter dt. 27 July 1894, No. 2143, Revenue, to give full consideration to the [illegible]

(especially as the Act allows (Sec. 44) any rent when exempted of Govt. Such rent under over [illegible])

DG

Vide G.O. dt. 4/11/94, No. 118, Leg.

It will be observed that the present petition is not the outcome of contemplates action on the part of the Executive Govt.; it is in reality a mere protest against a law which has received the assent of H.E. the Viceroy & Govr. General & of Her Majy Govt.

Act is applied in to their totals. [illegible]

4. The principal argument adduced by the Zamindárs have been dealt with already in my letter dt. 1st March 1894, No. 41, Legy. & there is but little calling for remark in the present memorial. The following points may, however, be noted.

(1) In para. 5 the Zamindárs note contain instructions of 1799 to prove that the Village Service Inams were incorporated in assets on which the permanent peshkash was fixed. [illegible] But, whatever the intention of the instructions of 1799 (& their meaning may, nevertheless), the Village Service Inams were, in fact, almost invariably [illegible]

[illegible] calculating the
[illegible]eshkash.

2 In the same paragraph
it is urged that there is
nothing to show that the
services in arms in the petitioners'
estates were granted
by the State. The answer to
this is that the effect of the
[illegible] settlement was to
convert into State grants all
[illegible] lands which were rendered
[illegible] by the
settlement was last held by York,
whether they were originally granted
[illegible] Govt or were alienations made
[illegible] authority by the Zamindars.

3 The reference in the
same paragraph to the
Arai Artigan inams is
incorrect. The Govt has
relinquished all claim
to such inams on the
ground that the Sajjir Dár's
Peshkash was not calcu-
lated on the assets of
the Sázhir, although, the
position of these ináms
being somewhat doubtful,
it was considered unnecessary
to include them in the scope
of a recent enquiry as to
the possibility of a general
[illegible]enchachment of
Sázhir ináms.

4 The contention in para. 6
of the Sanad-i-milkiyat-
tiurár is a contract
possessing legal validity
apart from Regulation
XV of 1802 is opposed to
the ruling reported on page

(vide 20 of 11/1/92.)

Law Reports. In that well
known Decision the Hon
High Court declared that
the clause of the Sanad
which repeats the declar
contained in Reg: XXV of
1802 as to the exclusion
certain items of revenue
is surplusage & that
in the event of any diff
between the Sanad & the
Regulation, the Courts
be guided entirely by the
latter. This most recent
Decision over-rules the pr
Decisions quoted by the
petitioners, so far as th
are inconsistent wit
it.

5. In conclusion I wo
to point out that, du
the progress of a lon
course of legislatio
the Zamindáris of Van
Giri, Kálahasti & Kar
nagar as well as o
other Zamindáris ha
been treated, as far a
regards the village o
in the same manner
the ryotwári tracts.
IV & XI of 1816 & VI of
Act XXIV of 1859 & Madra
Act I of 1859 supply
that Govt has never r
any
signed ~~they~~ right on th
part of proprietors
deal at pleasure wi
the village servants
their estates & H.E. i

the character suggested by the memorialists.
Is the Counsel has therefore no recommendation to make in the above memorialists behalf
25 Mar 1895.
29/3/95
8.7.1/4/95
Sir H. Kennedy
9 Apr 1895
Dept to appeal memorial seems
17/4/95.
Memorial from Vizag
73
Date
K.D. for
of Counsel

2 JUL 1895
CHIEF SECRETARY'S GOVERNMENT OF MADRAS

74

To

The Right Hon'ble

THE SECRETARY OF STATE FOR INDIA

IN COUNCIL.

The Humble Memorial of the RAJAHS OF VENKATAGIRI, KALAHASTI AND KARVETNUGGAR.

MOST RESPECTFULLY SHEWETH,

The Memorialists beg to appeal against the application of the Madras Proprietary Estates' Village Service Act II of 1894 to their estates, as the Act is unjust and opposed to the terms of the Permanent Settlement. The Memorialists, prayer for exemption of their estates from the purview of the Act has not been complied with either by the Madras Government or the Supreme Government, and therefore, they are under the necessity of appealing to you against the enclosed Proceedings of the Government of India declining to interfere in the matter without assigning reasons for it.

2. The Memorialists' ancestors held a regal status and their dominions were of the nature of a Raj.

3. The arguments of the Hon'ble Mr. Garstin concerning the original history of their estates are one-sided. He rests upon some statements made in the Manual of the Nellore District, and concludes that the ancestors of the present Rajahs were simply Desakavals and that their troops were only armed Police. Evidently he did not properly read the District Manual, his authority, which says:—

"The great Poligars maintained their large establishments for Military Service and Police. They were obliged to keep up large or small bodies of troops continually equipped for military service, they had to provide for the protection of their own communities, to resist and suppress marauders, to bring to justice offenders against person and property." (Nellore District Manual, page 262.)

4. The Sannads that were issued from the Emperors of Delhi and the Nizams of Hyderabad show clearly that the Memorialists' ancestors were more than Desakavals in their status. They were required by the terms of the Sannad to furnish military aid in times of war and were thanked for services rendered, by the Emperors from time to time, as is evidenced by the old documents in possession of the Memorialists. They established forts and garrisoned the same. They had military weapons and arms including big cannon which were destroyed only 30 years ago, soon after the Mutiny, some small guns being still allowed by the Government for purposes of salute. Even after the advent of the British here, military aid was sought and thankfully acknowledged, when rendered, by persons like Lord Clive, Lord MacCartney, Lord Cornwallis and General Harris. The ancestors of the Memorialists had Military as well as Police establishments like the States of Pudukotta and Cochin and other native states.

That the ancestors of the Memorialists exercised independant power in the internal administration is clear from the Proclamation of the Government dated 22nd August 1800, which says:—

"Whereas it has been customary for the Zemindars aforesaid to exercise Civil and Criminal jurisdiction in their respective Zemindaries."

The ancestors of the Memorialists even just before the Permanent Settlement were independent princes. If they were dependent on the Mahommedan rulers and the Nabob of Carnatic, their political status was not destroyed threby any more than that of the Nabob who was subject to the Nizam, and of the Nizam himself who was subject to the Emperor of Delhi. The treaty between the East India Company and the Nabob alluded to by Mr. Garstin, to which the Rajahs were *exparte*, proves nothing more than the fact of the transfer of power to the former from the latter. It is a well known historical fact that the very first acquisition of the British India, the site on which the Fort St. George was built, was the State grant in 1639 of an ancestor of the Rajah of Kalahasti one of the Memorialists. This clearly illustrates the status and importance of the ancestors of the Memorialists.

5. The Hon'ble Mr. Garstin says that Lakhiraj lands were by mistake omitted from calculation in the Sannads of the three Zemindaries and, therefore, their Sannads are illegal and that they are bound by the same terms as those regulating other Zemindaries. In the instructions issued to Collectors dated 15th October 1799 paras 15, 16, 22, 23, 25, 26, Village Service Inams were excluded from alienated and Lakhiraj lands, as the Service Inam lands were held in lieu of wages, and they were treated as Circar lands and were declared responsible for the public revenue assessed on the Zemindary.

Para. 15. "It is also to be fixed exclusive of the salt revenue, and independent of all existing alienated lands whether exempt from the payment of public revenue, with or without due authority (the village mauniums, or inam lands held by public and private servants in lieu of wages excepted,) the whole of which, are to be considered annexed to the Circar lands, and declared responsible for the public revenue assessed on the zemindary."

Para. 16. "All allowances of cauzees and Government revenue officers, (Karnams excepted), heretofore paid by landholders, as well as any public pensions hitherto paid through the landholders are to be added to the amount of jumma, and to be provided for by Government, under prescribed regulations."

Para. 22. "It is further to be understood, that Government will impose such assessment, exclusive of the permanent settlement, as they may deem equitable, on all lands at present alienated, and paying no public revenue, which may have been, or may be proved to be held, under illegal or invalid titles, and the revenues of which, is not included in the Committee's accounts. Rules will be prescribed for trying, in the regular judicial Courts, the validity of the titles of persons holding, or claiming a right to hold such lands, and for determining the amount of the annual assessment to be imposed thereon by Government, if exceeding a certain extent, otherwise to be considered the property of the Zemindar."

Para. 23. "Further rules will also be enacted in regard to all lands paying no revenue to Government (the titles to which may be confirmed) in case of the grants, some of which are for life only, expiring and escheating to Government, when they would also be liable to additional assessment by Government, forming no part of the present resources of the District on which the permanent jumma is calculated."

Para. 25. "All private lands at present appropriated by the Zemindars and other landholders to the subsistence of themselves and families, as well as all lands held by private servants and dependants, will be considered as forming part of the Circar land, and therewith responsible for the public jummas."

Para. 26. "All Police allowances in land or money, at present, appropriated for the support of this department, is to be considered exclusive of, and unconnected with, the permanent settlement, and resumable by Government, should they take the conduct of it, into their own hands; but in that case, to be solely applicable to that purpose. And we desire you will take the necessary measures for ascertaining the particulars of each, and report them for our information, explaining fully at the same time, the establishment kept up, and the regulatins under which this duty has been performed by the zemindars: this is not meant to include the fees and mauniums of village talliars or watchers." (Fifth Report of the Select Committee, Madras Presidency, pp. 321 to 324, Vol. II.)

"The principles on which it had been proposed to assess the lands received the approbation of the Bengal Government" (Fifth Report, page 50). "The leading principle of the measure had already received the approbation of the Court of Directors" (Fifth Report, page 51.)

"Referring the House, therefore, for general information on that head, to the instructions issued to the Collectors in the year 1799 as containing a practical application of the principles according to which the arrangement was progressively adopted" (Fifth Report, page 55).

These Village Service Inams and the private lands of the proprietors, their relatives and their dependants were included in the assets for calculating the peishcush. Even assuming that the mode of calculating peishcush on assets be the same in these three Zemindaries as in others, according to this argument the Government will not be entitled to any claim to Village Service Inams, and in fact it has no lands to resume in the three Zemindaries and the Government is not legally entitled to any claim over Village Servants. But the Memorialists have an additional and much stronger argument in the fact that the calculation of peishcush in these Zemindaries was quite different from that obtaining in other Zemindaries, the peishcush being only a commutation of military service without reference to assets as admitted by all authorities. Mr. Garstin himself says that:—

"Lord Clive wrote a letter to the Venkatagiri Poligar and relieved him of the duty of keeping up the force of about 10,000 men whom he maintained and fixed the peishcush of his Zemindary at about 111,000 pagodas, of which about 89,000 or about four-fifth was stated to be *equivalent for military service*, and the rest on account of established peishcush." (Mr. Garstin's second speech dated 12th December 1893.)

"I have already shown now in the cases of these three Zemindaries the Permanent Settlement was not made on their assets." (Mr. Garstin's second speech dated 12th December 1893.)

The peishcush according to the Permanent Settlement was nothing but a commutation of military service to the Government, and the established peishcush alluded to in Mr. Garstin's speech was only a tribute paid by the Rajahs to the Mohammedan rulers. This established peishcush or tribute was not on the assets. There are several Zemindaries in the Nizam's dominions like Gudwal, Judprole, and Vanaparthi which pay tribute to the Government without reference to assets, and yet even now they have absolute control over all the village servants including Kurnums and over the Village Service moniems. While such is the state of things in the Native State at this time, there is nothing for the Government to show that the Service Inams of the estates of the memorialists were the State property of the Paramount Power and were given by it. As the calculation of peishcush was not on the assets, there was no occasion and necessity to specify what should be included in the assets and what should be excluded from them as in other Zemindaries. By the very nature of the arrangement, the power of Government to interfere with Lakhiraj lands was intentionally omitted from the Permanent Sannads. The omission could never be from oversight. In accordance with this principle, the contention of the Arni Jaghiredar that the Government was not entitled to Artisan Inams on the ground that the peishcush of his estate was not calculated on the assets, but it was a commutation of the Nuzzur of the Jaghiredar to the sovereign, was accepted even very recently; and all interference with these Inams was prohibited.

6. Mr. Garstin says :—

"It merely proves that by oversight the Government omitted to insert in these Sannads the whole of the provisions which they apparently intended to insert in them. It is impossible to suppose that the Government deliberately omitted the reference to Lakhiraj lands because such action would have been in direct defiance of the Law." (Mr. Garstin's second speech dated 12th December 1893.)

This is untrue and untenable. The Proceedings of the Government of Fort St. George, dated 24th August 1802, to the President and Members of the Special Commission, para. 2, says that :—

"The important question of the commutation of military service of those Zemindars and the investigation of authentic documents which has been made, satisfy the Governor-in-Council that your recommendations are the result of mature deliberation founded on a comprehensive knowledge of the subject."

This must finally settle the wrong contention of Mr. Garstin. Mr. Garstin lays great stress on the Sannad being subsequent to the Regulation, and contends that the Sannad omitting the Lakhiraj lands being inconsistent with the Regulation, it must be illegal. The Sannad is nothing but the contract deed, and the Regulation is nothing but the codification of general instructions for Permanent Settlement. Even if it be taken as a distinct contract, unless the contract is illegal and immoral by itself, the subsequent contract must supersede and nullify the previous engagement, if the terms of the first contract be inconsistent with the subsequent contract. As remarked already, the Regulation contains only general instructions.

With regard to Lakhiraj lands, it is distinctly provided that :—

"The Government having reserved to itself the entire exercise of its discretion in continuing or abolishing temporarily or permanently the articles of revenue included under the head of Lakhiraj lands (or lands exempt from the payment of public revenue) and of all other lands paying only favourable quit-rents the permanent assessment of the land-tax shall be made exclusively of the said articles now recited." (Sec. 4 Regulation XXV of 1802.)

The exclusion or inclusion of Lakhiraj lands or the omission of them was entirely within the discretionary power of the Government, and the permanent contract was made in the exercise of the discretionary power must be final. The Sannad granted to the Zemindars and the agreement contained therein are permanently binding on both parties. So early as in 1818 the Provincial Court of Central Division in its Original Suit No. 13 of that year, knowing clearly the scope of the Sannads which was almost fresh with them decided that the Lakhiraj lands were resumable by the Zemindars, as the reservation of the Government of the right of resuming Lakhiraj lands was specially omitted in the permanent Cowle. The same view was held by the District Court of North Arcot, in Original Suit No. 336 of 1879 and confirmed by the Madras High Court in Second Appeal, No. 974 of 1881. Now a Member of the Legislative Council with little judicial experience in an *exparte* speech after about a century condemns boldly that the successive Governors, Members of Council and Judges of Sudder Court and High Court made a series of mistakes and misunderstood the scope of the Sannad, as if he alone were right and all others were wrong. The Government might as well resume the Amaram and Kattubadi Inams, largely in existence at the time of the Permanent Settlement, as they should also be classed among Lakhiraj lands according to the erroneous idea of Mr. Garstin.

There are instances of the settlement officers and the Government at the time of the Permanent Settlement treating differently in different Zemindaries

the Lakhiraj lands and lands for the maintenance of police establishment over which they were given discretionary power.

In Original Suit No. 13 of 1818 of the Provincial Court of Central Division it was decided that :—

"In the opinion of the Provincial Court the reservation of Government, of the right of resuming Lakhiraj lands having been also especially omitted in the permanent Cowle granted to the defendant, the plaintiff has no right whatever to the two villages sued for and the Court accordingly disallow his claim dismiss his suit and award that he shall pay all costs as follows."

The Government thereupon decided that :—

"The Provincial Court have decided against the claim on the part of Government and the Board are of opinion that an appeal to the Sudder Adawlut under the circumstances of the case is not advisable."

Finding the indefeasible character of the claims of the Zemindars with regard to the Inams, the Government would not appeal against the decision of the Provincial Court, but directed the payment of the Court costs which amounted to Rs. 1,059-12-0. Proceedings of the Board of Revenue, dated 2nd May 1823, concerning a similar dispute about the resumption of an Inam Village Pedda Poloor in Kalastry Zemindary, the Board of Revenue in its Proceedings, dated 4th March 1839, said that :—

"The validity of the Zemindar's claim is such as could not be resisted in a Court of Law. It remains for the Government, to decide whether it shall be voluntarily conceded or otherwise."

Seeing that the Zemindar's claim was simply "irresistible," the Government in its order dated 9th April 1839, directed the voluntary surrender of the village to the Zemindar without even attempting to establish its claim in a court of justice.

Proceedings of the Inam Commissioner, dated Palmanair, the 3rd September 1860 :—

"The peishcush was not fixed upon the assets of the estate, but was a proportion of the cost of the Zemindar's military establishment, inclusive of Amurams and Kattubadis, diminished by the amount of Revenue derived from salt, sayer, and Abkari which were reserved by Government. The Inams were not excluded by the terms of the settlement, and the Government have therefore no right of reversion in them."

The decision of the District Court of North Arcot A. S. No. 74 of 1881 upheld by the High Court Second Appeal No. 974 of 1881 says that :—

"Special exceptions were made in this respect in the case of the above four Zemindaries and as in that case I showed that the Moturpha tax levied in this Zemindary was included in the assets of the Zemindary so likewise in the case of Lakhiraj lands in this Zemindary the Sannad shows that Government did not reserve to itself the right to deal with those lands. The Zemindar has the right of resuming them free of Government interference."

It is inconceivable with what propriety could Mr. Garstin be allowed to refute the weightiest opinions of competent judicial authorities and the previous Governments, and the Legislative Council could go to pass the Act including the estates of the Memorialists, which have been treated all along differently from others on account of the very nature of the Permanent Sannad.

7. The contract between the Government on one side, and the three Rajahs on the other, ought to be held sacred, and they cannot now be said to be illegal and be condemned now as is done by Mr. Garstin, after having been acted upon for nearly a century. Accepting them as sacred contracts, the Government from time to time granted the Memorialists compensation in respect of Moturpha taxes and

withdrew the operations of the Inam Commission from them. As the Peishcash was admittedly not fixed with reference to assets, these Lakhiraj lands were not taken into account, and the Government cannot claim them now. The Government gave up their claims 30 years ago to personal grants when the Inam Commission wished to enfranchise them. The Government cannot now with any justice claim Service Inams. The scope of the High Courts judgment referred to in his speech is misunderstood. In it neither the Zemindar nor Government was a party; though both were asked to join it. This case was only with reference to Moturpha levied by some minor Inamdars *after the Moturpha compensation was given to the Rajah*. The decision of Mr. Plumer, Civil Judge of Chittoor, upheld by the High Court, was dealing directly with Lakhiraj lands. The Zemindar was a party to it and the Government Village Munsif was the other party. Suit No. 13 of 1818 of Fowzdari Adawlut was between Zemindari and Government. Such decisions would appear to be acceptable as final.

8. That the Memorialists beg, therefore, that full justice be done to them, by excluding their Zemindaries by a special provision in the Act itself from its operation, as the peishcush was not fixed on their assets as in the case of other zemindaries, and by thus saving them from the loss by the imposition of the new cess in violation of the terms of Permanent Sannad which is leviable on demand but not on actual collection in good or bad seasons, whether the tenants pay their share or not, and by the proprietors being deprived of the control over their village servants.

For which act of justice, the Memorialists will ever pray.

GOVERNMENT OF FORT ST. GEORGE.

LEGISLATIVE DEPARTMENT.

To

His Excellency the Right Hon'ble the President
of the Legislative Council, Fort St. George.

The humble memorial of the Madras
Landholders' Association.

Most Respectfully Sheweth,—That the Madras Hereditary Village Offices' Succession Bill has been introduced in the Legislative Council and the Select Committee has revised and amended the Bill with a Report, dated 12th December 1893.

That the amended Bill introduces great changes in the control of village servants and village artisans. In the economy of Indian village life, such village servants are primarily the communal servants of the villagers for agricultural and other purposes, and in certain cases, some servants are also the servants of their landlords, whether the landlord is the Government as in ryotwari villages, or the proprietor as in proprietary villages. Thus the village artisans and other servants, such as carpenter, blacksmith, potter, washerman, barber, &c., are not the servants of the State, but of the village community. In proprietary estates such servants as are employed by landlords in administering the estates like Karnam, Monegar, &c., are the servants of their landlords and their tenants, but not the servants of the State. Simply because the Karnam has to send accounts to Revenue officer, he does not become an officer of the State on that account, any more than a private man, who has to give accounts and information to public officers and judicial courts for administrative purposes, as will be seen from the following extract from the Fifth Report of the Select Committee.

"The Village Accountant or Putwari, whose duties have been described, it was deemed necessary to retain under the new system; but he is, by the regulations, placed in the situation of a servant to the Zemindar, for the purpose (besides keeping the village accounts) of furnishing information respecting the lands which may at any time be ordered for sale by the Collector or by the Courts of Justice. But for the Canoongoes, whose functions have also been described, no employment appearing necessary, the office was, by the Government, declared abolished, and the lands which they possessed in right of office, and some of them by inheritance through many descents, were pronounced resumable, on the principle of the possessors being merely the servants of the State, and removable at pleasure." (Fifth Report of the Select Committee, Bengal Presidency, page 35.)

"Under these circumstances, it is resolved to abolish all the revenue officers of the description above alluded to, except the Village Karnams or Putwaries, to be on the same footing in every respect as those of Bengal; and the proprietary landholders to be in like manner responsible for the duties appertaining to them. The accompanying copy of the Bengal regulations relating to them will show their duties, as well as the obligations on the part of the landholders." (Fifth Report, Select Committee, Madras Presidency, paragraph 15, page 329.) "The Village Accountants being rather private servants of the landholders and farmers than the servants of Government, the rules concerning them might have been postponed for the second part of the analysis, if it were not more convenient to include them in the third part, from some of their duties being immediately connected with the subject of it." (Harrington's Analysis.)

From the very nature of the work of the village servants they are not the servants of the State. Moreover, at the time of the permanent settlement of all village servants, whether the servants were engaged in the administration or in the private communal service of the com-

the assets of zemindaries and were taxed equally with other lands of the zemindaries for purposes of the settlement of peishcush, according to the instructions by the Government of the East India Company to the Settlement officers, dated 15th October 1799, paragraphs—

Paragraph 15.—"It is also to be fixed exclusive of the salt revenue, and independent of all existing alienated lands, whether exempt from the payment of public revenue, with or without due authority (the village mauniums, or lands held by public and private servants in lieu of wages excepted,) the whole of which are to be considered annexed to the Circar lands, and declared responsible for the public revenue assessed on the zemindary."

Paragraph 16.—"All allowances of Cauzee and Government revenue officers, (Karnams excepted,) heretofore paid by landholders, as well as any public pensions hitherto paid through the landholders are to be added to the amount of jumma, and to be provided for by Government, under prescribed regulations."

Paragraph 22.—It is further to be understood, that Government will impose such assessment, exclusive of the permanent settlement, as they may deem equitable, on all lands at present alienated, and paying no public revenue, which may have been, or may be proved to be held, under illegal or invalid titles, and the revenues of which is not included in the Committee's accounts. Rules will be prescribed for trying, in the regular judicial courts, the validity of the titles of persons holding, or claiming a right to hold such lands, and for determining the amount of the annual assessment to be imposed thereon by Government, if exceeding a certain extent, otherwise to be considered the property of the Zemindar.

Paragraph 25.—All private lands at present appropriated by the Zemindars and other landholders to the subsistence of themselves and families, as well as all lands held by private servants and dependants, will be considered as forming part of the Circar land, and therewith responsible for the public jummas.

Paragraph 26.—"All Police allowances in land or money, at present, appropriated for the support of this department, is to be considered exclusive of, and unconnected with, the permanent settlement, and resumable by Government, should they take the conduct of it, into their own hands; but in that case, to be solely applicable to that purpose. And we desire you will take the necessary measures for ascertaining the particulars of each, and report them for our information, explaining fully at the same time, the establishment kept up, and the regulations under which this duty has been performed by the Zemindars: this is not meant to include the fees and mauniums of village talliars or watchers." (Fifth Report of the Select Committee, Madras Presidency, pages 321 to 324, Vol. II.)

By this it is self-evident that the servants were regarded not as the servants of the State, and they are paid from the private resources of zemindaries as they are the[illegible] servants. Accordingly, by the arrangement of the permanent settlement they [illegible] made th[illegible] of the Zemindars and their tenants, but not of the State.

The Bill under [illegible]tion propo[illegible]s "to repeal Madras Regulation VI of 1831, and [illegible] other purposes." [illegible] VI of 1831 to be repealed under the proposed [illegible] was introduced [illegible] the misappropriation of the emoluments [illegible] by the State [illegible] village and other officers in the Revenue and Police [illegible] of those offices." (Preamble to the [illegible] moniems and the em[illegible] of [illegible] be claimed as having been annexed by [illegible] included in the assets of zemindaries [illegible] the State to the [illegible] cannot possibly apply to zemindaries, for [illegible] other villag[illegible] village [illegible] it can apply [illegible] the Governmen[illegible] [illegible] emoluments [illegible] there is nothin[illegible] [illegible] is not applicable [illegible] [illegible] expr[illegible] [illegible] e been [illegible] of [illegible] 1831, m[illegible] [illegible] illegal in[illegible] [illegible] inefficiency of village service and the [illegible] [illegible]

[illegible] ative purposes information is required, there is nothing [illegible] to secure the services of the Karnam only to that extent, [illegible] urbing the position of the Karnam as the servant of the [illegible] of the accountants of other private men for the levy of income- [illegible] other servants than Karnams like M[illegible], Taliari, Veti

and Nirganti the permanent sannad is abso[illegible] silent as they were not taken to be in any way connected with the State; but the police and other work assigned to the Monegar and the Taliari, long after the permanent settlement, according to Regulation IV and Regulation XI of 1816 was purely *ex-officio*, without disturbing their relationship with the proprietor and his tenants. Regulation VI of 1831, if the wrong interpretation of it is accepted, is a pure violation of the terms of permanent sannad, and it is absolutely unjustifiable to place such servants under the control of District Collectors, while they are not the servants of the State. This unjustifiable encroachment on the powers of Zemindars is quite anomalous and has completely failed to improve the efficiency of village service wherever the regulation was worked rigorously, and only where the regulation was not worked and treated as a dead letter, the service was efficient. It was on account of the inherent defect of the regulation that it has become practically inoperative, but not owing to the usurpation of the power by Zemindars as alleged by Mr. Garstin. The Bill under consideration is an unfortunate attempt to resuscitate the inoperative Regulation VI of 1831. This attempt also will inevitably result in a miserable failure like the regulation which is intended to repeal hereby, for the very same reason, on account of the impropriety of the State meddling with the servants who are not the servants of the State.

Section VIII of the Bill proposes a concurrent jurisdiction to be exercised both by the Revenue officers and the proprietors; but it does not define when and under what circumstance the Revenue officers, on their part, and the Zemindar, on his, could exercise their powers for offences against them respectively. The Revenue officers can reasonably interfere only with such *ex-officio* servants in so far as their duties to the State are concerned in their *ex-officio* capacity, and they will not be justified in assuming power over these servants beyond this limit. In the estates where the village service emoluments are not annexed by the State, there is no rule for interference according to the report of the Select Committee itself.

With regard to the hereditary right of village servants, the Association observes that though in this country preference is given to heredity, yet the right cannot be set up as a claim against the proprietor, inconsistent with efficiency of service. The Government does not strictly bind itself to the hereditary right of village servants as admitted in the Select Committee Report, paragraph 5, and how can the Government force the hereditary right upon the proprietary landholders who in all fairness and justice should have the power of Revenue officers, even to the extent of disqualifying families as well as individuals for strong reasons. If the Legislative Council were to make due enquiry it would find that not only in the localities specified in paragraph 5 of the Report of the Select Committee there is no hereditary right recognised in the succession to village service, but that the same is the case everywhere throughout the Presidency. It is for the sake of service servants are employed, and not for their personal advantage and profit. The consideration of service and efficiency should weigh more with the Government than the personal consideration of the servants. No rules regulating the heredit[illegible] succession are necessary. It is noteworthy that, while the Government in reply to the memorial of the Associati[illegible] dated 5th December 1890, refused to make a legis[illegible] of the law of primogeniture by making a provision for succession [illegible]ndaries [illegible] should think of forcing the law of primogeniture about successi[illegible] of village ser[illegible] in zemindaries, even in the absence of any such customary law.

Concerning the Karnam, Heads of Villages, and minor Village Police off[illegible] the Association already raised its objections to the interference of the Gover[illegible] As for the other village servants like the minor Revenue officers and Nirga[illegible] Association makes an emphatic protest against legislative interference, as t[illegible] the servants of the State.

With regard to the proposal of placing the village artisans a[illegible] under the control of the Revenue officers, the Association fails [illegible] reason and propriety of the Government interfering in matters [illegible] and the caste institution of the people. If the Governmen[illegible] observe strict neutrality with regard to the management [illegible] Muhammadan mosques and to disclaim all direct connecti[illegible] these institutions, how can the Government with co[illegible]

communal service of the village commu[illegible]y closely connected with their religion and caste about both of which they are extremely sensitive. The memorialists fail to see the propriety of the duties of servants like Village Purohit, Astrologer, Potter and even a Barber being subjected to the control of Revenue officers.

With these observations the Association prays that the Legislative Council will be pleased to consider them and amend the Bill accordingly, and also that your Excellency will kindly allow the Association to be represented by a counsel before the Legislative Council.

For this act of kindness the petitioners, as in duty bound, shall ever pray.

(Signed) V. R. KRISHNA YACHENDRA,
Rajah of Venkatagiri,
President, on behalf of the Madras
Landholders' Association.

VENKATAGIRI TOWN,
3rd October 1894.