

Legislative (1896) Department.

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[Despatch Abstract.]

ACT TO LIMIT THE LOCAL EXTENT OF THE MADRAS RENT RECOVERY
ACT VIII OF 1865.

Submitting copy of the -- as assented to by His Excellency
the Governor for the assent of His Excellency the Governor-General.
Copy to the Government of India, Legislative Department.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Proceedings of a Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Victoria, Cap. 67, and 55 and 56 Victoria, Cap. 14.

The Council met at the Council Chamber in Fort St. George at 11 A.M. on Monday, the 4th November 1895.

PRESENT:

His Excellency the Right Hon'ble the GOVERNOR OF MADRAS, G.C.I.E.—*Presiding*
The Hon'ble Mr. H. W. BLISS, C.I.E.
The Hon'ble Mr. J. GROSE, M.A.
The Hon'ble Colonel J. PENNYCUICK, R.E., C.S.I.
The Hon'ble S. SRINIVASA RAGHAVAIYANGAR, B.A., C.I.E., Diwan Bahadur.
The Hon'ble Mr. C. S. CROLE.
The Hon'ble GHULAM MUHAMMAD HASAN ALI KHAN BAHADUR.
The Hon'ble Mr. A. T. ARUNDEL.
The Hon'ble Mr. E. GIBSON.
The Hon'ble Mr. J. STURROCK.
The Hon'ble the MAHARAJA OF VIZIANAGRAM, G.C.I.E.
The Hon'ble Mr. D. DUNCAN, M.A., D.Sc.
The Hon'ble Mr. J. F. PRICE, C.S.I.
The Hon'ble V. BHASHYAM AIYANGAR, B.A., B.L., C.I.E., Diwan Bahadur.
The Hon'ble Mr. G. L. CHAMBERS.
The Hon'ble P. RANGAYYA NAYUDU.
The Hon'ble C. SANKARAN NAYAR, B.A., B.L.
The Hon'ble K. KALYANASUNDARAM AIYAR, B.A., B.L.
The Hon'ble N. SUBBA RAO PANTULU, B.A., B.L.
The Hon'ble C. JAMBULINGAM MUDALIYAR, B.A., M.L., Rao Bahadur.
The Hon'ble C. VIJAYARAGHAVACHARIAR, B.A.

A BILL TO LIMIT THE LOCAL EXTENT OF THE MADRAS RENT RECOVERY ACT VIII OF 1865.

The Hon'ble Mr. GROSE.—My Lord, I have the honour to move that Bill III of 1895, being a Bill to limit the local extent of the Madras Rent Recovery Act VIII of 1865, which has been published under rule 33, may be read in Council.

The Bill is limited to one section which states that the provisions of the Rent Recovery Act shall not apply to Malabar or the Wynaad. The question has been mooted whether by simply providing that the Act shall not apply to Malabar we shall revive the Regulation which it repeals as regards Malabar. This doubt is met by section 9 of the General Clauses Act I of 1891, which states that for the purpose of reviving a repealed Regulation, it shall be necessary expressly to state such purpose.

Under section 3 of Act VIII of 1865 all the inamdars in Malabar, where 11,500 acres are held on that tenure, and under section 13 all landholders under ryotwari settlements or in any way subject to the payment of land revenue direct to Government and all registered holders of land in proprietary right who have taken a written agreement from their tenants as to rent may proceed to recover arrears by distraint. The Act was passed thirty years ago, but no arrears have yet been realized under it in Malabar. The proprietors there, when their tenants owed them arrears, have always resorted to the ordinary procedure of the Civil Courts. There are many reasons for this. The chief is that an idea that *janmis* could not recover rent from their tenants under the Act seems to have been prevalent throughout Malabar. It was based on the fact that distraint has never been known in Malabar, and though it was a mistaken idea, it had as much influence as if it had been correct. But the distraint clauses, so far as the existing law goes, might be used any day and they will no doubt be used if they remain the Law, when the *janmis*, being registered, become, one and all, directly responsible for the payment of revenue. It is in the highest degree inexpedient that this summary power of distraint should be exercised in Malabar. This fact has always been recognized in Travancore, and when the Bill with regard to *janmis* and tenants now before the Travancore Council was under preparation, it was insisted on. In the statements of objects and reasons this quotation is made from the report of the Janmi Commission: "The power of distraining for arrears given by the Madras Regulations to the landlords is a power liable to great abuse in the hands of needy agents of *janmis* and cannot safely be entrusted to them without causing wide discontent. Distraint was unknown to the Travancore and Malabar systems of land tenure, and the introduction of the novel expedient of distraint by private landlords cannot be thought of until other and less objectionable remedies have been tried and found inefficacious." In the minute of 1885 by Sir Charles Turner on the draft Bill relating to Malabar land tenures he said: "Malabar Law contained no provision for distraint. No one experienced in the mischiefs that attend that remedy in other parts of India can doubt that this in itself was an enormous advantage." The exercise of the power of distraint by Hindu *janmis*, or, as will generally be the case, by their agents, who are often a low class of men, on their Moplah tenants is likely to lead to a repetition of those outbreaks of which there was a bad instance last year. To us who are responsible for the administration of the country it seems manifest that these outrages are often caused or fostered by agrarian discontent, and that if the landlords in Malabar have the powers of distraint possessed by landlords in other parts of the Presidency, we cannot be assured of the peace of the district.

Recognizing the fact that the *janmis*, though it was impossible to give them the summary powers of distraint which are contained in Act VIII of 1865, might want modified powers of distraint in order to be able to realize their rents and pay the Government demand, it was at first proposed to give them the same powers of distraint through the Civil Courts which are granted to the zamindars of Bengal under Chapter XII of the Bengal Tenancy Act, but the Government of India have asked us to consider the necessity of any distraint very carefully. At present, as I have stated, distraint is not exercised in Malabar or Travancore. In the Punjab nothing in the nature of distraint exists and no inconvenience or hardship results from the want of it. In the Central Provinces there are no summary powers of distraint, but the landlord may prohibit the removal of produce while he sues for rent. The question as to how far distraint is necessary is one of some difficulty everywhere, and the special circumstances of Malabar make it specially difficult there, so it is proposed to leave the subject to be dealt with in connection with the Tenancy Law for Malabar,

which, as I have said, is now engaging the attention of Government. I have just had put into my hands a petition from the *janmis* of Malabar in which they urge that they would require the power of distraint when they have to pay revenue to Government, and that it is therefore desirable that the Bill should not be passed into law. After carefully considering what they have said, I have come to the conclusion that the necessity for preserving the peace of Malabar is such that the Act must be suspended at once.

The Hon'ble Mr. ARUNDEL seconded the motion.

His Excellency the PRESIDENT.—The question is that the Bill be read in Council. The motion was put to the Council and carried unanimously.

His Excellency the PRESIDENT.—The Secretary will now read the title of the Bill.

The SECRETARY thereupon read the title.

The Hon'ble Mr. GROSE.—My Lord, the Bill having been read, the question now arises whether it should be referred to a select Committee. I do not think it necessary or desirable so to refer it. This, of course, would involve delay, and in a matter like this, which concerns the public peace, delay should be avoided. The chief duty of a Select Committee is to shape a Bill so as to accomplish the objects aimed at. This Bill is so short and plain that there will be nothing for the Select Committee to work on. I will therefore move: "That this Bill be not referred to a Select Committee."

The Hon'ble Mr. ARUNDEL.—I beg leave to second the motion.

The Hon'ble V. BHASHYAM AIYANGAR.—My Lord, I submit that this Bill may be referred to the same Select Committee, to which the other Bill has been referred, with instructions to report on it also within ten days. If there is any apprehension of section 13 of the Rent Recovery Act being enforced by landlords in Malabar, that will take place only when the registration of land under the other Bill is completed, and probably not until the new settlement. If the provisions of Act VIII of 1865 have not hitherto been availed of by the landlords in Malabar, there is no fear that they are likely to be enforced immediately. Of course, as explained by the Honourable Member in charge of the Bill, and as stated by the association of *janmis* in the memorial that has just been referred to, there is a likelihood of the provisions of section 13 of the Rent Recovery Act being availed of by the landlords, when the *janmis'* names are substituted for those of the tenants. As has been already explained, hitherto pattas were issued in the name of the actual occupant, that is, the tenant; and he was held liable for the revenue due to Government, process being taken against him. In this state of things, there was no occasion whatever for the *janmis* to avail themselves of the provisions of section 13 of the Rent Recovery Act. Though this Bill purports to exclude Malabar from the whole of Act VIII of 1865, yet practically it would be only section 13 of the Rent Recovery Act that would be repealed so far as Malabar is concerned. In the very nature of things, the rest of the Act is scarcely applicable to Malabar, because there are no zamindaris, mittas or jagirs in it; and therefore the provisions of the Rent Recovery Act relating to exchange of pattas and muchilikas and summary suits are inapplicable to Malabar. I may state that so far as section 13 is concerned, though the Act has been in full operation throughout the Presidency for years, yet even in districts other than Malabar, the provisions of section 13 have rarely been availed of by landlords, for the

purpose of levying by distraint the rents due by tenants to whom the land has been let under an agreement in writing. No doubt, in other districts, the provisions relating to the distraint of the tenant's property have been fully availed of by the proprietary class of people, namely, zamindars, inamdars and jagirdars; but so far as ryotwari holders are concerned, there have been indeed very few cases in which the provisions of section 13 have been availed of. In Malabar it has not been availed of as already stated, and inasmuch as the occasion, when it is apprehended that the janmis will avail themselves of the provisions of section 13, will not take place until the passing of the other Bill—or rather until the other Bill is carried out—I think this Bill may be referred in the usual course to the Select Committee. I think that this Bill, being a cognate Bill, may be considered by the same Committee. I think that it may be incorporated with the other Bill, thus avoiding the necessity for a separate Bill and a separate Act for repealing, either in whole, or in part, Act VIII of 1865. It is just as easy to incorporate its provisions in the Land Registration Bill which it is proposed to pass in respect of Malabar. Nobody will, for one moment, question the statement made by Government after due inquiry, that there would be a likelihood of the breach of the peace, if the janmis avail themselves of the provisions of section 13 in Malabar, when this registration is effected, and the revision of assessment also takes place, which, I presume, will result in the enhancement of the present assessment. Though nobody would maintain that there would be no breach of the peace, if the summary power of distraint should be allowed in Malabar, yet it is possible that some suggestion might be made and might be considered by the Select Committee, which would have the effect of mitigating the hardships that the landlords complain of. The complaint they make is one of the reasonableness of which is patent on the face of it; and I am glad that it is the intention of Government to bear this in mind and to provide for it in the Tenancy Bill which it is proposed to introduce in respect of Malabar. From the nature of the Bill it is sure to be a very comprehensive one, and though we may all wish and even expect that it may be passed soon, yet we know from our experience that our wishes as a general rule are not realized and that important measures are delayed very long. Therefore if some suggestions can be made which can be introduced in this very Bill or in the Land Registration Bill, and which may satisfy the landlords to a reasonable extent, I think the necessities of the case can be met. Of course I do not say whether it will be possible to do so or not; but it seems to me that the matter is one that is worthy of consideration, and I submit there is no immediate apprehension of any danger of breach of the peace in Malabar. The complaint which the *janmis* make is this; that hitherto the land revenue due to Government out of the profits of the land was collected and received by Government direct from the tenant, while the landlords received the land only the *micchawaram* of the profits of the land. But after the registration of the land, the name of the *janmis* will be substituted for that of the tenants, and the landlord will have to advance out of his own pocket the assessment due to Government, so that Government may not adopt coercive measures and distraint the land and property. When the tenant knows that Government is not going to levy it from him and distraint his movable property, and that the landlord cannot distraint his movable property and summarily collect the rent from him, his natural tendency will be to put off payment of the rent and to leave the landlord to enforce his remedy by the tedious process of a law suit, because it is proverbial in India, if not in every other country, that debtors are not very anxious to discharge their debts. Further it is to the interest of the tenant to drive the landlord to a Law Court, because the courts will charge him only 6 per cent., whereas, if he were to borrow elsewhere, he would

have to pay 12 per cent. interest. The result therefore is that the tenant will stop payment of the rent and that the landlord will not only have to wait to receive what may be regarded as his profit, but will have to advance out of his own pocket the revenue due to Government. For these reasons I oppose the motion made by the Hon'ble Member in charge of the Bill.

The Hon'ble N. SUBBA RAO PANTULU.—I rise, my Lord, to oppose the motion before the Council that this Bill should not be referred to a Select Committee. I rise to oppose the motion because, I understand, it is the intention of the Hon'ble Member in charge of the Bill that it should be passed into law at this meeting. After reading the Statement of Objects and Reasons for this Bill and after listening to the speech of the Hon'ble Member in charge of the Bill, I am still not convinced of the urgency of this measure. Only three weeks' notice was given to the public with regard to this Bill. It is admitted that the Rent Recovery Act has been in force for nearly thirty years, and the reason or rather the necessity for repealing that Act so far as Malabar is concerned, is that the Council is passing another Bill, according to which the names of the tenants will be removed from the registers and the names of the proprietors, namely, the *janmis*, will be substituted therefor, and that on the introduction of the new settlement, the *janmis* may have recourse to the Rent Recovery Act—which is not considered desirable. If that is the reason for suspending the operation of the Rent Recovery Act so far as Malabar is concerned, then till the Land Registration Bill is passed into law, their names will not be registered. As the law stands at present in Malabar, the interests of the proprietors of land are sufficiently protected so far as the demand of Government is concerned. The process is first issued to the tenant in occupation and without any difficulty the revenue due to Government is collected from the ryots. Hereafter it is the proprietors of land, the *janmis* that will be held directly responsible for the revenue to Government, and therefore until their interests are sufficiently protected by the passing of the measures contained in the other Bill, I think it is rather too early to suspend the operation of Act VIII of 1865. I cannot see, therefore, the urgency of passing this measure at once without giving sufficient time to the public to lay suggestions before the Council. I am against the suspension of the Council rules, of which the Hon'ble Member in charge of the Bill has given notice, and which will be necessary if this Bill is to be passed into law at this meeting. Unless very strong reasons are put forward, I submit that such a procedure ought not to be adopted. I submit that no strong reasons have been placed before the Council to suspend the ordinary rules of procedure and to pass this Bill into law at once. As has been pointed out by the Hon'ble V. Bhashyam Aiyangar, if this Bill goes before a Select Committee, several suggestions may be placed before that body which would not place these *janmis* in a worse position than they are in at present. I think it is the duty of this Council to protect the interests of landlords as well as of tenants. There are several aspects of the question which concerns not only tenants, but also proprietors and which will have to be considered in passing these two Bills, so that it will be much better if these two Bills are taken up and considered together. I therefore oppose the motion for not referring the Bill to a Select Committee.

The Hon'ble the MAHARAJA OF VIZIANAGRAM.—My Lord, with your Excellency's permission I wish to say that the previous speakers did not grasp the point of the Hon'ble Member in charge of the Bill when he proposed to pass the Bill into law at once and not to refer it to a Select Committee. No reason has been shown by the previous speakers to refer the Bill to a Select Committee. I think it is clearly necessary that it should not be referred to a Select Committee at all. Delay is dangerous in this instance. It is a sheer waste of time to refer the Bill to a Select Committee.

and no valid ground has been put forward for so doing, either by the Hon'ble V. Bhashyam Aiyangar or by the Hon'ble N. Subba Rao Pantulu. Any delay in this matter will be prejudicial to the interests of those that come under this Bill.

The Hon'ble P. RANGAYYA NAYUDU.—I think we could have advanced arguments against the suspension of the operation of Act VIII of 1865, but I would only say that not a single reason has been adduced to induce us to vote for the suspension of rules. The suspension of rules is only to be availed of when there is an immediate danger apprehended; and if that immediate danger is to be avoided, then there is necessity for suspending an enactment. But here there is no immediate danger that has been apprehended or has been shown to exist, and therefore I do not see what necessity there is to pass this Bill in this unusual, unwarranted and indecent haste.

The Hon'ble Mr. CROLE.—My Lord, I would appeal to my Hon'ble friend Mr. Grose to give way to what is evidently the general feeling of the non-official members, and to what is likewise my own feeling on the matter. The subject of land-holding in Malabar is an intricate one, so intricate indeed that I am about to proceed to Malabar to investigate the tenancy question. I intend starting the day after to-morrow for that purpose. I cannot see why the Council should be asked to pass the Bill in this haste under circumstances which cannot arise until the other Bill is passed. There cannot be a rush to take advantage of the provisions of Act VIII of 1865 until the names of the *janmis* are substituted for those of the tenants and until you have the registration complete. Mr. Grose has in a dark way hinted at interruptions of the public peace, but he has not favoured the Council with any grounds for this apprehension. I know of no reason. The other day a Judge from up-country informed me that Malabar was in a state which required a thorough looking into, and I asked him the reasons. He said: "There are general grounds for supposing that this new settlement is causing turmoil in the district." A Tahsildar of that district came to Madras, and when I interviewed him on the subject he said that so far from the Malabar settlement causing any apprehension or turmoil in the public mind, not a single soul knew anything about it, or cared to know anything about it. Till the settlement is actually introduced, these people are of such a curious nature, that they will not take any trouble to understand what is coming to them. Mr. Grose has not thrown the slightest light on the matter so as to enable the Council to judge of this upheaval that he imagines is imminent in Malabar. I would place before your Lordship what I know on the subject and the result of my investigation. Though I do not quite agree with the Hon'ble Bhashyam Aiyangar entirely in regard to the operation of Act VIII of 1865 on the landholders in Malabar, yet I cannot see that there have been any grounds placed before the Council for separating one Bill from the other, for referring the one to the consultative action of a Select Committee and rushing through the other and taking steps which can never be retraced. I doubt very much whether it is necessary to withdraw Act VIII of 1865 from operation in Malabar. What after all is Malabar? Malabar, excepting Ernad and Walavanad, is a district of exactly the same character as any other district in the Presidency, and in Ernad and in Walavanad people are supposed to be ground down by *janmis* and *kanamdars*. What reason is there to suppose that these *janmis* will at once rush upon the provisions of this Act, while the other Act is not passed? At all events there is not the faintest reason for saying that in the other taluks of Malabar, the Moplahs require to be protected from *janmis*. As for distraint by landlords, I consider that from experience in my own country, it would be a very good thing for the tenant. In Scotland the landlord can come down upon the tenant, and that tends the tenant to make the tenant careful. If he is left to spend what he gets from the

land and is allowed to fall into arrears, nothing but a Civil Court can interfere and stop him from extravagance. I am entirely groping in the dark in regard to the necessity for this Bill. Looking at Act VIII of 1865, and comparing it with the cumbersome process of Civil Courts, I would prefer, in the capacity either of a tenant or of a landlord, Act VIII of 1865. Another reason is that a Judge under Act VIII of 1865 is a revenue officer who understands the technicalities of the revenue law and revenue tenure. I have been a judge myself, and I know the crass ignorance of both bench and bar in regard to revenue matters. In every case that came before me under this Act during the years that I was a Judge, the Bar and the Judge were alike at sea. I would earnestly ask your Lordship and the Council to think twice before you deprive the tenants of Malabar of the protection—I call it protection, for it is no other—of Act VIII of 1865. In any case I would ask the Council to demand very clear reasons for the statement that the public peace is at stake and may be broken, unless the Bill is passed at this meeting.

The Hon'ble Mr. BLISS.—My Lord, the Hon'ble Member who just sat down and also the Hon'ble V. Bhashyam Aiyangar have expressed great surprise that these two Bills should be separate; in fact they saw no ground whatever why there should be two Bills at all. It seems to me that a conclusive reason why they should be separated is to be found in the fact that they have absolutely no connection whatever in regard to their subject. One is intended to secure the Government revenue and for no other purpose; the other is intended to prevent what Government believes a considerable danger, namely, an outbreak in Malabar. By saying that, I do not mean to ask the Council to think that we have any information that an outbreak is imminent in Malabar. That is not the case. Fortunately Malabar is now in an exceedingly peaceful state and we hope that it may long continue to be so. But it will be in the recollection of the Council that only eighteen months ago we had a serious outbreak. The whole history of Malabar seems to me to show that at no moment can we consider ourselves absolutely secure. In Malabar, as in other places, it is the unexpected that always happens. Although we have at the present moment no grounds of apprehension that an outbreak is imminent in Malabar, yet it is impossible to disguise from oneself the fact that if this right of distraint which is now a legal right in Malabar is to be allowed, there will be every opportunity for an outbreak occurring. In the rest of the Presidency ever since the beginning of the century, distraint by landlords has been allowed and people are well accustomed to it; and as far as I can recollect there has never been any tendency to resist the action taken by landlords under Act VIII of 1865. But the case is entirely different in Malabar. This right of distraint has never been put into force in Malabar. I would ask any impartial person who considers the excitable nature of the people of Malabar and the many causes which there lead to dissension between the landlord and the tenant to picture to himself what must be the effect of one of the *karyasthan*s or the agents of the *janmis*—who are represented to us as being not altogether the most desirable class of persons—going into the house of a Moplah and attaching his goods and chattels, and perhaps the very jewels on his wife's person. In the event of a thing of that kind occurring, it is almost certain to be followed by the breaking of the head of the *karyasthan*, if not by something very much worse. As far as I can see, if you wish, to a certain extent, to preserve the peace you should prevent the landlords of Malabar from exercising in future a right which they have hitherto neglected to exercise. As to the argument that has been adduced that until the registration of the *janmis* of Malabar is completed, circumstances do not arise under which it would be necessary for them to take advantage of Act VIII of 1865, I have to say that several months ago we appointed officers to carry on the work of registration

in Malabar. I cannot say how far they have carried out that work, but the work of registration has been entirely completed to the best of my information in the South-East Wynaad. Therefore the *janmis* in the South-East Wynaad are at the present moment in a position to take advantage of this Act VIII of 1865, unless the law is altered. Therefore it seems to me it is not a case of waiting until the registration of the *janmis* is completed; but it is a case that may occur at any moment, the possibility of which will be increasingly more frequent as the number of registered *janmis* is increased. Another argument that has been used was that with the exception of Ernad and Walavanad, Malabar is just the same as any other district of the Presidency. That I think is a matter that I venture entirely to traverse. The fact of the matter is that one of the worst outbreaks that ever occurred in Malabar occurred in North Malabar; and I cannot see there is anything whatever to prevent another outbreak occurring there again. The argument used by the Hon'ble Subba Rao Pantulu was that it was a sudden proceeding to abrogate the law all at once, law which has been in force for thirty years. The point of the whole thing is that although the law has been nominally in force, yet it has not been practically in force in the district, and what we want to do is to prevent it from being used. If the landlords want to recover their dues, they must go to the Civil Courts. It is quite true that we have under contemplation the enactment of a special law for Malabar, but when that matter is taken up, which will be shortly, the question will also be carefully considered whether it will be right to give any right of distraint to the landlords of Malabar. The Hon'ble Members who have studied the course of legislation in regard to land in other parts of India must be perfectly well aware that there is a very strong feeling in most influential quarters, quarters much more influential than anything here, that such a right should not be allowed. The rights of distraint which they have in Bengal are exceedingly small, in the Punjab they have absolutely none, and in the Central Provinces they are very small. There is no question whatever that if we are determined to enact that the landlords of Malabar shall have any right of distraint in any shape or form, we may take it for granted that our proposals will be strongly opposed in very influential quarters. Indeed for my part it seems to me that by this Bill which is before the Council, we propose to take away nothing from the *janmis* of Malabar which they may be said to have. A man can hardly be said to have what he has never taken the trouble to make use of. It appears to me that in view to the possibility of a breach of the peace in the Malabar district, it is the bounden duty of Government to look about it and not to wait until it is a question of punishment rather than of prevention.

The Hon'ble C. JAMBULINGAM MUDALIYAR.—My Lord, with your Excellency's permission, I wish also to side with those Hon'ble Members who have opposed the motion now before the Council. I shall not traverse the ground passed over by the Hon'ble V. Bhashyam Aiyangar as to the several bearings of each of these Acts, the position now and the would-be position of *janmis* and tenants, and the relief that would be required by the one or the other in case special action is taken under the Act. That portion has been so exhaustively gone over by the Hon'ble Bhashyam Aiyangar that I shall not touch upon it. But I wish to address myself specially to the particular manner in which this motion has been brought forward for the immediate passing of the Bill. The Statement of Objects and Reasons gives only two reasons for this Bill. For the present I shall not commit myself to any opinion as to whether this Act should be repealed or any other enactment in any form is necessary, that is to say, I shall address myself to this special motion and say that there is no necessity for passing it in a hurried fashion. There are two reasons, but two reasons, given in the Statement of

Objects and Reasons. The first is that the Act has remained a dead letter; if for thirty years the Act could have been allowed to remain on the statute book and if during these thirty years we have not heard of apprehension or anxiety on the part of Government, I cannot see any possible danger or any serious apprehension in allowing it to stand for some time longer, till at least it is carefully and duly considered by the Select Committee along with the other Bill. The other ground which has been hinted at has now been explained by the Hon'ble Mr. Bliss. From the explanation we have heard from the Hon'ble Mr. Bliss, all that we can gather is the possibility of a recurrence of those outrages in Malabar and Wynaad which we had eighteen months ago and that it is possible that similar outrages might occur. The question is whether the Government is going to yield to the possibility of outrages or whether it will not sustain and maintain its own existing Laws, and carry them out till the Government sees adequate reasons to change them. My Lord I would submit that the hurried carrying out of this Bill would imply a confession of weakness on the part of Government to maintain and carry out its own laws. In the interests of peaceful Government, I would urge that the Government should not give any room whatever for any class of people to think that by a kind of rowdyism they can intimidate Government and get a law passed.

The Hon'ble the MAHARAJA OF VIZIANAGRAM.—The Hon'ble Member is using words not necessary, and I therefore rise to a point of order.

His Excellency the PRESIDENT.—I do not think the Hon'ble Member is out of order.

The Hon'ble C. JAMBULINGAM MUDALIYAR.—Then again as regards the notice given in the Agenda paper that the Council be asked to suspend the rules, though that proposition has not been formally put, yet from the motion that is now before the Council that the Bill be not referred to Select Committee, I take it, since it has been referred to by my Hon'ble friend on my left, that the motion on the paper for the suspension of the Council rules is practically before us.

His Excellency the PRESIDENT.—We cannot allow any divergence. The question is whether the Bill should be referred to a Select Committee or not.

The Hon'ble C. JAMBULINGAM MUDALIYAR.—I touched upon it because my Hon'ble friend had referred to it, without any call of order from your Excellency. However when the particular motion of which notice has been given is made, I shall have my say. For the present I oppose the motion before the Council.

His Excellency the PRESIDENT, after consulting with the members of Government said.—Gentlemen, I beg to say that the Government has carefully considered the various points brought to its notice in the course of this discussion and that it is not prepared at this present moment to refer this Bill to a Select Committee. The fact of the matter lies in a nutshell. Hon'ble Members get up and say glibly enough that they do not see the necessity for this Bill; but I am bound to say on behalf of the Government that it has serious responsibilities on its shoulders which are not attached to Members. Deferring the consideration of this Bill to a future time means simply running very grave and serious risks which the Government is not prepared to take upon itself. I do not know what view the Council takes in the matter. It may be that members are prepared to cast aside the responsibility and allow the chance of an outbreak in Malabar. Government is bound to state that in its opinion it is not prepared to run that serious risk and that for this particular reason—that the attention

of the *janmis*, proprietors and tenants in Malabar has now been called to this question, and, as has been pointed out by the Hon'ble Mr. Bhashyam Aiyangar, the tenants are beginning to be aware of their position. They know that they are not called upon to pay the Government assessment and if they refuse to pay the *janmis*, what will be the result? The *janmis* will set to work and put section 13 of Act VIII of 1865 into force; and then there is the possibility of an outbreak occurring. We know that these outbreaks take place in a most extraordinary, sudden and unaccountable manner. I beg therefore to inform the Council on behalf of the Government that it is not prepared to run these grave and serious risks. Further, I cannot see in what way the Select Committee can modify this Bill which is intended simply for the cancellation of the Rent Recovery Act. It is impossible for me to see how the Select Committee can possibly modify such a Bill as this. There is one other point which I would like to mention now that I am speaking on the subject; and that is, we are asked to believe that except in Ernad and Walavanad taluks, *janmis* are exactly the same as zamindars in other parts of the Presidency. All I wish to say is that zamindars, ordinarily speaking, throughout the Presidency are assignees of Government revenue, while *janmis* are not. The Government is bound to protect in some way the assignees of land revenue and in that respect they differ from the *janmis*. I regret to say that Government considering the serious position that it is placed in, feels itself called upon to ask that this Bill shall not be referred to a Select Committee, feeling as it does that even a delay of a month might result in most serious troubles in the country the administration of which it is responsible for.

The motion was then put to the Council and carried by a majority of 14 to 7, the voting being as follows:—

For

His Excellency the Governor.
The Hon'ble Colonel J. Pennycuik.
" Mr. A. T. Arundel.
" " J. Sturrock.
" " G. L. Chambers.
" " D. Duncan.
" " J. F. Price.
" " H. W. Bliss.
" " J. Grose.
" S. Srinivasa Raghavaiyangar.
" the Maharaja of Vizianagram.
" Ghulam Muhammad Hasan
" Ali Khan Bahadur.
" Mr. C. S. Crole.
" " E. Gibson.

Against

The Hon'ble C. Sankaran Nayar.
" C. Vijiaraghava Chariar.
" K. Kalyanasundaram Aiyar.
" N. Subba Rao Pantulu.
" P. Rangayya Nayudu.
" C. Jambulingam Mudaliyar.
" V. Bhashyam Aiyangar.

The Hon'ble Mr. CROLE in voting for the proposition in reply to a question put by His Excellency the President said.—I vote for it in deference to the statement made by your Excellency.

The Hon'ble Mr. GROSE.—My Lord, I beg to move that No. 46 of the rules, which requires that the Council shall not proceed to take the Bill into consideration for fifteen clear days, be suspended and the Bill be taken into consideration at once. The Bill was published on the 15th of October, nearly three weeks ago. The danger

which will result from action being taken under Act VIII of 1865 is very great and is likely to occur any day. Now an outbreak is all the more likely to occur since, as your Excellency has said, the attention of the *janmis* and the tenants has been called to the fact that Act VIII of 1865 has as much validity in Malabar as in any other district in the Presidency. Hitherto it was wrongly thought by them that it had no such validity but the wrong thought has had the same influence as if it had been a right one.

The Hon'ble Mr. PRICE seconded the proposition which when put to the Council was carried by a majority 14 to 7.

The Hon'ble Mr. BLISS.—My Lord, now that the Bill is to be taken into consideration, there is a small verbal amendment that I would ask your Excellency's permission to put before the Council. The Rent Recovery Act is described as having been amended by Madras Act II of 1871 and III of 1890; but it has been brought to my notice that these are not the only Acts which amend the Rent Recovery Act VIII of 1865. Unfortunately I have not been able to give notice of the amendment and as it is a mere formal matter, I hope the Council will excuse me. If the Council will look at the wording of Act VIII of 1865, it will be found that two sections were repealed by Act XII of 1873. There is also another Act which amended Act VIII of 1865, namely Act VI of 1886. It amended section 48 of Act VIII of 1865. This was discovered by accident at the last moment and I therefore propose to omit the words "Madras Acts II of 1871 and III of 1890" in order to insert the words "subsequent enactments."

The Hon'ble V. BHASHYAM AIYANGAR seconded the motion.
The motion was put to the Council and agreed to.

The Hon'ble Mr. GROSE.—My Lord, I now move that the Bill as amended be passed into Law.

The Hon'ble Mr. PRICE seconded the motion.

On the motion being put to the vote, there were—

	16
For	4
Against	12
Majority for	

(By order.)

L. DAVIDSON,
Secretary to the Council.

FORT ST. GEORGE,
2nd Dec. 1895.

No. 13 of 1895

Madras Act No. 13

BILL

TO

An act to

Limit the local extent of the Madras Rent Recovery Act VIII of 1865.

Preamble

WHEREAS it is expedient to exclude the Malabar district and the portion of the Nilgiri district known as South-East Wynaad from the operation of Act VIII of 1865 (Madras), it is hereby enacted as follows:—

1. The provisions of the Madras Rent Recovery Act VIII of 1865, as amended by Madras Acts II of 1871 and III of 1890, shall not apply to the Malabar district nor to that portion of the Nilgiri district which is known as the South-East Wynaad.

Exclusion of the Malabar District and the South-East Wynaad from the operation of Madras Act VIII of 1865.

Subsequent enactments

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

A

BILL

TO

Exclude Malabar and the South-East Wynaad
from the operation of Madras Act VIII of
1865.

(Honourable Mr. J. Grose.)

Introduced 1895.

MADRAS ACT No. of 1895.

*An Act to limit the local extent of the Madras Rent Recovery Act VIII
of 1865.*

WHEREAS it is expedient to exclude the Malabar district and the portion of the Nilgiri district known as South-East Wynaad from the operation of Act VIII of 1865 (Madras), it is hereby enacted as follows:—

1. The provisions of the Madras Rent Recovery Act VIII of 1865, as amended by subsequent enactments, shall not apply to the Malabar district nor to that portion of the Nilgiri district which is known as the South-East Wynaad.

Exclusion of
Malabar and
South-East
Wynaad from
the operation
of Madras
Act VIII of
1865.

*In the name and on behalf of Her
Majesty the Queen, Empress of India, I assent to
this Act*

*Madras
12th November 1895*

*Wentlock
Governor of Madras.*

MADRAS ACT No. OF 1895.

An Act to limit the local extent of the Madras Rent Recovery Act VIII of 1865.

WHEREAS it is expedient to exclude the Malabar district and the portion of the Nilgiri district known as South-East Wynaad from the operation of Act VIII of 1865 (Madras), it is hereby enacted as follows:—

1. The provisions of the Madras Rent Recovery Act VIII of 1865, as amended by subsequent enactments, shall not apply to the Malabar district nor to that portion of the Nilgiri district which is known as the South-East Wynaad.

Exclusion of
Malabar and
South-East
Wynaad from
the operation
of Madras
Act VIII of
1865.

*I certify this to be a true copy and that the Act received
the assent of the Right Honorable the Governor of Madras
on the 12th instant*

(Signed) J. D.

Secretary to the Council

*For St George
to the Honorable 1895*

STATEMENT OF OBJECTS AND REASONS.

Although thirty years have elapsed since Act VIII of 1865 (M) was passed, the janmis of Malabar have not made use of its provisions nor availed themselves of the summary powers of distraint which it gives for the recovery of the rents due from their tenants. The janmis on the contrary have always resorted to the ordinary procedure of the Civil Courts in dealing with their tenants in matters of rent. Why the Act has remained a dead letter is not altogether clear; but there are reasons connected with the relations existing between Hindu landlords and Moplah and other tenants which make it inadvisable that the Act should be applied there. Accordingly and in conformity with the practice prevailing locally, the Government deems it expedient that the Act should be formally declared to have no legal operation in Malabar, and the present measure is introduced for that purpose.

With Malabar is included the South-East Wynaad, which was formerly part of that district, but is now for administrative purposes attached to the Nilgiri district.

2nd October 1895.

J. GROSE.

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill to exclude the Malabar District and South-East Wynaad from the operation of Madras Act VIII of 1865.

(Statement of Objects and Reasons.)

No. 3 of 1895.

A

BILL

TO

Limit the local extent of the Madras Rent Recovery Act VIII of 1865.

WHEREAS it is expedient to exclude the Malabar district and the portion of the Nilgiri district known as South-East Wynaad from the operation of Act VIII of 1865 (Madras), it is hereby enacted as follows:—

1. The provisions of the Madras Rent Recovery Act VIII of 1865, as amended by Madras Acts II of 1871 and III of 1890, shall not apply to the Malabar district nor to that portion of the Nilgiri district which is known as the South-East Wynaad.

relating to the Bill of 1895

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

A

BILL

to

Exclude Malabar and the South-East Wynaad
from the operation of Madras Act VIII of
1865.

(Honourable Mr. J. Grose.)

Introduced

1895.

No. 109, LEGISLATIVE, 26TH OCTOBER 1895.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper :—

Telegram from the Honorary Secretary, Kerala Mahajana Sabha, Calicut, to the
Under Secretary to Government, Legislative Department, Madras, dated 21st
October 1895.

Kerala Mahajana Sabha met yesterday Calicut. Bills Nos. 2, 3, of 1895
considered. Sabha respectfully prays above Bills may not be passed 4th November
before allowing public to place views before Council.

ORDER—No. 109, Legislative, dated 26th October 1895.

Communicated to the Legislative Council.

(True Extract.)

L. DAVIDSON,
Ag. Under Secretary.

To the Hon'ble Members of the Legislative Council.

Exd. A. Baith.

Bill
Intro of
Laying to the Council

14 Nov 1895

Govt. of {1895} Madras.
LEGISLATIVE.

Issued

Recd.

Encl.

G.O., No. 109, 26th October 1895.

OCTOBER.

Malabar Land Registration Bill and
the Bill to limit the local extent of
the Madras Rent Recovery Act.

Communicating to the Legislative Council
telegram from the Honorary Secretary, Kerala
Mahajana Sabha, Calicut, requesting that the —
be not passed into law before allowing the public
to place their views before the Council.

[G.]
24
248-14-11-94.

Legislative DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. of 189 , dated from

Current No. of 189 , dated from

ORDER.

Letter No. 128 of 12-9-95
To The Secretary to the Govt. of India
Revenue & Agricul. Dept.

Sir

I am directed to forward copy of
the marginally noted Act which was
passed by the Madras Legislative Council
on the 4th ^{November 1895} ~~instant~~ and received the assent
of His Excellency the Governor on the 12th
^{idem} ~~instant~~ and to request that it may be
submitted for His Excellency the Governor-
General for his assent

2. Two copies of each of the papers
specified on the margin are enclosed for
reference.

* Bill as introduced with statement of
Objects & Reasons.

2. G.O. No. 109 dated 26.10.95

3. Proceedings of the ^{Madras} Leg. Council relating
to the Bill of 4th ~~instant~~ ^{November 1895}

* Bill as introduced — 27 Copies

2. Annexure — 27

3. G.O. 109 of 26.10.95 27 copies

4. Bill as passed 27

5. Procs of the Madras Leg. Council
relating to the Bill of 4th ~~instant~~ ^{November 1895} 27 copies

Copy with enclosures noted on the
margin forwarded to the Govt. of India
Leg. Dept with refce. to letter of
11th May 1889

ORDINARY, MS.

Legre DEPARTMENT.
G.O., DATED *6.12.95*
No. *128-129*

Indiced

When given for copying. *6/12*

[Despatch Abstract.]

*Abstract to limit the Local Extract
of the Madras Rent Recovery Act
of 1865. Same copy of —
as assented to by His Excy the Govr
for the assent of His Excy the
Govr Genl. Copy to the Govr.
of India Legre Dept.*

an for copying
ed
amined
igned

189

DATED

G.O., No.
81

To.

G.O. No

GOVERNMENT

GOVERNMENT.

WITH DITTO.

FILED UP, BEING MEANT FOR DESPATCH
ORIGINAL.

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