5-3-10 ✓
17-5-13 B.I ✓
1-11-16 R.E ✓
11-7-17 B ✓

15 5/89 R.H.

3-11-04

Legislative (1895) Department.

ORDINARY PRINTED.

G.O., No 78-79-79 A

Dated 27th August 1895

INDEXED.

[Despatch Abstract.]

MEMORIALS.

Directing that the -- addressed to the Right Honourable the Secretary of State by the Madras Landholders' Association and the Zemindars of Venkatagiri, Kalahasti and Karvatnagar protesting against the Village Offices' Hereditary Succession Bill being passed into law, be transmitted to the Government of India and that the memorialists be informed accordingly.

Govt. of {1895} Madras.

LEGISLATIVE.

Issued

Recd. *Encl.*

G.O., 27th August 1895, No. 78.

AUGUST.

Memorials.

Directing that the — addressed to the Right Honourable the Secretary of State by the Madras Landholders' Association and the Zamindars of Venkatagiri, Kálahasti and Karvatnagar, protesting against the Village Offices' Hereditary Succession Bill being passed into law, be transmitted to the Government of India, and that the memorialists be informed accordingly.

LEGISLATIVE DEPARTMENT.

LETTER—from

THE CHIEF SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF REVENUE AND AGRICULTURE.

SIR,

In transmitting, herewith, two memorials addressed to the Right Honourable the Secretary of State, I am directed to explain that the delay in their submission is due to the circumstances stated in my letter of this date, No. 81, Legislative.

2. Both the memorials relate to the Village Offices' Hereditary Succession Act. The first emanates from the Madras Landholders' Association and the second from the Zamindars of Venkatagiri, Kálahasti and Karvatnagar. So far as this Government aware the memorialists have not addressed the Government of India on the same ubject. If this is the case, their memorials are liable to be withheld under No. XIII of the rules relating to the transmission of memorials addressed to the Right Honourable the Secretary of State for India.

3. The contentions raised in the memorial of the Madras Landholders' Association are very similar to those contained in that presented by the same body regarding the Proprietary Estates Village Service Act, 1894, which has been forwarded with my letter of this date, No. 81, Legislative, in which their arguments have been discussed at sufficient length, and, as the Governor-General has already signified his assent to the Bill against which they now protest, and as their memorials are further apparently liable to be withheld by the Government of India, His Excellency the Governor in Council considers that a few brief comments are all that is required.

4. The contentions raised in the memorial of the Landholders' Association may be summarized and answered as follows:—

(1) *The karnam in proprietary estates is not a servant of the State.*—The reply to this argument is that the karnam *is* a joint servant of the State and the proprietor and that the Bill only affects the office of karnam in so far as it legalizes the bringing of suits in regard to it.

(2) *The monigar and village watchman are servants of the proprietor and not of the State.*—The Government is unable to recognize this contention. Village officers in proprietary estates are not at present in any way legally subject to the control of the proprietors.

(3) *Madras Regulation VI of* 1831 *does not apply to Zamindaris.*—This argument proceeds entirely on the hy ice inams in zamindaris were not annexed by the State at the tlement; the incorrect- ness of this will be apparent from orialists.

(4) *Village service inams were not excluded from the assets of permanently-settled estates in the calculation of peishcush.*—The Government has no hesitation in pronouncing that in the great majority of cases this contention is not based upon fact. The matter is fully discussed in column 7, paragraph 3, of my letter of this date, No. 81, Legislative, and enclosure A thereto, copies of which are appended.

5. The memorial of the Zamindars of Venkatagiri, Kilahasti and Karvatnagar appears to be a mere application to the case of the Village Officers' Hereditary Succession Bill of the arguments which the same petitioners have previously brought forward in their protests against the Proprietary Estates Village Service Act; these have been dealt with fully in my letters, dated 1st March 1894, No. 40, and 9th April 1895, No. 32, Legislative. His Excellency the Governor in Council therefore considers that it will suffice to refer to those communications.

6. In conclusion, I am to invite attention to paragraphs 4 and 5 of my letter of this date, No. 81, Legislative, and to point out that of the three signatories to the second of the memorials now forwarded the Zamindar of Kálahasti is a boy of 20, who has only just succeeded to his estate, and another, the Zamindar of Karvatnagar, is so sunk in debt that he has on three occasions, viz., in 1884, 1888 and 1893, applied to Government for assistance. On the last occasion, after a careful consideration of his circumstances, the Government came to the conclusion that the debts which he had contracted considerably exceeded the full value of his estate, the greater portion of which is heavily mortgaged, and consequently decided to refuse his request. The third signatory, the Zamindar of Venkatagiri, is the President of the Madras Landholders' Association, and, as the Government is informed, constitutes the mainstay of the existence of that body.

7. I am, in conclusion, to state that His Excellency the Governor in Council is of opinion that, for the reasons given above, the representations of the memorialists are entitled to no weight.

I have the honour to be,
Sir,
Your most obedient servant,

J. F. PRICE,
Chief Secretary to Govt.

OOTACAMUND,
27*th August* 1895.

ENDORSEMENT—dated 27th August 1895, No. 79-A, Legislative.

Copy to the Government of India, Legislative Department.

J. F. PRICE,
Chief Secretary to Gov

1895.

...TIVE DEPART

From the Government of Fort St. George.

Issued

Recd. *Encl.*

Letter, &c., 27th August 1895, Nos. 79, 79-A.

AUGUST.

Memorials.

Transmitting to the Government of India, with remarks, — from the Madras Landholders' Association and the Zamindars of Venkatagiri, Kálahasti and Karvatnagar, to the Right Honourable the Secretary of State, protesting against the Village Offices' Hereditary Succession Bill being passed into law.

AN

APPEAL MEMORIAL

OF THE

RAJAHS

OF

VENKATAGIRI, KALAHASTI

AND

KARVETNUGGAR

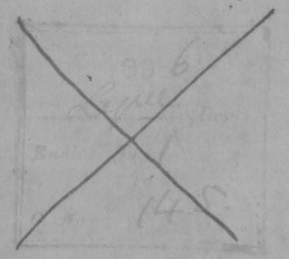
AGAINST THE APPLICATION OF THE

MADRAS HEREDITARY VILLAGE OFFICES

ACT 1895.

WITH ENCLOSURES.

SECY. GOVT. MADRAS
11 MAR 95
REVL. DEPT.



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

1895.

Enclosure to G.O. 786 dt 27-8-95

To

The Right Honourable

THE SECRETARY OF STATE FOR INDIA

IN COUNCIL.

The humble memorial of the Rajahs of Venkatagiri, Kalahasti and Karvetnuggur begs to appeal against the Madras Hereditary Village Offices' Bill that has been passed by the Madras Legislative Council, with the full hope that you will be pleased to exercise the power of exempting these three Zemindaries from the operation of the Act as the calculation of peishcush in these three 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. Whatever might be the arguments and reasons for the inclusion or exclusion of assets for calculating the peishcush at the time of the Permanent Settlement in all other Zemindaries in general, Mr. Garstin himself the Mover of the Bill, says with regard to these three Zemindaries :—

"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.)

2. The Bill with the amendments made in the Council meeting of the 19th and 20th March 1895 brings under its purview servants like Toti or Vetti and Nirganti, who were excluded from the Proprietary Estates' Village Service Act on the representation of the Madras Landholders' Association. Besides, till the injurious Proprietary Estates' Village Service Act II of 1894 be enforced, other village servants than Kurnams like Monegar and Taliari are to be brought under the operation of this Bill. The Bill under review proposes to repeal and re-enact Regulation VI of 1831. The Memoralists beg to submit that the Regulation has not been applied to these Zemindaries for the last century.

3. The status and dignity of the Rajahs of these estates at the time of the Permanent Settlement and previous to that were of the nature of independent and semi-independent princes. It was an ancestor of the Rajah of Venkatagiri that granted the port of Arumugam or Dugarajapatam in 1625 to the East India Company with all the authority of a territorial ruling Prince. After the abandonment of the place for its unsuitability, in the year of 1639 an ancestor of the Rajah of Kalahasti granted to the East India Company, the site on which Fort Saint George was built. The princely grant of the Rajah practically laid the foundation of the British Empire, which has expanded from this first territorial acquisition.

4. The Madras Legislative Council in consideration of the contention of Zemindars, that the Service Inams were included in the assets and taxed for permanent peishcush, in all fairness and justice makes a provision that there will be no interference with regard to servants whose service moniems were included in the assets and taxed, and that the Bill that has been passed now is made applicable only to those estates whose Service moniems were annexed by the State. This is a question of fact; and when the question is established it would be perfectly illegal for the Government to interfere direct with the emoluments of the servants which ceased to be State property since the Permanent Settlement. If the Legislative Council with some doubt about the tenure and nature of Service Inams in other zemindaries were to make this reasonable provision, the Government might by special provision exempt the estates of the Memorialists as the estate was made *en bloc* responsible for the peishcush on the zemindaries, according to the clear terms of the Permanent Sannad, as an inevitable result of the special arrangement with regard to these zemindaries, by which the peishcush was a mere commutation of Military Service rendered to the Paramount Power.

5. Section 4 of Regulation XXV of 1802 and para. 4 of Sannads given to other Zemindars than the Memorialists say that the permanent assessment was independent of Lakheraj lands. This led to confusion on the part of those that interpreted the term and maintained that Village Service moniems were included in Lakhiraj lands, while in reality the fact was otherwise as explained already. But there was no necessity and occasion for such doubts and confusion as regards the estates of the Memorialists in whose Sannads Lakhiraj lands were omitted, for the strong reason that the peishcush was not with reference to assets and it was a commutation of military service rendered to the Paramount Power under the Hindu, Mohammedan and British period.

That the Government has no claim on the Lakhiraj lands and Village Inams has been clearly established from time to time since the beginning of the century. Under Sec. 4 of Regulation XXV 1802 the Government reserved to itself the power of dealing with the Lakhiraj lands of zemindars. In pursuance of this power the Lakhiraj lands were included in the assets of the zemindaries. The Government could not help doing anything else with regard to these Zemindaries, as the Government avoided the calculation of the peishcush on assets as in other Zemindaries.

In Original Suit No. 13 of 1818 of the Provincial Court of Central Divison 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 9 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 this 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."

6. 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. Grastin, 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. In the Hindu and Mohammedan periods there was no interference of any kind as regards the control over village servants by Rajahs of the status of the Memorialists. They had complete control over their village service moniems. Down to the present day there are several zemindaries in the Nizam's dominions like Gudwal, Judprole, and Vanaparthi, which pay tribute to Government, without reference to assets, and yet even now they have absolute control over all the village servants including Kurnums and over village service moniems. In the speeches delivered by Mr. Garstin on the 12th December 1893 and by Hon'ble Mr. Grose on the 19th March 1895 great emphasis was put on the Moturpha case delivered by the Full Bench of the High Court. The decision proves nothing. This case was only with reference to Moturpha levied by some minor Inamdars after the Moturpha compensation was given. The decisions of Mr. Plumer, Civil Judge of Chittoor, was dealing directly with Lakhiraj lands and the decision on suit No. 13 of

1818 of Fowzdari Adawlut was between zemindari and Government about Lakhiraj lands and the Government would not appeal against the decision of the Fowzdari Adawlut. While these two decisions were directly dealing with Lakhiraj lands, the Moturpha case referred to deals with a side issue distinct from those of the other suits. The Memorialists pray therefore that you will be kindly pleased to disallow the Act as far as the zemindars are concerned by exempting them from the operation of the act by a special provision in the Act itself.

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

VENKATAGIRI TOWN,
NELLORE DISTRICT,
MADRAS PRESIDENCY,
May 1895.

8

List of Enclosures accompanying the Appeal Memorial on the Madras Hereditary Village Offices Act to the Secretary of State for India in Council.

		Pages.
1.	Memorial of the Rajahs of Venkatagiri, Kalahasti and Karvetnuggar against the Bill to the Governor of Madras, marked A.	1 & 2
2.	Regulation VI. of 1831, marked B.	3 & 4
3.	A Bill to repeal Madras Regulation VI. of 1831, and for other purposes together with the Statement of Objects and Reasons, dated 1st November 1893, marked C.	5 to 8
4.	The 1st Select Committee's Report on the Bill, together with the Bill, marked D.	9 to 17
5.	The 2nd Select Committee's Report on the Bill, together with the Bill, marked E.	18 to 26
6.	Proceedings of the Madras Legislative Council, held on the 19th March 1895, marked F.	27 to 48
7.	Proclamation of the Government, dated 22nd August 1800 and 24th August 1802	49 & 50
8.	Letter to the Rajah of Kalahasti by Lord Clive, dated 24th August 1802 ...	51 to 53
9.	Permanent Sannad granted to the three Rajahs by Government and the Correspondence thereon	53 to 60
10.	Extract from the Proceedings of the Foujdaree Adalut, dated 24th September 1829	61
11.	Judgment of the Provincial Court, Original Suit No. 13 of 1818 and the Proceedings thereon	62 to 64
12.	Proceedings of the Government and the Board of Revenue about Inam villages in Kalahastri Zemindari	64 & 65
13.	Proceedings of the Inam Commissioner, dated 3rd September 1860 ...	66
14.	Mr. C. G. Plumer's Judgment and the Judgment of the High Court ...	67 to 73

9

A.

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 Karvetnuggar.

Most Respectfully Sheweth,

That the Memorialists are the members of the Madras Landholders' Association who have sent a memorial against the Hereditary Village Offices' Succession Bill. They fully endorse the views of the Landholders' Association and pray your Excellency will kindly accept the arguments contained therein on behalf of your Memorialists also.

The Memorialists in addition to the arguments adduced in the memorial beg to state further that the terms under which the peishcush was settled and the permanent settlement was made with these Zemindaries were quite distinct from other Zemindaries. The peishcush of these Zemindaries was a money commutation of military service, and it was not calculated on the assets as in case of other Zemindaries. Accordingly, as an inevitable result of the nature of peishcush as a commutation of military service, there was no calculation and there was no necessity whatever to consider as to what items should be excluded or included in the landed assets. In conformity with this arrangement Lakhiraj or Inam lands were not excluded from the assets in the permanent sannads granted to the Zemindars.

The special omission of Lakhiraj lands in the Sannads granted to them and the Government not having reserved to itself the power of resuming them on "mature consideration" became a strong ground for the Law Courts and the Government itself for not interfering with the control of the Zemindars over the Inams and with their reversionary right to them.

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 1893, 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."

1

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 clear from these that the Government can lay no claim to Inams and Lakhiraj lands in these Zemindaries, and Regulation VI of 1831 proposed to be repealed by the Bill could not possibly apply to these Zemindaries, as the Village Service moniems were not annexed by the State. The non-applicability of the Regulation has been established by competent judicial courts. As far as these Zemindaries are concerned, there is nothing to repeal by the proposed legislation nor is there any necessity shown for the interference of the Government as the servants to be brought under the purview of the Bill, are not at all the servants of the State, but private servants of the Zemindar and the villagers. With regard to the servants engaged in the revenue administration of villages the Memorialists already raised their objections in the different memorials against the Proprietary Village Service Act II of 1894. All the objections contained in the memorial and those contained in the memorial of the Landholders' Association on the Hereditary Village Offices' Succession Bill are applicable to the three Zemindaries with reference to the Bill.

The Memorialists fail to see the propriety of the Government interfering with Village Artisans and Village Purohit and Astrologer. The Government quite recently abstained from interfering with the artisan moniems in Arni Jahire on a representation similar to that made by the Memorialists that the peishcush of the estate was not calculated on the assets, but it was a commutation of the Nuzzur paid by the ancestor of the Jaghiredar to the sovereign. For the very same reason the Government should give up all interference with such Inams and the servants holding the Inams in the estates of the memorialists. There is no such thing as a settled rule of hereditary succession of Village Officers, as provided for by the proposed enactment.

The memorialists pray that the Legislative Council will be pleased to consider the arguments of the memorial and do justice to the memorialists by exempting their estates from the purview of the Bill, and pray further that the counsel of the memorialists be allowed to appear before the Legislative Council to represent their case. The accompanying enclosures support the arguments of the memorialists.

For this act of justice, the memorialists as in duty bound, shall ever pray.

B.

REGULATION VI. OF 1831.

Passed on the 3rd of June 1831.

A REGULATION *to prevent the misappropriation of the emoluments annexed by the State to hereditary Village and other offices in the Revenue and Police Departments and to maintain the due efficiency of those Offices.*

Preamble.

Whereas certain emoluments derived from lands, from fees in money or grain, and from other sources, have been annexed by the State to various hereditary village and other offices in the Revenue and Police departments, as wages for the performance of public services; and whereas, to provide for the due performance of such services, it is necessary that the emoluments above mentioned should in no case be separated from the offices to which they have been annexed by the State; and whereas effectually to prevent the appropriation of such emoluments to purposes other than those for which they were originally designed it is requisite to declare that all such emoluments are inalienable by mortgage, sale, gift or otherwise, to provide that no claim to such offices, or to any of the emoluments annexed thereto, shall be cognizable by the ordinary Courts of Judicature, and to render all such claims adjudicable exclusively by the officers of Government in the Revenue department; and whereas, in order to maintain the due efficiency of the offices before mentioned, it is necessary that the holders thereof should be more immediately subject to the authority and control of the Collectors of Revenue, this Regulation has been enacted, to be in force from and after the date of its promulgation.

All emoluments annexed by the State to hereditary village and other offices in the revenue and police departments inalienable, not liable to attachment by the courts and their transfer null.

2. It is hereby declared that all emoluments derived from lands, from fees in money or grain, or from other sources, which have been annexed by the State to hereditary village and other offices in the Revenue and Police Departments, are inalienable from such offices by mortgage, sale, gift or otherwise; that all transfers which may hereafter be made thereof by the holders of such offices shall be null and void; and that such emoluments shall not be liable to attachment or other process in satisfaction of decrees of Court.

Claims to such offices not cognizable by the courts.

3. *First.*—Claims to the possession of, or succession to, hereditary village or other offices in the Revenue and Police Departments, or to the enjoyment of any of the emoluments annexed thereto, shall not be cognizable by the ordinary Courts of Judicature; and all suits respecting such offices emoluments, which may be depending in those Courts at the receipt of this Regulation, shall be forthwith struck off the file.

Parties existing suits respecting such claims to obtain a refund of all costs.

Second.—Provided, however, that the parties in the suits which may be struck off the file of the several Courts, under the preceding clause, shall be entitled to and shall receive back the amount of all charges incurred by them respectively in the prosecution of such suits; and the presiding officers of those Courts are hereby authorized and directed to refund to the parties aforesaid all charges so incurred.

Such claims adjudicable by the Collector.

4. *First.*—All claims which have arisen and have not been determined by the ordinary Courts of Judicature, or which may hereafter arise to the possession of, or succession to, hereditary village or other offices in the Revenue and Police Departments, or to the enjoyment of any of the emoluments annexed to such offices, shall, in the first instance, be adjudicable by the Collector of the district in which the claim has arisen or may arise.

The Collector may require any Native of his district to aid him as an assessor under penalty of fifty rupees fine.

Second.—It shall be competent to the Collector to require the attendance of any of the resident Native inhabitants of his district, to aid him as assessors in investigating and determining the claims brought before him under the preceding clause; and every person neglecting or refusing to attend when called upon for this purpose shall be liable, at the discretion of the Collector, to a fine not exceeding fifty rupees, the payment of which shall be enforced, if necessary, by the ordinary process of distraint for arrears of revenue.

Third.—It shall be competent to Collectors at their discretion to refer the claims brought before them under Clause 1st of this section to the Native assessors for investigation.

May refer claim to the Native assessors.

Fourth.—It shall be competent to Collectors to require and enforce the attendance of all witnesses whose evidence may be necessary in the investigation of claims under the foregoing clauses.

Attendance of witnesses how to be obtained.

5. *First.*—From every decision passed by the Collectors on claims brought before them under Clause 1st, and from every order of the Collectors imposing a fine under Clause 2nd, of the preceding section, an appeal shall lie to the Board of Revenue, provided such appeal be made within three months from and after the date of the Collector's decision or order.

An appeal to lie to the Board of Revenue if preferred within three months from the decision of Collector.

Second.—It shall however be competent to the Board of Revenue whenever they may see fit, to admit an appeal preferred after the time limited in the foregoing clause.

Board of Revenue may admit appeals after that time.

6. The decisions or orders of the Board of Revenue on all appeals made to them under the preceding section shall be final and conclusive; provided, however, that it shall be competent to the Governor in Council to revise and modify such orders and decisions, whenever he may deem it necessary for the ends of justice.

Decisions of the Board final, subject to revision by Government.

7. Sections 19 and 20, Regulations XI, 1816, are hereby rescinded; and village watchers, as well as all other persons who hold or may hereafter held hereditary village or other offices in the Revenue and *Police* departments, to which emoluments have been annexed by the State, shall be under the immediate authority and control of the Collectors of the districts in which such offices are established, and shall be liable to suspension or removal from office for incapacity, neglect of duty, or other just cause, by the orders of the Collectors, subject in every instance to the approval of the Board of Revenue, and to the sanction of the Governor in Council in all cases in which he may see fit to interfere.

Section 19 and 20, Regulation XI, 1816, rescinded; and all persons holding hereditary village or other offices in the Revenue or Police departments, placed under Collectors and liable to removal by them, subject to the orders of the Board and Government.

8. Nothing contained in this Regulation shall be construed to affect in any way the office of Curnum established by Regulation XXIX, 1802, in districts of which the land-revenue has been permanently fixed, or to be any wise applicable to the public institutions referred to in Regulation VII, 1817, or to the trustees, managers or superintendents of those institutions.

The offices of Curnum in permanently settled districts not affected by this regulation, nor the institution referred to in Regulation VII., 1817.

C.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published for general information under Rule XXV of the Rules for the conduct of business at Meetings of the Council of the Governor of Fort St. George for making Laws and Regulations:—

No. 4 of 1893.

A Bill to Repeal Madras Regulation VI of 1831, *and for other purposes.*

Whereas it is expedient to define more precisely the village offices, in villages in the Madras Presidency, the succession to which is hereditary; to provide for the summary hearing and disposal of claims to such offices or the emoluments attached or belonging thereto; for the disposal of appeals against the decisions passed in such cases; and for the appointment, control, and punishment of the village officers holding such offices; it is hereby enacted as follows:—

1. This Act shall be called the Village Officer's Hereditary Succession Act, 1893. It applies to the whole Presidency except the scheduled districts and those local areas or estates, and those classes of village offices in such areas or estates, to which and to whom the Proprietary Estates Village Service Act has been, or may hereafter be, extended and it shall come into force from such date as the Government may by notification declare.

2. From the date of this Act coming into force Regulation VI of 1831 shall be repealed.

3. In all districts of the Madras Presidency the village offices to which this Act applies are the following by whatever names they may be locally known:—

(1) The Monegar or Head of the Village.

(2) The Karnam or Village Accountant.

(3) The Taliari or Village Policeman.

(4) The Vetti or Village Revenue Peon.

(5) The Nirganti or Irrigation-water Distributor.

4. In this Act unless there is something repugnant in the subject or context—

"*Village*" means any local area now recognized as a village by Government, or hereafter declared by Government to be a village for purposes of administration.

"*Village officer*" means any person for the time being discharging the duties of any of the offices specified in section 3 of this Act.

"*Revenue Officer in charge of the Division*" means the officer for the time being in charge of the Revenue Division in which any village is situated, or any other such officer as the District Collector may, from time to time, depute to exercise Revenue powers within such Division or part of such Division.

5. Whenever it appears to the Board of Revenue to be necessary or expedient, for purposes of administration, that one or more villages or parts of villages should be grouped together to form a new village or that any village should be divided into two or more villages, or be amalgamated with two or more villages, or that the number of village offices of any class, in any village, should be reduced, it shall be lawful for the said Board, subject to the approval of Government, to issue orders accordingly.

6. When in pursuance of such orders two or more villages, or parts of villages, have been grouped into a new village, or when a village has been divided into two or more villages, all the village offices specified in section 3 in such grouped or divided villages shall cease to exist and new offices shall be deemed to be created for the new village or villages: and where the number of village offices of any class in any village has been reduced, the remaining office or offices of that class shall be deemed to be new offices. In making appointments to such new offices, however, regard shall be had to the claims of the holders of the offices previously existing, and the preference shall be given to them, unless they are disqualified for office under sub-section 1 of section 8 of this Act.

7. The holders of all the offices in any district to which this Act has been applied shall be under the immediate authority and control of the Revenue Officer in charge of the Division and shall be

appointed by him and may be dismissed, removed, suspended or fined by him, or by the District Collector, for incapacity, non-residence in their villages, neglect of duty, or other just cause, after recording his reasons in writing. Against every such order of dismissal, suspension or fine passed by any Revenue Officer in charge of the Division an appeal shall lie, within one month, to the District Collector, whose decision, on appeal, shall be final. Against every such order passed by the District Collector himself an appeal shall lie, within three months, to the Revenue Board, and the decision of Revenue Board shall likewise be final and conclusive.

Sub-section 1.—When the office of monegar or head of the village, and of that of village munsif under the Madras Village Courts Act, 1888, are held by the same person, suspension or removal of such person from the latter office shall involve his suspension or removal from the former also.

8. The succession to all the offices specified in section 3 of this Act shall be hereditary and shall devolve, subject to the following provisos, to a single heir of the last holder, not being a temporary incumbent under sub-section 3 of this section, according to the general custom and rule of primogeniture governing the succession to impartible estates in Southern India. Provided, that in those districts, namely, Malabar, South Canara, Salem, Tanjore and Trichinopoly, where, prior to the passing of this Act, the right of succession to such offices or to any of them has not been hereditary, nothing in this Act shall be deemed to create any such hereditary right.

Sub-section 1.—No person shall be eligible for appointment to any of the offices specified in section 3 of this Act, even though entitled to succeed thereto by right of succession, who

(1) is not of the male sex;

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

(3) where any educational test of qualification has been prescribed for the office by the Board of Revenue by rules under section 15, has not qualified according to such test; and

(4) has been sentenced by any Court to imprisonment (not being imprisonment in default of payment of a fine), whipping, or transportation, which sentence has not been annulled.

Sub-section 2.—Where any office specified in section 3 has become vacant by the death, resignation, dismissal or removal of the last holder, and the next heir is not qualified, under sub-section 1 of this section, to succeed to the office, the Revenue Officer in charge of the Division or the District Collector shall, unless action is taken under sub-section 3 following, appoint thereto 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 duly qualified stranger.

Sub-section 3.—Where any office specified in section 3 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 duly qualified person unconnected with the family of the dismissed or suspended officer.

9. When a person, entitled to succeed under section 8 to an office specified in section 3, is a minor, the Revenue Officer in charge of the Division or the District Collector shall cause his name to be registered as the office-holder and may appoint some other qualified person to discharge the duties of the office until the minor attains his majority and is qualified under sub-section 1 to section 8 to discharge the duties of the office himself, when he shall be appointed thereto by the Revenue Officer in charge of the Division or the District Collector. In the event of the death of the minor, or of his being found disqualified on attaining his majority, the Revenue Officer in charge of the Division or the District Collector shall appoint the person next in succession who is duly qualified, and in the absence of any such person in the line of succession may appoint any qualified stranger.

10. Claims to succeed to any of the hereditary offices specified in section 3 may be preferred by suit before the Revenue Officer in charge of the Division or the District Collector and shall be disposed of by him summarily.

Sub-section 1.—No suit shall be entertained by any such Revenue Officer, even in the case of a minor, which is not filed within three years from the date of the cause of action arising.

Sub-section 2.—No suit shall be entertained for a declaratory decree.

Sub-section 3.—No suit shall be entertained in respect of offices, newly created within the meaning of section 6, which rests upon claims to any of the offices previously-existing.

Sub-section 4.—No suit shall be entertained which is filed by a person, on his own behalf, who is not eligible to hold the office sued for by reason of disqualification under section 8, sub-section 1.

11. The District Collector may transfer to his own file any suit on the file of any Revenue Officer in charge of a Division of the district, or from the file of one such officer to that of another, or to that of an Assistant or Deputy Collector not in charge of a division, for disposal.

12. There shall be only one appeal against the decision of any officer passing a decree in any suit disposed of by him under the preceding section. From the decision of any such officer an appeal shall lie within two months to the District Collector, but from the decision of the District Collector an appeal shall lie within three months to the Board of Revenue. The decision on appeal of the District Collector or Board of Revenue shall be final and conclusive.

13. Where the remuneration of an office consists of the possession and enjoyment of land, or of its produce or assessment, the holder of the office may prefer a suit before the Revenue Officer in charge of the Division to obtain possession of such land or to compel payment of its produce or assessment. Such Revenue Officer shall dispose of the suit summarily, and, subject to the appeal to the District Collector or Board of Revenue specified in the preceding section, may execute his own decree in the manner provided in Chapter XIX of the Civil Procedure Code for the execution of decrees and may put the decree-holder in possession of the land or enforce the payment or delivery of the assessment or produce or of the value of such produce. Provided, that when one of the facts in issue in any such suit is whether the emoluments of the office consists of land or the assessment or produce of land such Revenue Officer shall assume that it is the assessment or produce of land until a Civil Court has decided that it is the land itself.

14. Claims to succeed to any of the offices of any of the following classes of village artizans, *viz*:—

(1) The village carpenter,

(2) The village blacksmith.

(3) The village barber,

(4) The village washerman,

(5) The village potter,

(6) The village astrologer,

(7) Other village artizans not above specified,

or to the inam lands or other emoluments attached to such offices may be preferred before the Revenue Officer in charge of the Division and shall be disposed of by him under sections 10, 11 and 12 in the same manner as claims to the village offices specified in section 3.

15. On the passing of this Act all suits and appeals pending under Regulation VI of 1831 shall be heard and disposed of as if they had been filed under this Act.

16. The Board of Revenue may make rules consistent with this Act and subject to the approval of Government for the following purposes:—

(1) To regulate and control the conduct and residence of the village officers specified in section 3.

(2) To prescribe the duties of such officers.

(3) To prescribe the procedure to be followed in disposing of summary suits.

(4) To provide for the custody, production and transfer of the accounts and other records kept by any class of village officers.

(5) Any other matter calculated to enhance the efficiency of the village service.

17. No Civil Court shall have any power to take into consideration or decide any claim to succeed to any of the offices specified in sections 3 or 14 or to any of the lands or other emoluments attached or belonging thereto.

STATEMENT OF OBJETS AND REASONS.

Regulation VI of 1831, which the accompanying Bill proposes to repeal, was enacted with a view "to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police departments, and to maintain the due efficiency of those offices." The enactment is in many ways defective, but although its imperfections have from time to time attracted the attention of Government, it has not until lately been considered necessary to amend them by resort to fresh legislation.

2. The principal defects alluded to are—

(i) the absence of any provision for the execution of decrees passed under the regulation;

(ii) the want of a clause limiting the right to sue within a reasonale period from the date when the cause of action arose;

(iii) the want of a similar clause confining the right of appeal, and declaring the decision of an appellate court to be final; and

(iv) the absence of any provision in regard to the filing of suits for declaratory decrees, *i. e.*, of suits in which the persons suing cannot, even if successful, obtain specific relief.

3. The existence of these defects has to a great extent obviated the attainment of the principal object with which the regulation was framed, *viz.*, the maintenance of the due efficiency of village offices. Moreover, in recent years the village establishments have in most districts been revised; new villages have been formed, in some cases by the amalgamation into suitable groups of the individual villages previously existing, and in others by the sub-division of villages which were too large for efficient administration as a single village; the number and constitution of the offices themselves have also undergone considerable revision, and steps have been taken to place the village organization on a footing more in accordance with modern requirements. Salaries have also been substituted for inams, and thus one of the chief reasons for the existence of the present regulation —namely, to prevent the misappropriation of such inams—has disappeared.

4. The process of revision has, moreover, tended very greatly to complicate the working of the above regulation, and has at the same time augmented to an enormous extent the annual file of suits for village offices and of petitions for departmental interference. Parties who were thrown out of office by the arrangements made at the revision of establishments very naturally adopted every means in their power to regain their former position, and, profiting by the defects in the existing law and by the contradictory rulings thereunder, to which the said defects gave rise, have spent much time and trouble in useless, but prolonged, litigation. Consequently, those officers who were selected at revision or who have otherwise obtained the posts in question are continually liable to be harrassed by suits filed against them by one claimant after another, and are thus very seriously hampered in the due performance of their duties. From the Government point of view also the evils arising from this mass of litigation are very great, for, as the Board of Revenue puts it, "from the Divisional officer to the Governor in Council the official machinery of the country is set in motion, without any commensurate public or private gain, and to the great detriment of more important affairs."

5. It is therefore necessary to repeal the old regulation, and to place upon the statute book an enactment that will supply the deficiencies in the existing law, while maintaining intact the principle of hereditary succession to these village offices, subject, in the first place, to fitness to hold them, and will at the same time define clearly the procedure to be adopted in the appointment, control and punishment of the officers in question. The present Bill has accordingly been framed with these objects.

MADRAS,
1*st November* 1893.

(Signed) J. H. GARSTIN.

(By order.)

A. BUTTERWORTH,
Under Secy. to Govt, Legislative Dept.

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D.

The following Report of the Select Committee on the Bill adras Regulation VI of 1831 and for other purposes, together with the Bill as amended b mittee, is published for general information:—

To

THE HONORABLE THE COUNCIL OF THE GOVERNOR OF FORT ST. GEORGE FOR MAKING LAWS AND REG

We, the members of the Select Committee appointed at the l uncil held on the 14th ultimo to consider the Bill to repeal Madras Regulation VI. of 183 r purposes, have the honour to submit our report thereon to the Council.

The Honorable A. Sabbapati Mudaliyar was unable through il end any of our meetings and His Excellency the Governor accordingly, at the request harge of the Bill, added under Council Rule 41, the Honorable P. Rangayya Nay

2. The only petition which came under our consideration in connection l was a memorandum presented to us by the Landholders' Association and the Rajahs of Venkatagiri, Kalahasti and Karvetnagar; we also considered the correspondence in G. O., dated 15th June 1893, No. 525, and G.O., dated 14th October 1893, No. 899, Revenue.

3. We have entirely recast the Bill. It was framed on the lines of the first amended Proprietary Estates' Village Service Bill, and, as that was subsequently revised, it became necessary to modify the present Bill correspondingly. So far as the changes effected by us are merely consequential upon the re-modelling of the Proprietary Estates' Village Service Bill, they do not require further notice and in our report we propose to deal with amendments of an important character only.

4. The original Bill applies to the offices of Village Headman, Accountant, Policeman, Revenue Peon and Irrigation Water Distributor in Government villages only, although it also contains a provision that claimants for the offices of village artizans may sue before the Revenue authorities. The scope of the Bill was so restricted upon the assumption that the Proprietary Estates' Village Service Bill would contain provisions for the determination of claims to succeed to all classes of village offices in proprietary estates other than those of village artizans. But the Select Committee on the Proprietary Estates' Village Service Bill decided that all provisions relative to suits ought to appear in the Bill now under consideration, and we have therefore extended its scope so as to cover all classes of hereditary village officers and servants in all parts of the Presidency except the Scheduled Districts. The Bill is not, however, applicable to an equal extent to all these classes, and it has therefore been found necessary to divide village officers and servants into four separate groups, of which the first includes all village officers except artizans in Government villages, the second the village officers to whom the Proprietary Estates' Village Service Act has been extended, the third the other village officers, except artizans, in proprietary estates and the fourth those artizans and other servants who render certain personal services to the villagers but perform no duties connected with the general administration. The distinction between the four groups has been carefully preserved throughout the revised Bill; thus:—

section 5 is general and prohibits alienation or attachment of the emoluments of any of the offices to which the Bill applies;

section 6 deals with the grouping and division of, and reduction of establishment in Government villages only and describes the effect of such grouping, division and reduction upon the village officers other than artizans (similar provisions in regard to proprietary estates appear in the Proprietary Estates' Village Service Bill;)

section 7 vests in the Collector complete control in Government villages over all village officers except artizans;

section 8 relates to proprietary estates and gives the proprietor and the Collector, concurrently, full power over all the village officers except artizans and the officers to whom the Proprietary Estates' Village Service Act has been extended;

no question

section 9 contains the r[illegible] relating to the appointment of village officers, other than artizans, in Government [illegible]lages only;

section 10 contains th[illegible]es relating to the appointment in proprietary estates of village officers, other tha[illegible]zans, to whom the Proprietary Estates' Village Service Act has not been extende[illegible]

section 11 contain[illegible]visions relating to the succession of village artizans in Government villages and a[illegible]proprietary estates;

section 12 ena[illegible]imants for all classes of village offices, including the offices of village artizans, in [illegible]ment and also in proprietary villages to sue before the Collector.

The above re[illegible]xplain to what extent the Bill is applicable to the various classes of village officers, and w[illegible]roceed to touch upon such other matters as seem to call for notice.

5. Every prec[illegible]s been taken to render it clear that the Act will have no application whatever to villa[illegible] which are not hereditary or of which the emoluments have not been assigned by the S[illegible]ether these two conditions are fulfilled is a question of fact and we think it expedient to l[illegible]ich rather than, as in the original Bill, to exempt certain districts from the operation of[illegible] No doubt the custom of many years has decided that there is no hereditary claim to succe[illegible]re important village offices in Malabar, South Canara, Salem, Tanjore and Trichinopoly [illegible]sed Bill in no way affects that decision by establishing hereditary claims where no [illegible]ecognized at present, but we are by no means certain that the offices of village a[illegible]ans and possibly, in some cases, the office of talayari, may not be hereditary even in the five districts named above, and it is safer therefore to omit all distinct reference to them from the proposed enactment.

6. Definitions of the words "emoluments", "proprietary estate" and "proprietor" have been added, and the definitions of "village officer" and "Revenue officer in charge of the division" have been omitted as unnecessary.

7. We think it necessary to retain the provision in Regulation VI. of 1831 which prohibits the alienation of emoluments and the attachment of them under judicial process.

8. In section 6 which represents sections 5 and 6 of the original Bill we insert a provision that when a new office is created by the amalgamation of villages or the division of a village, the succession to it shall thereafter be hereditary. This we understand was the intention of the framers of the Bill. Of course this provision will not have the effect of rendering new offices hereditary in localities where village offices are not hereditary at present. We also provide in section 6 for an appeal against orders passed by the Collector in connection with the grouping and division of villages and the reduction of village establishments.

9. Under section 7 of Regulation VI of 1831 proprietors of proprietary estates have no control or authority over persons holding hereditary village or other offices in the Revenue and Police Departments to which emoluments have been annexed by the State and to which the said Regulation applies. When the Proprietary Estates' Village Service Bill is passed into law proprietors will receive a limited control over some or all the officers named therein, *i.e.*, the Village Accountant, Headman and Talayari. We think that in respect of the other village officers, not being village artizans, in proprietary estates the proprietors may safely be given plenary powers of control and we have provided for this in section 8. At the same time we think that similar powers should be possessed by the Revenue authorities and that, in estates in which the Proprietary Estates' Village Service Act has not been extended to the office of Headman and Talayari, the control of these two officers should be left entirely in the hands of the Revenue officer as at present. The effect of the provisions inserted by us in the present Bill will be made clearer by an example; suppose in a given estate the Proprietary Estates' Village Service Act has been extended to the office of head of the village only, then the village accountant's office will remain subject to the provisions of Regulation XXIX of 1892, the headman's office will be subject to the provisions of the Proprietary Estates' Village Service Act, the control over the Talayari will be vested in the Revenue officer alone and the control over the Vetti and Nirganti will be equally vested in the proprietor and the Revenue officer.

10. Section 9 is based upon a corresponding section in the Proprietary Estates' Village Service Bill as last revised, but we have added minority as one of the disqualifications for office; the change merely gives effect to the intention of both Bills but it is better that the law should be explicit on the point.

The method of succession prescribed in this and the following two sections should be noted. In the case of the Headman, Karnam, Talayári, Vetti and Nrganti in Government villages the rule of primogeniture will hold; in the case of hereditary offices to which the Proprietary Estates' Village Service Act has been extended the same rule will, under the provisions of that Act, apply; on the other hand the succession to all other hereditary village offices will be determined with reference to the law or custom prevailing locally.

11. Section 10 also places the power of appointment to certain offices entirely in the hands of the proprietors of proprietary estates and provides that if the heir is a minor the proprietor may appoint any one he chooses to perform temporarily the duties of the office.

12. In the case of village artizans there will be no formal appointment.

13. Section 12 deals with suits which are of two kinds, *viz.*, (1) to obtain an office and (2) to recover the emoluments attached to an office. In the case of offices remunerated by fixed money-salaries payable from the Village Service fund or the Proprietary Estates' Village Service fund the suit will almost invariably be for the office, though on rare occasions it may be brought to recover salary paid to another; in the case of other offices suits may be brought for the recovery of land, arrears of grain-fees and such like. We think it necessary to retain the provision in the original Bill which bars the filing of suits by persons who manifestly cannot hold office even if successful, but we have modified its terms so as to provide that no suit shall be tried unless the claimant produces a certificate of qualification for office; this will admit of the actual filing of a suit by a person not in possession of such a certificate but of nothing more. We make a distinction between filing and hearing a suit in order to prevent limitation coming into operation in consequence of failure to procure the certificate of qualifications.

14. We consider that suits by or on behalf of minors should be absolutely prohibited and that in their case limitation should commence to run from the date of attaining majority. The second proviso to section 12 and the proviso to section 13 give effect to our views on this subject. We have also provided in section 13 for the limitation of the time within which execution of a decree may be applied for.

15. We agree with the framers of the original Bill that the details of procedure in suits should be left to the Board of Revenue to prescribe but we think it expedient to insert a few general provisions on the subject in the Bill itself.

16. The original Bill declares that decrees shall be executed in accordance with Chapter XIX of the Code of Civil Procedure but here again we think it better that the matter should be regulated by rules framed by the Board and it seems necessary to allow costs to be awarded subject to the control of the same authority.

17. The period within which an appeal against a decree may be presented to the District Collector has been reduced by us from two months to one month in conformity with the general principle adopted in this Bill and the Proprietary Estates' Village Service Bill that appeals to the District Collector should be made within one month and those to the Board of Revenue within three months.

18. Section 18 is based upon sections 617 and 619 of the Code of Civil Procedure. We are agreed as to the expediency of obtaining the decision of the Civil Courts upon difficult points of law arising in connection with claims to succeed to village offices but we had some difference of opinion as to the manner in which this should be done. We finally decided that the Revenue Courts should be authorized to refer such points to the District Court for decision in a manner analogous to the reference to the High Court which is provided for in section 617 of the Code of Civil Procedure. Other plans which we considered and rejected on various grounds were (1) to give the Civil Courts exclusive jurisdiction in respect of certain classes of village offices, (2) on the analogy of the Pensions Act, to concede jurisdiction to the Civil Courts in cases where the Collector had granted a certificate to the parties empowering them to take the suit before a Civil Court and (3) on the analogy of the Stamp Act, to allow the Revenue authorities to state a case for the decision of the High Court.

19. In section 20 we have provided that the rules made by the Board of Revenue shall be made after previous publication and have also enlarged the list of subjects in regard to which rules may be made.

20. We consider it necessary that Revenue Courts should possess exclusive power to decide disputes as to the rate at which merahs and fees are leviable when the question arises in connection with a suit to recover the emoluments of an office and section 21 has accordingly been framed so as to withdraw from the jurisdiction of the Civil Courts all questions as to the rate and amount of emoluments as well as all claims to succeed to offices or to recover emoluments.

21. Section 22 is inserted in order to clear up any doubts as to the precise effect of the Act. Section 52 of Madras Act II of 1864 declares that all fees and other dues payable to or on behalf of village servants employed in revenue or police duties are recoverable as arrears of land-revenue unless the recovery thereof is otherwise specially provided for. Section 16 of the Bill provides that decrees and orders shall be executed in accordance with rules to be framed by the Board of Revenue and it might be held that this is a special provision for the recovery of arrears of emoluments within the meaning of section 52 of Act II of 1864 and that such arrears cannot therefore be recovered under the said Act. We have made it clear in section 22 of the Bill that this is not the intention. Section 22 also provides explicitly that nothing in the Bill is to have the effect of creating hereditary rights (except in one case specified) where they do not exist at present.

22. The Bill was published in the *Fort St. George Gazette* on the 7th November in English, on the 21st November in Telugu and Canarese and on the 28th November in Tamil, Malayálam and Hindustáni.

23. In conclusion we have the honour to recommend that the Bill as amended by us be passed into law.

(Signed) J. H. GARSTIN.
(,,) P. RANGAYYA NAYADU.
(,,) S. SRINIVASA RAGHAVAIYANGAR.
(,,) V. BHASHYAM AIYANGAR.
(,,) J. H. SPRING BRANSON.
(,,) J. GROSE.
(,,) K. KALYANASUNDRAM AIYAR.

A Bill to repeal Madras Regulation VI of 1831 *and for other purposes.*

WHEREAS it is expedient to *provide* more precisely *for the succession to certain hereditary* village offices in the Presidency *of Madras;* for the hearing and disposal of claims to such offices or the emoluments *annexed* thereto; for the appointment, control and punishment of the *persons* holding such offices; *and for certain other purposes;* It is hereby enacted as follows:—

Preamble.

1. This Act may be called the *Madras Hereditary* Village *Offices* Act, 1894. It applies to the whole *of the* Presidency *of Madras* except the scheduled districts *as defined in the Scheduled Districts Act*, 1874.

Title and extent.

2. *Madras* Regulation VI of 1831 *is hereby* repealed.

Repeal.

3. This Act shall apply to the following classes of village offices only:—

Classes of village offices to which Act applies.

(1) all hereditary village offices to which the Madras Village Cess Act, 1893, may be applied;

(2) all hereditary village offices to which the Madras Proprietary Estates' Village Service Act, 1894, is extended;

(3) all other hereditary village offices in proprietary estates to which emoluments have been annexed, except the office of Karnam and the offices forming Class (4) below;

(4) the hereditary offices of village artizans and of other similar village servants such as—

(i) the village carpenter,
(ii) the village blacksmith,
(iii) the village barber,
(iv) the village washerman,
(v) the village potter,
(vi) the village astrologer,
(vii) the village purohit or priest;

provided that emoluments have been annexed to the said offices.

Definitions.

4. In this Act unless there is something repugnant in the subject or context—

"Emoluments" means and includes—

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or grain;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the State.

"Proprietary estate" and "Proprietor" mean, respectively, an estate and proprietor as defined in the Madras Proprietary Estates' Village Service Act, 1894.

"Village" means any local area now recognized as a village or hereafter declared by Government to be a village for purposes of administration.

Emoluments of village office inalienable and not liable to attachment.

5. *Madras Regulation VI of* 1831, *Sec.* 2.—The emoluments of the village offices specified in section 3 are hereby declared to be inalienable by mortgage, sale, gift or otherwise, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Village may be grouped or divided.

6. (1) In any local area in which the Madras Village Cess Act, 1893, is in force, the Board of Revenue may, subject to rules made in this behalf under section 20, group or amalgamate any two or more villages or portions thereof so as to form a single new village or divide any village into two or more villages and, thereupon, all hereditary village offices to which the said Act applies in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist and new offices, which shall also be hereditary, shall be created for the new village or villages. In choosing persons to fill such new offices the Collecter shall select the persons whom he may consider the best qualified from among the holders of the offices which have been abolished.

Effects of grouping and division upon village offices.

(2) If two or more village offices, to which the Madras Village Cess Act, 1893, applies, exist in any village, the Board of Revenue may, subject to the approval of Government, direct that the number of such village offices shall be reduced and, thereupon, the Collector shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices.

Reduction of village offices.

(3) Any person aggrieved by an order passed by the Collector under this section may, within one month, appeal therefrom to the District Collector or, if the said order was passed by the District Collector, may, within three months, appeal therefrom to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final.

Appeal against Collector's orders.

7. *Madras Regulation VI of* 1831, *Sec.*7.—(1) The Collector may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove the holder of any of the offices forming Class (1) in section 3 for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village officer concerned.

Power of Collector over village officers in Government villages.

(2) From every order passed by a Collector under this section an appeal shall lie, within one month, to the District Collector, or, if the said order was passed by the District Collector, an appeal shall lie, within three months, to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final.

Appeal against Collector's orders.

Provided that, when a Village Munsif who is also the head of the village is suspended or removed under the Madras Village Courts Act, 1889, such suspension or removal shall involve his suspension or removal from the office of Head of the Village.

Proviso.

8. (1) The proprietor of a proprietary estate may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove the holder of any of the offices in his estate forming Class (3) in section 3 for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village officer concerned.

Power of proprietor over village officers in proprietary villages.

(2) From every order passed by a proprietor under this section an appeal shall lie, within one month, to the District Collector and the said Collector's decision shall be final.

Appeal against proprietor's orders.

(3) The powers vested in the proprietor by this section may, on complaint, be exercised by the Collector, and the provisions of sub-section (3) of section 6 shall apply to orders passed by him under this section, Provided that in proprietary estates in which the Madras Proprietary Estates' Village Service Act, 1894, has not been extended to the offices of head of the village and village watchman or police officer the powers vested in the proprietor by this section shall, in respect of these two offices, be exercised by the Collector alone.

Power of Collector over village officers in proprietary villages.

9. When a vacancy occurs in any of the village offices forming Class (1) in section 3, the Collector shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

Rules to be observed in making appointments to certain offices in Government villages.

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment 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 any educational test prescribed by the Board of Revenue by rules made under section 20 ;

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

(2) The succession shall devolve on a single heir according to the general custom and rule of primogeniture governing sucession to impartible zamindárs in Southern India.

Primogeniture to be observed.

(3) Where the next heir is not qualified under sub-section (1) the Collector 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).

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

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Collector may direct that, until the death or return to duty of such last holder, the duties of the office shall be peformed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer ; 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).

Temporary disqualification of heir in certain cases.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Collector shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) 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) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Collector shall fill up the vacancy as provided in sub-sections (2) and (3).

Procedure to be adopted where heir is a minor.

(6) If a vancacy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Collector does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section 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, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

10. When a vacancy occurs in a proprietary estate in any of the offices forming Class (3) in section 3, the proprietor shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

Rules to be observed in making appointments to certain offices in proprietary villages.

(1) The succession shall devolve in accordance with the law or custom applicable to the office in question at the date on which this Act comes into force.

Law or custom of succession to be observed.

(2) When the person entitled to succeed to an office is a minor the proprietor may appoint some other person to perform the duties of the office until the minor attains majority.

Procedure when the heir is a minor.

11. The succession to village offices forming Class (4) in section 3 shall devolve in accordance with the law or custom applicable thereto at the date on which this Act comes into force.

In case of village artizans, law or custom of succession to be observed.

12. *Madras Regulation VI of* 1831 *Sec.* 4—Claims to succeed to any of the hereditary *village* offices specified in section 3 *or to recover the emoluments of such office* may be preferred by suit before the *Collector*.

Suits for recovery of offices or emoluments to be brought before Collector.

Provided—

Provisos

(1) *that* no suit shall be entertained for a *mere* declaratory decree ;

(2) that no suit for the recovery of an office shall be tried unless the claimant produces a certificate from the Collector certifying that the claimant is not disqualified for holding office under sub-section (1) of section 9 ;

(3) when one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land or of the produce of land, the Collector shall decide the claim on the assumption that the said assignment or produce alone constitutes the emoluments ; such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

13. (1) No suit *preferred before a Collector under the last preceding section* shall be entertained which is not *preferred within three years from the date of the cause of action arising.*

Limitation of time within which suits may be brought.

Provided that in the case of a person who by reason of minority was disqualified for holding office, the right to sue shall accrue from the date of his attaining majority.

(2) No application for the execution of a decree or order passed under this Act shall be entertained if made after the expiration of one year from the date of such decree or order.

Limitation of time within which execution of decree or order may be applied for.

14. The District Collector may transfer to his own file any suit on the file of any Revenue officer in charge of a division of the district or from the file of one such officer to that of another, or to *the file* of an Assistant or Deputy Collector not in charge of a division, for disposal.

Power of District Collector in regard to transfers of suits.

Procedure to be observed in trying suits.

15. The trial of suits under this Act shall be regulated by rates made by the Board of Revenue under section 20 and by the provisions of the following sub-sections:—

Date of hearing to be fixed and parties to be heard.

(1) a date shall be fixed for the hearing of the suit and the same shall be notified to the parties who shall be entitled to be heard in person or by agent;

Witnesses may be produced or summoned.

(2) the parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;

Record of proceedings.

(3) The officer trying the suit shall record, in his own hand and in English, a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Decrees may provide for costs and shall be executed according to rules made by Board of Revenue.

16. Decrees and orders passed in suits under this Act may provide for payment of costs according to such scale and subject to such rules as may be prescribed by the Board of Revenue under section 20 and shall be executed in accordance with rules to be made by the Board of Revenue under the said section.

Appeals from decrees and orders.

17. There shall be only one appeal against a decree *or order passed in a suit under this Act.* From the *decree or order* of any officer *other than the District Collector the* appeal shall lie, within *one* month, to the District Collector, *and* from the *decree order* of the District Collector *the* appeal shall lie, within three months, to the Board of Revenue. The decision on appeal of the District Collector or *the* Board of Revenue, *as the case may be*, shall be final.

In certain cases Collector may refer question of law to District Court.

18. *Act XIV of* 1882, *Sec.* 617.—(1) If before or during the hearing of a suit under this Act or of an appeal against a decree or order passed in a suit under this Act, or if in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on each question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the District Court and shall stay further proceedings until the said decision is communicated to him.

Procedure to be followed in case of such reference.

(2) *Act XIV of* 1882, *Sec.* 619.—The District Court may hear the parties to the case in which the reference is made or their agents and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the District Court and the correctness of the decision of the District Court shall not be contested in any appeal made under this Act.

District Court's decision not be contested.

Disposal of suits and appeals pending at commencement of this Act.

19. All suits *brought* and appeals *made* under *Madras* Regulation VI of 1831 shall, *after the commencement of this Act*, be heard and disposed of as if they had been *preferred* under this Act.

Board of Revenue may frame rules on certain subjects.

20. The Board of Revenue may, *with* the approval of Government *and after previous publication*, make rules *not in*consistent with this Act *or with the Madras Proprietary Estates' Village Service Act*, 1894, *in regard to* the following *matters*:—

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

(ii) the holding of enquiries by Collectors and the hearing of appeals by them or from their orders under sections 6, 7 and 8;

(iii) the educational qualifications required of the holders of the village offices forming Class (1) in section 3;

(iv) the procedure to be followed in disposing of suits *and appeals from decrees or orders passed in suits and the registers to be maintained in connection therewith;*

(v) the execution of decrees and orders passed in suits and the taxation of costs;

(vi) the salaries to be assigned to the holders of the village offices forming Class (1) in section 3 and the method of their payment;

(vii) the duties of the holders of the village offices forming Classes (1) and (3) in section 3, and the descriptions and forms of the accounts and registers to be kept by them;

(viii) the custody, production and transfer of the accounts and other records kept by the holders of the village offices forming Classes (1) and (3) in section 3;

(ix) the preparation and grant of the certificates referred to in the second proviso to section 12;

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

Jurisdiction of Civil Courts barred.

21. *Madras Regulation VI. of* 1831, *Sec.* 3.—Except as provided in the third proviso to section 12 and in section 13 no Civil Court shall have authority to take into consideration or decide any claim to succeed to any of the offices specified in section 3 or to recover the emoluments of such offices or any question as to the rates or amount of such emoluments.

Nothing in this Act to prevent recovery of emoluments as arrears of revenue or to affect office which is not now hereditary.

22. Nothing herein contained shall effect the provisions of section 52 of Madras Act II of 1864 or, except as provided in sub-section (1) of section 6, shall be deemed to create or confer an hereditary right to any village office.

(By order.)

A. BUTTERWORTH,

Secretary to the Council.

18

E.

The following further Report of the Select Committee on the Bill to repeal Madras Regulation VI. of 1831 and for other purposes, together with the Bill as further amended by the Committee is published for general information:—

To

THE HONORABLE THE COUNCIL OF THE GOVERNOR OF
FORT ST. GEORGE FOR MAKING LAWS AND REGULATIONS.

We, the undersigned members of the second Select Committee appointed at the meeting of Council held on the 20th November 1894 to further consider the Bill to repeal Madras Regulation VI. of 1831 and for other purposes, have the honour to submit our report thereon.

We have discussed the clauses of the Bill as revised by the first Select Committee and considered a petition, dated 9th October 1894, from the Cocanada Karnams' Association, a petition, dated 3rd October 1894, from the Madras Landholders' Association, a petition from the Rajahs of Venkatagiri, Kalahasti and Karvetnagar and certain other papers.

The revised Bill which we were appointed to consider was published in the Gazette in English on the 12th December 1893, in Telugu, Canarese and Hindustani on the 9th January 1894, and in Tamil and Malayalam on the 16th January. Unless otherwise stated, the sections mentioned in this report are those of the Bill as revised by the first Select Committee. The additions which we have made to the first revised Bill are indicated between square brackets.

After these preliminary remarks, we proceed to describe briefly the principal alterations which we have made in the Bill.

(1) *Section* 1.—Section 5, which follows section 2 of Regulation VI. of 1831 in prohibiting the alienation of State grants, should be of general application, for there is no reason to doubt that the provision of law which it replaces is applicable to the whole Presidency.

(2) *Section* 2.—We have considerably extended this section.

In the first place, we propose to repeal the remaining clause of Regulation II. of 1806 which gives the Revenue authorities control over Karnams in localities where the revenue has not been permanently fixed. The Proprietary Estates' Village Service Act, 1894, Act III. of 1869 and this Bill contain all that is necessary on the subject.

Secondly, we propose to repeal so much of Regulation XXIX. of 1802 as applies to localities where the revenue has not been permanently fixed. The first clause (now repealed) of section 7 of Regulation II. of 1806 declared that certain portions of Regulation XXIX. of 1802 should not apply to districts wherein the revenue is not permanently fixed, thus implying that the rest of the enactment does apply to such districts. The High Court has recently (in Criminal Appeal No. 160 of 1894) upheld this view, but, in fact, the applicability of portions of Regulation XXIX. of 1802 to ryotwari tracts has generally been overlooked. The Regulation will be repealed in estates in which Madras Act II. of 1894 is extended to the office of Karnam and it is not necessary that sections 11, 12, 17, 18 and 19 should continue to apply elsewhere.

Thirdly, we propose to amend the Police Act, XXIV. of 1859, by the exclusion therefrom of all reference to village police officers. By Regulation XI. of 1816, these officers were placed under the control of the magistracy, but, by the Regulation VI. of 1831, the authority over them was transferred to the Collector, and another change took place in 1859 when, by Act XXIV. of that year they were declared to form a portion of the general police force and were placed under the sole control of the Police authorities. The first Committee seems to have overlooked the provisions of Act XXIV. of 1869 altogether, for the Bill recently presented to the Council involves a reversion to the position occupied between 1831 and 1859, although it does not purport to repeal the provisions of the Police Act. The Bill and the Police Act were therfore contradictory.

This contradiction attracted the notice of Government and enquiries were made which show conclusively that the provisions of Act XXIV. of 1859 relative to the village police have remained

almost, if not entirely, a dead letter, and that the village watchman has remained under the control of the Revenue authorities, in spite of the change in the law which took place in 1859.

The fact is, that the provisions of the Police Act on this point are not suitable to the conditions of the country and we therefore propose to legalize the existing practice by removing from that enactment all references to the village police. At the same time, we provide, by a new section 25 for the transfer of control over the village watchman from the Revenue to the Police authorities in any locality wherein such transfer appears to Government to be advisable.

We further propose to amend Madras Act II. of 1894 so as to render it applicable to unsettled jaghirs. There is at least one unsettled jaghire in the Presidency and we think that the omission of estates of this class from the definition of "estate" in Act II. of 1894 was the result of oversight. Unsettled palaiyams and jaghirs shold be dealt with in the same manner.

The proposed amendment of section 15 of the same Act is designed to bring it into accord with revised section 6 of this Bill.

(3) *Section* 3.—Our amendments of this Section are merely verbal.

(4) *Section* 3 *and* 4.—The omission of the word "village" before "office" in the definition of "emoluments" must be considered in connection with the alterations in section 5. Section 2 of Regulation VI. of 1831 prohibits the alienation of the emoluments of "hereditary village and other offices in the Revenue and Police Departments." This is very wide; much wider than section 5 of the Bill as it stood before we altered it. It is not only the emoluments attached to hereditary village offices which need protection, but also the emoluments attached to non-hereditary village offices and to such similar offices as those of Muttadars and Bissoyis in the Agency tracts, who enjoy certain rights on condition of the maintenance by them of order in the tracts over which they have control. We have therefore altered section 5 with the object of enlarging its scope and, in consequence of this alteration, it has been found necessary to extend the definition of emoluments.

(5) *Section* 6.—It may happen, when villages are about to be grouped, that some of the village offices are vacant and, in that case, there may not be any "holders" of offices from whom to select officers for the new village. To meet the case and to give the Collector greater freedom of choice, we propose that the selection should be made from the families of the last holders of the abolished offices and not necessarily from among the holders themselves.

(6) *Section* 7.—We propose to add to this section a clause empowering Tahsildars and Deputy Tahsildars to fine village officers in ryotwari tracts. Such power is exercised at present and we do not see any reason for withdrawing it.

(7) *Section* 8.—This section has undergone somewhat extensive modification. As it stood, it empowered proprietors to punish all village officers in their estates except the headman and village watchman; and it gave to the Collector power to punish these two village officers, as well as all others forming Class (3). As revised by us, the section empowers proprietors, authorized in this behalf by the Board of Revenue to fine even the headman and talayari in an amount not exceeding three rupees. We propose this extension of the powers of proprietors on the analogy of Act II. of 1894. But there is another distinction to be noted. Regulation XXIX. of 1802 will, after the passing of this Bill into law, cease altogether to apply to unsettled proprietary estates and, accordingly, in such estates, the Karnam will, until Act II. of 1894 is extended to them, fall in Class (3) and the proprietor's power should therefore be limited in respect of him as it is in respect of the headman and talayári; revised section 8 provides accordingly. Sub-section (3) of section 8 has been removed from our revised draft; the necessity for the first sentence disappears by reason of the reference to Class (3) in Sub-section (1) of section 7 and the second sentence becomes a proviso.

(8) *New Section* 9.—We have decided to recommend that Collectors and proprietors of estates should have authority to punish village artizans on complaint. The arguments against the giving of such powers are not without weight, but we think that, so long as these artizans enjoy State inams, there should, in the interests of the villagers, be some means of compelling them to perform their duties properly. Section 9 gives effect to our views on this subject. We do not anticipate frequent resort to it, but its existence will probably prove useful on occasion and it should be noted that section 7 of Regulation VI. of 1831 seems to confer upon Collectors power to punish village artizans as well as other village officers, so that the insertion of section 9 into the Bill does not alter the law, whatever the practice may have been.

(9) *New Section* 11.—This section has been altered to correspond more closely with section 10. The principle point to notice is that certain general qualifications have been prescribed for the holders of the officers forming Class (3). These qualifications correspond with the first three only of the five prescribed for officers in ryotwári villages.

(10) *New Section* 13.—Section 12 was not sufficiently distinct. It declared that suits might be preferred for offices and the recovery of emoluments, but nothing was said as to the principles on which such suits should be decided. We have now made it clear in the new section 13 that they shall be decided on the same principles as regulate appointment to office under the preceding sections and under the corresponding provisions of Act II of 1894. We have also considered it expedient to replace the proviso requiring production of a certificate of qualification by a provision authorizing the summary reejction of a plaint, if the claimant proves to be disqualified. The reference to assignments consisting of the produce of lands which appeared in the third proviso to section 12 has been omitted, as such assignments would fall under "assignments of revenue payable in respect of land."

(11) *Section* 18.—This section has been altered so as to allow of reference being made on questions of law or usage to the Board of Revenue, instead of to the District Court. This will secure uniformity of decisions on questions of general application. We have provided for the Board hearing parties or their agents.

(12) *Section* 21.—Under Regulation VI of 1831 and this Bill, the foundation for the jurisdiction of a Revenue Court to entertain a suit in respect of a village office is the fact that emoluments have been annexed thereto by the State. When in any such suit this alleged fact is denied, the Revenue Court has to investigate the same and decide it. Whether, however, such decision by a Court of limited jurisdiction will or will not operate as *res judicata* in a suit brought between the same parties in a Civil Court of general jurisdiction, seems very doubtful. We have accordingly added to this section a proviso the object of which is to remove such doubt in the cases covered by the proviso, and to enable a party dissatisfied with the decision of a Revenue Court to resort to a Civil Court to set it aside on the ground that the emoluments appertaining to the office in question have not been annexed by the State.

(13) *New Section* 23.—In this have been included all the provisions relative to appeal. The only changes introduced relate to appeals from the exercise of the powers newly conferred on Tahsildars and Deputy Tahsildars and to appeals from the orders of proprietors. In both cases the appeal will lie to the Collector, whereas sub-section (2) of section 8 of the Bill as previously revised declared that the appeal from the order of a proprietor should lie to the Distiict Collector. We consider it inexpedient to burden the Distrct Collector in this way. Proprietors will have power to impose only petty fines upon the superior village officers and appeals against such fines should lie to the Divisional officer, as they do under Act II of 1894. In the case of the less important servants, there are strong reasons why the District Collector should not be the appellate authority, for the public interests imperatively demand that the District Collector should be relieved as far as possible of minor duties. It is probable that the orders of proprietors will be very rarely interfered with by the Divisional officer and it must be remembered that the Bill confers upon them powers which they have not heretofore possessed.

(14) *New Section* 24.—This is based upon section 34 of Act II of 1894.

(15) *New Section* 25.—The reason for the insertion of this section has already been given.

We have not thought it expedient to give the direction referred to in Council Rule 41 and the Bill as revised by us will accordingly be published in the languages in which the original Bill was published.

In conclusion we recommend that the Bill, as now amended, be passed into law.

(Signed) E. GIBSON.
(„) H. W. BLISS.
(„) J. GROSE.
(„) J. H. SPRING BRANSON.
(„) S. SRINIVASA RAGHAV AIYANGAR.
(„) V. BHASHYAM AIYANGAR.
(„) K. KALYANASUNDARAM AIYAR.

MADRAS,
4th February 1895.

No. 4 OF 1893.

A Bill to repeal Madras Regulation VI of 1831, and for other purposes.

(As further amended by the Select Committee.)

WHEREAS it is expedient to provide more precisely for the succession to certain hereditary village offices in the Presidency of Madras; for the hearing and disposal of claims to such offices or the emoluments annexed thereto; for the appointment [of persons to hold such offices and the control of the holders thereof;] and for certain other purposes; It is hereby enacted as follows:—

Preamble.

Title and extent.

1. (1) This Act may be called the Madras Hereditary Village Offices Act, 1895.

(2) [*Section 5*] *applies to the whole of the Presidency of Madras;* [*the rest of the Act applies to the whole of the said Presidency*] *except the scheduled districts as defined in the Scheduled Districts Act*, 1874.

Repeal.

2. (1) Madras Regulations [II] of 1806 and] VI of 1831 [are] hereby repealed; [and, on and after the commencement of this Act, no portion of Madras Regulation XXIX of 1802 shall continue to apply to any local area which is not a permanently settled proprietary estate.]

Amendment of Act XXIV of 1859.

[(2) From the preamble of Act XXIV of 1859 (An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George), the words "and improve the condition of the village police" shall be omitted; and, for the definition of the word "Police" in section 1 of the same Act, shall be substituted the following clause, namely:—

"The word 'Police' shall include all persons appointed under this Act."]

Amendment of Madras Act II of 1894.

[(3) In clause (*c*) of the definition of the word "Estate" in section 4 of the Madras Proprietary Estates' Village Service Act, 1894, after the word "palaiyam" shall be inserted the words "or jághir"; and, in sub-section (1) of section 15 of the same Act, between the words "among the" and the words "holders of the offices", shall be inserted the words "families of the last."]

Classes of village offices to which Act applies.

3. This Act shall apply to the following classes of village offices, [provided that emoluments have been attached thereto]:—

(1) hereditary village offices [in local areas] to which the Madras Village Cess Act, 1893, [has been, or may be, extended];

(2) hereditary village offices to which the Madras Proprietary Estates' Village Service Act, 1894, is extended;

(3) other hereditary village offices in proprietary estates except (i) the offices forming Class (4) below [and (ii), in proprietary estates wherein Madras Regulation XXIX of 1802 remains in force, the office of village accountant;]

(4) the hereditary offices of village artizans and village servants [such] as [the following, namely]:—

(i) the village carpenter,
(ii) the village blacksmith,
(iii) the village barber,
(iv) the village washerman,
(v) the village potter,
(vi) the village astrologer,
(vii) the village purohit or priest.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

"Emoluments" means and includes—

(i) lands;
(ii) asignments of revenue payable in respect of lands;
(iii) fees in money or [agricultural produce];
(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any office by the State.

"Proprietary estate" and "Proprietor" mean, respectively, an Estate and proprietor as defined in the Madras Proprietary Estates' Village Service Act, 1894, [as amended by this Act.]

"Village" means any local area now recognized as a village or hereafter declared by Government to be a village.

Emoluments attached by the State to certain offices inalienable and not liable to attachment.

5. *Madras Regulation VI. of* 1831, *Sec.* 2.—The emoluments of village offices, [whether such offices be or be not hereditary, and, in the scheduled Districts as defined in the Scheduled Districts Act, 1874, all such emoluments and other emoluments granted or continued in remuneration for the performance of duties connected with the collection of the revenue or the maintenance of order,] are inalienable by mortgage, sale, gift or otherwise, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Villages may be grouped or divided.

Effect of grouping and division upon village offices.

6. (1) In any local area in which the Madras Village Cess Act, 1893, is in force, the Board of Revenue may, subject to rules made in this behalf under section 20, group or amalgamate any two or more villages or portions thereof so as to form a single new village or divide any village into two or more villages and, thereupon, all hereditary village offices to which the said Act applies in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist and new offices, which shall also be hereditary, shall be created for the new village or villages. In choosing persons to fill such new offices, the Collector shall select the persons whom he may consider the best qualified from among the [families of the last] holders of the offices which have been abolished.

Reduction of village offices.

(2) If two or more village offices exist in any village [in which the Madras Village Cess Act, 18.3, is in force,] the Board of Revenue may, subject to the approval of Government, direct that the number of such village offices shall be reduced and, thereupon, the Collector shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices.

Power of Collector over village officers in Government villages and proprietary estates.

7. (1) *Madras Regulation VI. of* 1831, *Sec.* 7.—The Collector may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove the holder of any of the offices forming [Classes] (1) [and (3)] in section 3 for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village officer concerned.

Proviso.

[Provided that, when a Village Munsif who is also the head of the village is suspended or removed under the Madras Village Courts Act, 1889, such suspension or removal shall involve his suspension or removal from the office of head of the village.]

Power of Tahsildar and Deputy Tahsildar over village officers in Government villages.

[(2) A Tahsildar or Deputy Tahsildar may, of his motion or on complaint and after enquiry, fine the holder of any of the offices forming Class (1) in section 3 for any of the causes specified in sub-section (1) and in such amount as the Board of Revenue may, by general or special order, prescribe. The provisions of sub-section (1) shall, *mutatis mutandis*, apply to proceedings taken under this sub-section.

Power of proprietor over village officers in proprietary villages.

Enhanced power of certain proprietors.

8. A proprietor may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove the holder of any of the offices in his estate forming Class (3) in section 3, [except the village accountant, the head of the village and the village watchman or police-officer,] for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village officer concerned. [Provided that a proprietor may, if empowered in this behalf by the Board of Revenue by general or special order, fine the village accountant, head of the village or village watchman or police-officer for any such cause, to the extent of three rupees, and the provisions of this section as to recording reasons and furnishing copies shall apply in such cases.]

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no question

9. The Collector and, within his proprietary estate, any proprietor may, on complaint and after enquiry, suspend, dismiss or remove the holder of any of the offices forming Class (4) in section 3 for neglect of duty or incapacity and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village artizan or village servant concerned.

Power of Collector and proprietor over village artizans and servants.

10. When a vacancy occurs in any of the village offices forming Class (1) in section 3, the Collector shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

Rules to be observed in making appointments to certain offices in Government villages.

(1) No person shall be eligible for appointment who—

General qualifications requisite in all cases.

(*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 20 ;

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

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

Primogeniture to be observed.

(3) Where the next heir is not qualified under sub-section (1) the Collector 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).

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

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Collector 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) who is not an undivided member of the family of the dismissed or suspended officer ; 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).

Temporary disqualification of heir in certain cases.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Collector shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) 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) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under the sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Collector shall fill up the vacancy as provided in sub-sections (2) and (3).

Procedure to be adopted where heir is a minor.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Collector does not give the direction referred to in sub-section (4) he shall fill up the vacancy in accordance with the provisions of this section 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.

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

11. When a vacancy occurs in a proprietary estate in any of the offices forming Class (3) in section 3, the proprietor shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

Rules to be observed in making appointments to certain offices in proprietary estates.

[(1) No person shall be eligible for appointment who—

General qualifications requisite in all cases.

(*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.]

(2) The succession shall devolve in accordance with the law or custom applicable to the office in question at the date on which this Act comes into force.

Law or custom of succession to be observed.

[(3) Where the next heir 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).]

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

(4) When the person entitled to succeed to an office is a minor the proprietor may appoint some other person [qualified under sub-section (1)] to perform the duties of the office until the [person entitled to succeed is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person so entitled dies during minority, or if, on attaining majority, he proves to be disqualified under clause (*c*) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).]

Procedure to be adopted where heir is a minor.

12. The succession to village offices forming Class (4) in section 3 shall devolve in accordance with the law or custom applicable thereto the date on which this Act comes into force.

In case of village artizans, law or custom of succession to be observed.

13. *Madras Regulation VI. of* 1831, *Sec.* 4.—(1) [Any person may sue before the Collector for] any of the village offices specified in Section 3 or [*for recovery of*] *the* emoluments of [any] such office, [on the ground that he is entitled under sub-section (2) of section 10 of the Madras Proprietary Estates Village Service Act, 1894, or under sub-section (2) of section 10 or sub-section (2) of section 11 or section 12 of this Act, as the case may be, to hold such office and enjoy such emoluments.]

Provisions relating to suits for offices and for recovery of emoluments.

[Provisos :—]

(i) No suit shall be entertained for a *mere* declaratory decree ;

No suit for declaratory decree.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Collector shall decide the claim on the assumption that only the said assignment constitutes the emoluments ; [but] such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Procedure in case of dispute as to nature of emoluments.

[(2) If, at any time before the completion of the trial of a suit preferred under this section, it appears to the Collector that the claimant is not eligible for appointment under sub-section (1) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (1) of section 10 or sub-section (1) of section 11 of this Act, as the case may be, he shall pass an order rejecting the plaint, and there shall be no appeal against such order.]

Summary rejection of plaint when claimant is ineligible for appointment.

14. (1) No suit preferred before a Collector under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, [whether such date be before or after the commencement of this Act.]

Limitation of time within which suits may be brought.

Provided that, in the case of a person who by reason of minority was disqualified for holding office the right to sue shall accrue from the date of his attaining majority.

Limitation in case of minority.

(2) No application for the execution of a decree or order passed under this Act shall be entertained if made after the expiration of one year from the date of such decree or order.

Limitation of time within which execution of decree or order may be applied for.

15. The District Collector may transfer to his own file any suit on the file of any Revenue officer in charge of a division of the district or from the file of one such officer to that of another, or to *the file* of an Assistant or Deputy Collector not in charge of a division, for disposal.

Power of District Collector in regard to transfers of suits.

Procedure to be observed in trying suits.

16. (1) The trial of suits under [this Act shall be regulated by rules made by the Board of Revenue under section 20 and by the [following] provisions :—

Date of hearing to be fixed and parties to be heard.

(i) a date shall be fixed for the hearing of the suit and the same shall be notified to the parties who shall be entitled to be heard in person or by agent ;

Witness may be produced or summoned.

(ii) the parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness [or that any person shall be summoned to produce a document,] and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so ;

Record of proceedings.

(iii) The officer trying the suit shall record, in his own hand and in English, a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Obligation to obey summons.

[(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.]

Decrees may provide for costs and shall be executed according to rules made by Board of Revenue.

17. Decrees and orders passed in suits under this Act may provide for payment of costs according to such scale and subject to such rules as may be prescribed by the Board of Revenue under section 20 and shall be executed in accordance with rules to be made by the Board of Revenue under the said section.

In certain cases Collector may refer question of law to Board of Revenue.

18. *Act XIV. of* 1882, *Sec.* 617. (1) If, before or during the hearing of a suit under this Act or of an appeal against a decree or order passed in a suit under this Act, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the [Board of Revenue] and shall stay further proceedings until the said decision is communicated to him.

Procedure to be followed in case of such reference.

(2) *Act XIV. of* 1882, *Sec.* 619. (2) The [Board of Revenue shall, if any of the parties so request hear him or his agent] and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the [said Board], and the correctness of the decision of the [said Board] shall not be contested in any appeal made under this Act.

Decision of Board of Revenue not to be contested.

Disposal of suits and appeals pending at commencement of this Act.

19. All suits *brought* and appeals *made* under *Madras* Regulation VI of 1831 shall, *after the commencement of this Act*, be heard and disposed of as if they had been *preferred* under this Act.

Board of Revenue may frame rules on certain subjects.

20. The Board of Revenue may, *with* the approval of Government *and after previous publication*, make rules *not* inconsistent with this Act *or with the Madras Proprietary Estates' Village Service Act*, 1894, *in regard to* the following *matters* :—

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

(ii) the holding of enquiries by Collectors and the hearing of appeals by them or from their orders under sections 6, 7 and 8 ;

(iii) the educational qualifications required of the holders of the village offices forming Class (1) in section 3 ;

(iv) the procedure to be followed in disposing of suits *and appeals from decrees or orders passed in suits and the registers to be maintained in connection therewith ;*

(v) the execution of decrees and orders passed in suits and the taxation of costs ;

(vi) the salaries to be assigned to the holders of the village offices forming Class (1) in section 3 and the method of their payment ;

(vii) the duties of the holders of the village offices forming Classes (1) and (3) in section 3, and the descriptions and forms of the accounts and registers to be kept by them ;

(viii) the custody, production and transfer of the accounts and other records kept by the holders of the village offices forming Classes (1) and (3) in section 3 :

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

Jurisdiction of Civil Courts barred.

21. *Madras Regulation VI of 1831, Sec. 3.*—Except as provided in section 13, no Civil Court shall have authority to take into consideration or decide any claim to succeed to any of the offices specified in section 3 or [any claim] to recover the emoluments of such offices or any question as to the rate or amount of such emoluments.

Proviso empowering Civil Courts to set aside the decisions of Revenue Courts on the question of jurisdiction.

[Provided that, if, in any suit instituted under this Act, the defendant has pleaded before the Collector that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Act, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within three months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only]

Nothing in this Act to prevent recovery of emoluments as arrears of revenue or to affect office which is not now hereditary.

22. Nothing herein contained shall affect the provisions of section 52 of Madras Act II of 1864 [or the provisions of Madras Act IV of 1866] or, except as provided in sub-section (1) of section 6, shall be deemed to create or confer an hereditary right to any village office.

Appeal against order or decree of Collector.

[**23.** (1) From every order passed by a Collector under sections 6, 7 and 9, and from every decree or order passed by a Collector in a suit preferred under section 13, an appeal shall lie, within one month, to the District Collector, or, if the said order or decree was passed by the District Collector, an appeal shall lie, within three months, to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final.]

Appeal against order of Tahsildar, Deputy Tahsildar or proprietor.

(2) From every order passed by a Tahsildar or Deputy Tahsildar under sub-section (2) of section 7, and from every order passed by a proprietor under sections 8 and 9, an appeal shall lie, within one month, to the Collector whose decision shall be final.]

Disposal of appeal by officer who passed original order.

[**24.** If the officer to whom an appeal is presented under this Act in the capacity of District Collector or Collector happens to be the officer who passed the decision which is appealed against in another capacity, he shall report the fact to the Board of Revenue or to the District Collector, as the case may be, and the appeal shall be disposed of by the said Board or District Collector and the order passed on appeal shall be final.]

Power of Government to place village watchman under police authorities.

[**25.** The Government may declare that the powers of punishing Village officers which are vested in the Collector by this Act and by the Madras Proprietary Estates' Village Service Act, 1894, shall be exercised in any specified local area by the District Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or police-officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or police-officer passed by a District Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Magistrate, whose decision shall be final.]

(By order.)

A. BUTTERWORTH,
Secretary to the Council.

Proceedings of the Madras Legislative Council held on the 19th March 1895.

THE VILLAGE OFFICERS' HEREDITARY SUCCESSION BILL.

The Hon'ble Mr. Gibson, in moving that the Bill may be taken into consideration, said:—

I beg leave that the Bill to repeal Regulation VI. of 1831 and for other purposes be taken into consideration. As sixteen months have elapsed since the Bill was introduced, it seems desirable that I should recapitulate briefly what was said at the time of its introduction as to the necessity for this enactment and as to its object. It was set forth in the statements of objects and reasons which accompanied the Draft Bill on its introduction into the Council that Regulation VI. of 1831 was defective in certain important matters of which the following were the principal defects:—The Regulation goes into no limitation of time in regard to filing of suits; (2) places no restriction on the right of appeal; (3) contains no provision for the execution of decree; and (4) none in regard to the filing of suits for mere declaratory decrees. After reciting that the consequence of these decrees in the law has been that to a great extent the principal object of the Regulation, *viz.*, the maintenance of the efficiency of officers, has not been attained; the statement goes on to say that the object of the present Bill is to replace the old Regulation by an enactment which will supply the deficiencies in the existing law while maintaining the principle of hereditary succession to their village officers subject in the first place to fitness to hold them and at the same time define clearly the procedure to be adopted in the appointment, control, and punishment of the officers in question. It has been urged as an objection to this Bill that whereas it professes to repeal the Regulation VI. of 1831 it actually re-enacts it. This is true enough, but the answer is that there is no intention and has never been any intention to abandon the principles which underlie the old regulation. That is perfectly plain from the statement of objects and reasons from which I have quoted. The intention is to re-affirm the principles of the Regulation and to supply its deficiencies. What these deficiencies are I have already pointed out, and the result of such defect could be easily imagined without the experience of the Board of Revenue, that "from the Boards's Office to the Governor in Council the official machinery is set in motion without any commensurate public and private gain and to the great detriment of more important affairs." Under the proposed law a limit is placed upon the right to sue and upon the right of appeal. The need for some limit to the right of appeal must be admitted when it is remembered that not so many years ago a village officer who might be dismissed by order of the divisional officer could appeal from the order to the Collector, from the Collector to the Board of Revenue and on through the Local Government and the Government of India up to the Secretary of State. In certain petitions which have been under our consideration it is contended that this Bill introduces great changes in the control of village servants, and it is said that in the case of certain Zemindari the *takiraj* or Inam lands were not excluded from the assets in the *sanad* granted to the Zemindars, and the petitioners state that the control of village servants in their estates rests accordingly with the Zemindars. Section 112 of Regulation VI. of 1831 is as follows:—"This regulation is applicable to all village officers whether situated in the Zemindari estates and elsewhere except in the particular case of karnams or village accountants in a permanently settled estate. Appeal is specially provided for by a separate enactment. It has been held by the late Court of Sudder Adalut that the Regulation applies to the hereditary offices held by village artisans." It has even been asserted that under the instructions of Government issued in 1799, the Village Service Inams were included in the assets of permanently settled estates, and taxed for peishcush. This assertion is founded upon paragraphs 15 and 16 of the instruction of October 15th, 1799. The concluding clause of paragraph 15 is worded somewhat obscurely and seems at first sight to support this view; but a reference to subsequent correspondence between the Revenue Board and Government shows plainly what construction was put upon these instructions in 1803-4. The question was distinctly raised by the Collector, Mr. Hurdis, when engaged wirh the Permanent Settlement of the Dindigul Province. The Collector had understood the paragraphs referred to as directing the redemption of village service inams, and their inclusion in the assets of the estates, and in taking exception to the instruction as he understood them, he wrote to the Revenue Board recommending that the village moniems should be kept distinct or, if resumed, that some reduction should be made in the moniems to make up for the loss. In submitting the Collector's Report to Government the Board pointed out that their instruction had been misapprehended and said:—"The orders of the Board of Revenue referred by Mr. Hurdis do not direct that the

service lands should be resumed but that they should be annexed to Circar lands, and in like manner that those of the latter description should be at the disposal of the proprietor for the payment of the village sibbandhi. In this interpretation of the Board in paragraph 15 of the general instructions we have been guided by the reports which have been submitted to your Lordship's consideration, it being the lands of Kaiyan and Revenue Officers, karnams excepted, which are to be added to the Inams, and other persons to be provided for by Government, with the exception of the karnams' land which form part of the village service lands, confirms the foregoing interpretations as being correct. We have not, therefore, included the value of resumed inams in the amount to be paid by the proprietors of the estates." In passing orders on this communication, Government said :—" With repect to the alienation which have been hitherto appropriated for the support of the village Sibbandhi who are under a misapprehension of their general interests in the aggregate assets of the Zemindaries the Governor in Council entirely approves of your rejection of them from this amount of rent." This correspondence shows plainly how at first it was proposed to deal with the inam in question, and how in practice they were in fact dealt with at the settlement in all cases which came under the notice of the Board. It is possible, of course, that estates were by mistake settled when assets were calculated including these inams—and this possibility has been recognised in Act II. of 1894, but these are not likely to have been numerous, for the rule was to exclude such inams. Moreover, in the case of old estates the settlement was generally made on all with reference to the average actual collections of previous years, and obviously their collections would not include revenue from village service inams. In the case of estates newly created, their capabilities were carefully estimated in arriving at the peishcush, and that provision was made by deducting from the assets, for the village establishments. It follows, therefore, that if any proprietor asserts that in the settlement of his Zemindari the village service inams were included in the assets on which his peishcush was fixed, it rests with him to prove his assertions, the presumption is against him. At the inam settlement of the Vizagapatam District in 1862, the Inam Commissioner found that the value of village service of all kinds had been excluded from the assets of the permanently settled estates, and if in any particular case this was not done, I may point out that by section 3 and by the definition of emoluments in section 4, village offices to which emoluments are not annexed by the State, would not fall within the scope of the Bill. As regards the remission from the sanads of lakhiraj lands and as to the effect of such omission as bearing upon the Zemindars' rights, I wish to refer the Council to the judgment of the Full Bench of the High Court which is printed on page 14 *Vol. IX, I. L. R., Madras Series.* The question before the Court was whether the Zemindar of Karvetnuggar, one of the petitioners to whom I have referred, was entitled to collect mortarfa or trade tax in his Zemindari. It was contended on behalf of the Zemindar that the omission to mention his sanad the motarfa as an excluded item of revenue, gave him the right to collect the tax. In an exhaustive judgment the High Court over-ruled this contention and reciting Section 4, of Regulation XXV. of 1802 whereby the Government reserves to itself certain articles of revenue such as customs and excise duties personal and professional taxes, lakhiraj lands (all land exempt from the payment of public revenue) and of all other lands paying out favourable quit-rents. The Court held that the Zemindar must rely upon the Regulation as giving him a title to permanent assessment, and that the insertion in *sanad* issued by the Government of Madras of a clause repealing the declaration contained in the Regulation as to the exclusion of items of revenue other than the land revenue was surplusage. By the section of the Regulation which the High Court quotes the motarfa tax and lakhiraj land were both reserved. I have pointed out that the Bill does not effect village offices to which endowments are not attached by the State, but it will doubtless be for any Zemindar claiming immunity from the scope of the Bill to establish his claim. Apart, however, from all consideration as to the precise term of the permanent settlement, I assert with confidence that in principle this Bill follows the whole course of legislation on this subject since the beginning of the century. We have first of all Permanent Settlement Regulation XXV. of 1802, excluding inam lands from the scope of the settlement—and declaring that the permanent assessment of the land tax shall be made exclusively thereof. This is followed by the Village Munsiffs, Regulation IV. of 1816, in which permanently settled villages as mentioned in conjunction with settled and Government villages, again in the Police Regulation XI. of 1816 the Magistrate is given powers of appointment and dismissal of village watches. That these powers were not confined to Government villages is evident from the fact that the Magistrate was authorised to invest Zemindars with certain Magistrial powers. Then came Regulation VI. of 1831, which is at least as comprehensive as the present Bill, and the Police Act XXIV. of 1859, and finally the Village Courts Act (I. of 1884) and Act II. of 1894, The Proprietary Estates Village Act. Throughout this long course of legislation I find no concession to the Zemindars of the control over village servants such as is now claimed. As to the details of the Bill

I think it is unnecessary for me to add to the report of the S. C. The Sections of the Bill will doubtless be discussed in detail, and the several amendments on the agenda paper. It will be observed that the report is signed by all the members of the Committee with the exception of the Hon'ble Mr. Rangiah Naidu, who neither signed the report nor recorded a minute of dissent. In the absence of information as to the reason for his refusal sign, I may perhaps assume that he hesitated to accept the Committee's conclusions since he attended only one meeting of the Select Committee.

I now move that the Bill be taken into consideration.

The Hon'ble Mr. J. F. PRICE seconded the motion.

The Hon'ble Mr. CROLE asked H. E. the President's permission to address the Council on the principles underlying the measure. That, of course, would involve a supension of some of the rules of the Council. But he was not at liberty at that stage to introduce that consideration to the Council without special permission, and that was the reason for his special application. When the Bill was introduced in November 1893, it was not, as Mr. Gibson had said, a Bill to re-enact Regulation VI. of 1831, but a Bill to re-enact Regulation VI. of 1831 with regard to a section of village officers. The Bill to enact Regulations with regard to the other section of the village officers was already before the Council in the shape of what has now become the Proprietary Village Service Act. When Mr. Garstin, on the 14th November 1893, introduced this Bill, he merely mentioned the general principles, which were not discussed then. Everybody understood then that it was determined to expunge from that Bill all the judicial proceedings and to re-enact them in the present Bill which was to re-model Regulation VI. of 1831. He had examined the discussions of the Council that followed then, and there was not one word from any member recognising the great change that had taken place. The Select Committee's report on the Bill was published in the *Fort St. George Gazette.* The Bill which the Hon'ble Mr. Gibson was placing before the Council was quite a different Bill from that which Mr. Garstin received permission from this Council to introduce. He submitted to his Lordship that, in consideration of these facts, it would be more convenient that members should be in a position to understand the principles underlying the measure. It was a difficult and technical subject, and it was necessary they should understand the principles before they began the discussion. It was for those reasons that he wished to be allowed to address the Council on the principles.

The Hon'ble Mr. BASHYAM IYENGAR seconded the Hon'ble Mr. Crole's motion.

H. E. the PRESIDENT granted the permission sought.

The Hon'ble Mr. CROLE said :—The Council will readily understand the reluctance with which I have placed on the paper the amendment which stands in my name. The Bill has been long before the Council, but this is the first opportunity which has occurred, since I became a member of it, for raising a discussion regarding the principles underlying the measure. The superintendence of village establishment is one of the functions attached to the Board of Revenue which I happen to fill, and it has occurred to me that respect for the Council requires that I should lay before it views derived from intimate acquaintance with the subject, so that this Council, and through it the Executive Government, should have the means of considering the principle underlying the proposed legislation with special reference to the requirements of the present day. Briefly put, the question is whether there is a still abiding necessity for encasing the administration of the village establishment in provisions of a judicial character and for providing a by-law for the ordinary details of the management of the servants employed upon them. As to the maintenance of the hereditary principles in respect of the succession to such offices—that point is not raised by me. I hold the opinion that it is not quite accurately understood, and that its value has been over-estimated. That, however, is my own personal view, and I do not press the point on the present occasion. It is perfectly within the power of Government to carry out its policy in this matter by executive orders. This the method adopted with regard to every other servant of Government, and I know of absolutely no reason for treating a village headman or a village accountant differently from a Taluk gumastah, a Taluk peon or any other revenue servant of Government. The introduction of any other principle entails undesirable consequences. It implies increased work to officers already overburdened, and it involves additional expenditure. I shall presently endeavour to establish this position. Meanwhile, I would mention only to repudiate its soundness and safety, the view that it is too late to sift the administration for which the Council is asked to legislate, because Government is supposed to be too far committed to the present Bill. I at least refuse to believe for one single moment that such counsels will prevail. The very history of the project for legislation

now before us demonstrates the necessity for the most extreme caution—for attention being extended to every view. The subject is of no small technical intricacy, and more than one erroneous view of long continued acceptance has already had to be abandoned owing to the discovery that objection, information and advice had been tendered to Government. For, after all, Government cannot be held to blame for proceeding on the advice of experts, and if they turn out to be broken reeds, all that it can do is to retrace erring footsteps and to resolve to proceed in free and full discussion for the future. I shall give three examples: In 1872, the Government, on the authority of an opinion of the Acting Advocate-General, Mr. J. D. Mayne, laid down that decrees passed under Regulation VI. of 1831, as far as mesne profits are concerned, can be enforced only by suits in the Civil Courts. In 1884, Government laid down on the authority of another Advocate-General that a village officer who established under the above regulation his right to the office must sue in the Civil Courts for the emoluments attached to it. The decision of the Full Bench of the High Court reported in *I. L. R., Madras XVII, page* 302, has placed it beyond doubt that each of the above opinions was erroneous. In the same year (1884) the Government admitted the erroneousness of another order in which it had held that the Regulation referred to enabled a Collector legally to exclude from succession to a village office a woman, an illiterate person, or a non-resident in the village. The orders last referred to were issued under the signature of Mr. (afterwards Sir Henry) Stokes, an officer whose pre-eminence as an authority in matters of Revenue administration is beyond dispute. Surely, the misadventures which the subject met with at his hands in these instances should give us pause in the further treatment of it. At this point it may be well to stop for the purpose of recording that in the years 1884 and 1885 Mr. Garstin, as well as the Hon'ble Messrs. Grose, Price and Sturrock were parties to a proposal (contained in a Draft Bill) for taking away the right to sue and for leaving the recognition of hereditary right to the decision of Collectors without the intervention of Civil Courts. I am informed that the Hon'ble Mr. Arundel has also recorded an opinion to the same effect. I know that I did so, as Collector of Madura, and I mention these names as showing that in urging, after the lapse of ten years, the same view, I am not trespassing unduly on the patience of the Council when I plead for a dispassionate consideration of my amendment, which is no novelty introduced by me, but is based on well-considered opinion with high authority behind it. (At this stage the Hon'ble Member reviewed the history of the present legislation and gave the scope of the Bill. He objected to mixing up Zemindaries with the Bill. The Bill had, he contended, been completely changed in Committee. He said he could not understand why, for instance, a law should be required for fining a karnam in a hereditary district when it had not been required in other non-hereditary provinces.)

Continuing, the Hon'ble Mr. CROLE said:—It is necessary for the proper understanding of the subject that a brief survey of the history of these village offices should be taken. The well-known passage so often quoted from Wilkes' Mysore gives a description of the Hindu village establishment which cannot be improved upon. "Every Indian village is, and appears always to have been, in fact, a separate community or republic; and exhibits a living picture of that state of things which theorists have imagined in the earlier stages of civilisation, when men have assembled in communities for the purpose of reciprocally administering to each other's wants: (1) The Gaud, Potail, Maccuddin, or Mundil (as he is named in different languages), is the Judge and Magistrate; (2) the Kurnam, Shanboag, or Putwaree in the Register; (3) the Taliary or Sthalwar; and (4) the Totie are severally the watchmen of the village and of the crops; (5) the Neerguntie distributes the water of the streams or reservoirs in just proportion to the several fields; (6) the Jotishee or Joshee, as astrologer, performs the essential service of announcing the seasons of seedtime and harvest, and the imaginary benefit of unfolding the lucky or unlucky days and hours for all operations of farming; (7) the Smith; and (8) Carpenter frames the rude instruments of husbandry, and the ruder dwelling of the farmer; (9) the Potter fabricates the only utensils of the village; (10) the Washerman keeps clean the few garments which are spun, and sometimes woven, in the family of the farmer, or purchased at the nearest market; (11) the Barber contributes to the cleanliness, and assists in the toilet of the villagers; (12) the Silversmith, marking the approach of luxury, manufactures the simple ornaments with which they delight to bedeck their wives and their daughters; and these twelve officers (Barra bullowuttu, or Ayangadee,) or requisite members of the community, receive the compensation of their labour, either in allotments of land from the corporate stock, or in fees, consisting of fixed proportions of the crop of every farmer in the village."

It will be observed that the servants were the employés of the village community and not of the Government. The first acquisition of territory by the British was the four districts known as the Northern Circars by a grant from the Emperor of Delhi, dated 1766. This tract has been for age

devastated by wars and misrules. The land was mainly the property of hill chieftains, Rajahs and Zemindars, the latter of whom were generally wealthy revenue servants of the Government who had assigned the estates which they held. There were tracts of land adjacent to the cantonments which had been annexed by the Mahomedan Government for the purpose of supplying food to its troops and servants. To these Haveli-lands, as they were called, the British succeeded, and as might be expected, the village system was found to be a wreck. In many villages there was no karnam, while in other favourable situations half a dozen men would be found enjoying lands for doing nothing. In course of time when Collectors were appointed, the renting was supplanted by the ryotwari system, and village servants were duly appointed under Government in each village. They received regular sanads of appointment, and Inam lands were set apart "in lieu of wages," to use the language of the Circuit Committee of 1784. The principle on which the system rested was, according to the same body, not ancient hereditary right, but the public convenience. This is what they say:—"The moniems to village servants, we understand, were instituted as a retaining salary to artificers when such people were scarce and in an itenerant situation, and were afterwards bound thereby to reside upon their ground and attend the Circar summons in any part of the district, receiving nothing more than batta while absent from their families." Again, in another place we find it laid down "that there ought to be a karnam to each village, but so far from this being the case, we remark and recommend that the defect should be supplied at the discretion of the Manager of the Haveli that many villages, and the whole of the Purgunnahs of Mont Reddy and Monsur Cottah are destitute of this necessary officer."

If there is one thing clearer than another in the records of the administration of the Northern Circars, it is that the theoretical village had disappeared long before the British period, and that our early administrators had practically a *tabula rasa* to work upon. In the words of the compilers of the Fifth Report, "attention to original institutions had been entirely neglected." Even in 1801, the Court of Directors remarked as a reason for not hurrying on the introduction of the Permanent Settlement that the Northern Circars in especial were "infinitely less advanced in the habits of order and subordination to Government that the Bengal Provinces, and that any attempt to introduce a regular system of order or just sentiments respecting the value of permanent rights would be idle and nugatory" at that date. I submit, therefore, that it is clear that so far as hereditary right and its appurtenances are concerned, the case for the Northern Circars can hardly, as a rule, be placed much higher than the times of the British occupation. The remainder of the Madras Presidency came piece-meal under British occupation between the period commencing with 1792 and ending with the treaty of 1801. In these tracts the position was different. As a rule, the village officers were the servants of the village community, which remunerated them by assignments of land by deductions from gross produce (swantatrams) and by *mirachs* or fees paid out of the ryots' share of the crop. Much of the country was under native renters, who appointed and maintained the village establishments themselves. It is a suggestive fact that although, no doubt, there must have been a tendency for several offices to descend from father to son, the report of the early Collectors lay no stress on such a circumstance as implying any right. It is likewise not in reason to suppose that the employers of such servants—the village communities or renters—would ever have relinquished control over them by establishing them in a position of independence. There are various indications which support this inference. For instance, no karnam was ever allowed to acquire a share in a mirassi village, and although there were instances where karnams had amassed wealth and obtained undue power, there were many in which they were reduced to beggary and had deserted their villages; as, for instance, the devastation of the Carnatic by Hyder in 1780. Moreover, the very fact that the difficulty as to the alienation of emoluments never came to the surface until the British Government began to recognise certain conceptions of hereditary right in them, is almost certain proof that such a recognition was a novelty and no ancient custom. The power of the village communities and the renters and the subservement of the village servants to them was found so embarassing to the first attempt to introduce a ryotwari settlement that some six Collectors resumed the emoluments set apart [illegible] that the old records invariably describe as the wages of the village servants. Some of the Collectors openly assigned as the justification for this step that in no other way was it possible to teach them that they had really become the servants of Government. They therefore paid them in money. This was about 1801. The Court of Directors in 1815 reversed the orders of the local officers and ordered the restoration of the moniems. But it is most suggestive that this step was dictated merely on grounds of policy of conciliation; as a matter of fact, the local feeling was so strong that it was not until 1826 that the order was fully carried out. This episode evidently formed the reason and the motive for the passing of Regulation VI. of 1837, the discus-

sions preparatory to the framing of which commenced in 1824, when the rendition of the emoluments was in progress. (Here the Hon'ble Member read the following letter from the Collector of Bellary, dated 17th May, 1824:—"The Inam lands and fees in money, or kind, attached to the several village offices should be placed under the charge of the Collectors to the exclusion of the jurisdiction of Zilla Courts. The same not being personal property, but in fact the official payment of the inferior native servants in the Revenue Departments, Collectors should be authorised to settle disputes respecting the same of their own authority or by punchayats, and in the latter event, should have power, on appeal, to modify or alter the decisions of such punchayats, recording their reasons for the same. No one should be nominated by a Collector to such village offices except persons having an hereditary right thereto. But Collectors should be allowed to select for duty the most fit persons among the hereditary claimants, and where no such one having hereditary right to the office exists, to appoint new persons thereto apportioning in all cases to each claimant, whether employed or otherwise, such share of the hereditary Inam or fees, as may be useful, according to the custom of the country, to be decided in case of dispute by the Collector himself or by punchayats assembled by him as before suggested.")

This is a point which has been overlooked right through the voluminous correspondence which has taken place since 1871. The Regulation in question recognised the hereditary principle in the succession to village offices in the Revenue and Police Departments. It made the sale, gift or the transfer of them illegal, and it removed suits for the possession of such offices or emoluments attached thereto from the jurisdiction of the Civil Court which had been established at the beginning of the century. The Collector, as the offices intrusted with the control of village official "lands and fees," was charged with the disposal of such suits. These are the main provisions of the law which the Council is asked to amend and to re-enact. I have laid before the Council that portion of of the history of the subject which seems to me to be unnecessary for its adequate comprehension. I have avoided all detail which would mar the ready understanding of a somewhat abstruse and technical branch of revenue administration. I submit, however, that enough information has been supplied to enable this Council to decide whether the conditions of the present day are such as to necessitate the continued presence on the Statute Book of piece of special legislation which was required when the ryotwari settlement was in process of evolution—the object being to stereotype the transfer of the village service from its old to its new master. So completely has this object been effected that the very reason for the passing of Regulation of 1831 has been all but completely forgotten. The main object of the Regulation was to secure the fidelity of the village officers, the karnam and the monigar so far especially, and to prevent the chance of their slipping back under the influence of the village community owing to getting into debt, and mortgaging or selling the moniems, whether lands or fees. The possession of these was a characteristic incident essential in those days to the very conception of the hereditary principle. Take away those lands, or absorb their privileges, and the Regulation has no meaning whatever. It would have never been thought of. Now, that is precisely the prevent position. Government has entirely subverted this conception of hereditary right. Legislation is quite uncalled for. The last embers of the old system may well be allowed to flicker or lie under the shadow of the old Regulation. For some years before Regulation VI. of 1831 was passed several Collectors had become impressed with the necessity for recognising and fostering the hereditary principle in the full sense of the term, as I have just described it. The change of view which marked the first quarter of the present century is very marked. But it was only another way of weakening the power of the Mirasidars or landholders by getting a stronger hold over the village officers and increasing their independence of local influences. When the Regulation became law then the term was interpreted in the very broadest sense, and women, minors, illiterates and other incapable persons were in virtue of its provisions appointed to village offices. Hereditary right and not the capacity to perform the duties was the standard of appointment. Government swept this away by a stroke of the pen, and for some years, before 1892, capacity was insisted on except in the case of minors. The next step towards the destruction of hereditary right was the enfranchisement of moniems and the abolition of fees which has followed the introduction of the new revision settlement. Under the Village Cess Act the village officers of the Madras Presidency are now merely inferior revenue servants in the receipt of monthly wages. As if that were not enough, during the carrying out of the operation last mentioned village officers by thousands have been deprived (as in Chingleput at this moment) of the last remaining vestige of their rights. Villages have to be freshly grouped, in order to suit a scheme for the reconstitution of the service, which must be kept within the limits of the assets of the Village Service Fund. In carrying out this scheme the hereditary rights of the officers in a group are declared to

have been extinguished, and then the Divisional Officer proceeds to appoint any person whom he may think competent to the offices of the new group which he has only arbitrarily created. A new hereditary right then begins to run. It is not necessary to discuss the legality as the law now stands of the first and third of the processes for the subversion of the old system, but I do contend that it is idle, in the face of facts like these, to talk of an invaluable and much prized right with reference to this matter. This Council, I submit, would stultify itself if it sanctioned by legislation the resuscitation of an archaic system, which is fast dying out. As for the old rights of village officers being dearly prized or any longer valuable to the public, there is no sign that such is the opinion of any of those concerned. The steps taken by Government which I have just detailed, although they have absolutely killed the old system, have evoked no combined protest, nor have they provoked any general alarm. They have on the contrary been submitted to, in the tamest manner. In the opening of this speech I expressly stated that I saw no objection to Government by executive order issuing instructions to its officers regarding the recognition of hereditary claims when filling up vacancies in village offices. What I regard as excessively inexpedient is that legislative sanction should be asked for, in order to give to these claims a new lease of life, and that a cumbrous and exceptional judicial procedure should be maintained for the decision of claims to offices and emoluments, the condition of which (and I am speaking now as I have been doing all along of revenue village servants only) have practically been assimilated with those of the ordinary subordinate revenue service. The regulations of that revenue service in order to be efficient must be elastic, so as to suit diverse local conditions and the changing circumstances of the time. This can never be secured by iron-bound legislative provisions. In the Presidency of Madras this is the principle which has, as far as possible, been observed in the administration of Land Revenue hitherto. The result has been that the want of elasticity and adaptability to varying circumstances which is so conspicuous in a neighbouring Presidency which relies on a Code, is to a great extent unknown in Madras. The inconvenience to which I allude is conspicuously apparent in the present Bill itself. Hereditary right is not defined. Whether it refers to some alleged immemorial custom or includes the large number of offices and emoluments created both in the North and South of the Presidency at the close of the last and the beginning of the present centuries, or merely starts from the declaration in Regulation VI. of 1831, the Bill does not say. But I presume that it includes all these, as well as the hereditary rights now being arbitrarily created by the officers during the revision of the village establishments. But as I have pointed out, the hereditary right is in process of rapid disappearance and the only effect of recognising it in the ryotwari tracts by fresh legislation will be to hamper the Government in the further reform of the inferior revenue service. For, after all, the appointments referred to exist for the convenience of the public and not in the interests of the public, and not in the interests of individuals, and the area of selection ought not to be needlessly circumscribed by the recognition of vested rights, if these can be got rid of. There are, as I have said, six districts in which hereditary right does not exist. The cause of this is not exactly traceable, but in so far as Salem, Trichinopoly and Tanjore are concerned, I see no reason for it except done as in the generality of the other fifteen districts to which alone the present Bill would apply. the *fiat* of the Collectors of the time of the first rough survey and settlement. As far as the returns of punishments give any index to efficiency, the work in the six districts alluded to is at least, as well Moreover, it is obvious that there are grave inconveniences to the appointments of village headman and karnam being hereditary. To commence with, where such an officer is dismissed for some grave fault, the family loses hardly anything. The next heir is appointed with a gumastah to do the work. The latter is relieved the moment that the dismissed man does, and it is not difficult to believe that the family does not forget to revenge itself on the ryot on whose complaint the office-holder had been dismissed. It is also easy to conceive that in view of such probabilities complaints in hereditary villages will not be so readily made as in others, and that irregularities may be expected to be more frequent.

As I have already said, it is no part of my present motion to oppose the recognition of the hereditary principle, but what I do object to is that it should be re-associated in a new enactment in so far as the Government tracts are concerned. For, if things are left to themselves, the fifteen districts to which it would apply will before many years are over be assimilated with the six others in which hereditary office as a legal right does not exist. The change would, in my opinion, distinctly strengthen the administration, and therefore the process now going on should not be interfered with or arrested.

The Hon'ble Mr. Bashyam Iyengar, under Rule 18, wished to have an explanation of a matter from the Hon'ble Mr. Crole. It was whether the Hon'ble Mr. Crole proposed that there should be

no suits allowed for the recovery of hereditary office or emoluments thereof. What he wished to know was whether the Civil Courts were to entertain such suits on the ground of hereditary right or whether the jurisdiction of Civil Courts was to be debarred as they are now. Under the law as it stood now the jurisdiction of the Civil Court was debarred, and the jurisdiction was given to revenue officers.

The Hon'ble Mr. Crole said that the reply to the Hon'ble Mr. Bashyam Iyengar, as far as he was concerned, was simple. He had only been engaged till then in a destructive criticism, which was easy. Building up or constructive legislation was something more difficult. His personal view was that the jurisdiction of the Civil Court in regard to inferior revenue servants of the Government should be entirely ousted. Government ought to be allowed to issue any departmental orders as it liked. He would say that whatever the Government did in regard to the administration of this most important branch it should not be interfered with by a judicial tribunal which could not effectively interfere between the Government and its employers. It will lead to a vast amount of litigation.

The Hon'ble Mr. S. Srinivasa Raghavaiyangar said :—

My Lord,—It has been stated by the Hon'ble Mr. Crole that the Bill as now presented is materially different from the one in regard to which leave was granted to introduce into the Council. As one of the members of the Select Committee, I wish to state briefly the nature of the changes made in the Bill referred for the consideration of the Select Committee, and the reason for these changes. It will be remembered that the Government had under consideration for some years past a complete scheme for legislation with a view to place the village service throughout the Presidency on an efficient footing and for replacing Regulation VI. of 1831, which is defective in several respects, by a better enactment. For this purpose the Government brought in two Bills in the beginning of 1893 (1) a Bill for amending the law relating to village servants in Zemindaries and other proprietary estates; and (2) a Bill for repealing Regulation VI. of 1831 and providing for the appointment and control of village servants in ryotwari villages and for the adjudication of claims to village offices. These Bills were published in the *Fort St. George Gazette* by order of His Excellency the Governor, and it was therefore unnecessary to ask the Council for leave to introduce them. The first Bill was introduced into the Council on 28th February, and the second in April, 1893. The first Bill related to five classes of village servants in proprietary estates, and they contained provisions treating them all alike, as regards the establishment and maintenance of a sufficient number of servants of each class, the powers of control to be retained in the hands of Government and those to be conceded to the Zemindars consistently with security for the efficient performance by these servants of the duties intrusted to them and the fixing of the remuneration to be paid to these servants according to definite scales for the work exacted from them. For this purpose, power was taken to abolish the merahs or grain fees payable to these servants, which are of varying rates and uncertain amounts difficult of collection and faithfully paid and often withheld, and the substitution for them of a fixed money cess leviable at definite rates and according to definite principles. The proceeds of the cess as well as of the assessment imposed on State inams attached to the offices which were to be franchised were to be constituted a fund set apart for the remuneration of village servants. The Bill further contained provisions for regulating the succession to village offices and the adjudication of claims preferred in regard to them. Now of the classes of village servants above referred to it is only three that have important public duties to perform, *viz.*, the karnam or village accountant, the headman or the village judge and magistrate, and the taliari or the village policeman; and the other classes, though receiving State remuneration and liable to be called upon to perform public duties occasionally, owe service in the main to the proprietors and their ryots. This being so, the Select Committee which finally reported on the Bill felt it would be a mistake to deal with all these servants in one and the same way, and that as regards the latter class of servants the proprietors should be allowed full powers of control and punishment subject to appeal by aggrieved parties to the higher Government officers in case these powers are abused and subject also to reservation of powers of interference by latter officers in cases in which such public duties as the servants have to perform are neglected, or in cases where the interests of ryots are injured by the neglect of the proprietors to punish the village servants for misconduct. It was further considered that the provision for the maintenance of a sufficient number of officers, for payment of money salaries, the substitution of a money cess for the merahs or grain fees leviable and for the enfranchisement of the service inams, which were very necessary as regards village accountants, magistrates and policemen went as regards the second class of servants considerably beyond the necessities of the case. It was, therefore, recommended by the Select Committee that the first Bill should deal with the first class of

servants only, and that the provisions relating to the second class should be relegated to the second Bill. Another change made was that the procedure for the adjudication of claims to all village offices including those dealt with in the first Bill should be prescribed in the second Bill, the reason for this being that with the exception of the karnam in permanently settled estates and claims for village offices are adjudicable under Regulation VI. of 1831, and this Regulation was to be repealed by the second Bill and an improved procedure to be substituted for it. There have been no substituted changes made in the second Bill as regards the provisions for regulating the appointment and control of village servants in ryotwari villages. The two Bills, my Lord, in fact form parts of a complete scheme. When the Bills were introduced into the Council in February and April, 1893, and when the Bill was recommitted, the Council had an opportunity for discussing the principles of the contemplated legislation. In the final report submitted by the Select Committee on the Proprietary Village Service Bill it was pointed out that toties and nirgantis, who were taken out of the scope of Bill in deference to the objections raised by several proprietors would be governed by the provisions of Regulation VI. of 1831, a Bill to replace which was just then under the consideration of the Select Committee. I submit, therefore, my Lord, that the objection raised that the original object of the contemplated legislation has been materially departed from, and that no opportuntiy has been afforded to discuss the provisions—of the new Bill is not a substantial one. Such of the changes as were made were made mainly in the interests of Zemindars and in consideration of the representations made by them, and I submit, my Lord, that this was fully within the competence of the Select Committee. At the same time, my Lord, I do not wish in any way to oppose this motion to suspend the rule and have the principle of the Bill discussed at this stage, as such a discussion might remove misapprehension when the detailed provisions are taken up for consideration, and possibly cut short also discussion when a motion is made to pass the Bill into law.

The Hon. Mr. Ramasubbier said that the Hon'ble Mr. Crole had given a sort of notice that the Council was not quite in order in having brought the Bill in its present shape because the Council did not give permission to bring the Bill in that state. It had struck the Hon'ble Member that there was a great deal of force in that argument. He wished to make a few observations on that subject, especially as the Hon'ble Mr. S. Srinivasa Raghavaiyangar had expressed himself of a different opinion. He wished to propose that in the light of the new matter put forward by the Hon'ble Mr. Crole, the whole information might be placed before the Select Committee which might be asked to consider the re-drafting of the Bill if such a Bill was to be drafted, on such lines as might be approved of by the Council. There was one point he wished to say, that a mover of the Bill and the Select Committee to which the Bill was intrusted for the purpose of moving amendments had no power for varying the Bill from its original share. The rules were distinct on that point. Then came the question what were the real powers of the Select Committee; had it power simply to move amendments, or had the Select Committee the power to introduce in the Bill matters which had not been placed before the Council when leave was obtained to introduce the Bill? Rule 36 dealt with the appointment of Select Committees, and it gave the Committees no power to introduce provisions calculated to extend the scope of the Bill from what it was proposed to be at the time when permission was obtained to introduce it. If the Select Committee wanted to vary the Bill by extending it, the mover of the Bill and the Committee had to take the permission of the Council so to vary it. What had happened was this. This Bill was referred to the Select Committee. The original Bill of Mr. Garstin was in the hands of the Select Committee till the time of Mr. Garstin's departure. During this time the Bill underwent a change by converting that Bill which was originally intended for the ryotwari villages into one applicable to Zemindaries as well as ryotwari villages, and also to provide for the control of the artisan classes in the villages. The first Bill did not give Revenue Officers control over the artisan classes. It was the Select Committee which included the Zemindari tracts as well as the artisan classes. The Select Committee had no power to do it. That seemed to him a legal objection to the present Bill. He contended that the Bill on which amendments could be proposed was the original Bill and not the revised Bill for which sanction was not obtained. That seemed to be an objection which went to the very root of the matter. What had been urged by the Hon'ble Mr. Crole was the Government side of the question, to do away with the hereditary right in the interests of the better administration of the ryotwari "tracts." He would submit that there had been a clear departure from the original Bill. It was never said by Mr. Garstin in the statement of objects and reasons that the object of the Bill was to go beyond the scope of Regulation VI. of 1831. Regulation VI. of 1831 dealt only with village officers in the Revenue and Police Departments of the Government. The preamble to the Regulation referred to this point in unmistakable terms. That was the case in 1831. It was

never said by Mr. Garstin that it was intended by repealing this Act to bring within the scope of the Regulation other officers. He could not understand the meaning of bringing the artisan classes into the scope of the Bill and placing them under the Revenue officers. Surely it would not be to lighten the work of the Revenue officers.

The Hon'ble SRINIVASA RAGHAVAIYANGAR inquired whether the Hon'ble Mr. Ramasubbier's contention was that the artisans were out of the scope of Regulation VI. of 1831.

The Hon'ble Mr. S. RAMASUBBIER replied that he objected to the Government officers having control over the artisans in the interests both of Government and of the public. It was undesirable that the artisan classes should be brought before the Revenue Courts.

The Hon'ble Mr. SRINIVASA RAGHAVAIYANGAR drew the attention of the Hon'ble Mr. Ramasubbier to section 14 of the original Bill.

The Hon'ble Mr. RAMASUBBIER replied that that section related to claims to succeed to any office. That was again a departure from Regulation VI. of 1831. It might be said that carpenters and blacksmiths were officers of the Revenue Department. But by no stretch of language could the astrologers and barbers be brought under the class of Revenue officers.

The Hon'ble Mr. BLISS said that he cordially agreed with the Hon'ble Mr. Ramasubbier in saying that they should not go beyond Regulation VI. of 1831. He could flatly contradict what the Hon'ble Member had said that the village artisans were not included under Regulation VI. of 1831. If he could quote authorities which would be convincing to everybody to support what he stated, he held in his hands a copy of Board's Standing Orders corrected up to 31st December 1877, so that it was seventeen years old. In those orders the reference was made to Regulation VI. of 1831 as being applicable to village officers situated in Zemindari estates or elsewhere except the particular classes of karnam and village accountant in permanently settled estates who were specially dealt with by separate enactment. It had been held by the late Sudder Court that the Regulation VI. of 1831 applied to village artisans. It might perhaps be necessary for him to inform the Hon'ble Mr. Ramasubbier that, up to the time of the creation of the High Court, the rulings of the great Sudder Court were paramount in the mofussil, and until contradicted by subsequent rulings those rulings had the force of the Law. The Hon'ble speaker then referred to a case reported in *Vol.* 17, *Madras Law Reports*, where it was held by a Full Bench of the High Court that carpenters did come under class of Revenue officers. He understood the Hon'ble Mr. Ramasubbier to say that the wording of the Regulation VI. of 1831 did not cover the artisan inams; as a matter of fact, the High Court was at issue with the Hon'ble member, and it was left to the Council to decide whether they would stand by the Hon'ble member or accept the decision of the Full Bench of the High Court. It was obvious from the decision of the High Court that the spirit and intention of the Legislature was to include the whole of the village officers. It was all very well for the Hon'ble Member to say that they should make a distinction between a carpenter moniem, blacksmith moniem, and some other moniems; but he failed to see why that the Legislature had made no distinction, and when the High Court had shown no symptom of a desire to make any distinction of the kind, they should cast about to do so. The Hon'ble Mr. Ramasubbier and the Hon'ble Mr Crole were making merry at the idea of Collectors having to interfere in regard to the efficiency of the village servants for the artisan classes. The Government had, rightly or wrongly, a large number of village artisans who had certain duties intrusted to them in consequence of the inams they held, which in some districts like Bellary and Cuddapah were very valuable. They had not the slightest wish that the Collector should submit his body to the barber's razor to know that the barber was doing his work satisfactorily. But what he wanted to know was what was to be done by the unfortunate people in the village community who were entitled to the services of the barber and of the carpenter of the village if the latter refused to do their work. The Hon'ble Mr. Crole said that the village community when they found a case of that kind would settle it themselves by turning out the barber and carpenter neck and crop. He dared say that that was done, and it was perfectly possible that was being done at the present day. But he would ask the Hon'ble members of the Council as to how much larger it was that the village community would be able to do it in the face of the present spread of education and increase in knowledge as to the rights possessed even by the lowest. It was perfectly clear that in a very short time the village servants would find out that the ryots had no power to turn them out, and would stick to the land, at the same time refusing to do the work. It was simply to prevent the village officers from doing that, a Select Committee thought it right to give power to the Collector to interfere in such things and redress the grievance of the people. That was the only way he thought in

which the village officers could be made to do their duty. Having said so much about what the Hon'ble Mr. Ramasubbier said, he thought that before he sat down he had better address himself to a small extent to the long oration of the Hon'ble Mr. Crole, which had occupied nearly one hour and three-quarters. He had taken a few notes of what was said, and he was afraid if he were to answer the observations of the Hon'ble Mr. Crole's seriatim he should also occupy the time of the Council for one hour and three-quarters. He was quite sure that the Council could not afford to hear him for that length of time, and he would therefore deal with the matter briefly. He understood the Hon'ble Mr. Crole devoting himself, as he himself said, to destructive criticisms as a sort of modern iconoclast. As a part of his case for the destruction of Regulation VI. of 1831, the Hon'ble Mr. Crole sought to persuade the Council that the idea of the hereditary office in this country was quite of modern origin. It was quite impossible for him, not having had previous information of what the Hon'ble gentleman was going to say, to go back to the year 1766; he could only take up such authorities as were then available to him to speak on the subject. The Hon'ble Mr. Crole's argument was that the idea of hereditary right was created by Regulation VI. of 1831. In the first place he would refer the wording of the Regulation VI. of 1831. It began in its title by stating that it was a Regulation to prevent misappropriation of the emoluments annexed by the State to the hereditary village and other offices. That was not the language of the enactment which created a particular status. That language distinctly recognised that status as existing at the time when the enactments was passed, and as having existed for some time before. It was perfectly easy to show that the idea of hereditary offices was by no means a new one in 1831. He would ask them to refer back to the Regulation which created the office of karnam in Zemindari villages—Regulation 29 of 1802, which was passed on the 13th of July of that year. Section VII. of that Regulation said that in filling up the vacancies of the office of karnams the heirs of the preceding karnam should be chosen by the landlords concerned, so that there was a clear recognition of the fact that in 1802 at all events, the hereditary right of the karnam's office was recognised. He had not been able to find further references, but the Council would perfectly understand it was impossible for him to do so without stirring from his place. In Regulation XI. of 1816, a copy of which he found in the room, there was section, XVII. which said that the office of the village watcher, wherever it might be found to exist and wherever it might be created under the proceedings of the preceding sections, should be held hereditary. Again upon the death of the village watcher, the head of the village should report the same and also the name of the person who might have succeeded to it by inheritance. It was perfectly clear from the instances he quoted that the idea of hereditary right in connection with the village offices was not one that had first come into being in 1831. It was one very much older, and how much older it was impossible for him to say.

The Hon'ble Mr. CROLE asked the Hon'ble Mr. Bliss to read out the instances in the Regulation XXIX. of 1802, the Memorial Hereditary Right. The Hon'ble Mr. Bliss was under misapprehension as to what he had said. What he had said was the Select Committee and those in charge of the Bill had not enlightened the Council as to what they meant when they used the title hereditary right.

The Hon'ble Mr. BLISS said that he had not taken down the words of the Hon'ble Member, but could only speak from his recollection as to which he was entirely in the hands of the Council. Assuming that he had been entirely incorrect, and supposing that the Hon'ble Mr. Crole had said the idea of hereditary right first sprang up in 1831, he did not think it left them in a bad position at all. He claimed the hereditary right had been distinctly recognised long before the Regulation VI. 1831 was enforced. It was clearly proved that the hereditary right was a thing which existed in full force for 64 years before the present time. They should be careful before they sought to interfere with an institution which had lasted for so long a time. There were a great many other things that he could easily enter into with reference to what the Hon'ble Mr. Crole had said. He had a long list of them, and he did not think it wise to inflict upon the Council much more on the subject, as they had great deal of work to get through; but there was one thing about which he would say a very few words. He did not know how far the Hon'ble Members there present were aware that in the Presidency of Madras they had preserved the village establishments. They had the precious possession which was enjoyed by no other part of India in exactly the same form that they were enjoying here. In 1890 the Government of the North-West Provinces had sent one of their best officers down here to inquire into the work of the village establishments and to take such information as would enable them to recreate in the North-West Provinces the village establishments. To his mind that was the strongest testimony to the excellence of the administration of this Presidency, which was due to the fact that they had not killed the village establishments but kept them

Mr. Bashyam Iyengar in saying that the Select Committee appointed by the Council were at perfect liberty to propose any amendment either in the way of addition or substraction on the original Bill. The rule that bore on the subject, namely, Rule 37, embraced no limitation whatever.

The Hon'ble Mr. ARUNDEL said that in the course of the speech of the Hon'ble Mr. Crole he had challenged any member of the Council who held the office of Collector to say whether he had anything to do with any case before him in which Regulation VI. of 1831 applied to the village artisans. He had not interposed when that question had been put as he was not prepared to admit that any gentlemen in the course of their speeches were entitled to put questions to the members of the Council to prevent any misconception. He might say that he had certainly one, and if his memory served him right, several cases in which emoluments and qualifications of a village carpenter or blacksmith had been brought up before him under Regulation VI. of 1831.

The Hon'ble Mr. CROLE, interrupting, said that he had never said so. He was only referring to the executive superintendence of the village officers and not in regard to suits. He himself had decided several cases.

The Hon'ble Mr. ARUNDEL, continuing, said that he had been under misconception as to the meaning of the Hon'ble Mr. Crole's remarks, and the other members of the Council had been also under the same misconception. He entirely agreed with the arguments put forward by the Hon'ble Mr. Bashyam Iyengar and the Hon'ble Mr. Kalyansundram Iyer, and it seemed to him that it would be fatal to the proceedings of that Council that they should not take into consideration any amendments other than verbal. He thought that the simplest way to decide questions was to take notes as to whether a certain amendment fell within the purview of the Bill.

The Hon'ble Mr. GROSE said the proposal before them was to consider a law which had been in force in that Presidency since the beginning of the century. He maintained that it would not be respectful to those who had gone before them if they did not consider the Bill. Wherever he had gone throughout the Presidency there was nothing to which people attached so much importance as a possession of hereditary right to the village offices—so great was the attachment that when a man who the people believed had no hereditary right was appointed to the office of village headman or karnam, the people did not respect him and pay him obeisance as they would to a man who though dismissed they believed had hereditary right to hold office. He thought it desirable that the Bill should be considered inasmuch as it repeated the prohibition that had been given by the Regulation VI. of 1831 to alienation, transfer, mortgage and sale of village emoluments. He thought that there was no use of maintaining jurisdiction of the Civil Courts in preference to the jurisdiction of Revenue officers, for the latter officers moved about villages and were far fitted to exercise the jurisdiction than Civil Courts. As regards the artisans, the question regarding whom had been frequently raised in that Council, it must be remembered that the artisans with whom they dealt with were only the artisans to whom the State had annexed emoluments. It was simply absurd to suppose that a Collector ought to go round and get his chin shaved when he had to decide whether a barber did his work or neglected his duty.

The Hon'ble the ADVOCATE-GENERAL said that with regard to the technical objection raised by the Hon'ble Mr. Crole he entirely agreed with the Hon'ble Mr. Bashyam Iyengar in the remarks he had made, and he did not propose to make any additional remarks to the Council. There were one or two points raised by the Hon'ble Mr. Crole which he thought should be introduced, and they were references to certain sections of the Bill. He had referred, for instance, to Section 8, and also to the so-called interference of the Civil Courts as dealt with apparently in Sections 13 and 21. The speaker then proceeded to quote the sections and commented upon the remarks of the Hon'ble Mr. Crole on the subject. With regard to the interference of the Civil Courts there seemed to be misapprehension in the mind of the Hon'ble Mr. Crole. If the Collector took the land from the holder of an office in the present date to another man, then the former holder had a right to go to the Court and establish his claim, but where the person sues for an emolument of an office, then for the purpose of deciding that question the Collector would assume an assignment constituting the emoluments. To prevent any doubt as to whether a person was really suing for the land as belonging to an office it was provided that the decision of the Collector in regard to emolument would not bar the person from instituting a suit for the recovery of the land itself. A question on the plea of jurisdiction had also been raised. No Civil Court could consider the claim of any person to succeed to an office for the recovery of emoluments. They could only be decided by Revenue authorities. If the

Court should decide that there were no emoluments attached to a land, then the Collector had no jurisdiction, and therefore any order passed by him should be set aside.

The Hon'ble Mr. STURROCK wished to give his reasons for supporting the Bill as it stood. He had served in the districts in which the hereditary principle was actually enforced. He had always recognised that principle when qualified men could be found. He might say that the idea of abolishing the hereditary principles had never entered into his head, and he thought that the Council could not do better than deliberately embody it in the law, so that a danger might be removed. The Hon'ble Mr. Crole had asked why there should be any difference between the Taluk Gumastha and the head of the village. He had always understood that the difference was a great one indeed —the one was a mere servant of Government, while the other was a representative of a community, a man of some position and influence amongst his fellows. It was a recognised fact that the village head was considered an official member of Panchayat or union, and that afforded them a good ground for treating him differently in the matter.

The Hon'ble the Rev. Dr. MILLER said that he was thoroughly glad that his Lordship had suspended the rule in regard to the discussion of the principles of the Bill, because by the Hon'ble Mr. Crole's lengthy explanation they had the principles of the Bill permanently and distinctly before them, and that was most certainly valuable to him. Until the discussions of the members on the Bill he had certainly been very much inclined to take the side that had been advocated by the Hon'ble Mr. Crole that no such Bill was necessary, but he had now been led to see the necessity for the Bill mainly by the speech of the Hon'ble Mr. Crole himself (*laughter*), and apparently also by the replies that were elicited. He thought it important that those who drew up Bills and laid them before the enlarged Council should remember that there were many outsiders on it who required to have things made very plain and palpable to them. He had no doubt that all along that Bill had been admirably clear to the experts who had drawn it up. It was essential that if they had too intelligently drawn it it should be made plain and unmistakable to them. He thought that it would be better if in future in introducing Bills a sufficient amount of explanation was given so as to enable all members to understand the principles of the Bill.

The Hon'ble Mr. GIBSON, in reply, observed that the question that had to be dealt with, with reference to the proposed legislation, was the hereditable title to the offices. The Hon'ble Mr. Bashyam Iyengar had sufficiently shown that the hereditary right was no new innovation created by the Regulation VI. of 1831, but had its existence from the beginning of the century. What the Bill proposed to do was to continue the system of legislation which is repeated in the numerous enactments from the beginning of the century. The Hon'ble Mr. Crole had put forward an amendment which he understood would be withdrawn, the object of which amendment was to repeal Regulation VI. of 1831, to do nothing more. The result of that action would be that they would have no Regulation and no Law at all. As a matter of fact, they knew there was no law, they would have to make law for themselves. For instance, in the district of Coimbatore, owing to recent revision of assessment, certain villages were clubbed together and one person was appointed a Village Monegar by the Divisional Officer as an Executive Act. If they had no law, they had the reversion to the present state of things in which the Government passed a series of executive orders. The Regulation VI. of 1831, imposed no limitations in the matter of bringing suits, and the Limitation Act expressly excluded the Regulation VI. of 1831, from its purview. If no limitation had consequently been put upon Regulation VI. of 1831, and for a long time the Government refused to interfere, but at last they had said that they would not trouble themselves about the Regulation, but they would make a law. Then again with reference to claims of persons to succeed to village officers in villages affected by revision, the Government had for many years said that they would not interfere but would leave the Revenue Court to decide as to who was to succeed according to equity and good conscience. There was a Collector who had left the service but who had been persistent in the subject for a series of years, and about a couple of years ago the Government had laid down to do away with the hereditary system in certain of the villages. Whether that was right or not he would not go into it. There was one point to which he wished to refer. The Hon'ble Mr. Crole was good enough to say that the proposed Bill would foster litigation. He had shown them what the present state of the law was, and what would be the result of having no law. If they had no law whatever, they would revert to a state of chaos. That Bill had a very beneficent provision in that it placed the limit over appeals, and he thought that village officers as well as the Government officers would be extremely thankful for that extremely beneficent piece of legislation if that was passed into law.

His Excellency the PRESIDENT said that he would not trouble the Council much at that period of the day with any remarks of his as to the expediency of the measure proposed, but he wished to make one or two orbservations in regard to the remarks made by the Hon'ble Mr. Crole and the Hon'ble Mr. Ramasubbier. The points raised by them had been answered by other gentlemen far better qualified than himself from their intimate knowledge of the administration of the Presidency. Generally speaking, the opinion of the Council was that the consideration of that Bill should be proceeded with; but at the same time it was only right that considering the position which the Hon'ble Mr. Crole occupied and his great knowledge of this Presidency, that he should address himself to the remarks of the Hon'ble Member. As far as he could gather, his remarks had been directed not so much in antagonism to the Bill which was before them as in antagonism to the Regulation VI. of 1831. The Hon'ble Member proposed to do away with Regulation VI. of 1831 and bring about a chaotic state which the Hon'ble Mr. Gibson well described. With regard to what the Hon'ble Mr. Crole stated about the hereditary principle he was bound to say that he agreed with them. When he had come out to this country, he had imagined that there was no more unwise system than that of the son succeeding a father merely because he happened to be his son. It had been pointed out to him that in this country, there was hardly any institution more strongly ingrained in the people's minds than the hereditary principle. Although they had six districts in which they did not recognise it, still there were 15 others in which they recognised it. It had been pointed out to him that the revenue of this large Presidency was collected through the agency of the hereditary officers in a most successful manner, and if they attempted in any way to upset the present arrangements they would land themselves in a disaster. Under those circumstances he was prepared to give up his feelings on that subject. The Hon'ble Mr. Crole further referred to the growing feeling of the native kingdom against the hereditary privileges, they knew that an agitation was going on about the House of Lords, and as far as he could gather from the public press that feeling was not pressing so strong on the British public. He then made an allusion to the National Congress to which the Hon'ble Mr. Crole had referred—especially to the speech of the President, from which it was inferred that there was difference of opinion among the members of the Congress themselves about the hereditary principle. The Hon'ble Mr. Rangiah Naidu had told him that the hereditary principle was much encouraged by the people. Under these circumstances he could help thinking that we should do our best to frame proper rules for the regulation of succession in regard to hereditary village officers. The legal point that had been raised by the Hon'ble Mr. Ramasubbier had been answered by the legal gentleman from a legal point of view. But looking at it purely from a common-sense point of view it appeared to him that when a Bill was referred to a Select Committee and referred back to the Council with the recommendation of the Committee, it was only right they should go as soon as they could into the consideration of the various amendments.

The motion that the Bill be now taken into consideration was put to the vote and carried.

The Hon'ble Mr. N. SUBBA RAO, in the absence of the Hon'ble Mr. A. Sabapathi Mudaliar moved that the Counsel in behalf of the Landholders' Association be heard at that meeting.

The Hon'ble P. RANGIAH NAIDU seconded the motion.

The Hon'ble Mr. Bliss said that though no good could come out of that motion, yet he would not oppose it. All that the Association had to say had been laid before the Council with reference to the Madras Proprietary Village Service Act, and the arguments then adduced by the Association were not found convincing not only by that Council but by the Government of India and the Secretary of State, to whom they appealed against that Act.

The Hon'ble Mr. G. G. ARBUTHNOT said:—I should like to say a very few words in support of my hon'ble friend's motion, but I will not make any serious demand on the time and patience of the Council. It may perhaps to some hon'ble members seem somewhat of an impertinence for a merchant —who has lived his life in Madras and knows but little of the Mofussil, of village aspirations and village interests,—to interfere in a debate on a Bill like this, bristling with technicalities; but whilst I will gladly leave the discussion of these technicalities and of the details of the Bill to those who are far more competent than I to perform the task, I am moved to say a very few words as to the principle of that Bill, a matter which I may be allowed to form an opinion about. I have read a good deal about the Bill and have discussed it with those who are specially interested in it, and I must confess there seems to me to be much force in the arguments set forth in the memorial of the Landowners' Association. It seems to me that the Bill involves the taking away by force of certain rights which belonged or were granted to landholders by what is known as the Permanent Settlement,

and whilst I do not for a moment doubt the good intentions of Government, it seems to me that the danger of the people losing faith in the absolute inviolability of any pledge given by Government may far outweigh advantages to be gained by passing this Bill. Gentlemen, in these latter days we have all heard what I venture to call a newfangled doctrine of mandates—a doctrine with which,—with all due deference to the august authority from it emanates,—I have but scant sympathy since it seems to me to strike at the very roots of independence and self-respect. But there is one mandate which we have all received—to which we may all yield unquestioning obedience,—it is in the words of our sacred Book "to do justice and love mercy," and it is because I am oppressed with uneasy apprehension that in some respects at all events this Bill has a tendency to sacrifice justice to convenience and expediency that I would welcome all light that can be thrown upon it by those best qualified to speak, and for this reason I support the motion now before you.

Mr. RAMASAMY RAJU, in behalf of the Landholders' Association, then addressed the Council for about half an hour.

The Council then proceeded to discuss the Bill section after section and went as far as section III.

The amendments that were proposed were either withdrawn, or rejected, some verbal amendments being accepted. The amendment to Section II., of which the Hon'ble Mr. Crole gave notice was withdrawn, while the Hon'ble Mr. Ramasubbier had also to withdraw some of his amendments owing to the confusion they gave rise to by his proposing amendments to the original Bill and not to the Bill as amended by the Select Committee. The Hon'ble Mr. Sankaran Nair, in moving his amendment to Section III. for the omission of the class of officers such as astrologers, purohits, barbers, etc., pointed out that the Bill was not wanted by anybody and he could not understand the reason for the introduction of the Bill.

The Council then adjourned to noon yesterday.

The Adjourned Meeting.

The Council met again at noon yesterday and continued to consider the various amendments to the Village Officers' Hereditary Succession Bill which was passed into law yesterday. There were present:—

His Excellency the Right Hon'ble Lord Wenlock, G.C.I.E. (President), the Hon'ble Mr. H. W. Bliss, C.I.E., the Hon'ble Mr. James Grose, Mr. J. F. Price, C.S.I., Col. J. Pennycuick, S. Srinivasa Raghavaiyangar, C.I.E., Mr. C. S. Crole, Mr. A. T. Arundel, Mr. E. Gibson, Mr. J. H. Spring Branson, Mr. J. Sturrock, Dr. David Duncan, the Rev. William Miller, C.I.E., (Madras University), P. Rangaya Naidu (Madras Municipality), N. Subba Rao (Northern group, Municipalities), K. Kalyanasundram Iyer (Southern group, Municipalities), V. Bashyam Iyengar, C. Sankaran Nair, Ghulam Muhamad Hussain Ali Khan, and Mr. George Romilly.

The first question taken up was whether Section 3 (classes of village offices to which the Act applied) should form part of the Bill. That Section in the Bill as further amended by the Select Committee was as follows:—

3. This Act shall apply to the following classes of village offices [provided that emoluments have been attached thereto:—

(1) hereditary village offices [in local areas] to which the Madras Village Cess Act, 1893 has been, or may be, extended];

(2) hereditary village offices to which the Madras Proprietary Estates' Village Service Act, 1894, is extended:

(3) other hereditary village offices in proprietary estates except (*i*) the offices forming Class (4) below [and (*ii*), in proprietary estates wherein Madras Regulation XXIX of 1802 remains in force, the office of village accountant;]

(4) The hereditary offices of village artisans and village servants [such] as [the following, namely]:—

(i) the village carpenter,

(ii) the village blacksmith,

(iii) the village barber,

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(iv) the village washerman,

(v) the village potter,

(vi) the village astrologer,

(vii) the village purohit or priest.

The Hon'ble Mr. SUNKARAN NAIR said that before that section was put to the vote he wished to address the Council in respect to certain provisions of it. There was practically no opportunity of considering the desirability of including those officers included in clause (3) of Section 3. Under Regulation VI. of 1831 all of them no doubt were included, but he believed that from 1831 till now Government officials had not troubled themselves to interfere with the misfeasance or bad management of any of those officers. He therefore objected to the retention of that section in the Bill, as he did not know why it was necessary to invest the Zemindari proprietors with such plenary powers as was proposed. He remarked in conclusion that this section was also one of the sections that went into the Bill without discussion of the principle involved.

The Hon'ble Mr. RUNGIAH NAIDU also objected to the retention of that section in the Bill, remarking that he did not see why there should be any interference with persons who ought to be entirely under the control of the Zemindars. He did not see the necessity especially of including the *Vettiyan*, the *Nirganti* and the *Nottakaran* in the section.

The Hon'ble Mr. SRINIVASA RAGAVAIYANGAR pointed out that there were two objects in bringing the village servants under Section 3. First of all, as Government emoluments were attached to these offices, it was proposed to give them a machinery for bringing forward claims to those offices and to the emoluments attached to them, and to get decrees passed in such cases executed. The second reason was to give the Collectors and the Proprietors control over these classes. The hon'ble member thought that the jurisdiction of Revenue Officers should be maintained, and that jurisdiction was provided for in this Bill.

The Hon'ble Mr. BLISS observed that very conclusive reasons had been given by the Hon'ble Mr. Srinivasa Ragavaiyangar for the inclusion of the village officers in the section. With regard to Mr. Crole's experience that Regulation VI. of 1831 was not held applicable to Zemindari offices, he contradicted that view. His, the hon'ble speaker's experience in Zemindari districts was that the Government maintained its right to regulate the establishments, the salaries to which were paid by inams.

The Hon'ble Mr. CROLE said that he did not quite understand the Hon'ble Mr. Bliss with regard to what he said about his, the hon'ble speaker's, experience. So far as the Hon'ble Mr. Bliss' experience and his, the speaker's experience, were concerned, it would be shown by a reference to the Civil Service List. He however, appealed to a better authority than either Mr. Bliss or himself, *viz.*, the Hon'ble Mr. Garstin, whose opinion with regard to the matter the hon'ble speaker read to the Council.

The Hon'ble Mr. GIBSON remarked that with regard to the difference of experience he thought that Mr. Gartin's experience in Zemindari tracts was chiefly confined to the district of Vizagapatam. However, whatever the experience of individual members might be, there was no doubt that Regulation VI. of 1831 gave the power which the Bill now proposed to confer.

The question whether Section 3 should be retained as part of the Bill was here put to the Council and carried.

The amendment of several other minor sections of the Bill then occupied the attention of the Council.

Coming on to Section 7 clause (2) of the Bill, which related to the power of Tahsildar and Deputy Tahsildar over village officers in Government Villages, the Hon'ble Mr. Rungiah Naidu moved that the clause be omitted from the Bill. The Hon'ble Mr. Subba Row second the proposal. The clause referred to was as follows:—

[A Tahsildar or Deputy Tahsildar may, of his own motion or on complaint and after inquiry, fine the holder of any of the offices forming Class (1) Section 3 for any of the causes specified in sub-section (1) and in such amount the Board of Revenue may by general or special order, prescribe. The provisions of sub-section (1) shall *mutatis mutandis*, apply to proceedings taken under this sub-section.]

The Hon'ble Mr. ARUNDEL referred the Council to the Standing Orders to the Board of Revenue, which empowered Tahsildars to impose fines to the limit of one rupee. With regard to ryotwari villages there could be no question at all. There were innumerable cases in which the Tahsildar found it necessary to enforce obedience on village officers. It would be impossible to secure this if he was obliged in every case to refer the matter to his superior officer. It was therefore necessary that Deputy Tahsildars in Zemindaries as well as in ryotwari villages should have this power, and it was therefore necessary to retain clause 2 of the section.

The proposition to omit clause 2 to Section 7 was then put to the Council and lost.

In Section 9, which related to the power of Collector and proprietor over village artisans and servants, the Hon'ble Mr. Sunkaran Nair proposed that this section be omitted. The section runs as follows:—

[The Collector and, within his proprietary estate, any proprietor may, on complaint and after inquiry, suspend, dismiss or remove the holder of any of the offices forming Class (4) in Section 3 for neglect of duty or in capacity and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village artisan or village servant concerned.]

He said that by introducing provisions for the interference of the Collector and the proprietor over such classes of officials as the village priest, the astrologer and others mentioned in class 4 the Council was simply giving a handle to the opponents of the Bill to oppose it. Whatever the state of feeling might have been in 1831, the Government's conscience had changed since that. Since that they have had discussions about the interference by Government with religious institutions in 1842. Government made up their minds that no interference should be made with the religious habits of the people. It was really undesirable to vest revenue officials or any Government officials with any control over officials of the above class. Servants like the dancing girl and the dancing master also held village offices who [illegible] be interfered with. The Council sat to legislate what ought to be done, but not to consider what the High Court or what the Legislature of Act VI. of 1831 did. That the High Court took the view it did only showed the bad draftsmanship of the Act of 1831. He was fully confident that it was not the intention of anybody to include these officers within the scope of that Act.

The proposal was seconded by the Hon'ble Mr. Ramasubbier.

The Hon'ble Mr. SRINIVASA RAGAVAIYANGAR explained his reasons why the section should be inserted in the Bill. The interference with these officers really did not take place, but there were certain remote villages in which when the artisans did not perform their duties it was necessary that there should be some power vested in somebody to compel them to perform these duties.

The Hon'ble Mr. ARUNDEL inquired, if the amendment was accepted, what would become of the inams. He suggested that they might be utilized for the promotion of technical instruction.

The Hon'ble Mr. BLISS thought he could not accept the Hon'ble Mr. Crole's suggestion.

The Hon'ble the Rev. Dr. MILLER observed that there was no practical or immediate reason for the introduction of the section into the Bill. Things had been going on without it, and there was no immediate necessity for the introduction of the provision. There was evidently a strong feeling against its introduction among the non-official members. The defence made for the introduction seemed to be decidedly half-hearted. It seemed to him that a good many of those who consented to its introduction had done so by no means *con amore*. It really looked to an outsider like himself that it was introduced rather on theory and grounds of symmetry than for any practical reasons pressing the necessity for it at the present time. He thought that legislation merely to make a thing symmetrical was to be deprecated rather than admired. He therefore suggested that until it was found that there was practical necessity and reason for the introduction of the provision, those in charge of the Bill might yield to the very strong desire among the non-official members by omiting the section in the meantime. He thought it would be time enough to introduce such a provision when they found it absolutely necessary.

After some further discussion the Hon'ble Mr. GIBSON said that he did not now wish to oppose the amendment of the Hon'ble Mr. Sankaran Nair to omit Section 9 from the Bill.

The amendment to omit this section was then put to the Council and carried.

At this stage the Council adjourned for an hour for luncheon.

The Council re-assembled after tiffin at 3-15 P.M., when the Hon'ble Mr. N. Subba Rao wished to introduce a new Section in the place of Section IX, the omission of which had been passed by the Council before tiffin. Therefore he moved the following section be inserted :—" That the powers conferred on the Collector by the Sub-section B. of Section VII over holders of Village officers forming clause 3 in Section III excepting the offices of village accountant, head of the village and village watchman or police officer shall not be exercised unless, for reasons to be recorded in writing, that the Collector is satisfied the proprietor concerned has neglected to exercise in an adequate manner the powers conferred upon him by Section VIII." The Hon'ble Member observed that he was in favour of empowering the Collector with only revisional jurisdiction, but as the Government was not willing to give way he was prepared to empower the Collector with concurrent jurisdiction if the proprietor neglected to exercise his jurisdiction over village officers. The words "adequate manner" in the Resolution were added at the suggestion of the Hon'ble Mr. Bliss, on the ground that if the proprietor suspended the village officer for two days for a serious offence, the Collector ought to exercise his powers, although the proprietor had not neglected to exercise his jurisdiction. The proprietor ought to exercise jurisdiction in a manner adequate in the opinion of the Collector.

The amendment was put to the vote and carried.

The consideration of the remaining sections was then proceeded with, several amendments proposed by the Hon'ble Mr. Ramasubbier having been withdrawn as well as a few of the amendments proposed by others.

The Hon'ble Mr. GIBSON read a number of amendments, and they were all passed by the Council, as well as those proposed by the Hon'ble S. Srinivasa Raghavaiyangar. Several of the amendments of the Hon'ble Subba Rao were accepted by the Government with a few alterations.

The discussion on Section XVIII was rather warm. e Section XVIII says :—

(1) If, before or during the hearing of a suit his Act or of an appeal against a decree or order passed in a suit under this Act, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may effect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement for the decision of the [Board of Revenue], and shall stay further proceedings until the said decision is communicated to him.

The Hon'ble Mr. SANKARAN NAIR moved as an amendment that the words "High Court" be inserted in the place of "Board of Revenue." The Hon'ble Member pointed out that in the Bill as amended by the first Select Committee the words "District Courts" had been put in, but in the present Bill the words "Revenue Board," were inserted in view, it was stated, to obtain uniform rulings. The main reason for his amendment was that questions that had to be determined were questions of law or usage having the force of law which he thought could only be decided by regular courts. If the Revenue Board could undertake such work as that they might as well abolish High Courts and Courts of Justice in this country, and make Revenue Courts to decide questions of law or usage. The person who decided questions of law ought to have received such a training as fitted him to the task, and he was strongly of opinion that it was only those who had received legal training that could be entrusted with the work. The Advocate-General entertained some doubts whether the Legislative Council had power to enact a Rule of that sort, referring matters to the decision of the High Court. He was at first inclined to agree with the Advocate-General and withdraw his amendment, but after further consideration and consultations with his friends he came to the conclusion that the question was a very important recognition of principle.

The Hon'ble Mr. RAMASUBBIER seconded the amendment, observing that the Revenue Courts were not competent to decide questions of Law.

The Hon'ble Mr. ARUNDEL pointed out that the Board of Revenue was doing similar work in regard to the Stamp Act. When any Collector felt a doubt as to the interpretation of the Stamp Law, he referred it to the Board of Revenue.

The Hon'ble the Advocate-General said that the question at issue was not whether the amendment proposed was expedient or not, but it was whether the Council had power to impose any duty upon or extend the jurisdiction of the High Court. He had expected to hear from the Hon'ble

mover of the amendment some arguments showing that the Council had power to do so. It must be remembered that the powers of the Council were limited by certain statutes. Supposing the Council had passed that amendment, and a point was referred to the High Court, and the High Court refused to take into consideration His own view was that that the Council had no power to extend the jurisdiction of the High Court.

The Hon'ble Mr. Sankaran Nair did not wish the matter to be disposed of in that very unsatisfactory way. It was impossible to turn that Council into a Court of Law and address them as to the powers they had in the manner suggested by the Advocate-General. The question he raised should not be disposed of by votes as to whether they could ask the High Court to decide matters under the Act, but he would ask the Executive Council of the Government to give an authoritative opinion, after consultation with their legal advisers, as to whether the Council had power to interfere with the High Court, if the Executive Government ruled that the Council had no such power.

HIS EXCELLENCY the President said that the Government was not prepared to accept the amendment which was so strongly denounced by the Advocate-General. The Law on the subject was very clear. The Council had no power in any way to alter or extend the jurisdiction of the High Court. Every member who brought forward a motion must do so only after feeling satisfied that he was within the four corners of the Indian Councils Act, which governed the Proceedings of the Council. So long as the Executive Committee had been appealed to by the Hon'ble Member, he had no hesitation in asking him most distinctly to withdraw it.

The Hon'ble Mr. SANKARAN NAIR then withdrew his amendment.

The Hon'ble Mr. SUBBA RAO, then moved an amendment in regard to the same section, that the words "District Court" be inserted in the place of "Revenue Boards." He adduced arguments similar to those of the Hon'ble Mr. Sankaran Nair, urging that question of Law ought to be decided by a judicial tribunal.

The Hon'ble Mr. RANGIAH NAIDU, in seconding the amendment, observed that the insertional words "Board of Revenue" was carried by the Select Committee by the casting vote of the Chairman.

The Hon'ble Mr. BLISS observed that the Hon'ble Mr. P. Rangiah Naidu was one of those who offered the insertion of the words "Board of Revenue" at the meeting in the Select Committee—an occasion which was deeply impressed upon his memory and that of his fellow members, because it was the only occasion that the Hon'ble Member was good enough to attend the meeting and give his assistance. As to the merits of the proposal, he thought there would be 21 decisions if the question raised under that Act referred to the District Courts.

The amendment was however put to the vote, and lost.

The Hon'ble Mr. P. RUNGIAH NAIDU pressed for a division, the result of which was :—

For.—The Hon'ble and Rev. Dr. Miller; The Hon'ble Mr. Sankaran Nair; The Hon'ble Mr. P. Rangiah Naidu; The Hon'ble Mr. N. Subba Rao; and The Hon'ble Mr. S. Ramasubbaiyer.

Against.—The Hon'ble Colonel Pennycuick; The Hon'ble Mr. Arundel; The Hon'ble Mr. Bliss, The Hon'ble Mr. Gibson; The Hon'ble Mr. Grose; The Hon'ble the Advocate-General; The Hon'ble Mr. S. Srinivasa Raghavaiyangar; The Hon'ble Mr. Hussain Ali Khan; the Hon'ble Mr. J. F. Price.

Neutral.—The Hon'ble Mr. V. Bhashiam Aiyangar; the Hon'ble Mr. Crole; The Hon'ble Mr. G. Romilly.

The next section that was discussed at some length was No. 23 which runs as follows :—

" From every order passed by a Collector under sections 6, 7 and 9, and from every decree or order passed by a Collecter in a suit preferred under section 13, an appeal shall lie, within one month, to the District Collector, or, if the said order or decree was passed by the District Collector, an appeal shall lie, within three months, to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final. "

The Hon'ble Mr. Subba Rao, proposed an amendment to the effect that a proviso should be added giving power to the village accountant and head of the village to appeal to the Board of Revenue against the decision of the District Collector in suits preferred and in cases of dismissal of a village officer. His chief contention was that there should be some final authority outside the

District to decide the matter, like the Board of Revenue, who would not be influenced by any local prejtdices. It was invariably the rule that the divisional officers and the District Collectors agreed with one another, though he admitted they acted conscientiously. He was furnished with a statement with regard to the number of cases in which the decision of District Collectors had been reversed by the Board of Revenue, from which it was seen that in 1889 in eight Districts the reversal had been more than 50 per cent.

The Hon'ble Mr. STURROCK pointed out that the Council should be careful not to draw any inference from the statement referred to by the Hon'ble Mr. Subba Rao. It must be remembered that after the revision of assessment a number of suits immediately followed, and before a point of Law could have been decided by the appellate authority in the first case, 50 or 60 other suits might have been decided, the reversal of all of which would follow as a necessary consequence of the reversal of the first. That might be one of the reasons for the high precentage of the reversal of the decisions of District Collectors, though he was not sure that was the reason.

The Hon'ble Mr. Crole expressed himself in favour of the amendment, in view of the fact that the work that would be thrown upon the Revenue Board by the amendment would not be excessive. He was willing to give way to the amendment.

The amendment was then put to the vote and carried.

The dicussions of the various sections over, the Hon'ble Mr. Gibson moved that the Bill as amended by the Council be passed.

The proposition was seconded by the Hon'ble Mr. Bliss and carried.

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, Purgunnah 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

determination of carrying these measures into effect, can be governed by no other motives than those 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 Bomarauzepolliam will relinquish a custom now become useless and yield a cheerful obedience to these 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 occurrred 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).

Fort St. George,
24*th August* 1802.

(Signed) HODGSON,
Secretary to Government.

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 subjected 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 from 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 its law and Regulations, you are hereby authorized and empowered to hold in perpetuity and your heirs, successors, and assigns, at the permanent assessment herein named the Zemindary 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 establised 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 oppressions 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

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.

In 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 Peisheush. 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,

Fort St. George,
25th August 1802.

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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,
24th September 1829.

Extract from the Proceedings of the Foujdaree Adalut, under date the 24th 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 Ameens 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 Istimirar 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 a 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 dismiss 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,

January 1823.

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.

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.

To Government, 20th February 1823.

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.

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 Neelaconta 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 15*th 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 inthe 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 Vencatageri 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.

Sudr. Adalnt, 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 $2\frac{3}{4}$ 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 $1\frac{1}{2}$ 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 Moniem Maniyam Inam land for the first Candayam, that the value fixed for grain is not right, that payment should be made in grain alone, that some of the lands entered in the Puttah and fruit trees were in Fusly 1285 when there were crops in them taken possession of by the Zemindar 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.

2. The defendant's claim is that his father was the Moneyagar of Casamitta 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 permanent 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.

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.

47 47 18

Legislative

C.Nos. 102 and 117.

ORDER 27th Aug 1895, No. 78.

The memorials will be transmitted to the Govt. of India and the Memorialists informed accordingly.

W 22 Aug

H 16/8/95

To

The Memorialists ~~12 & 07~~

Letter No. 79.

To

The Secretary to the Govt. of India

Sir,

In transmitting herewith two memorials addressed to the Rt. Hon. the Secretary of State, I am directed to explain that the delay in their submission is due to ~~two~~ circumstances, [illegible]. the former letter No. dated

(1) that the substance of the memorials rendered it necessary to refer to voluminous records relating to transactions which took place at the beginning of the century.

(2) that H.E. the Governor in Council deemed it desirable to place the

RA 20/8/95

W. 27/8

* Repetition of what is already said in the case of the Bengal Tenancy Bill

cretary of State in possession o
nformation- ~~not readily available~~-
hich would demonstrate the gross
inaccuracy of certain statements made
by the memorialists.

2. Both the memorials relate to the Village Officers' Hereditary Succession ~~Bill~~ Acts. The first emanates from the Madras Landholders' Association and the second from the Zamindars of Venkatagiri, Kalahasti and Karvetnagar. So far as the Govt. is aware the memorialists have not addressed the Govt. of India on the same subject. If this is the case their memorials ... to be withheld under No.13 ... relating to the transmission of memorials addressed to the Rt. Hon. the Secretary of State for India.

3. The contentions raised in the memorial of the Madras Land... Association are very similar ... those contained in ~~the memorial~~ ... by the same body regarding the Proprietary Estates Village Service Act, 1894, which ~~was~~ has been forwarded with my letter ~~dated~~ of this date No.81 ... arguments have been discussed ~~with~~ at

with sufficient fulness ~~in that letter~~ and ~~in extenso~~ as the Governor-General has already signified his assent to the Bill against which they now protest and as their memorials are further liable to be withheld by the Govt. of India, H.E. the Governor in Council considers that a few brief comments are all that is required ~~in this letter~~.

4. The memorialists contentions may be summarised and answered as follows.-

(1) the Kernam in proprietary estates is not a servant of the State.

The reply to this argument is that the Kernam is a joint servant of the State and the proprietor and that the Bill only affects the office of Kernam in so far as it legalizes the bringing of suits as regards that office.

(2) the Monegar and village watchmen are servants of the proprietor and not of the State.

The Govt. ~~entirely~~ unable to recognize this contention. Vil... officers in proprietary estates ... at present in any way legally s... to the control of the proprietor

(3) Madras Regula...

oes not apply to Zamindaries.

This argument proceeds entirely on the hypothesis that Village Service inams in Zamindaries were not annexed by the State at the time of the Permanent Settlement; the incorrectness of which will be apparent from the reply to the fourth point advanced by the memorialists.

(4) Village Service inams were not excluded from the assets of permanently settled estates in the calculation of peshcush.

In a great majority of cases the Govt has no hesitation in pronouncing that this contention is not based upon fact. The matter is fully discussed in para 3 of Cl 7 of my letter dated this date No.81.

5. The memorial of the Zamindars of Venkatagiri, Kalahasti and Karvetnagar appears to be a mere application to the case of the Village Officers' Hereditary Succession Bill of the arguments which the same petitioners have previously brought forward in their protests against the Proprietary Estates Village Service Act, which have been dealt with fully in my letter dated 1st March 1894, No.40, and 9th August 1895, No.82 to H.E. the Governor in Council. H.E. therefore considers that it is unnecessary to enter into those matters.

[over to file]

49 30

nd to point out that if the Zamindars could prove their contention, the Bill as they themselves admit, will not affect them.

In conclusion I am to invite tention to paragraphs 4 and 5 of my ter dated this date No.81, and to nt out that of the three signatories the second of these memorials, the Zamindar of Kalahasti is a boy of 30 who has only just succeeded to his estate another, the Zamindar of Karvetnagar is so sunk in debt that he has on three occasions, viz in 1847, 1855 & 1893, applied to Govt. for assistance. After a careful consideration of his circumstances, however, the Govt. came to the conclusion that the debts which he had contracted considerably exceeded the full value of his estate, the greater portion of which is heavily mortgaged. The third signatory the Zamindar of Venkatagiri, is the President of the Madras Landholders' Association and as the Govt. is informed constitutes the main stay of the existence of that body. In conclusion I am therefore to state that H.E. the Governor in Council is of opinion that the representations of the memorialists are entitled to no weight.

[Infancy Bill v.s Act]

[There has been inserted ... notes that is perhaps ... point is always ... manual really provides for ... Collectors only ...]

No harm in it

22 Aug

[Put on accompanying docket — Same observations as made]

Memorials regarding the Village

Officers' Hereditary Succession Bill

Petition

Draft of Act

Petition for

favour of

Counter-petition

CURRENT NO. 52

To

His Excellency the Right Honorable

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

GOVERNOR AND PRESIDENT IN COUNCIL

FORT ST. GEORGE.

CHIEF SECRETARY'S DEPARTMENT
25 APR 1895
GOVERNMENT OF MADRAS

May it please Your Excellency,

As the President of the Madras Landholders' Association, I beg to request Your Excellency will be pleased to forward to the Right Hon'ble the Secretary of State for India in Council the accompanying Appeal Memorial of the Association against the Madras Hereditary Village Offices Act with enclosures, and for this act of kindness I shall ever feel obliged to Your Excellency.

I beg to remain,

Your Excellency's most Obedient and Humble Servant,

V. R. Krishna Jachendra

Rajah of Venkatagiri,
President, on behalf of the Madras
Landholders' Association.

Venkatagiri Town,
22nd *April* 1895.

Legislature Department

CURRENT NO. 112

From. The President,
Madras Landholders' Association

No. -

Dated 22nd
Rd 25th } April 1895
Encs: 2

Subject

Requesting to forward to the SofS
accompanying appeal memorial
the Association against the
Madras Hereditary Village Offices
Act with enclosures.

Clerk

5V

CURRENT NO.

CHIEF SECRETARY
26 APR. 1895
GOVERNMENT OF MADRAS

To

His Excellency the Right Honorable

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

GOVERNOR AND PRESIDENT IN COUNCIL,

FORT ST. GEORGE.

May it please Your Excellency,

As the President of the Madras Landholders' Association, I beg to request Your Excellency will be pleased to forward to the Right Hon'ble the Secretary of State for India in Council the accompanying Appeal Memorial of the Association against the Madras Proprietary Estates' Village Service Act No. II of 1894 with enclosures, and for this act of kindness I shall ever feel obliged to Your Excellency.

I beg to remain,

Your Excellency's most Obedient and Humble Servant,

V. R. Krishna Gachendra

Rajah of Venkatagiri,
President, on behalf of the Madras
Landholders' Association.

Venkatagiri Town,
24th April 1895.

Legislative Department

CURRENT NO.

From. The President of the
Madras Landholders' Association

No. -

Dated 24th April 1895
Recd 26th

Subject
Requesting to forward to the SofS
the accompanying appeal Memorial
of the Association against the Madras
Proprietary Estates Village Service Act
No. II of 1894 with Enclosures

CURRENT NO.

53

To

His Excellency the Right Honorable

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

GOVERNOR AND PRESIDENT IN COUNCIL,

FORT ST. GEORGE.

May it please Your Excellency,

We, the undersigned beg to request Your Excellency will be pleased to forward to the Right Hon'ble the Secretary of State for India in Council the accompanying Appeal Memorial against the application of the Madras Hereditary Village Offices Act 1895 with enclosures, and for this act of kindness we shall ever feel obliged to Your Excellency.

We beg to remain,

Your Excellency's most Obedient and Humble Servants,

V. R. Krishna Yachendra
Rajah of Venkatagiri.

Rajah of Karvetnagar

Raja of Kalahasti

NKATAGIRI Town,
May 1895.

Statute Department.

CURRENT No. 1177

The Rajahs of
Kalagiri, Kalahasti and
Karvetnagger.

No. –

Rec'd 16th
Read 18th } May 1895
Reg'd 20th
Encl: 1

Subject.

Submitting for transmission to the Secy of State an appeal memorial against the application of the Madras Hereditary Village Offices Act 1895 with Enclosures.

54

Memorial from the Zamindars of Kalahasti, Venkatagiri & Karvatnagar to the Secy of State praying that their Estates may be excluded from the operation of the Madras Hereditary Village Offices Bill

Dated 16 May 1895

For orders.

This memorial is apparently barred by the rule laid down by the Govt of India under Rule XIII, but must be forwarded by the Local Govt.

Mr Fawcett in moving the 2nd reading of the Village Offices Bill on the same arguments raised in the case of the Proprietary Estates Village Service Act. and reported in G.O. 171 March 1894 No 39 & G.O. 379 April 1895 No 31. – and it is submitted that it will suffice to refer to these letters & to point out that if they can prove their contention the Rule will not affect them, as they themselves admit

W
15 June

Bd
18/6/95

D
30-5-95

Bd
10/6/95

146

Memorial regarding
Secretary Village Officer
Bills

C 117

A.G. & Circ.

The Revenue Secretary

C 117

C 117/6

55

Memorial of the Secretary of
State regarding the Madras
Secretary Village Officers Succession
Bills

from
the Madras Land Holders
Association

dated 12th April 1897

For orders

W

This memorial which is addressed
to the Secretary of State must be for-
warded by the Local Govt. though
the Govt. of India may perhaps wish
to hold it until no XIII of Memorial
Rules A.

2. In substance it is a combination
of paper no. 5 relative to the Bill
which was considered by the Council, and
of the petn (C No 1024) received from the
same body regarding the Proprietary Village
Village Service Act (not Watchers Bill)

3. The memorialists contentions may be
summarized as follows.

para 3 of memorial

(i) The Karnam is proprietary servant
& not a servant of the state

W

He is in part a servant of the State
and the Bill only affects his office
so far as regards suits.

(ii) The monegar village watchman is
servant of the proprietor

The Govt. assistance to enforce the

(iii) Regulation 01 of 1831 does not apply to Zamindaries.

This case argument proceeds entirely on erroneous assumption that village service inams in zamindaries were not annexed by the state. - vide infra (iv)

(iv) Village service inams were excluded from the assets of permanently settled estates in the calculation of peishcash

This is untrue; as the mistake is clearly shown in the note of the Revenue Secretariat in the linked which proves the Hon. W. Gibson to have been right

4. Item no (iv) is the main contention and, it is submitted, but it will suffice to forward this memorial with very brief remarks as the whole ground has already been discussed in connection with the Imperial Zamindari Village service Act.

D
30. 5. 95

Appeal against Madras Hereditary Village Officers Bill

para 6 of memorial

W

para 17 of memorial

W
H. E. H Lee

Secy to the Revenue Secretary

Yes - reference should be made to our remarks.

W
15 June

GD
18/6/95

GD
1/6/95

102

C 14/5 Ser C 7/6
R 17/6 27/8

5b

27TH AUGUST 1895, No. 78, LEGISLATIVE.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following papers :—

From the President, Madras Landholders' Association, dated 22nd April 1895.

From the Rajahs of Venkatagiri, Kálahasti and Karvatnagar, dated 16th May 1895.

ABSTRACT.—Submitting, for transmission to the Secretary of State, an appeal memorial protesting against the Madras Village Officers' Hereditary Succession Bill being passed into law.

ORDER—dated 27th August 1895, No. 78, Legislative.

The memorials will be transmitted to the Government of India, and the memorialists informed accordingly.

[Here enter No. 79, dated 27th August 1895, Legislative.]

(True Extract.)

Ag. Under Secy. to Govt.

This of course will have to be omitted in copies for signature

To the memorialists.

Erd. A. Raitt.

Govt. of {1895} Madras.

LEGISLATIVE

Issued

Recd. *Encl.*

G.O., 27th August 1895, No. 78.

AUGUST.

Memorials.

Directing that the — addressed to the Right Honourable the Secretary of State by the Madras Landholders' Association and the Zamindars of Venkatagiri, Kálahasti and Karvatnagar, protesting against the Village Officers' Hereditary Succession Bill being passed into law, be transmitted to the Government of India, and that the memorialists be informed accordingly.

57

27TH AUGUST 1895, No. 79, LEGISLATIVE.

LEGISLATIVE DEPARTMENT.

LETTER—from Chief

THE ~~UNDER~~ SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF REVENUE AND AGRICULTURE.

SIR,

In transmitting, herewith, two memorials addressed to the Right Honourable the Secretary of State, I am directed to explain that the delay in their submission is due to the circumstances stated in my letter of this date, No. 81, Legislative.

2. Both the memorials relate to the Village Officers' Hereditary Succession Act, The first emanates from the Madras Landholders' Association and the second from the Zemindars of Venkatagiri, Kálahasti and Karvatnagar. So far as this Government is aware the memorialists have not addressed the Government of India on the same subject. If this is the case, their memorials are liable to be withheld under No. XIII of the rules relating to the transmission of memorials addressed to the Right Honourable the Secretary of State for India.

3. The contentions raised in the memorial of the Madras Landholders' Association are very similar to those contained in that presented by the same body regarding the Proprietary Estates Village Service Act, 1894, which has been forwarded with my letter of this date, No. 81, Legislative, in which their arguments have been discussed at sufficient length, and as the Governor-General has already signified his assent to the Bill against which they now protest, and as their memorials are further apparently liable to be withheld by the Government of India, His Excellency the Governor in Council considers that a few brief comments are all that is required.

4. The contentions raised in the memorial of the Landholders' Association may be summarized and answered as follows :—

(1) *The karnam in proprietary estates is not a servant of the State.*—The reply to this argument is that the karnam *is* a joint servant of the State and the proprietor and that the Bill only affects the office of karnam in so far as it legalizes the bringing of suits in regard to it.

(2) *The monigar and village watchman are servants of the proprietor and not of the State.*—The Government is unable to recognize this contention. Village officers in proprietary estates are not at present in any way legally subject to the control of the proprietors.

(3) *Madras Regulation VI of* 1831 *does not apply to Zamindaris.*—This argument proceeds entirely on the hypothesis that village service inams in zamindaris were not annexed by the State at the time of the permanent settlement; the incorrectness of this will be apparent from the reply to the fourth point advanced by the memorialists.

(4) *Village service inams were not excluded from the assets of permanently-settled estates in the calculation of peishcush.*—The Government has no hesitation in pronouncing that in the great majority of cases this contention is not based upon fact. The matter is fully discussed in column 7, paragraph 3, of my letter of this date, No. 81, Legislative, and enclosure A thereto, copies of which are appended.

5. The memorial of the Zamindars of Venkatagiri, Kálahasti and Karvatnagar appears to be a mere application to the case of the Village Officers' Hereditary Succession Bill of the arguments which the same petitioners have previously brought forward in their protests against the Proprietary Estates Village Service Act; these have been dealt with fully in my letters, dated 1st March 1894, No. 40, and 9th April 1895, No. 32, Legislative. His Excellency the Governor in Council therefore considers that it will suffice to refer to those communications.

6. In conclusion, I am to invite attention to paragraphs 4 and 5 of my letter of this date, No. 81, Legislative, and to point out that of the three signatories to the second of the memorials now forwarded the Zamindar of Kálahasti is a boy of 20, who has only just succeeded to his estate, and that another, the Zamindar of Karvatnagar, is so sunk in debt that he has on three occasions, viz., in 1884, 1888 and 1893, applied to Government for assistance. On the last occasion, after a careful consideration of his circumstances, the Government came to the conclusion that the debts which he had contracted considerably exceeded the full value of his estate, the greater portion of which is heavily mortgaged, and consequently decided to refuse his request; the third signatory, the Zamindar of Venkatagiri, is the President of the Madras Landholders' Association, and, as the Government is informed, constitutes the mainstay of the existence of that body.

7. I am, in conclusion, to state that His Excellency the Governor in Council is of opinion that, for the reasons given above, representations of the memorialists are entitled to no weight.

I have the honour to be,
Sir,
Your most obedient servant,

OOTACAMUND,
27*th August* 1895.

Ag. Under Secy. to Govt.

Endorsement dated 27th august 1895 No 79 A Legislative
Copy to the Government of India Legislative Dept.

Chief Secy to Govt

Ent A J, Peters.

1895.

LEGISLATIVE DEPARTMENT.

From the Government of
Fort St. George.

Issued

Recd. *Encl.*

Letter, 27th August 1895, No. 79.

AUGUST.

Memorials.

Transmitting to the Government of India, with remarks, — from the Madras Landholders' Association and the Zamindars of Venkatagiri, Kálahasti and Karvatnagar, to the Right Honourable the Secretary of State, protesting against the Village Officers' Hereditary Succession Bill being passed into law.

29/1

28-3-12

25-7-12

8-8-12

2/5/22

8/12/25 B II V

4-9-80/53

1999/KH/26.