

Legislative (1897) Department.

ORDINARY MS.

G.O., No. 13

DATED 15. 2. 97.

INDEXED.

24/24

[Despatch Abstract.]

Bill to amend the Madras Hereditary Village Officers Act, 1895

Recording notes on the points raised by the
Hon. V. Narayana Aiyar against ^{in his} minute of dissent from
the views of a majority of the select committee on the

BACK PAPERS.

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

FURTHER PAPERS.

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

Legislative Department.

*Bill to amend the Madras Seditious & Mages
Offices Act 1896.*

Select Committee's report.

*Furnished to the Honourable members of the
Legislative Council under Rules 41 and 47 of the
Council Rules.*

*Fort St. George
6th January 1897.*

Secretary to the Council.

I should like to see the previous papers.

A.94

Previous papers are herewith submitted.

*9.1.97
J. L. 10.1.97 T. H. W.*

should like this Bill to be brought forward for discussion in
Council on Friday, the 15th Inst.

A.S.H

13.1.97

To

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

We, the undersigned members of the Select Committee, appointed at the meeting of the Council held on the 9th December 1896, to consider the Bill to amend Madras Act No. III of 1895 (The Madras Hereditary Village Offices Act, 1895), have the honour to submit the following report.

We have recast the Bill so as to give more precise verbal effect to the object of the Bill as introduced into the Council, but we have not made any material alteration which would affect its scope, purpose or substance.

We recommend that the Bill as now amended be passed. As no substantial alteration has been made in the Bill, we do not direct its republication in the Gazette.

(Signed)	A. T. ARUNDEL.
(„)	C. S. CROLE.
(„)	G. STOKES.
(„)	J. H. SPRING BRANSON.

MINUTES OF DISSENT.

I dissent from the view of the majority of the Select Committee in so far as it is proposed to give retrospective effect to Madras Act III of 1895 for the purpose of striking off the file certain appeals which had been validly preferred under Regulation VI of 1831 and were actually pending on the date when the above Act came into force. It appears to me that appeals against orders or decrees passed under Regulation VI of 1831 which parties may choose to prefer after Madras Act III of 1895 came into force under which such appeals are inadmissible are clearly distinguishable from appeals which had been preferred under Regulation VI of 1831 before the above Act came into force. In the former case, the appeals are admissible only by a fiction of law (*vide* section 8, Madras General Clauses Act of 1891) that Regulation VI of 1831 continues in force for certain purposes even after it has been totally repealed. In the latter case, the appeals can be got rid of only by giving to Act III of 1895 retrospective effect from the time when the appeals were actually preferred and Regulation VI of 1831 was in full force. I entirely fail to see any necessity for such retrospective legislation. I cannot believe that it was the intention of the Legislature, when the Bill which was eventually passed as Act III of 1895 was under consideration, that it should have such retrospective effect; and I am not aware of any proceedings of the Legislative Council on which the assumption is based that such “was the undoubted intention of the Legislature”. When an appeal has been preferred and admitted while the statute which sanctioned such an appeal was in full force, I do not see how it can be struck off the file, because such an appeal, had it been preferred under a subsequent enactment, would be inadmissible thereunder. The Legislature is now required to legalise rejection of such appeals instead of their being heard and disposed of as originally directed by the Order of Government, No. 276, Revenue Department, dated 22nd June 1896. It was represented to Government by the Board of Revenue that the effect of this order would be to overwhelm the offices of the Board and Collectors with possibly thousands of appeals and that, on a rough calculation, the number

of cases in the Board's office alone exceeded 500. In regard to this statement so far as it concerns appeals to District Collectors, I beg leave to state that Madras Act III of 1895 does not appear to me to restrict in any way such appeals. If this be so, the only effect of the order of Government would be that the Revenue Board would have to consider and dispose of 500 appeals which appeared to have been struck off the file. I understand, from what was stated at the meeting of the Select Committee, that only 96 out of the 500 are appeals which were actually pending when Act III of 1895 came into force and were subsequently rejected as inadmissible under the new Act. And it is only these 96 cases that would now have to be disposed of by the Board of Revenue, the remaining 404 appeals having been preferred only after Regulation VI of 1831 had been repealed and the new Act had come into operation. In regard to appeals from the District Collector to the Board of Revenue, the difference between Regulation VI of 1831 and Act III of 1895 is not really as great as is apparently supposed. From decrees and orders primarily passed by the District Collector, the right of appeal to the Board of Revenue is the same under both the enactments. It is only in respect of second appeals to the Board of Revenue that there is a difference between the two. Under Regulation VI of 1831, an appeal to the Board of Revenue—which in effect was a second appeal—was allowed against decisions of the District Collector in respect of claims to all village offices, which decisions were passed by him in the exercise of his right of control and supervision over the proceedings of Divisional Officers (*vide* section 3, clause 3, Regulation VII of 1828). But under the new Act this right of second appeal is allowed only in cases relating to the offices of the head of the village and the village accountant and not to those of the minor village officers. So far as second appeals against orders removing village officers are concerned, there is little, if any, practical difference between the two enactments. I would therefore omit the words "or be heard or taken into consideration" in the proposed section 23-A, the result of which at the most would only be that the Board of Revenue will have to consider and dispose of ninety-six appeals, possibly even less, which have been struck off the file without being heard and disposed of.

17th December 1896.

(Signed) V. BHASHYAM IYENGAR.

I regret I cannot agree in the opinion of the majority of the Select Committee. As stress is laid on "the undoubted intention of the Legislature" in framing section 19 of Act III of 1895, I feel bound to state, as one that took part in the passing of the Act, that I did not understand, nor was it brought to my notice, that by section 19 it was intended to enable the Board of Revenue to summarily strike off the file appeals that had been legally preferred under Regulation VI of 1831. I am of opinion that the Legislature will not be setting a good precedent if it passes this Bill for the convenience of executive officers without regard to the rights of parties who attach a high value to hereditary village offices. I consider the view of the Hon'ble Mr. V. Bhashyam Iyengar that the Bill should not be extended to appeals pending on the date when Act III of 1895 came into force as sound and practical under the circumstances.

3rd January 1897.

(Signed) N. SUBBA RAO.

No. 4 of 1896.

A

BILL

To amend Madras Act No. III of 1895
(The Madras Hereditary Village Offices
Act, 1895).

[As revised by the Select Committee.]

WHEREAS it is expedient to amend the
Madras Hereditary Village Offices Act,
1895, it is hereby enacted as follows:—

1. The following shall be deemed to
have been inserted after section 23 of
the Madras Hereditary Village Offices
Act, 1895, at the time when that Act came
into force:

23-A. Notwithstanding anything con-
tained in any Regulation or Act to the
contrary, no appeal shall lie or be heard
after the commencement of this Act from
any decree or order passed in any suit
brought or appeal made under Madras
Regulation VI of 1831 unless such appeal
would lie under section 23 had the decree
or order sought to be appealed against
been passed in a suit, appeal or proceeding
commenced under this Act.

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

A

BILL

TO

Amend Madras Act No. III of 1895 (The
Madras Hereditary Village Offices Act, 1895).

(As revised by the Select Committee.)

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

BILL

TO

Amend Madras Act No. III of 1895 (The
Madras Hereditary Village Offices Act, 1895).

(As revised by the Select Committee.)

if cases would not be less
that

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the Bill to
amend Madras Act No. III of 1895 (The
Madras Hereditary Village Offices Act, 1895).



Revenue Board Office,
(Land Revenue),

12 Dec 1896
12 DEC 1896
GOVERNMENT OF MADRAS

My dear Arnold.

Herewith the figures re.
grains in your note.
District figures are importan-
tely not available & can
only be guessed at.

For myself, I have no
doubt of the propriety of the
amending Bill, which, as
circumstances have already

by the Board

Number of cases which will have to be reheard if
the Bill to amend Act III of 1895 is not passed.

Number of appeals filed before 1st Oct. '95
& rejected on the ground that the appeals were
inadmissible under Section 23 of Act III of 1895. } 96

N^o of appeals filed before 1st Oct. '95 & disposed
of by applying the principles of the Act. } 31

Total number of appeals filed before 1st
Oct. '95 & disposed of under Act III of 1895. } 127

N^o of appeals filed on and after 1st Oct. '95
against decrees or orders passed under Reg. VI of
1831 & rejected as being inadmissible under Section
23 Act III of 1895. } 211

N^o of appeals filed on & after 1st Oct. 1895
against decrees or orders passed under Reg. VI of
1831 & disposed of by applying the principles of
Act III of 1895. } 57

Total N^o of appeals filed on & after 1st Oct.
1895 & disposed of under Act III of 1895. } 268

Total no. of cases which will have to be
reheard if the Bill to amend Act III of 1895
is not passed. } 395

N^o of appeals kept over which will have to be
heard & disposed of under the rules in force previous
to 1st Oct. '95 if the Bill to amend Act III of 1895
is not passed. } 75

Grand total of the number of cases
which will have to be reheard & heard if
the Bill to amend Act III of 1895 is not passed. } 470.

M. Gangachari

12th December 1896

The above figures have been carefully
prepared & are accurate. It may be presumed that in such cases
the number of cases would not be less than the above.

[G.]
9
300-20-7-06.

Legislative (1897) Department.

D. O. No. 34

VE

From The Honble C. S. Cole, J. S.

~~D. O.~~

~~Submitted for orders.~~

No. 4

Dated 18

Received 18

Registered 19

Enclosures —

Spare copies. —

Jan'y 1897

SUBJECT.

Remarks on the statements
+ arguments used by the
Honble Bashyam Aiyangar
in his dissent from the report
of the select committee on
the bill to amend the Madras
Hereditary Village officers
Act, 1895.

u. 1

Statistics of
cases that would
have to be heard on
re-heard of the Bill to amend
the Act of 1895
is not passed

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

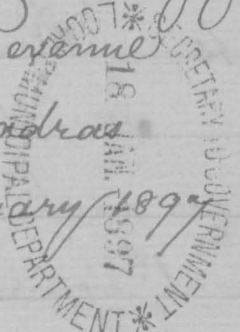
D.O. No. 34.

D.O. No. 4

Revenue Board Office
Land Revenue

Madras

18th January 1897



My dear Sir,

In reply to yours of 15 instant (received on 16th), I beg to submit that what is now Act III of 1895 was a Government measure introduced into, and passed through the Legislative Council by the Hon. Mr. Gibson. The Board of Revenue had suggested that provision should also be made for appeals to be decided as if the Bill had retrospective effect at the time the suits were filed. The Government agreed. The present Section 19 (g. v) was the direct outcome of the above arrangement. By pure accident the Section in question did not close with some such words as, "anything contained in any law or regulation to the contrary notwithstanding". The Board's Proceedings, and the G.O. above referred to, were laid before the Council, and they were likewise in the hands of the Members of the Select Committee which sat on the Bill (of which the Hon. V. Phasayam Sengar was a Member). I am therefore quite unable to understand the passage in the present minute of dissent put in by the Hon. Gentleman, which runs:— "I am not aware of any proceedings of the Legislative Council on which the assumption is based that such was the

7 B.P. 3278
16-7-96
G.P. 406 Rev.
12-8-96

the undoubted intention of the Legislature" (Statement of Objects and Reasons).

It is observed that the Hon. V. Bhasyam Iyengar makes a distinction in respect of appeals filed before 1st October 1895, and appeals filed after that date. His present objection is confined entirely to subjecting those in the former category to the provisions of Act III of 1895. His proposal therefore is to include the latter appeals in the coming Bill, and to exclude the former on the ground that "when an appeal has been preferred and admitted while the statute which sanctioned such an appeal was in full force, I do not see how it can be struck off the file, because such an appeal, had it been preferred under a subsequent enactment would be inadmissible thereunder." Now, if this proposition is worth anything, it must apply with equal force to original suits. I do not propose to insist too much on the instance to be found in Clause 1, Section 3, Regulation VI of 1831, although it is suggestive that the alleged principle was not observed there. But there is a much stronger contradiction of his doctrine to be found in Sections 7 and 12, Act XI of 1865 (India). Under that enactment (The Mofussil Small Cause Courts Act) the right of appeal in suits, actually on the file at a particular moment, is summarily taken away.

I am, therefore, unable to see much force in the objection started by the Honorable V. Bhasyam Iyengar. It would, if admitted, involve moreover the anomaly of admitting the appeal of a plaintiff, if filed on 30th September 1895, whilst the appeal of the defendant in the self-same case, if filed next day, would be rejected. Under these circumstances, and in view of the fact that both Regulation VI of 1831 and Act III of 1895 are special enactments, which hardly belong to the ordinary Civil Law of the Country, I fail to see the necessity for raising the point in the Legislative Council, which, as I submit, is now being asked merely to declare, in formal and binding language, a decision, at which it had definitely arrived nearly two years ago. I beg permission to add that the Honorable V. Bhasyam Iyengar is mistaken in thinking that Collectors dispose of original suits in respect of Village Officers. Divisional Officers do that. Equally incorrect is the assumption of the Honorable H. Subba Rao in his minute of dissent, that the present legislation is projected in the interest of "the convenience of Executive Officers". On the 18th July last, the Board distinctly put forth "serious public inconvenience," and the necessity for maintaining "the stability of Village Officers" by means of "finality of decision", as the reasons for not retreating from the position originally assumed in the matter of these appeals.

Yours sincerely,

C. L. Roberts

copy
R1/2
copy
R3/2/97

Legislative
LOCAL AND MUNICIPAL DEPARTMENT.

Again G.O., dated
Current No.
Current No.

189 , No.
of 189 , dated from the
of 189 , dated from the

Do. from Hon W Look

FOR ORDERS.

*Hon W from
H & the Governor
3 Hon W Bliss*

*To Rev. Sept. just for any
remarks they may wish
to make.
S.R. 11/1/97
To Rev Sept up.*

Amending of Act III of 1895

Note

I regret that I have not been able to bring the subject matter of this note before the Select Committee or Govt. before, but having been appointed to the Legislative Council and the Select Committee but a few days before the Select Committee sat, I had no time to look into the matter. I am, I would explain, entirely of opinion that the position which the amending Bill aims at creating should be established; but I think that we stand now in the very same position which we shall be in after the amending Bill has passed. It seems to me therefore to be unnecessary to pass the amending Bill.

Assuming that the Madras General Clauses Act has not been excluded, the cases which may arise at the date of the coming into force of Act III of 1895 are,

(a) A cause of action had accrued, but no suit had been filed or legal proceedings commenced,

(b) A suit has been commenced and was

shall

part heard,

(c) A suit had been decided but no appeal had been preferred,

(d) A suit had been decided and an appeal had been filed and was pending,

(e) Execution proceedings were pending or to be brought, the suit or appeal having been decided.

The amending Bill deals only with appeals i.e., cases (c) and (d).

It is therefore much narrower than it ought to be. It applies only section 23, while section 19 applies the whole Act.

Mr. Bashyam Iyengar admits that there is no good ground for applying what he calls the legal fiction of the General Clauses Act and objects only to the application of the amending Act to case (d). My view is that by section 19 of Act III of 1895 the operation of the General Clauses Act is excluded in all these cases and that under its wording they all fall to be dealt with under the provisions of Act III of

Section 19 of Act III of

1895 says that "all suits and appeals made under Madras Regulation VI of 1831 shall, after the commencement of this Act, be heard and disposed of as if ~~they~~ they had been preferred under this Act." That is to say, under Regulation VI of 1831 a man had the right to have his suit ^{and} ~~or~~ appeal heard and disposed of in accordance with certain express rules of law affecting, it may be, substantive rights or mere procedure. Act III of 1895 sets up certain other express rules of law. The section lays down that the suits and appeals shall be "heard and disposed of" as if they had been preferred under the latter set of rules of law, whether those rules affect substantive rights or mere procedure. To take a concrete case, I consider that section 24 of Act III of 1895 would apply. Also that District Collector's must hear appeals in suits preferred under section 15. If not District Collectors can under Regulation VI of 1831 simply refuse to

revise the order of Divisional officers.

This is Mr. Bhashyam Iyengar's point in the latter part of his minute of dissent.

Turning now to the Bill as proposed, the statement of Objects and Reasons sets out the necessity for the amending Act to arise in that Act III of 1895 is defective (a) in not specifically excluding section 8 of the Madras General Clauses Act and (b) in that section 19 as at present worded can apply only to procedure.

In regard to (a) the position is that under sections 4 and 8 of the General Clauses Act all proceedings whether suits, appeals or in execution will go on under Regulation VI of 1851 in all suits brought before the repeal of the Regulation unless a contrary intention appears in the repealing Act. Section 19 of ~~the~~ Act III of 1895 was inserted to express a contrary intention. The question is whether it does so or not. It seems to me only a reasonable inference that if you tell a man to go to the north you express an intention contrary

to his going either east, west or south, and it seems to me therefore that when the Legislature says that suits and appeals under Regulation VI of 1851 shall after the commencement of Act III of 1895 be disposed of as if they were brought under Act III of 1895, it expresses an intention contrary to their being disposed of in accordance with Regulation VI of 1851, and for the reasons given above in discussing the effect of section 19 that it has expressed that contrary intention both as to substantive rights and to procedure. The original office note and G.O. Rev: No. 276 of 22nd June 1896 errs grievously in laying down that it ^{had} ~~under~~ "express provisions" in the repealing Act to exclude the General Clauses Act.

As to (b) I cannot find the authority on which this dictum is based. There ^{is} ~~is~~, however, a ruling in 16. Cal:272 in which it is laid down that the rule is that "retrospective effect is not ordinarily given to an enactment so as to affect

substantive rights, but that provisions affecting mere procedure are applied to pending proceedings", but it is expressly stated that this rule applies only when "the new enactments contain ~~next~~ no special rules for their own "interpretation" and is not applicable to the case of an enactment" which declares the extent to which it is to affect pending proceedings." Section 19 is a special rule for the interpretation of Act III of 1895 and it declares the extent to which Act III of 1895 is to affect pending proceedings.

This rule is section 8 of the General Clauses Act in another garb. It applies only in ~~xx~~ cases when a contrary intention is not indicated. The courts will always give full attention to any such expression of a contrary intention.

The bill has been objected to on the ground that it takes away rights. In fact if Regulation VI of 1831 be compared with ^{Act} III of 1895 it will be

found that the latter gives the right of appeal in a far larger number of cases, as against a right of revision given by the former enactment in a few.

I submit therefore that the best way to deal with this matter is to withdraw this proposed Bill to which two Members of the Select Committee have objected and to cancel the order of Govt. No. 276, Revenue dated 22nd Jany: 1896, which seems to go beyond what the law requires, in laying down that any express provision in the repealing Act is needed. It seems also to me an omission that the Law officers have not (so far as I can find in the papers) ever been consulted as to the necessity for this Act or as to the interpretation to be put on section 19 of Act III of 1895.

25/1/97

I do not agree with the view
put forth by the Hon. Mr. Stokes.
The "Statement of Objects &
Reasons" for the Bill now under
consideration, which was
prepared after verbal consultation
with the Adv. Gen. who was
then at Ootacamund on Dec
19 Act III of '95 did not express
"a contrary intention" but
applied to procedure only. This

This was the case

23

* How Mr. Baskyam Iyengar in
the debate in the Leg. Council
on the 9th Dec. said: Sec
19 of the Act applies the
procedure prescribed by it to
appeals pending at the time
the Act came into force.
It is evident, however, that
it can be read as applying
to procedure and not
expressing "a contrary intention".
It distinctly says that appeals
made under Reg VI of 31 shall
be heard & disposed of. If
they are rejected ab initio on
the ground that they could not
be preferred under III of
'95 they will not be heard.
I am of opinion therefore that

14/11

The Rev. Sept note is not quite
correct in assuming that the Law
Officers were not consulted. Mr.
Davidson tells me, as I mentioned
in Journal a fortnight ago, that
the ~~Adv. Gen.~~ legal point was dis-
cussed orally with the Adv. Gen.,
who agreed as to the propriety of
the proposed legislation. Mr.
Bhaskyam Iyengar, one of the
soundest lawyers in Madras,
was also clearly of the same
opinion.

This Sept. Sac. of opinion
must hold that on the legal
point there is no good ground
for doubt.

Section 8 of the Gen. Clauses
Act (1891) (H) declares that where
an Act "repeals any other enact-
ment then the repeal shall not

shall

(a) affect ~~xxx~~ any proceedings begun before the commencement of the repealing Act

(b) affect any right, privilege ~~xxx~~ acquired (or) accrued ~~xxx~~ under any enactment so repealed

(c) affect any investigation legal proceeding or remedy in respect of any such right, privilege ~~xxx~~ as aforesaid; and any such investigation, legal proceeding or remedy may be instituted continued or enforced ~~xxx~~ as if the repealing Act had not been passed

To exclude the operation of language so clear & wide, any enactment passed subsequent to the Gen. Clauses Act must use either express words limiting the operation or be so framed as to be capable of no other legal

I am a member of Council I have been in doubt. It is a strong measure to refuse to hear an appeal validly provided under the old Reg. whether that Reg. was still in force, and it did not be adopted without sufficient cause. My opinion, however, convinces me that there is sufficient cause. Such appeals did great harm much as they promoted litigation & made the business of village officers intricate. I think therefore, on the whole, that they should be stopped, & I believe this was the intention of the Council when the 195 was passed.

29 1/197 2/2/97

I think the bill is necessary. But, at present I would give it the limited effect proposed by Mr. B. Harrison in his Minute or Document, dated 17 Dec. 1896.

4.54 20.1.97

1195 Newcastle on Statute

construction than that the Act is excluded. The Courts will never give an enactment a retrospective operation so as to deprive a litigant of vested rights if ~~the words~~ ~~most~~ its language can bear the other construction. "unless there is some declared intention of the Legislature - clear & unequivocal - or unless there are some circumstances."

"rendering it inevitable that we should take the other view, we are to presume that an Act is prospective not retrospective" (Lord O'Hagan in the H. of Lords)

Now the section 19 of the Act of 1875 runs "all suits brought and appeals made under M. Reg. of 1831 shall after the commencement of this Act be heard & disposed of as if they had been

shall

preferred under this Act."

In the face of the Gen. clauses

brought under the ^{old} Regula & declares

The question is whether there

not, it is submitted, be held so

It has been held over &

Shall

Civil Pro. Code, had accrued under a former ^{repealed} Code, the repeal did not ~~take~~ deprive the party of the right to such second appeal acquired under the old Code.

At the beginning of his note Mr. Holmes mentions 4 possible cases

(a) Cause of action accrued but no suit filed.

The Act of 1895 does not so far as I understand deprive any man of a right of suit: it merely determines a new procedure with regard to them

(b) Suit commenced & part heard. Sec. 19 applies

(c) Suit decided but no appeal preferred
(d) Suit decided and appeal pending

& pending present Bill is intended to deprive the

i.e. not brought before the new act comes into force

yes
NA

beliant of this vested right of appeal unless it is admissible under the new Act - & whether the appeal is pending or not yet brought. The Hon. Mr. Jagan wishes however to limit the Bill to appeals not yet brought

(e) Execution proceedings pending or to be brought on a suit or appeal decided

The Cal. H. Ct. has held that execution proceedings are not proceedings in the contemplation of Sec. 6 of the Gen. Clauses Act of 1853 (Indra). But if a party had a decree under the old Reg. which conferred upon him a right enforceable only under the old law he would prima facie be entitled to execution, with "disposal" over execution. It does not seem to matter much one way or the other.

shall

The Board Recd. of 15 June

S. J. 28/1/97

en classes et une 5^e de privé

Section 3 Reg. VI of 1831 declared

2. Linear Limitation

had not been paid
 & 10 India Act

all

Shall

100, I shall be pending before
any Court within the limits of
the jurisdiction of a Court of
Small Causes constituted under
the said Act, at the time of
the constitution of such Court,
shall be heard & determined
in the same manner as if
such Court had not been
constituted.

~~Section 2~~ Section 2
Act XI of 1865 (to consolidate
and amend the law relating
to Courts of Small Causes beyond
the local limits of the ordinary
original Civil jurisdiction
of the High Courts of Judi-
cature) lays down that
Act XLII of 1860 (for the esta-
blishment of Courts of Small
Causes beyond the local
limits of the jurisdiction of
the Supreme Courts of Judi-
cature established by
Royal Charter), and Act XII
of 1861 (to amend Act XLII of 1860)
are

are hereby repealed: so that
that any Courts of Small
Causes now in existence which
shall have been constituted
under Act Nº XLII of 1860, shall
be considered as constituted
under this Act within the
territorial limits of the juris-
diction assigned to such Courts
under the said Act XLII of 1860
or which may hereafter be
assigned to them under the
next following Section, and
shall be subject to all the
provisions contained herein;
and all suits & proceedings
pending in any such Courts
shall be heard & determined
in the same manner as suits
& proceedings are required
to be heard & determined
under this Act; but this Act

shall

all nor in any way
validate or alter the effect
of anything which shall have
been done in any such suit
or proceeding prior to the
commencement of this Act.

4. Sections 5 and 7 Reg.
VI of 1831 give a right of appeal
to the Board against the
decisions and orders passed
by Collectors. One of the
main objects for repealing
the Regulation and for the
enactment of Act III of 1895
was to limit the right
of appeal. (Vide paras
6 & 7 of B. P. $\frac{73}{17.2.92}$,
paras 13, 14 & 15 of B. P.
 $\frac{719}{15.12.92}$ & Section 9 of the
draft bill appended
thereto, Section 11 of the
Bill in B. P. $\frac{508}{4.9.93}$

Memo for the 1st Member

Section 12 of the draft bill
appended to B. P. $\frac{660}{16.11.93}$,
pages 141 to 145 of the discussions
of the Legislative Council on the
20th March 1895, and the office
note in B. P. $\frac{3278 \text{ mis}}{18.7.96}$.

5. In the case of darkhast
the Board in its Pro. $\frac{437}{24.7.93}$
proposed that there should
be no second appeals, and
this was approved by Govt.
in its order $\frac{943}{3.11.93}$ in B. P.
 $\frac{661}{16.3.93}$. In B. P. $\frac{82}{22.2.94}$, it
was, however, held that second
appeals filed before 3.11.93
should be admitted & disposed
of on the merits, the appeals
filed subsequent to that date
being rejected on the ground
that there was no second appeal.

6. The number of cases
which will have to be heard
or reheard if the Bill to amend
Act

is shown below:-

No. of appeals filed before
1.10.95 & rejected on the
ground that they were
inadmissible under
Sec: 23 Act III of 1895. } 96

No. of appeals filed before
1.10.95 & disposed of by
applying the principles of
Act III of 1895. } 31

No. of appeals filed before
1.10.95 & pending disposal. } 1

Total no. of appeals filed
before 1.10.95 & disposed of under
Act III of 1895 or pending
disposal. } 128

No. of appeals filed on and
after 1.10.95 against decrees
or orders passed under Reg VI
of 1831 & rejected on the ground
that they were inadmissible
under Sec: 23 Act III of 1895. } 211

No. of appeals filed on and
after 1.10.95 against decrees or
orders passed under Reg VI of 1831
& disposed of by applying the
principles of Act III of 1895. } 57

No. of appeals filed on and
after 1.10.95 ^{against decrees or} ~~disposed of~~
~~under Act III of 1895~~ ^{old cases passed under Reg VI of 1831} & pending
disposal. } 74

Total No. of appeals filed
on & disposed of under Act
III of 1895 or pending disposal } 342

Grand

Grand total of the number
of cases which will have
to be reheard or heard if
the Bill to amend Act
III of 95 is not passed. } 470

7. It will be seen from the
above that the number of appeals
which were actually pending when
Act III of 1895 came into force
was not 96 as stated by the
Hon: Mr. Bhashiam Iyengar
in his minute of dissent but
128 of which 96 were subsequently
rejected as inadmissible under
the Act and 31 were heard &
disposed of by applying the
principles of the Act, leaving
one pending disposal.

In about two dozen cases
objection has been taken to the
application of Act III of 1895 to
cases filed or proceedings com-
menced under Reg VI of 1831.
In about half a dozen of
these objection was taken before
G.O. 276 Rev. was passed.
22.6.96

The main grounds of objection
are

Retrospective effect should be given to Act III of 1895.

Proceedings commenced under Reg VI of 1831 should not be affected by Act III of 1895.

Holding another office is not a physical disqualification under Sec. 10(1)(c) Act III of '95.

Appeals filed before 1st Oct: '95 should not be rejected under Sec. 23 Act III of 1895.

The limitation prescribed by Act III of '95 should not be applied to cases filed or proceedings commenced under Reg VI of '31.

Appointments made under Reg VI of 1831 should not be questioned under Act III of 1895.

Declaratory decrees passed under Reg. VI of 1831 should not be set aside under the provisions of Act III of 1895.

Section 19 of Act III of 1895 applies to procedure & does not affect the rights vested by Reg VI of 1831.

expand

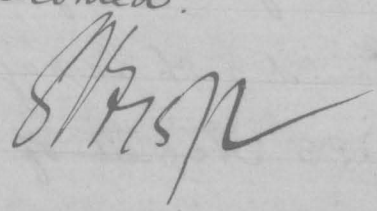
Papers to be read in proceedings:—

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

Papers relating to Bill to amend Madras act III of 1895 - containing notes on the points raised in the minutes of dissent in the Select Committee No. 13 Legge dt 15. Feby 1897.

ORDER.
mis

Recorded.



CRU
13/2