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[Despatch Abstract.]

Forwarding to the Govt of India, with remarks, a memorial addressed to His Excellency the Viceroy and Governor General by the Madras Landholders' Association on the subject of the Madras Tenancy Bill

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[G. 9]
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13 AUG 1898
LONDON MUNICIPAL DEPARTMENT

Legislative (189) Department.

Current ~~D. O.~~ No. 292

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

D. O.

From The Landholders' assocn
Madras.

No.

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SUBJECT.

Forwarding for transmission to the Govt of India a memorial regarding the Madras Tenancy Bill now before the Council.

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G.O.	No.	Department.	Date.

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GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

To

His Excellency Sir ARTHUR ELIBANK HAVELOCK, G.C.M.G., G.C.I.E.,
Governor and President in Council,
Fort St. George.

The humble memorial of the Madras Landholders' Association

Most Respectfully Sheweth:

That the Association sent a petition to Your Excellency in Council, dated 4th ultimo, praying for adjournment of the consideration of the Madras Tenancy Bill. The meeting held on the 13th idem, the appointment of the Select Committee was adjourned to the 13th of this month. Though the interval is very short, the Association begs to submit to Your Excellency a memorial embodying their views as to the principles involved in the Bill, such as could be given at such a comparatively short time. The Association will submit further observations as occasions might arise and as it collects information from different places, it prays that the interests of the Zamindars in such an important Bill be permitted to be represented by counsel before the Select Committee under Rule 63 of the Indian Councils Act.

For which act of justice, the memorialists, as in duty bound, will ever pray.

Venkatagiri Town,
4*th June* 1898.

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

Memorial from the Madras Landholders' Association, to the Hon'ble the President and the Hon'ble Members of the Legislative Council of Madras, dated 4th June 1898.

The memorialists desire to approach your Honourable Council and lay before it their views upon the Madras Tenancy Bill (No. 3 of 1898) which is now under consideration by the Council. Your petitioners, comprising a very large number of land-owners of the Presidency, including the leading hereditary Zamindars, are deeply and principally interested in this measure, which is, to a very large extent, as far as they are concerned, of a revolutionary nature. The Bill has a two-fold object. First, it proposes to amend the existing law of rent-recovery by land-owners in the Presidency, which has long been admittedly in a very defective condition; and your memorialists freely admit that the Bill does much to assist the land-owners, by providing machinery for more readily collecting their rents and getting rid of troublesome or defaulting tenants. But the Bill goes further than this; for, secondly, it professes to ascertain and define the legal status of the various persons holding, under various names, the relative positions of landlord and tenant, or proprietor and ryot, in the Presidency; and your petitioners feel that in endeavouring to attain this object the Bill is revolutionary in its nature and infringes seriously upon the rights and privileges hitherto enjoyed by the land-owners of this Presidency. In the present memorial your petitioners do not propose to deal with the provisions of the Bill in detail. They propose, with the permission of your Honourable Council, to prepare a detailed statement of objections, amendments, and suggestions, to be laid for, consideration before the Select Committee which will presumably be appointed for the purpose

of dealing with the Bill, section by section; and as part of the prayer of the present memorial they venture to request that they may be allowed to be represented before the said Select Committee by counsel, in accordance with the provisions of Rule 63 of the Rules for the conduct of business of the meetings of the Council; and they also pray that representatives of the Association may be invited to be present at its sittings for the purpose of affording information, under the provisions of Rule 44 of the said Rules for the conduct of business. In the present memorial your petitioners intend solely and briefly to direct the attention of your Honourable Council to a few of the leading matters of principle dealt with in the Bill which will probably form matter of discussion in the Council itself, before the Bill is remitted to the Select Committee.

2. Your memorialists will first refer to the second of the main objects of the Bill as specified in the preceding paragraph. The Bill, as there stated, does more than remedy existing grievances and remove present difficulties. It raises, and endeavours to settle, new questions of great importance with reference to the relative status and the respective proprietary rights of landlords and ryots in the Presidency, and does so mainly by importing wholesale the principles embodied in the Bengal Tenancy Act of 1885. It is assumed in the Bill and in the Statement of Objects and Reasons that the provisions of the Bengal Tenancy Act are good in themselves, and that they are suitable for application to this Presidency. Your memorialists cannot admit that either of these assumptions is permissible. The Bengal Tenancy Act is a comparatively recent measure, dating only from 1885. It has produced, and continues to produce, a very large amount of litigation, as evidenced by the Indian Law Reports, and has been by no means proved to constitute a sufficient and satisfactory measure for Bengal itself. But even were it so, it would by no means follow that its provisions would be applicable to Madras. The history and position of the great majority of the Madras land-owners are different from the history and position of the Bengal land-owners as a body: and further, as is admitted in the Statement of Objects and Reasons appended to the Bill, the relative legal positions of landlord and ryot vary widely in different parts of this Presidency. The Statement of Objects and Reasons assumes that, by the custom of the country, occupancy right exists as an inherent right in every permanent ryot of a village, irrespective of the mode in which the relation was originally created; so that in this view a permanent ryot, from the mere fact of his personal status as such, has an occupancy right, that is, really a qualified proprietary title in the land. This view, as shown *inter alia* by the cases quoted in the Statement of Objects and Reasons, has really arisen only in quite recent times, the original view, as laid down by Mr. Justice Holloway and others, being that the status of the ordinary ryot was nothing more than one of a yearly tenant. It is worth noting that, in the view of strong advocates of the ryot's claim to a proprietary title, these growing claims were destroyed by Act VIII of 1865, showing that the view of the question entertained by the Government of that day was the exact opposite of that advanced in the present Bill. Historically, the view now put forward could only possibly be supported in the case of such zamindaris as can be shown to have grown out of revenue farms, that is to say, wherein the original Zamindar was merely a collector of *ascertained* revenue throughout a district of greater or less extent, farmed by him from, or assigned to him by, the Supreme Government. In such cases the tenant might perhaps be looked upon as the direct tenant of Government, and as therefore possessing the same right in his holding as the Government ryot, and such right might be presumed to be continued in his representatives, where continuity of possession could be shown, or at least where no break of continuity could be proved. It is probable that historically the larger proportion of the Zamindars of Bengal—certainly of the larger zamindaris—were originally of this type, while, on the other hand, comparatively few of the zamindaris in the Madras Presidency can be shown to have thus originated. Nor is it irrelevant in this connection to recollect, that the permanent settlement regulation itself contains no mention, much less recognition, of such a right. Section 2 of Regulation XXV of 1802 recites that "in consequence of such assessment, the proprietary right of the soil shall become vested in the Zamindars or other proprietors of land, and in their heirs and lawful successors for ever." Amid all the numerous details given for arranging the settlement, there is not a word in any way qualifying or limiting this proprietary right, or reserving any share of it to the ryot or to any one.

3. But even the most modern view relied upon in the Statement of Objects and Reasons, as presented in the case there quoted from the Indian Law Reports, Madras Series, Vol. XX, page 299, goes no further than this,—that at the time of the Permanent Settlement Government granted the Zamindar the Melvaram right and reserved, at least by implication, the Kudivaram right to the tenant *in esse*, thus making the tenant a co-owner with the landlord. It would follow that the representatives in title of the ryots, or Kudivaram proprietors, at the time of the permanent settlement would be entitled to maintain the same right at present; and from such a proposition, whether correct in law or not, your petitioners will not dissent. The real importance of the case in question lies in this, that it borrows and applies a principle of English law used in connection with the proof of the possession of prescriptive right; that is to say, it declares that when the origin of the tenancy cannot be shown to have commenced at a date later than the permanent settlement, or when, as a matter of fact, no proof at all of its origin can be adduced, the tenancy is to be presumed to have been in existence at the time of the settlement. To this principle, again, your petitioners have no objection to raise. Where tenants are of such long standing that the commencement of their tenancy is lost in antiquity, landlords are only too glad to recognise their claims as permanent tenants. It is neither their wish nor their interest to disturb the hereditary relations between themselves and their tenants, nor to get rid of a body of ryots who have shown that they and their families are the best supports of their landlord's house. In fact they are willing to go even further than the Bill in this respect, and to recognise as permanent, or occupancy, ryots all tenants with whom they have, previously to the date of the Bill, been in the habit of exchanging puttahs and muchilikas.

4. In this connection your memorialists would refer to the passage in the Statement of Objects and Reasons which alleges that in the Northern Districts the occupancy right "has been steadily encroached upon until, in many estates, the ryots have been reduced practically to the position of mere tenants at will." Your memorialists believe that a correct statement of the case would be that the ryots were never more than tenants at will, but that the landlords have been gradually allowing them to attain a more advantageous position and to acquire occupancy rights which they previously neither possessed nor claimed.

5. In the same connection your memorialists beg to refer to the very unsatisfactory provisions of the Bill with reference to recording the rights of present occupancy ryots. In chapter III, for instance, provision is made for the bringing of various suits before the collector by or against occupancy ryots. To enable such suits, therefore, to be instituted, it is a necessary preliminary that the status of the occupancy ryot be established. It cannot be dealt with in the suit itself. There is no provision for its being so dealt with, and it would be clearly inequitable and inappropriate to allow such an important question of right to be summarily settled as a side-issue in a suit before the collector—say for enhancement or commutation of rent. Before any such suit, then, can be instituted—except, of course, in cases where the status is admitted on both sides, because it is equally open to the ryot to dispute the landholder's position,—one of two courses would appear to be necessary. The first of these would be to have recourse to the provisions of chapter IX of the Bill and have a record of rights prepared for the estate. This will naturally be a long and expensive process and will certainly bear very hardly upon a ryot wishing to bring a suit against a landholder. He could neither enforce the preparation of such a record, nor pay the costs of it. The only alternative would seem to be the bringing of a suit in the Civil Courts for a declaration of the status of the tenant. This again would generally be beyond the pecuniary powers of the tenant; while, if brought by the landlord, it would involve him in a cost probably far greater than any enhancement of rent to be gained by the suit to which this expensive civil action would be a preliminary. Your memorialists, therefore, suggest that there should be some simple and summary method for registering ryots possessing rights of occupancy at the date of the commencement of the Bill. This would necessitate simple and effective definition of an occupancy ryot, and, as has already been suggested in this memorial, the simplest way would appear to be to register as occupancy ryots all tenants with whom, prior to the date of the Bill, puttahs and muchilikas have been exchanged.

6. A much more serious difficulty, however, arises in connection with the new provisions with reference to the mode of acquisition of the right of occupancy. The practical effect of these provisions is to convert all persons who, for a period of twelve years, have managed to hold land in a village—not necessarily the same land —as lease-holders, tenants-at-will, or otherwise, into occupancy-ryots, just as if they had held lands and exchanged pattas and muchilikas in respect to them ever since the days of the Permanent Settlement. And this is not all, for the burden of proof is thrown upon the landlord; so that if a person is actually in possession of any land at the time of the passing of the Bill, it is to be presumed that he has held some land for twelve years, unless the landlord can prove that he has not held for the full period. This is a very serious burden thrown upon the landlord; it will necessarily involve him in great expense and immense litigation; and will undoubtedly result in the putting forward of an enormous number of false claims. This is certainly a very remarkable extension of the principle of tenant-right enunciated in the Bill. It assumes that, even when there are no occupancy-ryots, the Kudivaram right still remains as something intangible, floating in the air or permeating the soil, but capable of reduction to a tangible form and of appropriation by any one who can manage to occupy any land for a period of twelve years. Your memorialists must therefore most respectfully protest against these provisions, whereby an enormous number of persons, who at present have no right or title whatsoever, will at once acquire proprietary rights of considerable pecuniary value; and whereby landlords will be precluded from retaining good leasehold tenants upon lands not now held by occupancy-tenants, or on waste lands brought under cultivation, without converting them into occupancy ryots at the end of twelve years. It will be impracticable, with any regard to good estate management, to grant leases of waste land to be brought under cultivation except for periods of less than twelve years; and it will be also impracticable to find tenants under such circumstances, for, so far from having any security of permanency, they will be impressed with the certainty that their leases will not be renewed at the end of the original period. Your memorialists are unable to perceive upon what principle the power is given to Collectors to prolong leases for a period which may extend to five years. It does not even help the non-occupancy tenant to attain the permanent status, as he can be ejected at the end of the extension. It is difficult to anticipate what may be adduced in support of a provision, which is an arbitrary encroachment on the rights of the landlords and must affect prejudicially large numbers of tenants. There seems no difference in status between those non-occupancy tenants and the under-tenants dealt with in chapter V. Your memorialists respectfully suggest that they should be put on the same footing, and the provisions of chapter V made applicable to non-occupancy tenants, chapter IV being excised as superfluous.

7. Your memorialists would further call attention to, and protest against, the very serious limitations placed upon the extent of the private lands of proprietors. These lands alone are excluded from the operation of chapters III and IV of the Bill; that is, on these lands alone occupancy rights cannot be acquired against the will of the proprietor. The provisions of chapter X limit the extent of private lands in a manner extremely prejudicial to the proprietor. In fact, the rules do not make any attempt to ascertain what is, or is not, at present, private land but rather lay down certain arbitrary definitions as to what may, in the future, be considered private land. The most remarkable point in connection with this chapter is that it absolutely excludes the proprietor's private right in all waste or uncultivated land, even in such as has been used for grazing. It appears to recognise only three classes of private land—first, land cultivated by the proprietor himself for three continuous years before the date of the order; secondly, cultivated land recognised by village usage as proprietors' private lands; and thirdly, lands specifically let as private lands before the first day of May 1871. It is not understood why this last date should be adopted. It is the date of the commencement of Madras Act II of 1871 amending Madras Act VIII of 1865; but there does not appear to be any connection between that amending Act and the determination of the proprietor's private lands. The corresponding date in the Bengal Act of 1885 is 2nd March 1883; so that Bengal landlords had to go back only two years for evidence of letting, while Madras landlords will have to go back for twenty-seven years. In this matter, again, a very serious burden is thrown

upon the landlord by the presumption to be set up that the land is not proprietor's private land until the contrary is shown. In a very large number of cases it would be practically impossible at this late date to produce direct evidence that the land was specifically let as private land, or indeed was let at all, prior to the first day of May 1871, and it will be equally onerous to prove that lands are private by custom, when, as will frequently happen, the whole village combines to resist the claim. In this connection, further, it should be noted that no mention at all is made in the Bill of private service tenures and other holdings of a like nature. It may be intended that these are not to be recogn ed in future as legal forms of tenancy; or it may be intended simply to leave ther outside the purview of the Bill to be dealt with by the ordinary civil law. In the l ter case, which, it is presumed, is the intention of the Government, they should b specifically excluded from its operation and all rights arising under them should e specifically saved. The Bill should define clearly and liberally all lands coming un er the category of non-occupancy and private lands, declaring the Zamindars entitled to the occupancy rights in such lands; and thus by legislation protect them from arbitrary encroachment.

8. With reference to the first object of the Bill, as enunciated in the first paragraph of this memorial, namely, the regulation of the relations between landholders and their occupancy-ryots, your memorialists would respectfully point out that, if it is the intention of Government, as it appears to be, to put the ryots on zamindary lands on the same footing as ryots on Government lands, the Government should equally put the landlords on the same footing as Government itself, in so far as the relations between themselves and their tenants are concerned. Such was always the case in Hindu and Muhammadan times, and is the case at the present day in the Nizam's dominions. Government must depend on the prompt and complete collection of rent by the landlord to ensure the prompt and complete payment of the landlord's rent to itself. If the landlord is unable to collect from his tenants, he in turn will be unable to remit to the Government, without seriously embarrassing himself or encumbering his estate. There were no more shrewd and active collectors of revenue than the Muhammadan Rulers, and they always fully recognised that the best way to ensure prompt payment from the landlord was to give the landlord facilities for obtaining prompt payment from his ryot. A principle which commended itself to those rulers would probably commend itself to the present Government which, it is presumed, is equally desirous of obtaining prompt payment of its peishcush without unduly harassing or embarrassing the proprietors.

9. Now, Government, as the largest landholder, has prescribed for itself certain rules for the collection of its revenue—rules which, it may be presumed, are calculated to secure prompt and complete collection without at the same time unduly incommoding the ryots who are their tenants. It seems, therefore, fair that, as between private landlords and their tenants, the same facilities should be afforded to the former as the Government itself possesses; while the latter, the tenants, would be protected by exactly the same safeguards as Government has prescribed in its own case. It cannot be urged that what would be oppressive of cruel in the hands of the Zamindar ceases to bear this character when exercised by the Government itself, and, *vice versa*, what is recognized as lenient and just on the part of Government would continue to possess the same character when exercised by the Zamindar. A striking instance of the one-sidedness of the proposed arrangement is afforded by the *Explanation* to section 113. It should be remembered that the permanent settlement proceeded not by inclusion in the assets, but by exclusion from the assets, as detailed in section 4 of the Regulation. It is therefore unjust to throw on the landlord the burden of the proof of inclusion, instead of throwing on the other side the burden of the proof of exclusion. Again a tree-tax is not excluded from the assets by the Regulation and the provision rendering such a tax illegal is an arbitrary and unexplained infringement of long-established rights. Further, although the Bill is most careful in prohibiting the landlord from collecting any tribute not included in his assets, it makes no provision for enabling him to collect many dues, such as jodis and customary meras, which are included in his assets. To give complete relief, provision should be made for this purpose. For example, in most zamindary villages there are maniams or minor inams, such as watershed inams, fakir inams, &c, granted for services rendered or to be rendered. These inams are classed by the Inam Commissioner as single crop and

double crop inams, and the Zamindar is bound to supply water for their irrigation from his own tanks, made and maintained at his cost. Where the maniam is classed as a single-crop inam, it is only right that the Zamindar should be able to charge water-cess on account of water supplied from his tank to the inamdar for second crop. But the courts hold that the inamdar is not a tenant under the Rent Recovery Act (VIII of 1865) inasmuch as he holds no lands under the Zamindar. It is only right that in such cases the Zamindar should, under the new Bill, be given powers of collection, and so for all dues similarly circumstanced.

10. Your memorialists would respectfully urge the absolute necessity of your Honourable Council and its Select Committee obtaining the fullest information from the landlords on all the matters of detail which are destined so seriously to affect the relations between the proprietor and the ryot. Collectors and other Government revenue officials cannot be expected to know, otherwise than in the most perfunctory manner, the state of affairs actually existing in zamindaris and estates of that nature, the relations between landlords and tenants, and the great difficulties under which landlords frequently labour. The whole atmosphere, so to speak, is different from that which exists in the Government ryotwari tracts. This is especially the case in the older zamindaris. As a matter of fact, the relations between the landlord and tenant in these zamindaris have always been of a much more liberal and paternal character than can possibly exist in Government areas. The attitude is frequently one of affection and hereditary respect. The landlords are in the majority of cases most lenient to their tenants. And it is this very leniency which furnishes their opportunity to such small proportion of the tenants as are of a discontented and trouble-some nature. It cannot be asserted, and, in fact, never has been asserted, that there is any necessity for this Bill so far as the protection of tenants is concerned, or that there have been any complaints by zamindary tenants of oppressive treatment. As a matter of fact it is believed that the zamindary tenants as a whole are very a contented class, who would be extremely unwilling to exchange their position for that of tenants of Government with its rigid rules and impersonal control.

11. With reference to the collection of arrears of rent, your memorialists would first submit that, in their opinion, the compulsory yearly exchange of puttah and muchilka is a superfluity, entailing much expense, labour and annoyance. They can see no valid reason why, when puttah and muchilka are once exchanged, the tenancy should not be presumed to continue on these terms, until either party desires a fresh interchange of documents. The landlord should have the right in any year to offer a fresh puttah, and the tenant also the right in any year to demand one, but so long as both parties are satisfied, a compulsory yearly exchange seems quite unnecessary. Provision should also be made for the grant of puttahs embody-ing conditions extending over a period of more than one year. For example, when land is to be taken for cocoanut plantations, these trees begin to bear only after ten years, and provision has to be made for the increased or full rent to be payable only at that time. If facilities of this kind are denied, cultivation will be placed under serious disabilities and agricultural progress indefinitely retarded.

12. Your memorialists further submit in this connection that the provision at the end of sections 58 and 60, viz., "that the decree shall be of the same force and effect as if a puttah and muchilka had been exchanged," should apply to decrees in suits of the same nature passed in Munsifs' or District Courts. This will greatly shorten and simplify the procedure. At present, after having obtained a decree before the Munsif, the parties have to come to the Court of the Collector to enforce acceptance of the puttah by the tenant, and the same cumbrous method of procedure will be rendered necessary under the provisions of the new Bill. If then the decree of the Civil Court has the same practical effect as the decree of the Revenue Court, there will be great economy not only of time and money both to landlord and tenant, but of the labour of executive officials.

13. Your memorialists, while fully realizing the value of the right of private distraint accorded in the Bill, pray that they may be accorded also the right of dis-traint through the Civil Court. This procedure is adopted in Bengal (Bengal Tenancy Act, section 121) and there seems no valid reason why the same privilege should not be accorded to proprietors in this Presidency. There are many cases in which the right of private distraint will be useless or its exercise dangerous. When a whole

village has combined to be obstructive or when the police are unfriendly to the land-lord, he will shrink from using the weapon which the law has placed in his hands. He will then be compelled to have recourse to the Civil Court, by bringing a civil suit, and attaining the same end by attachment and sale in execution of the decree. This alternative will on the one hand press heavily on the landlord by involving him in great delay, keeping him out of his money, and burdening him with an infinitous tenant; while on the other hand it will press heavily on the tenant by enormously increasing the costs and accumulation of interest.

14. Without going into too great detail, your memorialists would desire to point out that some of the provisions as to distraint are such as cannot be approved of. For example, the rule in the Rent Recovery Act, section 16, that notice of the distraint should be sent "by the *distrainer* to the Collector within *ten days*," has been altered so that the notice must be sent "by the *landlord* withiu 48 *hours*." This latter condition will, in the large majority of cases, be impossible of accomplish-ment. The distrainer, the landlord's agent for the purpose, who is in possession of all the facts, is the proper person to send the notice; and from outlying villages in large zamindaris even ten days is all too short. If the landlord had to send the notice, ten days even would be impracticable. No reason is adduced for altering the present law. Again there are no provisions as to the conduct of sales. Without these every sale will lead to litigation. Your memorialists pray that sections may be introduced embodying regulations for sales, and for setting aside sales, similar to those contained in the Revenue Recovery Act, sections 36–39.

15. In connection with the right of distraint, your memorialists most strongly object to the provisions of section 86 coupled with section 93 of the Bill. They refer specially to the provision that the Collector may decide that the distress was excessive and may direct the restoration of the distrained property to the owners. Now the definition of excessive distraint, given in section 67, is extremely indefinite, and can admit of as many views on the subject as there are Collectors. The words "as nearly as possible", will be interpreted in infinite variety in the absence of any judicial interpretation or authority; and it will not even be incumbent to take the circumstances of the case into consideration. Further there is no margin allowed to cover the expenses of distraint and sale, which should form a charge against the tenant and can only be roughly estimated. This, however, is the least objection. The Collector who decrees the excessive distraint is himself the judge before whom the suit for damages may be brought by the aggrieved person, and in each case his decision is without appeal. Your memorialists, therefore, submit that there should be an appeal from the order of the Collector declaring the distress excessive, and that the suit for damages should, like any other action for tort, lie in the Civil Court. The Bill specifically provides that an action for illegal distraint under section 63, will lie in the Civil Court, and there seems no reason why the action for excessive distraint should be put in a different category. No doubt a civil suit is not excluded by the Bill as an alternative remedy, but the ryot will naturally always bring his suit before the Collector who has already given a decision in his favour. Your memorialists suggest that the best and most simple course will be to amplify the provision in section 93 into an enactment similar to that contained in section 78 of the Rent Recovery Act and section 59 of the Revenue Recovery Act, saving generally the rights of all parties to bring actions for damages for tortious proceedings under the Act; and thus put private landlords and their tenants on the same footing as Government and its tenants in the future, as they have been in the past.

16. The present Bill contains no provisions for the arrest of defaulters. Such provisions are contained in Act VIII of 1865 now in force, sections 45–49, and no reason is given for their being withdrawn. In the case of certain tenants, the fear of arrest is the only instrument for securing payment of rent in arrears. It need hardly be stated that Government possesses this power in virtue of the Revenue Recovery Act (II of 1864), sections 48, 49; and it is not supposed that Government contem-plates its relinquishment.

17. It is admitted on all hands that great vexation and loss have been occasioned in the past, and the proprietor frequently defeated in the recovery of his just dues, by reason of some unimportant and unintentional defect in the stipulations of the puttah tendered. It is proposed to correct this by the stipulation contained in the

first proviso to section 53, *viz.*, "When proceedings are taken by a proprietor on a puttah which is not entirely but is substantially correct, such proceedings shall be valid to the extent that such puttah is correct." This is extremely vague and will it is submitted in no way diminish litigation based on alleged defect or irregularity in the puttah. It is hoped by your memorialists that this proviso will be so altered as to express, in definite and unmistakable terms, the intentions of the framers of the Bill, as gathered from the Statement of Objects and Reasons; and thus remove rather than perpetuate the existent difficulty.

18. Your memorialists respectfully submit that any enactment such as is contained in section 27 of the Bill, for the compulsory commutation of rent in kind into a money rent, is likely to cause great inconvenience, especially in times of scarcity or famine. The consent of both parties should be a condition precedent to any such commutation, thus preventing either party working to the prejudice of the other through the Collector. The sharing system has many advantages. The Zamindar himself requires large stocks of grain for the maintenance of his household, dependents, and live-stock; and for charitable supplies to pagodas, choultries, and feeding-houses. The payment of servants in kind is a great convenience to them. From the time of Manu the custom has worked favourably for all parties. The ryot is required to pay only when there are crops, and pays nothing when there is a failure. It is only by this system that large stocks of grain are secured locally in times of famine and scarcity. Under the takkavy system the Zamindar is enabled to advance grain for seed and other purposes to needy ryots, to be returned in kind at harvest. These advantages would be seriously impaired by the proposed innovation.

19. In the Statement of Objects and Reasons, paragraph 24, it is stated that "for the further security of the proprietor in the recovery of his just dues, rent is, by section 99, made a first charge on occupancy right, indefeasible by any other encumbrance." Your memorialists regret that the Bill does not carry out this intention, for section 99 is cut down by section 100; whereby a sale of occupancy right for arrears due in respect thereof, is "subject to any encumbrances created before the passing of this Act." In any case, the point of time should be "the date of publication of the Bill," so as to prevent fraudulent incumbrances being created just prior to the passing of the Bill into an Act. But this is not sufficient; the landlord's claim should be an absolute first charge, free of all incumbrances, just as is that of the Government; and sections 99, 100 should be replaced by a section similar in terms to section 42 of the Revenue Recovery Act (II of 1884).

20. The provisions as to repairs in sections 107 to 112 of the Bill are highly prejudicial to the landlord, especially in view of section 112 which ousts the jurisdiction of the Civil Court and provides for an appeal from the Collector to the Board of Revenue alone. The tenant may make his application direct to the Collector and need not previously apply, or even give notice, to the landlord. The slightest want of repair would apparently justify the tenant's application; and it is not even necessary to prove that the necessary supply of water is not forthcoming. It is not stated whether the supply is to be for the first crop only, or whether it is necessary that a supply should be provided for the second crop also. It is not even considered necessary that there should be a personal inspection by the Collector. It is the custom of the country that certain small repairs to tanks themselves should be made by the tenants; this custom is not alluded to. During the rainy season the bund of every tank is more or less damaged; and small quantities of sand or mud are brought into its bed by the supply channels. The tenants under every tank will be therefore in a position to apply for the Collector's order for repair and the landlord's net income may prove insufficient for the repair of all the tanks on his estate. The tenant should be called on to show that his usual cultivation has been prevented or impeded by the landlord's neglect, before being armed with compulsory powers. Government may, perhaps, realize the difficulties of the position of the Zamindar, by considering its own case. If zamindary tenants are armed with this power and the result is—as intended—that all zamindary tanks are put in repair, Government will not be able to resist the appeals of its own tenants to put Government tanks in repair. It is not too much to predict that the staff of the Public Works Department would have to be doubled or trebled, to enable the work to be carried out promptly and effectively.

21. Your memorialist submit that the provision of clause (2) section 115 is extremely prejudicial to the landlords; and seems to be founded on inadvertence to observe that the landlord will ultimately have to pay for the improvement. He it is who has to provide compensation to the tenant on the lands reverting to him, as they may at any time do; and, such being the case, he should surely have the option to carry out the improvement at his own cost and in the way most likely to prove beneficial to the holding and the estate. Further, by permitting the landlord to make the improvement himself there will be no necessity to try the question of compensation when a tenant is ejected from his holding. The landlord's point of view is clearly the most comprehensive in considering a question of improvement; what a tenant thinks will benefit him may prove a damage or a superfluity in the eyes of his successor, and may also prove inconsistent with any general scheme of improvement on the whole estate. With reference to section 116, provision should be made for allowing the other party to show cause against the application; and further, an appeal should lie from the order of the Collector to the District Court.

22. Only one other class of questions will be considered in this memorial; those coming within the scope of what are termed the processual provisions. The most noticeable feature here is to be found in the great variety of remedies provided. There are in the first place a class of suits in which the decision of the Revenue authorities is to be considered final and the jurisdiction of the Civil Court is specially ousted. This class, again, contains three sub-divisions:

(*a*) Orders under sections 73—80 and 86 in which, by section 93, the decision of the Collector is final.

(*b*) Orders or decrees under chapter III, in the course of the enquiry leading to which reference may be made under section 31 (*a*) to the Board of Revenue on certain points of law or custom.

(*c*) Orders under section 107 in which there is an appeal from the Collector to the Board of Revenue.

The second class comprises those cases where a suit may be instituted before the Collector as an alternative to the institution of a suit before the Civil Court. These cases are appealable to the District Court and on second appeal to the High Court; they comprise suits under sections 36 (*b*), 58, 59, 97, 98, 113.

The third class comprises a number of miscellaneous procedures. Such are suits under sections 50 and 51. These may be brought before the Collector, whose decision shall be final. He has however a limited power of reference to the Civil Court, although no rules are laid down for his guidance; and his order can be enforced as a decree through the Civil Court. In applications under section 116 the order of the Collector is final. The provisions of section 119 are remarkable. They provide for the Collector recording evidence as to improvements, and enact that such record shall be admissible in evidence. The last proviso seems useless, because it cannot be presumed that any Court will admit as evidence what does not come within the category of evidence under the Evidence Act. If it does come within that category, the proviso is superfluous. Such an enquiry and record will in the majority of cases be quite useless and lead to great disappointment. Evidence recorded in this manner is constantly of a nature that no Court of Justice could accept, composed largely of hearsay and irrelevancies, supported by unproven documents. This class also includes the special procedure to be adopted under sections 138 and 147 in preparing records of rights and of proprietors' private lands. The fourth class includes all other suits, including ordinary ejectment suits, which may be instituted before the Civil Courts in the usual manner.

23. Such a variety of forms and of procedure cannot but produce much confusion, and will also prevent the consolidation of suits. It would be frequently most advantageous to be able to bring a suit in a Civil Court in which all the questions in dispute between landlord and tenant could be raised and disposed of once for all. But there is a further objection and a strong one. The memorialists most respectfully but firmly protest against the number of cases in which the jurisdiction of the Civil Court is either ousted altogether or left only as an alternative to a similar remedy in the Revenue Court. The objections, theoretical and practical, to trying rent and tenancy suits before the Collector are many and well known. It is admitted by all parties,

including the Secretary of State and the Government of India, that the placing of judicial and executive functions in the same hand is wrong in principle. The cost, inconvenience, and delay are incalculable, for Revenue officers can hear such suits only, so to speak, in their leisure moments. Parties, counsel, and witnesses, have to be dragged about the district for weeks and months at a time. If this is so now, what will be the position in zamindary districts when the rush of litigation, certain to follow the passing of this Bill into an Act, takes place. Again, there is no uniformity in decisions. Officers are changed so rapidly and irregularly, that they have no time to become acquainted with their districts; the conditions of each district vary; and there is neither precedent nor authority, as in the Civil Courts, to control the idiosyncracies of individual Collectors. Whether there is an alternative remedy, suits will be instituted before the Collector or before the Civil Court, just as the party that brings the action thinks the Collector is or is not on his side. All parties have perfect confidence in the efficiency and promptitude of the Civil Courts, and your memorialists would respectfully urge that all suits and proceedings under this Bill should take place under the ægis of the Civil Court, and not before the Government revenue officer. Your memorialists would also respectfully suggest that all courts when sitting for the decision of matters under this Bill, may have the power to associate with themselves experts as assessors, thus following the procedure adopted under the Irish Land Acts.

24. As your memorialists have already stated, there are many points of detail the discussion of which they have excluded from this memorial, and they must not be taken as assenting to any provision of the Bill simply because objection is not taken to it here. They have in this memorial confined themselves to the more salient points of principle, and for their views thereon they pray the most sympathetic consideration of your Honourable Council. They, in conclusion, respectfully beg to repeat the prayers contained in the first paragraph of this memorial. They beg that they may be represented by Counsel before the Select Committee, and they also request that the said Committee may be pleased to invite the presence of representatives of the Association, with a view to their affording information on the very intricate questions involved.

And your memorialists will ever pray.

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

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

—

PAPERS

(No. 7.)

RELATIVE TO

The Madras Tenancy Bill.

Memorial from of the Madras Landholders' Association.

To

His Excellency The Right Hon'ble

THE VICEROY & GOVERNOR-GENERAL IN COUNCIL, OF INDIA.

The humble Memorial of the MADRAS LAND-HOLDERS' ASSOCIATION.

MOST RESPECTFULLY SHEWETH,

The Memorialists respectfully beg to approach Your Excellency in Council with this their humble representation in connection with the Tenancy Bill now under consideration before the Legislative Council of Madras.

2. The Memorialists comprise a very large number of the landholders of the Presidency including many leading and ancient Zemindars, and Your Excellency will therefore see they are deeply and vitally interested in the said legislation.

3. The occasion which has evoked this appeal being an emergent one, your Memorialists do not propose to enter at length into the merits of the proposed legislation, but will only make a very brief statement indicating its present situation, in view to securing such gracious consideration of their prayer as Your Excellency in Council may deem fit and proper to bestow upon it.

4. Your Excellency in Council must be aware that the Bill in question is of vast importance. The Hon'ble Member of the Council in charge of it has declared that it is "if not the most important, at least the most difficult, piece of legislation which has been attempted in the South of India during the century." While such is the fact the Bill with about 200 sections and sub-sections and clauses was first published in the *Fort St. George Gazette* and in newspapers in the beginning of April last, and on 13th May a meeting of the Council was convened at Ootacamund where the Government spends the hot season and where it has never been the practice to convene meetings of the Legislative Council (except for the consideration of very short or unimportant bills of no controversial character) several members of the Council almost complaining that they were unable to bear the high pressure for expedition, the meeting was adjourned to the 13th of June. Tbe Memorialists do admit that in 1896 a draft Bill prepared in the Revenue Secretariat by a Special Officer was communicated to them and they offered their criticisms on it. But that draft Bill was very different from the present Bill. On the 13th June, the Council met and important discussions of the principles of the Bill followed. Thereupon the Bill was referred to a Select Committee of 9 members. Out of these, 4 members prayed that they might be excused from taking part in the deliberations of the Committee so long as it held its sittings on the Hills inasmuch as their avocations did not permit of their attending at such sittings. A proposition moved in consequence of the said

circumstance to the effect that the Select Committee should defer its sittings for four months was however negatived, and the Committee has gone on with its consideration of the Bill in the absence of the Hon'ble Members who as aforesaid excused themselves. The unfortunate feature of the matter is that the absentees are all non-official members, and the officials alone have carried on the deliberations of the Committee. It is not difficult to realise under the circumstances that standpoints of the parties interested in the legislation have had no opportunity of being pressed upon the Committee. And the Memorialists would here observe that if Rule No. 44 of the Council rules is not to be a dead letter, and if there are any Bills at the consideration of which by the Select Committee representatives should be invited to be present, the present Bill is pre-eminently one such.

5. Before quitting the subject of the proceedings of the Legislative Council, the Memorialists would with Your Excellency's permission advert to one circumstance connected with the proceedings of the 13th June. The Hon'ble Mr. C. S. Crole, the member then in charge of the Bill, read from a private paper in his hands put forward by him as giving an account of Zemindaries in the Vizagapatam District and presenting quite a fanciful picture of the ryots and a most disparaging one of Zemindary administration. The writer's name was not disclosed for the alleged reason that he wished it should not be made known in the Council and the writing therefore was practically anonymous. Again this paper was read not in any opening speech but in a speech of the Hon'ble member alluded to, made at the end of the discussion after the other Hon'ble members had spoken, and therefore they had no opportunity even to ask for the writer's name. This procedure of the said Hon'ble member created a most prejudicial and unfair sensation in the Council without the other Hon'ble members being afforded any means of knowing the trustworthiness or capacity for judgment of the writer or the authenticity of his information.

6. The public prints announce that the Committee has finished its deliberations; what called a preliminary report, is announced as about to be submitted, although the Memorialists are not aware of any such practice. It is further reported that the Bill has, in the hands of the Select Committee, been very largely and substantially modified.

7. If from the foregoing statement of facts Your Excellency realises, as the Memorialists humbly anticipate, that this highly important legislative measure of most far-reaching consequences and affecting the two most important classes of the population, *viz.*, the landed aristocracy and the agriculturists, had not, before reference to the Select Committee, received anything like the consideration from the public which it deserved, or evoked the expression of their opinion on its merits, to any appreciable extent, it must become patent to Your Excellency that the materially modified and altered Bill now issuing from the Select Committee, if presented to the Council in the usual course for disposal would be practically a sealed letter to the public at large.

8. At the short notice which the Memorialists, like the public, had, of the Bill, they submitted a memorial to the Hon'ble Council of Madras (of which a copy

is annexed and marked A) respectfully putting forth their views upon the general principles of the Bill without going into matters of detail; and they subsequently submitted by a memorandum a criticism on the details of the Bill, which could not be in any sense thorough for want of sufficient time for its preparation. They are unable to say what consideration their representations have received at the hands of the Committee. They are likewise unable to divine in what direction tends the reported transformation of the Bill under the Committee's deliberations.

9. Upon the merits of the Bill your Memorialists respectfully commend to Your Excellency's kind consideration their humble memorial to the Local Council of which a copy is annexed as aforesaid. It is no small satisfaction to them that their humble views on the main question in the proposed legislation *viz.*, the 'occupancy right' of ryots, have been endorsed in a valuable minute by the Officiating Chief Justice of Madras, a gentleman of over 25 years' experience of the country who has risen to his present official position through the offices of Government Pleader, Advocate General and Judge of the High Court. The Memorialists duly appreciate the starting principles of the Bill as regards "occupancy right. "They are alive to the soundness of the principle whose prototype in the words of their ancient and sacred lawgiver, Menu, is as follows:—"Cultivated land is the property of him who cut away the wood or who cleared and tilled it." But they venture to submit that the conclusions to which that principle is worked up in the Bill are some of them fallacious and subversive of palpable legal rights. The minute aforesaid of the Officiating Chief Justice of Madras, in unmistakeable terms, controverts the theory of the author and supporters of the Bill that the Bengal Tenancy Act "was applied to a state of facts in the main the same as that "obtaining in this Presidency" by pointing out that in Bengal when the Tenancy Act of 1885 was enacted "an amendment of an existing statute (of 1859) was "required" and that in Madras "without any existing statute upon which to work, "it is proposed to bring into existence new rules of substantive law to abrogate "contracts which have been made upon the footing of the case-law promulgated in "the last 30 years, and to confound the two classes of occupants who in justice to "the ancient ryot on the one hand and to the Zemindar on the other ought to be "distinguished." The two classes of ryots referred to by the learned Chief Justice are in the case of any Zemindary the ryots "whose rights in the soil may have "existed before the Zemindary was created and the ryots who have been recently "admitted as tenants." In the one case the ryot holds his land independently of the Zemindar; in the other case, he holds it under a contract with the Zemindar. In the zeal for establishing an ideal tenure of lands, can contractual rights and obligations be superseded? And it is this supersession or abrogation of contracts that is adversely criticised by His Lordship. With His Lordship the Memorialists urge that "in a given Zemindary there may be ryots who, though they may have held "for several years, are not, and have never expected to be more than lessees, and "in no way derive their titles from antecedent hereditary ryots; they may be "holders of land which between 1865 and 1871, or even prior thereto, was held "by tenants-at-will. On the other hand, there may be ryots who, while in fact "the legal successors of ancient ryots have been induced in recent years to accept "the position of tenants". While the latter class may, and perhaps does, require

legislation to save it, can it with any justice be maintained that the former also ought to be invested by a stroke of the legislative pen with rights in the soil? Then seeing further that according to the Bill a tenant whose 12 years' occupation under a lease terminates after the Act comes into force will be in the same position as one who has been in such occupation at the date of the commencement of this Act, if the lease under which he was admitted is not a registered document and he has been in possession for more than 7 years, the same learned Judge asks with telling pertinence "on what ground of policy "can fixity of tenure be made to depend on such purely accidental circumstances." Holding views which His Lordship expounds at some length in his minute he states that he "would throw overboard the greater part of Chapters II, III, IV and XII of "the Bill", and suggests a judicial enquiry in areas to be specified by the Governor-in-Council where it is believed there has been an encroachment on the rights of hereditary ryots, in order to ascertain with regard to existing occupants whether their title rests exclusively on contracts or can be traced to predecessors who held as hereditary ryots before 1871 in view to cancel in the latter case any contract to the contrary. The Memorialists venture to think that it hardly needs an argument to convince one that it is as just and equitable to make the declaration of occupancy rights dependent upon such enquiry as it would be otherwise to hold that a person has an occupancy right in all land for the time being held by him, if he has held land for 12 years in the village, whether he held the same land or different lands at different times during the said period, and whether he has held such lands during such periods under a lease or not.

10. The Memorialists desist from quoting any further from the said learned minute of the Officiating Chief Justice but would respectfully invite Your Excellency's especial attention to it. Nor do they intend further to address themselves to the merits of the Bill at present, beyond soliciting Your Excellency's consideration of their memorial already presented to the Local Council.

11. Seeing that the proposed measure of legislation is admittedly so important, seeing that under the Rent Recovery Act of 1865 which has been till now in force, all parties concerned, and especially the landlords have suffered many disadvantages, so much so, that Sir Henry Stokes, a late and highly respected member of the Executive Council of Madras, while he was Collector of Tanjore, wrote in a note, dated the 22nd December 1882, "In the Southern Districts the hands of land-"holders require to be strengthened, and it is they who need protection and not the "ryots. Under the present complicated and ridiculous procedure, the ryot can laugh "at the landlord," (and he is not believed to have changed his mind until he left the country); seeing that any enactment not only intended to replace the said Act but to vastly improve upon it by enacting a considerable body of substantive law and of additional processual law, should proceed upon very cautious lines and after the maturest deliberation so that it may not prove a step from bad to worse; seeing that many representative bodies and institutions in the Presidency have not been consulted and have not had proper and sufficient opportunities to submit their views; seeing that the non-official members of the Council, the only representatives of the people in that body, have had no hand in the manipulation of the

Bill on the anvil of the Select Committee; and with the painful conviction in the minds of the Memorialists that the Council needs to be enlightened on many important facts and customs relevant to the various provisions of the Bill and obtaining in various Districts of the Presidency, the Memorialists humbly pray that Your Excellency-in-Council may be pleased to reconsider the instructions communicated by Your Excellency's Government to the Government of Madras, in the light of what has been urged to the contrary amongst the opinions of value on the Bill collected by the Madras Government, or, that Your Excellency-in-Council may be pleased not to accord sanction to any report of the Committee or of the Government founded thereon, that may be submitted or to decide upon any line of action until the said Select Committee's Report shall have been fully and fairly considered by the Council inclusive of the non-official members, with the aid of public opinion invited and obtained by them after fair opportunities being afforded for the purpose, and a final report shall have been thereafter submitted.

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

VENKATAGIRI TOWN,
11th August 1898.

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

THOMPSON AND CO., PRINTERS, MADRAS.

CHIEF SECRETARY
13 AUG 1898
GOVERNMENT OF MADRAS

To

His Excellency,

SIR ARTHUR ELIBANK HAVELOCK, G.C.M.G., G.C.I.E.,

Governor and President in Council,

FORT ST. GEORGE.

MAY IT PLEASE YOUR EXCELLENCY,

The Landholders' Association of Madras respectfully desire to submit the accompanying humble representation to the Government of India, and they pray that the same may be forwarded at an early date.

For which the Association will pray.

V. R. Krishna Yachendra.

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

VENKATAGIRI TOWN,
11th *August* 1898.

THOMPSON AND CO., PRINTERS, MADRAS.

Legve Cno. 292.
C. 1.2.99 Hus 6.2.99
R. 4.2.99. R 9.2.99

To Revenue u.o. for favour of remarks.

H.I.
26 8 98.

For orders

Please see notes in the Revenue Department below. Orders are solicited as to whether it will be sufficient to forward the memorial to the Govt. of India with the remark that the Bill is still before the Select Committee & that this Govt. ~~did~~ does not therefore enter into a detailed criticism of the its contents.

CRW 31/1/99. AE 31/1/99.

H.I. 31.1.99

HE The Gov. & Circ.

I think this will suffice.

A.S.H. 3.2.99

I agree.

AA 7.2.99.

MS 8-2-99

See note within

Asst Secy for necy action on above, and on Hon Mr. A's note within

H.I. 9.2.99

Rev. Dept

To the Under Secretary

The Legislative Dept refers to R.D. for remarks a memorial to the Govt of India submitted by the Madras Land Holders' Association in respect of the Madras Tenancy Bill. The memorial, among other things, mentions,

(1) That the Bill which was introduced into the local Legislature Council on the 13th May last and referred to the Select Committee on the 18th June was published in the Gazette only in the beginning of April (As a fact it was published on the 22nd March).

Para 4 of the memorial to India

(2) That although a Draft Bill was sent to the Memorialists in 1896 for criticism, the present Bill was very different from it.

Ibid.

(3). That the present Bill did not in consequence receive the Consideration it deserved from the public, nor evoked an expression of their opi-

Para 7. do.

Chief

on its merits.

(4) That the Select committee by which the Bill was referred consisted of 5 official and 4 non-official members, and that the latter prayed that they might be excused from taking part in the deliberations of the Committee so long as it held its sittings on the Hills and unsuccessfully tried whether the sittings of the Committee deferred for 4 months.

(5) That the Association understands that the Committee has finished its Deliberations and is about to submit a preliminary report on the subject, and that the Bill has been largely and substantially modified by the Select Committee.

(6) That if the Bill as now modified and altered be presented to the Council in the usual course for disposal, it

Para 4 of the Memorial to India

Para 6 do.

Para 7 do.

Para 11 of the Memorial to India

Para 10 do.

Flag F

it would be practically a sealed letter to the public at large.

2. In these circumstances the Memorialists pray that the Govt of India may be pleased to withhold its Sanction to any report of the Committee or of the Govt that may be submitted to it "until the "Select Committee's report shall "have been fully and fairly "considered by the Council "inclusive of the non-official "civil members, with the aid "of public opinion invited "and obtained by them after "fair opportunities being afforded "for the purpose, and a final "report shall have been "thereafter submitted."

3. As regards the merits of the Bill the Memorialists merely solicit the Supreme Govts consideration of their Memorial already presented to the Local Govt, inviting especial attention to the minute of the Hon. the Officiating Chief

Chief Justice in which the principle which the Bill adopts for determining the "occupancy right" of ryots has been adversely criticised. The Memorialists also refer to a Memorandum subsequently submitted by them containing a criticism on the details of the bills.

Para 8 of the Memorial to India

4. The Memorial to the Local Govt. referred to above which appears to have already been considered by the Select Committee directs attention to the following leading matters of principle dealt with in the Bill:—

(1) The assumption that by the custom of the country occupancy right exists as an inherent right in every permanent ryot of a village.

Para 1 of the Statement of objects & Reasons.

Para 2 of the Memorial to the Local Govt.

The Memorialists contend that the above assumption can be supported only in the case of such Zamindaris as can be shown to have grown out of [illegible]

Revenue

Para 3 of the Memorial to the Local Govt

I gather that the Mem. to the Local Govt has been already communicated to the Select Committee
W.S.
8-2-88

Ibid

[It] is important — and [sh]ould have a copy of the [Mem]orial or an extract [b]e available for the [Sel]ect Committee.
A.H.

revenue farms; & even granting that the permanent settlement reserved the Kudivaram right by implication to the tenant, it would only follow that the representatives in title of the ryots or Kudivaram proprietors at the time of the permanent settlement would be entitled to maintain the same right at present. The Memorialists are, however, prepared to recognize as permanent or occupancy ryots all tenants with whom they have, previously to the date of the Bill, been in the habit of exchanging pattahs and muchilikas.

Para 5. do.
Chap IX of the Bill.

(2) Provisions regarding the record of the rights of occupancy rights are unsatisfactory.

Para 6. do.
Sec. 8.

(3) The provisions of the Bill as to the mode of acquisition of occupancy rights are unfair to the landlord.

Para 7. do.
Chap X

(4) Unjustifiable limitations are placed upon the

Ch

extent of the private lands of proprietors.

(5) Proprietors should have larger powers in the matter of the collection of rent.

(6) The Compulsory yearly exchange of Pattahs and Muchilikas is a superfluity; the first proviso to Section 53 should be in more definite and unmistakable terms.

(7) Decrees in suits to obtain pattahs or enforce acceptance of pattahs should have the same force as exchange of pattahs and Muchilikas whether passed by Civil Courts or Collectors

(8) Proprietors should be allowed to distrain through the Civil Court; the provisions as regards notice of distraint and damages for illegal or excessive distraints require modification.

(9) Provision should be

Para 8 of the memorial to the Local Govt.

Para 11. do.

Sec. 57.

Para 12. do.

Para 15 - do.

Sec. 86.

Para 16 of the memorial to the Local Govt.

Para 19 do

Para 20. do.

Para 22 - 23 do

made for the arrest of defaulters.

(10) The consent of both parties should be a condition precedent to the compulsory ~~Exportation~~ Commutation of rent in kind into a money rent.

(11) Sections 99 and 100 should be replaced by a section similar to Sec. 42 of Act II of 1864. In any case, the claim for rent should take precedence over all incumbrances created subsequent to the publication of the Bill, not to the passing of the Act.

(12) The provisions as regards repairs of irrigation works (Sections 107 to 112) are prejudicial to landlord, as also the provision in Sec 115 (2) as regards the right to make improvements.

(13) The processual provisions are overdone and the great variety of remedies provided and of forms and of

8

procedure cannot but produce confusion and will prevent the consolidation of suits.

5. Orders are solicited as to what remarks are to be made in forwarding the ~~[illegible]~~ memorial to India.

RS
~~4-9-98~~
17-9-98

Await orders of Govt. on Mr [illegible]'s representation regarding the action of Govt on the Bill as revised by the Sel. Comtee.

S.K. 19/9/8

Secy

The file about the Tenancy Bill is now with H.E.
It is presumed this sho lie over till it comes back?

[illegible]
12.1.99

To U.S.

The Tenancy Bill papers have come back from Circ

Secy It has been decided that [illegible] Bill is to be materially recast; but [illegible] not be as yet republished in its [illegible] form. Legislation may be [illegible] the memorial till the [illegible] to send back the memorial for revision with ref to [illegible]

Send me a spare copy of the memorial
[illegible]

9

To the U.S.

The Legislative Dept has no spare co[illegible] the memorial to the Govt of I[nd]ia. The memorial to the President and Members of the Local Council, which forms an enclosure to the ~~Govt~~ memorial to the Govt of India is, it is understood, printed as No. 7 of the papers on the Tenancy Legislation. For orders as to whether the President of the Landholders Association may be asked D.O. to furnish Govt with spare copies of the memorial if available.
A draft D.O. is submitted.

[illegible]
23.1-99

RS
23-1-99

Is this not verifiable [illegible]

Copy is not available in the Office. The fact that the paper is so printed was ascertained from the Legislative Clerk
[illegible] 24-1-99

[illegible]
24.1.99

10

11

D.O. No. 15

~~Dear~~ Sir,

With reference to your letter to this Govt. dated 11. 8. 98 submitting for transmission to the Govt. of India a memorial of the Madras Landholders Association in connection with the Madras Tenancy Bill, I ~~am directed~~ shd be much obliged if you can furnish ~~to request that~~ the Govt. ~~may be furnished~~ with six copies of the memorial in question if they are available & you can conveniently spare them.

Yours ~~sincerely~~ faithfully.

Despatched 24-1-99

RS
23-1-99

Fort St. Geo.,
24th January 1899

No covering letter received in the office × below.

To the C.S.

With reference to the above D.O., the Rajah of Venkatagiri forwards 8 copies of the memorial of the Madras Landholders Association re: the Tenancy Bill. Secy has not passed orders on the C.S.'s suggestion at the foot of page 8 of the notes.

Secy
30/1/99

RS
27-1-99

RS
27-1-99

I would tell the Leg. Dept that in this dept there is no objection ~~to their sending the~~ memorial ~~to~~ to ~~the~~ G. of I. with ~~the~~ remarks that the Bill is still before the Sel. Committee

S. R. 29/1/99

To Legl. Dept no.

E. & L. / 1]
0—19-11-98.

. DEPARTMENT.

Papers to be read in Proceedings :—

Again G.O., No. , dated 189 .

Again G.O , No. , dated 189 .

Current No. 292 of 1898 , dated 11 august 1898, from The Landholders' association, Madras.

" " " 189 , " , "

" " " 189 , " , "

K. Please copy this letter 14/2/99 3-30

ORDER. 12 Mis 16. 2. 99

The following Letter will be despatched to the Government of India.

ok 13/2/99

~~To the President, Madras Landholders' association.~~

Desp. 16/2/99

No. 13

Letter to. The Secretary to the Government of India, Legislative Dept.

Sir,

I am directed to forward a memorial addressed to His Excellency the Viceroy and Governor-General by the Madras Landholders' Association on the Subject of the Madras Tenancy Bill.

2. The Bill is now under the Consideration of a select Committee appointed for the purpose at the meeting of the Legislative Council, held on the 13th June last, and

and as this Committee has not yet furnished its report thereon, H.E. the Governor in Council does not propose to enter into a detailed criticism of the remarks made by the association.

(From orders)

20/2/99

10/2/99

13/2/99

Note. The memorial to which H.M. refers was printed as paper no. 7, and copies of it with Paper no. 14, have already been furnished to the Select Committee.

A & B.

13/2/99

Have this tabled & issued letter & paper as above for enclosures.

14.2.99

292

for copying 14

...d ... 16/2/99 189 .

...mined

...ed

...AIN G.O., No. , DATED 189 ,

...ENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A
LETTER OF GOVERNMENT.							
STATEMENT WITH DITTO.							
P... NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.							

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

...nt.

15/2