

Legislative (1899) Department.

ORDINARY PRINTED.

G.O., No. 131

DATED 16-12-99.

IN-~~THE~~ED.

[Despatch Abstract.]

Tenancy Bill

Cong to the Select Committee on the
Madras — Letter from the Comptroller
of Kurapam, Vizagapatam D.C.
forwarding his observations on
the Bill as ^{provisionally} amended by the
Select Committee.

16/12

BACK PAPERS.

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

FURTHER PAPERS.

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

Government {1899} of Madras. LEGISLATIVE.

Recd. } 1899. *Enclosures*
Regd. } *Spare copies*

G.O., No. 131, 16th December 1899.

DECEMBER.

Madras Tenancy Bill.

Communicating to the Select Committee on the — letter from the Zamindar of Kurupám, Vizagapatam district, forwarding his observations on the — as provisionally amended by the Select Committee.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

From Zamindar of Kurupám, Vizagapatam District, to the Secretary to Government, Legislative Department, dated Madras, 14th December 1899, No. 1141.

I have the honour to inform you that I herewith send twenty-six printed copies of my observations on the Madras Land Bill which you were good enough to send me some time back, and to request you will be pleased to forward to His Excellency the Governor the copy signed by me and enclosed in a separate cover with His Excellency's name printed thereon, and to distribute the remaining twenty-five copies among the Honourable Members of the Legislative Council.

ENCLOSURE.

The Zamindar of Kurupám's Observations on the Madras Tenancy Bill (as provisionally amended by the Select Committee).

INTRODUCTION.

That the subject involved in this Bill is a very important one is shown by the fact that, notwithstanding the Bill has been before the Madras Government since 1882, no definite shape satisfactory to all parties concerned could be given to it till now. The attempts of men of acknowledged ability and experience, such as Mr. Carmichael and the late Mr. Ross, have not been very successful. The Bills drafted by the former were rejected as untimely and unworkable in this Presidency. But the Government, with a determined will, wanted that the Madras Rent Act (Act VIII of 1865) should be replaced by a better enactment and the Tenancy Bill, as introduced by the late Hon'ble Mr. Ross, was the outcome.

What hostile criticism it evoked from all quarters to be most affected by it, the Honourable Members of the Council know much better than I. The majority of zamindars who could foresee the results of the Bill and who knew that a Bill of the kind was going to be introduced wired to the Honourable the Raja of Bobbili, the zamindar member in the Council, requesting him to pray that the public might be given sufficient time to study the Bill, not to say that the Madras Landholders' Association sent a strong memorial deprecating the hasty passing of the Bill. In spite also of the unanimous request of the non-official members the Council, backed up by the whole of the official members, decided, though opposed by a very strong minority, to proceed with the Bill at once at Ooty manifestly with the object of giving this long-expected boon (as the Government think) to the ryot as soon as possible and also with the object of giving to this much-vexed Bill the benefit of the vast revenue experience (as the Hon'ble Mr. Crole seems to have remarked at the time) of many veteran revenue officers who then gathered there for the purpose and some of whom were also about to retire shortly. The object was certainly a noble one and, as the Bill was amended by gentlemen of admitted erudition and revenue experience, one would naturally expect that it would be a thoroughly workable and unobjectionable enactment.

But in spite of my youth and inexperience, I respectfully submit that the Bill, as amended by the Select Committee, is, even in the most important respects, no appreciable improvement upon Mr. Ross's Bill. The remark of the Revenue Board made in 1898 regarding Mr. Ross's Bill, viz.: "The Bill is so complicate that even the most experienced revenue officials cannot exactly foresee the results of the Bill, while the danger of opening the flood gates of ruinous litigation between the zamindar and the tenant cannot be lightly contemplated" is more than verified by the many objectionable features that the Bill still has in spite of the benefit it was given of the very valuable revenue experience of such high officials as the Hon'ble Messrs. Bliss, Crole, Arundel, &c.

I am aware that much has been said and written by most of my brethren, especially by my highly esteemed and experienced brethren, the Hon'ble the Raja of Bobbili and the Hon'ble the Raja of Venkatagiri, though I regret to observe with no very marked beneficial results; still, as an ancient zamindar, I feel it my duty to submit to your Excellency in Council my own humble observations on this important Bill, as its good or evil results will chiefly concern my class of men and, in consequence, any freedom that I may be tempted to take in the expression of my very humble opinion will, I most loyally and respectfully request, be forgiven by your Excellency in Council.

PRELIMINARY REMARKS.

Taking a comprehensive view of the Bill as amended by the Select Committee, the most casual observer will be compelled to admit that it is a thorough recast as regards the arrangement of matter. Mr. Ross's Bill contained 14 chapters with 174 sections covering 60 pages, while the amended Bill contains 19 chapters with 151 sections covering 52 pages. While Mr. Ross's Bill was wholly based on the Bengal Tenancy Act, the amended Bill is, so to speak, a chemical rather a mechanical compound of the Madras Rent Act and the Bengal Tenancy Act, while sections 4, 6, 19, 87, 88, 121, 122, 127, 138, 145 of the amended Bill are altogether new and sections 123, 124, 125, 126 are transplantations from the Punjab Tenancy Act and section 16 again an adaptation from the old Madras Rent Act.

On the other hand nearly as many as forty important sections of Mr. Ross's Bill [1 to 5, 8, 11, 17 to 37 except clause (d) of sections 25, 95, 115 to 121, 124, 125, 129, 159, 160 and 170] are omitted from the amended Bill. The sections relating to the acquisition and incidents of occupancy right, the enhancement of rent, the reduction of rent, and the right to make improvements upon the land and the ejection of the tenant and the surrender and abandonment of a holding do not find a place at all in the amended Bill, while some of the most objectionable sections in Mr. Ross's Bill, in spite of the protests made from so many quarters, are still retained in the amended Bill.

(a) For example, section 162 of the old Bill invalidating all agreements that may be entered into by a landholder and a tenant re-appears as section 139 in the amended Bill.

(b) Sub-division (d) of section 25 of Mr. Ross's Bill authorizing the cancellation of all undue enhancements of rent made subsequently to May of 1871 on which so much was said by so many competent authorities both in connexion with Mr. Carmichael's Bills and Mr. Ross's Bill, still finds a place in the amended Bill as sub-division (v) of section 16.

(c) The sections regarding the repairs of irrigation works in the revised Bill are still of the same objectionable nature as they are in Mr. Ross's Bill.

(d) Lastly, the provisions made in the amended Bill regarding the enhancement of rent are altogether defective. The amended Bill entirely overlooks the question of enhancing rent on the ground of a rise in prices or on the ground of additional fertility imparted to the soil by fluvial action, while Mr. Ross's Bill as well as the Bengal Tenancy Act contain exhaustive provisions on this subject.

(e) Again while Mr. Ross's Bill is very clear in the matter of defining occupancy right and its incidents, the amended Bill altogether omits the subject and simply rules that, unless disproved, every tenant will be considered an occupancy ryot but does not clearly state how many years' occupation of the same land or different lands in a given village will confer the right of occupancy upon a tenant. The Punjab Tenancy Act and the Bengal Tenancy Act are quite clear and explicit on this important point. The evils of reticence maintained by the amended Bill on this point, I shall take the liberty of pointing out later on in a different connexion.

Lastly, in one chief respect, the amended Bill takes a retrograde step. In sub-division (a) of sub-section (ii) of section 16 of the amended Bill, the Collector is empowered to adopt, in cases of dispute, the rates of revenue prevailing at the time of the permanent revenue settlement; but I crave permission to suggest that nothing can be more ruinous to the zamindars than such a ruling.

I must, however, gratefully recognize that, in some respects, the amended Bill is a slight improvement upon the old Bill. For instance the section regarding the commutation of rent which was so ably criticised by my friend the Hon'ble the Raja of Bobbili in his speech at Ooty has been eliminated from the Bill altogether, although a section like that in the Ajhmere Revenue Regulation, allowing a commutation of rent only if both the landlord and the tenant should agree, would satisfy the needs of the times and the country much better than a prudent and politic silence on the subject.

Another satisfactory feature of the amended Bill is its recognition of the right of the landholders or zamindars to the forests and immemorial waste lands in their zamindaris which right was practically denied in Mr. Ross's Bill.

The amended Bill is also silent on the question of right to make improvements. This silence will lead to needless litigation when both the tenant and the landlord offer to effect the same improvement. For while the old Bill gives priority and preference to the ryot to make an improvement, the amended Bill is perfectly silent on the question of right to make an improvement and simply states that the benefit of an improvement shall be reaped by him that makes it.

This is a brief comparative view of the two Bills so far as regards general rights, and I need not say that, in spite of the labour bestowed upon and the benefit of revenue experience given to it, the Bill, even in its amended form, has still many objectionable features which require a much more pruning hand than the Hon'ble Mr. Crole could see his way to set to it.

I now venture to proceed to examine the Bill in a more detailed manner.

DEFINITIONS AND NOMENCLATURE.

(1) "Estate."—This term is too comprehensive as used in the Bill. For it is made to mean also any inam (settled or unsettled) or part of a village. In the aghrahams as well as in the jeroyati villages of the zamindaris in the Northern Circars there are many petty inams such as those comprehended by the Proprietary Village Service Act which are enjoyed by petty individual owners who sometimes lease them out to others and at other times cultivate them themselves. If this Bill after becoming an Act is made to extend to those inams also and occupancy right given to the persons cultivating them, the owners of these inams will be put to a good deal of inconvenience and hardship; for when they want to cultivate them or lease them out for a higher rent or for rent in kind which may be more convenient to them in famine years, they will not only be not at liberty to do so, but they will be put to a good deal of worry and expense if they should take steps to sell the holdings of their tenants under this Act. Hence, in my humble opinion, it is better to restrict the application of this Act to such inams and shrotriam villages as yield an income of, say, not less than four or five thousand rupees a year. A limitation of this kind will save a good deal of otherwise inevitable and unnecessary hardship and heartburning.

(2) "Landholder."—This term importing "zamindars" calls for a few words of comment. The Select Committee have thought it proper to substitute this word

for the term "proprietor" and "landlord" used by the late Mr. Ross in his Bill. The Hon'ble Mr. Crole said in his speech at Ooty that, in the strict interpretation of the word, the term "landlord" did not, or rather does not, apply to the zamindars for they were in reality a kind of middlemen between (1) the Government who are the proprietors of the soil by right of conquest and (2) the tenants who are the proprietors of the soil by right of occupancy (as he thought). The zamindars are simply farmers of land revenue brought into existence by the East India Company who wished (says the Hon'ble Mr. Crole) to get rid of the nuisance of a direct management of land revenue by handing it over to the zamindars in consideration of their annual payment of a fixed amount of land revenue called *peishcush*. The Hon'ble Mr. Crole, the member then in charge of the Bill, exhausted all the fund of his information to establish this theory, and the Select Committee, in spite of the Hon'ble the Raja of Bobbili's successful refutation of Mr. Crole's theory of the middlemanship of the zamindars, thought fit to deprive the zamindars of the titles of proprietor and landlord and substitute in their place the unenviable name of "landholder." But the fault is not with the framers of the Bill; it lies with us only: it is we, the zamindars, that gave ourselves this name. The Madras Zamindars' Association goes only by the name of the Madras *Landholders'* Association.

The Bill defines a landholder as a person *holding* an estate (from the Government as a farmer of revenue evidently) and every other assignee of public revenue. If the owner of the estate is called a *landholder*, the estate must be called the *holding* of that person: for what is *held* by a person is his *holding* according to the ordinary import of words. But, unfortunately, the word "holding" is defined as a specific parcel or parcels of land *held* by a *ryot*, and a *ryot* is defined again as a person who *occupies* land on condition of paying a *landholder* in kind or in money the land revenue due upon it, and a *tenant* is defined as a person who *holds* lands from a *landlord* under agreement to pay rent, and a *landlord* is a person under whom a *tenant* holds land.

Although the two last definitions, viz., those of a landlord and a tenant involve the fallacy of arguing in a circle, still all these four important definitions are not at all mutually exclusive. The strictest and the most logical test of classification and definition is their mutual *exclusiveness* and *differentiation*; and, tested by this criterion, the definitions are defective being mutually inclusive.

Pursuing the line of reasoning adopted by the Bill: if the landholder simply *holds* land evidently from the Government as farmers and assignees of public revenue due to Government; if the ryots simply *occupy* land on condition of paying to a landholder the land revenue; if the *tenant* again *holds* land from a *landlord* (who is the ryot himself according to sections 6, 14 and 15);—then who is it that *owns* the land?

There can be no two answers to it. It is obviously the *Government* who are in reality the *landlords* or *overlords* of the land. From them the zamindars *hold* land as assignees of public revenue; under them the ryots *occupy* lands as tenants; under whom again there are sub-tenants. But, curiously enough, the title of the amended Bill runs thus: "A Bill to declare and amend the law relating to the *holding* of land in the Presidency of Madras,"—a title that is altogether a misnomer, inasmuch as it conveys a sense which is exactly the opposite of that intended by the various members in charge of the Bill, the Hon'ble Messrs. Crole, Tremenhoe and Hammick.

For, on the one hand, it is the zamindars that *hold* land from the Government as farmers or assignees of public revenue, as the Hon'ble Mr. Crole puts it; on the other hand, it is the tenants that *hold* land from their landlords or the zamindars' ryots, as the amended Bill has it; while the *ryot* is defined as simply *occupying* or *lording* it over the land on condition of paying land revenue. But the present Bill is not intended to amend the law regulating the relations between the Government and the zamindars or landholders on the one hand as they are guided by the permanent revenue settlement regulation; nor, on the other hand, is it intended to amend the law regulating the relations between the ryot (landlord) and the tenant, which, as section 6 of the amended Bill plainly says, are not guided by this Act, but are left to the operation of private agreement.

Now if there be any *holding of land* (as defined in the amended Bill) it is only (1) between the Government and the landholder on the one hand and (2) between ryot and the tenant on the other hand, but not between the landholder and the ryot, for the latter simply *occupies* the land. That is the word used in the definitions in the Bill. Nevertheless the true object of the Bill is to amend the law regulating the relation between the landholder and his ryot, but the relationship between them is, according to the amended Bill, not one of *holding*, for the ryot (as the Bill says) has proprietary right in the soil and is thus made and called by the Bill a landlord, while the zamindar is simply a *landholder* holding land from the Government on the farming system just as the tenant holds land from the ryot. How then to reconcile the title of the Bill and the *wording* of the preamble with the meaning intended by the authors of the amended Bill? If the Bill is intended to *amend the law relating to the holding of land in this Presidency*, what is the corollaryship imported by the word *holding*? The *holding* of land by *whom*? And from *whom*? Who are the two parties to this corollaryship?

Evidently the Bill means the landholder and the ryot. Why then apply the word "holding" to the ryot's land in the definitions as well as in chapter VIII regarding attachment and sale of a ryot's *holding*? If it is the ryot that holds the land, why *call* him a landlord and the zamindar a *landholder*? Judging from the definition of a tenant, which says that a tenant is one that holds a *land* from a landlord on condition of paying rent, the title of the Bill induces one to think that it is intended to amend the law between a ryot and a tenant but it is not, for section 6 of the amended Bill dispels that doubt. Judging again from the definition of the landholder, the title of the Bill misleads one to think the Bill relates to the law between the landholder and the Government, although it is evidently not, seeing that there is Act XXV of 1802 to govern it. Lastly, judging from the frequent use of the word "holding" in the case of a ryot's land, one is again apt to think that the ryot holds his land from somebody else. But unfortunately the Bill deprecates such an impression and says that a ryot is in reality the landlord and holds his land from nobody, but others hold his land from him as his tenants; hence the title and the preamble of the Bill are so unhappily worded as to mean exactly that which they are not intended to mean.

Another curious instance of this confusion is: the framers of the amended Bill in their attempt to give the title of "landlord" to the ryot have not only been obliged to resort to a very inconsistent and ambiguous phraseology but they could not successfully maintain even that throughout the Bill.

For example, in Mr. Ross's Bill, the sections 168 and 169 relate to the agents of landlords and to the action of joint landlords; and in that Bill the word landlord is made synonymous with proprietor or zamindar. But in the amended Bill the word landlord is replaced by the word landholder in the case of proprietors and zamindars, and the word *landlord* is made to mean a *ryot* in relation to his tenant. But the very same sections re-appear in the amended Bill as sections 146 and 147 in exactly the same wording, i.e., with the word *landlord* still retained without replacing it by the word *landholder* newly introduced into the definitions. If the word *landlord* is used in these sections in the same sense in which it was used in Mr. Ross's Bill, it is an insinuating and unconscious reversion to the right nomenclature on the part of the fosterfathers of the Bill, in spite of the Hon'ble Mr. Crole's attempt, to level all distinctions and recalls the famous line of Goldsmith—

"Even his failings leaned to virtue's side,"

since the title of landlord, as my Hon'ble friend the Raja of Bobbili has pointed out in his reply to the Hon'ble Mr. Crole's speech, rightly belongs to the zamindar but not to the tenant.

If, on the other hand, the word *landlord* is used in these sections, viz., 146 and 147 of the amended Bill, in the sense of a *ryot* of a zamindar, then these sections are certainly defective, inasmuch as they empower only a *ryot* but not a *zamindar* or a *landholder* to appear by an agent. In either case the sections seem to contain at least an oversight if not an error.

With greatest respect for the framers of the amended Bill, I regret that I must venture to remark that in short the whole nomenclature is not simply confusive but inconsistent. I am perfectly aware that criticism is easier than creation; and the freedom with which I have discussed this subject is nothing but the outcome of my sincere anxiety to have as smooth and workable an enactment as it is possible for legislators to create. In humble opinion instead of all this confusion, it would be much simpler to adopt the following nomenclature:—

	(a)	(b)
If the Government are called the	(1) Landlords or	(1) Overlords,
Then the zamindars may be called	(2) Landholders or	(2) Landlords,
The ryots	(3) Tenants or	(3) Tenants,
The tenants (ryots' tenants)	(4) Sub-tenants or	(4) Sub-tenants.

The nomenclature under (a) seems to be appropriate when judged from the standpoint of view taken by the revised Bill, and that under (b) seems appropriate when judged from the standpoint taken by Mr. Ross's Bill.

I have dwelt at such length on this point for the Bill seems to be sternly resolved to deprive the zamindars of the title of landlord for the reasons (right or wrong) given in the Hon'ble Mr. Crole's speech at Ooty on the 13th of June 1898. If the Government think that the zamindars do not deserve the name landlords, then let them be deprived of it, but let it, be reserved to the Government as the paramount lords of all; let the zamindars be called landholders; let the ryots be called *tenants*; and the under-ryots *sub-tenants*; but it is not in the least just to give the proprietary right in the soil to the ryot and to call him landlord. Both Lord Cornwallis and Sir John Shore again and again assured the then zamindars that by the permanent revenue regulations the zamindars were created the proprietors of the soil and we, the zamindars, have up till now been under that impression. When nearly one hundred years have elapsed it is arbitrary on the part of the Legislature to shift its ground now and say that the ryots and not the zamindars are the proprietors of the soil, subject to the payment of a fixed amount of land revenue to the landholder.

The consequence of such a legislative ruling will be (as my esteemed friend the Hon'ble the Raja of Bobbili has pointed out in his reply to the Hon'ble Mr. Crole's speech) the income of both the Government and the zamindars will be a constant quantity, while as section 6 of the amended Bill says that the relations between the ryots and their tenants are left to the operation of private agreement, the ryots will be year after year grinding down and fleecing their tenants more and more and the actual cultivators of the land will become more and more pauperised, and the ultimate consequence will be that the avowed object of the Bill, viz., to give effect to one of the chief recommendations of the Famine Commission of 1887 will be totally defeated since the actual zamindari tenants will, on account of their poverty, aggravated by the ever increasing exactions and rack-renting of their landlords (ryots), encouraged and protected by this Bill, will *still* continue to be in times of famine, what the Hon'ble Mr. Crole says, "a standing menace to public peace."

(14) *Revenue year.* What constitutes a revenue year is a most important point when looking at the processual part of the enactment. The fasli year, though convenient to calculate from certain standpoints of view, is still beset with some difficulties when seen from some other standpoints. At least local conditions and circumstances stand in the way of making it a general standard of revenue year for whole Presidency.

In the southern part of the Presidency where the season of transplantation as well as that of harvest commence much later than in the Northern districts, the fasli year may be a very convenient year; but in the Northern districts and Circars, where the season of sowing and transplanting commences in about July and August and harvesting in November and December, the fasli year is a very inconvenient year, and my remark is more than verified by my experience.

In the Northern Circars the wet crop and the dry crop immediately succeeding it are harvested in December and March, respectively, and by the 1st of April (or the Telugu New Year's day), the beginning of the official year, the land is quite clear and

fallow, and the cultivator finds an auspicious moment to till the land for the second year again, and the process of manuring the land for the next year is begun early in April and continues during the month of May and part of June. In July he sows the rice crop, while he will have sown gingelly, indigo and other crops earlier still.

If, according to this Bill, a landholder wants to bring the ryot's holding or land to sale, he must take steps for it in July and give him a month's time before the holding is brought to sale, and even after it has been brought to sale, he should wait for another month more to see if the ryot would bring the arrears with interest, &c., to set aside the sale. By that time it would be the beginning of September, by which date the transplantation of paddy crop and the harvesting of the gingelly and other dry crops would have been over. The ryot may be an actual cultivator; to eject him then is a hardship; to keep the land fallow, for the sake of the ryot, is a source of loss to the landholder, and to ask the ryot not to cultivate any fresh crop within the end of June is against law, for the fasli year has not yet run out, and he may use the land during the fasli as he pleases.

Whereas if the official year, which is identical with the Telugu year, is taken to be the revenue year, as is done in Vizianagram and some other zamindaris, then the intending landholder may give notice to the ryot on the 1st of April and may sell his holding in the month of May, and may make it over to the new ryot in June when sowing commences. This is what is done in Aghaharams and in most zamindaris, and it is a very convenient method.

But in the Southern districts, for example in Chingleput and the neighbouring districts, where the transplantation of the paddy crop commences with the advent of the north-east monsoon at the end of October and in the beginning of November, and the harvesting in January and February, the fasli year may be very convenient, and may not be felt to be inconvenient in practice, since there is enough of time to carry out all the formalities enjoined by the Act, before the sowing and the transplantation commence; so that in my humble opinion the definition of the revenue year may be made an alternative definition, viz., "the revenue year means the fasli year ending with the 30th June, or the official year ending with the 31st March, according to the prevailing custom and the local conditions of the various districts."

Such a definition would also be in great harmony and conformity with the section regarding the saving of custom, viz., section 141 of the amended Bill, and section 164 of the original Bill, both of which rule that "nothing in this Act shall affect any custom, usage, &c., not inconsistent with, or not expressly repealed by, this Act."

I lay so much stress on the necessity of an alternative definition, since the agricultural operations commence in different months of the year, in different parts of the Presidency, according to the advent of either the south-west or the north-east monsoon, and the date which may be a convenient one for the sale of the holding of a tenant in one district may be a very hard and inconvenient one in another district, according to the commencement or the conclusion of the agricultural operations in the district concerned.

GENERAL RIGHTS.

In the matter of defining the general rights of the landholder and the ryot, the amended Bill is no great improvement upon the old Bills.

Sub-section (7) of section 4 of the amended Bill says that the landholder should assign his waste land to a ryot at the customary rate of land revenue; so far as regards the power given to the landholder, it is an improvement upon the original Bill. The right to the waste lands in the zamindaris has, by custom, always belonged to the zamindars, as the Hon'ble the Raja of Bobbili pointed out in his Ooty speech, and it is satisfactory that the amended Bill has recognised it; but what the customary rate of land revenue is, is a question not to be easily settled. It depends upon the nature and the capability of the land, and the settlement of revenue is a matter that must, strictly speaking, be left to the mutual understanding of the lessor and the lessee. But, unfortunately, the original Bill in section 162, and the amended Bill in section 139 discountenance all agreements to be entered into by the landholder and

his ryot, except through the Collector, who can be expected to settle all such disputes only through his subordinate officers, such as the Tahsildars and the Deputy Tahsildars whose decision in such matters can never be so satisfactory as it ought to be, considering the multifarious duties with which they are always deluged.

Again, sub-division (b) of sub-section (10) of section 4 is a satisfactory feature of the amended Bill. It enjoins the ryots to execute themselves the slight repairs known as kudimaramath to their irrigation works. The wholesomeness of such a section cannot be too strongly recommended. Nowadays the ryots make it a point to bother the zamindar with very vexatious applications to sanction even such slight repairs as the ryots themselves should execute in Government taluks. In this respect the amended Bill takes a wholesome departure from the old Bill.

But sub-division (a) of sub-section (13) of the same section, viz. 4, which is mainly a new section, is again not only a novelty but an anomaly. It gives to the ryot the right to mine and quarry in the ground vertically beneath his holding. Such a privilege has not only been never aspired to but never been dreamt of by the ryots. Even the Government tenants do not seem to possess the right of mining. In fact, if the process of mining and quarrying is carried on, though the ryots may be temporarily profited, yet the land may become altogether unfit for any cultivation in course of time, and the loser in the long run will be the landholder, while the ryot, temporarily and suddenly enriched by the mining process carried on there, may think fit to relinquish the land after he has done with it.

Seeing that sub-section (12) of the section 4 gives to the zamindars the general right to mine and quarry in the waste lands and forests, it is but just to reserve to them only the right to mine and quarry in the cultivated land also. No doubt, the succeeding sub-divisions (b), (c) and (d) provide that the ryot should give notice to the landholder of his intention to mine and quarry, and that the Collector should adjust the revenue payable in such cases. But, as a matter of principle, I beg leave to contend that such right ought to be reserved to the landholders, but should under no circumstances be conferred on the ryots.

Section (5) of the amended Bill is very important. It presumes that every ryot in the Presidency of Madras is an occupancy ryot but it does not specify how many years' occupation of the same or different land in a certain village will confer the right of occupancy on a ryot.

The old Bill, as well as the Bengal Tenancy Act, the Punjab Tenancy Act and several other Revenue Regulations contain a statutory limitation of time which alone can confer the right of occupancy on a tenant. If no such limitation is made, every tenant will claim the right of occupancy, and even the tenants who were given a land on probation will come forward and plead the right of occupancy, as all agreements between the landholder and the tenant are discountenanced by the Bill, if they are found to have a tendency to defeat or evade the occupancy right.

Again, sub-section (3) of section 4 of the amended Bill says that a ryot possesses a proprietary right in all his puttah lands, subject only to the payment of land revenue to the landholder; while the section under discussion, viz. section (5), says that every ryot has an *occupancy right* in his holding.

Now what is the difference between the proprietary right referred to in sub-section (3) of section 4, and the *occupancy right* referred to in section 5? Between the *land* referred to in section 4, and the *holding* referred to in section 5? If the *land* and the *holding* are the same, and if the *proprietary right* and *occupancy right* are identical, why should the same incident be noticed, in two different places in two different manners? If they are not identical, what are the incidents of the *proprietary right* as distinguished from those of the *occupancy right*?

I pray for light on the subject, since I could not perceive any difference, so far as I could understand the Bill.

Again, section (6) of the chapter II calls for a few remarks, since the retention or the abolition of this section will defeat or achieve the chief object of the present Bill.

The Hon'ble Mr. Crole, in his Ooty speech, emphatically declared that the chief object of the proposed Bill was to give effect to one of the chief recommendations of the Famine Commission, viz., to place the zamindari tenants on the same level as the Government tenants, by giving them the right of occupancy in their holdings and thus enabling them to improve them and settle in them, or to dispose of them in time of need, since, they are, at present on account of their grovelling poverty, "a standing menace to public peace" in times of famine.

With due respect for the members of the Famine Commission, I venture to ask who are "a standing menace to public peace" in times of famine?

Is it the zamindari tenants? or is it the pauperised coolies in the zamindari and Government taluks? A careful and impartial enquiry will, I doubt not, show that it is the cooly class both in the zamindari and the Government tracts that are a "standing menace to public peace"; the Indian tenant very tenaciously clings to his own land and social status, and never, except when compelled by actual unbearable starvation, resorts to a famine kitchen.

If for want of occupancy right, a zamindari tenant cannot raise money on the security of his land in times of distress, then owing to the possession of occupancy right, the Government tenant is chronically indebted, and is always in the hands of the sowcar.

If a careful inquiry be made, then it will be found that it is not the superior tenants but their under-tenants that are actually on the verge of starvation, and to save them from death by starvation, but not to encourage and legalize the greed of the superior tenants in rackrenting their under-tenants, is really an act of philanthropy.

These superior tenants or ryots (as named in the present Bill) are not always the actual cultivators of their holdings. As the Government tenants do at present, they pay a fixed rent to the zamindar after this Bill becomes law, and sub-lease their holdings as they please, for a higher and higher rent year after year. Section 6 encourages and protects them in that procedure, since it rules that the relations between the ryots and their tenants are not governed by this Act, but are left to the operation of private agreement.

But section 139 of the amended Bill and section 162 of the original Bill annul all private agreements between a landholder and a ryot, since, as the framers of the Bill think, a ryot is no match to the zamindar, and in consequence may be easily duped or compelled into acquiescence with the zamindar's wishes; but section 6 allows such agreements between ryots and their under-tenants, probably because there is no such fear of the under-tenant (who, however, in most cases is only a starving pauper cooly) being duped or compelled to comply with the exorbitant demands of his superior tenant.

Whether the object of the Famine Commission is to ameliorate the starving poor, or to enrich the greedy superior tenant, it is not for me to say. All that I think fit to ask is this: If a tenant is no match to the zamindar, how can a sub-tenant (who is generally a pauper and is sure to be made so by the little or no protection ensured to him by the Bill) be expected to prove a match to his superior tenant? If the Bill thinks fit to neglect the safety and well being of the under-tenants, since they are, when compared with the superior tenants, capable of playing a very insignificant part in the social drama, then why not extend the same rule to the zamindars also, and leave all transactions between them and their tenants to the operation of private agreement, seeing that there is a separate enactment to govern all contracts, viz., the Indian Contract Act? The advocates of the Bill would reply that, the zamindars being a set of middlemen, their greed should be checked, to save the tenants. Yes they may be middlemen; but are the legislators sure that the existing tenants are the actual descendants of the tenants existing at the time of the permanent settlement? Or can any body guarantee that the puttahs of all defaulting tenants will, at auction, be purchased only by actual cultivators but not by a set of middlemen and sowcars who will sub-lease them for a higher rent?

If it is contended that a purchaser, at auction, of a puttah land, is at liberty to sub-lease it as he pleases, why should not a zamindar who purchased his zamindari at auction in 1848 or so, or a zamindar who pre-existed the British Government or the Moghul Government, be allowed to have his own dealings with his tenants?

Lastly, in what way is the new set of middlemen (purchasers of lands at auction) to be created by this Act, superior to the old set of middlemen (zamindars) created by the East India Company by means of the Permanent Revenue Settlement Regulation (as they are styled by the Hon'ble Mr. Crole)?

So that section 6 of the amended Bill is truly fraught with more serious consequences than it would at first sight seem to involve.

Another thing that calls for comment in this chapter is the sub-section (10) of section 4, which says that the landholders are bound to keep in a state of repair all tanks existing at the time of the Permanent Revenue Settlement or within the ten years before the commencement of this Act.

In point of principle this provision is very good, inasmuch as it is not only a duty but it is for their own interests that zamindars should keep all their irrigation works in good repair.

But such a sweeping provision will lead to needless litigation when the relations between a zamindar and his tenants are, for some cause or other, strained. Every village may complain that some tank formerly existing has now been covered up and brought under the plough, while in reality it ceased to be a tank, because it could not be used as a tank, owing to the drying up, or the diversion of its feeding channels or some other like cause. In some other instances, within the last ten years, some tanks might have been dug experimentally, and after having been tried for some years, may have been abandoned as impracticable. In all such and similar probable cases, the provision, as it is, will lead to serious and wanton disputes, and it may therefore with advantage be modified as follows:—"Landholders are bound to keep in a state of repair all *existing* public irrigation works (excluding those of an experimental character), by which the lands of any village are being actually irrigated, or capable of being irrigated," or in any other unobjectionable manner.

This closes the chapter II, dealing with General Rights, and Chapters III and IV relate to the incidents of occupancy right, and to the under-tenants, respectively.

These do not call for any special remarks, as much that I have said in connection with Chapters I and II, anticipates what ought to be said regarding these.

Chapter V deals with provisions as to Land Revenue. These, as I have already said in my introductory remarks, are defective when compared with those given in the original Bill as well as in the Bengal Tenancy Act.

The rise of prices, and the additional fertility imparted to the soil by fluvial action are two of the chief grounds for the enhancement of rent, and even the Government make them a basis for enhancing rent. To omit them in a Bill concerning zamindari tenants is simply fettering the hands of the zamindars in a very arbitrary manner.

The Bill allows the enhancement of rent only in two cases, viz., (1) additional value imparted to the land by any improvement effected by the landholder himself directly, or (2) by the Government indirectly. In this matter the original Bill alone is more satisfactory from a landholder's standpoint of view. As this Bill is based solely on the Bengal Tenancy Act, it is but just that it should follow it in all matters where full justice is done to the landholders by the Bengal Act.

The section 16, which is the opening section of the chapter on Land Revenue, is an amalgamation of five or six sections adapted from the Madras Rent Act with some additional matter. In addition to its incompleteness as regards the provisions for the enhancement of rent, it is open to serious objection in two other ways.

Sub-division (a) of sub-section (ii) says that in cases of doubtful assessment of land revenue, the Collector may adopt the rates prevailing at the time of Permanent Revenue Settlement, or in the year immediately preceding the confirmation or recognition of the grant of an estate,

This is the most phenomenal section of the amended Bill, and its justification lies in the fact that section 9 of Regulation XXIV of 1802 contains such a ruling.

Though this may sound very well when read in the Act, but what will be its actual consequences when put in practice? A perusal of the history of the records of Permanent Settlement will show that the peshkash of every estate was fixed at two-thirds of the then income of the estate. For example the Jeypore zamindari whose peshkash is Rs. 16,000 was estimated to yield an income of Rs. 24,000 annually and two thirds of it was assessed as the peshkash. Now, on the strength of this Act, if any tenant files a frivolous complaint in the Collector's court, praying for an adjustment of his land revenue, the Collector will have to reduce the land revenue to $\frac{1}{5}$ what it is now, since the Jeypore zamindari yields an annual income of about 6 lakhs of rupees at present. To adjust its land revenue, the Collector must refer to the records of the year 1802, when its income was only Rs. 24,000, so that every complaining tenant will have a reduction of 96 per cent. of his land revenue.

The same is the case with every zamindari in the north, and it is needless to dwell further on the consequences of such a legislative ruling.

Sub-division (b) of the same sub-section no doubt provides that where the rates prevailing at the time of Permanent Revenue Settlement are not available, then the local usage or the rates of revenue prevailing in the case of neighbouring lands may be taken as a guide for the adjustment of revenue. But to obtain the rates prevailing in 1802 is not an impossibility. The records are available almost everywhere, not to say that there is the general rule, viz., that the peshkash of every estate is two-thirds of the income, and every tenant, in the light of this information, may claim a reduction of his revenue in that proportion.

Again, sub-section (d) of section 25 of Mr. Ross's Bill, as well as section 22 of Mr. Carmichael's Bills contain a provision authorising the cancellation of all undue enhancement made subsequently to the 1st of May 1871.

What amount of hostile criticism it evoked from the highest revenue authorities both in 1884 and 1898, those that have studied the whole of the literature on the Tenancy Bill, alone know. In spite of such opposition from all quarters, that sub-section is still retained in the amended Bill, where it appears as sub-division (v) of sub-section (ii) of section 16, which says that nothing contained in section (16) shall affect the right of a ryot to sue for the reduction of land revenue on the ground that it has been unduly raised after the 1st of May 1871. When this section itself has been held to be a most dangerous section leading to ruinous litigation between the zamindar and the tenant, and "to rake up the embers of old quarrels and to revive the fires of extinct controversies" as the Hon'ble H. St. Goodrich remarked; to introduce a still more dangerous provision, empowering the Collectors to adopt the rates of land revenue prevailing at the time of Permanent Revenue Settlement, in cases of disputes, is simply tantamount to saying that the zamindars must lose no time in renouncing their estates in favour of their tenants. If both these provisions are allowed to remain in the Bill, in spite of any other safeguards that the Bill may provide in other respects, it is ten to one that every zamindari in the Northern districts will be inundated by a flood of ruinous litigation.

I would therefore respectfully deprecate the introduction of these two dangerous sections into the Madras Land Bill. The other sections of this chapter need some alterations, which may be left to be dealt with by the Select Committee when they meet again.

PROCESSUAL PART.

Chapter VI deals with the recovery of land revenue, for which the exchange of puttah and muchalka is made by the Bill, an indispensable pre-requisite. This is a very useless and at the same time a dangerous condition. When once the occupancy right is presumed in the case of every zamindari ryot, the exchange of puttahs and muchalkas may be dispensed with, except for the purpose of the determination of the amount of rent payable.

The zamindari ryots have of late years become so very refractive, not to say that they are indifferent to all these formalities, that in spite of repeated messages from the amins and the samuthars they seldom make their appearance and the zamindari revenue officials often feel a difficulty in tracing their whereabouts. But they go on cultivating the land year after year and pay up the rent when severely dunned for it. Year after year, owing to the indolent indifference of the tenants, a number of puttahs and muchalkas remain unexchanged, but the rents are nevertheless duly collected. Such has been the traditional custom in the Northern districts. Though the compulsory exchange of puttahs and muchalkas may seem a very wholesome provision from a legislative standpoint of view, yet considering the practical and administrative side of the question, such a ruling will result in more harm than it is intended to avert.

The second chief point deserving to be noticed in this chapter is the sub-section (2) of section 34, which says that "a puttah which is not *entirely*, but is, in the opinion of the Collector, *substantially* correct, shall be held to be valid to the extent to which it may be found correct."

This section is intended to avert the evils that may result and are resulting now from the imperfect nature of the existing rent law, under which any slight mistake in the formalities to be observed in the drawing up of puttahs and muchalkas, is defeating the recovery of the just dues of the landholders. To save this evil, the Select Committee thought fit to relax the formalities and to rule that a *substantially* though not *entirely* correct puttah shall be held to be a valid puttah. If the section is worded like the above, then it may be considered as a point gained by the landholders. But the limitation, viz., "to the extent to which it may be found correct" entirely deprives the section of its intended beneficial nature.

Instead of so much roundaboutness, the meaning of the section may be briefly expressed as follows: "Every puttah shall be held valid to the extent to which it may be found valid." If it is legislated that a *substantially* correct puttah is to be treated by the Collector as a valid puttah, then it may be hailed by the zamindars as an inch of ground gained by them in this hot contest. But if the Collector is enjoined to hold a puttah to be valid *only to the extent to which it may be found valid* (which every judge ought to do), then what is the use of the epithets used in the section, viz.: "A puttah which is not *entirely* but, in the opinion of the Collector, *substantially* correct"? Whether expressly enjoined or not by Legislature, every judge is morally bound to treat every document as being *valid* to the extent to which it may be *found valid*, and such being the rule of common law, what is it that the landholders have gained, and what is it that the authors of the amended Bill have conceded to them, in the case of the formalities to be observed in a puttah and muchalka?

If it is the intention of the Legislature to relax the law with regards to the formalities to be observed in the drawing up of puttahs and muchalkas, then I beg leave to suggest that it may be simply ruled that "a *substantially* correct puttah shall be held to be a valid puttah"; else the section is almost useless, inasmuch as what is conceded in its first part is withdrawn in its second part.

Chapter VII relates to the recovery of land revenue by distraint and sale of the ryot's movable property, and Chapter VIII relates to the attachment and sale of a ryot's holding. These two chapters must be looked at together in theory as well as in practice, for the landholder must take action under the one or the other, according as the ryot has any saleable property or not, to liquidate his arrears.

In the natural course of things the landholder must first ascertain whether his ryot has any movable property for attachment and sale to liquidate his arrears before he should take the final step of bringing the ryot's holding or land to sale. For when the sale of movable property does not fetch enough of money to satisfy a debt, then recourse may be had to the sale of immovable property so that in the interests of both the landholder and the ryot the Act must empower a landholder to bring the movable property to sale first, and then the immovable property. But the time fixed for taking action under either of these chapters is not so practically convenient as one would expect.

For, as regards the attachment and sale of the movable property of a ryot, the amended Bill says (while the original Bill is silent) that a landholder may take action under Chapter VII at any time during the next revenue year for arrears due for the preceding year. That is, for arrears due, say for fasli 1308, action may be taken till the end of fasli 1309, while the holding may be brought to sale, if the landholder so chooses, within a month after the close of the fasli 1308 itself.

This being the procedure proposed or allowed by the Bill, I ask, what is the use of trying to attach and sell a ryot's movable property (of which seed-grain, cattle, implements of husbandry must be excluded, being exempted by the Act, though an Indian ryot does not possess much beyond these after the fasli closes), for which the arrears of revenue is due, has closed and after the ryot and his creditors have used up and otherwise appropriated all the year's produce?

The Bill, no doubt, provides that standing crops, &c., may be attached and brought to sale. But if the standing crops of fasli 1309 are attached and brought to sale in satisfaction of the arrears due for fasli 1308, then how to collect the revenue due for 1309? There is no use of shutting the stable after the horse is stolen. There is no use of trying to attach a ryot's movable property or standing crops after he has appropriated and used up all the year's produce.

If, however, such a too late course is adopted in one year, it shall have, without fail, to be adopted every succeeding year, for when the standing crops of fasli 1309 are attached and brought to sale in satisfaction of arrears due for fasli 1308, then the crops of 1310 must be attached and brought to sale to recover the revenue due for 1309; so that what I beg leave to propose is this: the landholder must be given power to attach and bring to sale the standing crops and other movable property under Chapter VII before the revenue year closes, and any arrears that may be left unpaid at the end of the fasli may be recovered by bringing the ryot's holding to sale under Chapter VIII.

There will be not only no practical difficulty, but the processual part of the business will be greatly facilitated. Both the landholder and the ryot will be always on the alert, and the ryot will learn prudence and economy, while the landholder will learn vigilance and promptness. The ryot also will not be put to any hardship. For in almost all the zamindaris the revenue is collected in two, three or four instalments, payable in August, October, December and January or February, which are expressly mentioned in the zamindari pattas and muchalkas; so that, as soon as the date for the payment of an instalment expires, the ryot may be threatened with action under Chapter VIII and the instalment may be easily collected.

In this manner the whole or nearly the whole of the year's dues may be collected, and the balance, if any, due at the end of the fasli may be recovered by taking action under Chapter VIII, and if the definition of the revenue year be made an alternative definition so as to suit local conditions, as I have ventured to suggest in my remarks on the definitions of the Bill, there will be also time enough to carry out all the formalities enjoined by this chapter.

Considering the large families which, according to Indian customs, not only rich men, but even the poorest wretches have to support at any risk and inconvenience in India (the ryots are no exception), and also considering the chronic indebtedness of the Indian ryot, the products of whose labour are always scrupulously and carefully watched by his numerous creditors, it is not safe either to the ryot or to the landholder to wait till next year to try to recover the revenue due for this year, and it is equally unjust, from a ryot's standpoint of view, and unsafe and undesirable, from a landholder's standpoint of view, to bring the holding to sale as soon as the fasli closes, without first having had recourse to the less serious step of attaching and bringing to sale the ryot's movable property and standing crops; and to try to attach and sell the standing crops of fasli 1309, to satisfy the arrears due for 1308, is simply to administer medicine after life is extinct.

Hence my humble proposal is to make the definition of the revenue year an alternative definition, and to empower a landholder to take action under Chapter VII within the end of the current revenue year, and after an instalment has fallen due.

REPAIRS OF IRRIGATION WORKS AND OTHER MINOR MATTERS.

Chapter IX treats of the repairs of irrigation works. The rules made regarding these are still as objectionable as those in the original Bill.

The only satisfactory feature contained in the amended Bill is its introduction of the kudimaramath system, according to which the ryots are enjoined to supply gratuitous labour towards the petty repairs of all irrigation works.

But in other respects the amended Bill is more objectionable than the original Bills.

It encourages the ryots to demand, and empowers a Collector to grant, sanction for the repairs of any irrigation work, to the extent of an year's revenue payable to the landholder. If the ryots of every village apply to the Collector to sanction such maximum sums for the repairs of irrigation works, or if the tenants cultivating under every tank in a village demand the sanction of such maximum amounts, then the zamindar may sometimes be left without any income after satisfying the demands of all such applicants. So that I most respectfully beg to suggest to your Excellency in Council to legislate two things in connection with this important subject, viz.:—

(1) That the ryots should in the first instance, as they do at present, apply to the landholders for such repairs as their tanks require, and if they should unreasonably neglect or discountenance the applications of their ryots, the latter may go to the Collector for redress; and

(2) That the Collector should under no circumstances grant sanction to execute repairs costing more than 50 per cent. of the revenue payable by the ryots cultivating under the tank requiring to be repaired.

If these limitations be introduced, then the chapter will be fairly workable, else wanton litigation will be the chief result, of this as well as of some other innovations introduced by this Bill.

Sections 87 and 88 of the Amended Bill have been newly added, and empower a Collector himself to get the repairs executed: (1) in case both the landholder and the ryot are either unable or unwilling to execute them; (2) in case where an irrigation work belongs partly to the Government and partly to a landholder.

The only thing that I feel called upon to remark in this connection is that the charges of executing repairs under the supervision of Public Works Department are enormously higher than when executed under the supervision of the landholders through private agency, and it would be a real saving both to the Government and to the landholders, if the landholder alone is empowered, in such cases, to execute the repair subject to the inspection and approval of Public Works Department officers deputed by the Government.

Lastly, section 93 is also a new section and allows a ryot to sue a landholder for damages in respect of neglect to repair an irrigation work. But who can estimate the damages in such cases, or who can measure the value of crops that a land is capable of yielding, or that a ryot is capable of raising? They may be anything, or they may be nothing. Even when the tank is in good repair, if there be no rain, the land will have to lie fallow; even when the tank is full, if rains do not fall in good season, the crops will be only middling. To introduce such a section is to open another fruitful source of vexatious litigation.

If a tank is out of repair the ryot may abandon his holdings under that tank, and it is the landholder that will be the loser in the long run; but why should a landholder be made liable to damages? What then are the contingencies contemplated by the Bill, under which a ryot may abandon his holding at any time, under section 96, which is a new section in the amended Bill?

Chapters X, XI, XII, XIII, XIV, XV, treat of illegal cesses, acquisition of land for building purposes, relinquishment of land, sub-division and transfer of holdings, and survey and record of rights of a landholder's public and private lands respectively, and I should like to reserve my remarks on them for a separate pamphlet.

Chapter XVI is entirely a new chapter, borrowed mostly from the Punjab Tenancy Act, and it is satisfactory that the Bill tries in this chapter, to define clearly what courts should take cognisance of all revenue suits. Sections 126 and 127 of

this chapter are two chief satisfactory features. Section 126 empowers the Revenue Board to call for and revise the proceedings of any revenue court subordinate to it, and section 127 gives to the Revenue Board the discretion of referring any doubtful matter for the opinion and decision of the High Court.

If this discretion is rightly and opportunely exercised, the effect of these sections on the revenue administration, will, it need not be mentioned, be very wholesome.

Chapter XVII treats of contract and custom, and it is satisfactory that the Bill recognises custom in a country where custom has always reigned supreme.

The only objectionable section of this chapter is section 139, which is section 162 of the original Bill, invalidating all agreements entered into by a landholder with his ryots regarding the acquisition, and extinction of occupancy right, surrender of a holding, &c., and I, in common with numerous better men than I, most respectfully deprecate the retention of this section, when so many high authorities have so strongly spoken against it.

For what is the use of introducing such a dangerous section into a Revenue Regulation, when, as the Hon'ble Mr. Ratnasabhapati Pillai pointed out in his Ooty speech, there is a separate enactment called the Indian Contract Act, to govern all contracts that may be entered into, by all adults of sound understanding?

Chapter XVIII treats of limitation, while Chapter XIX, which is the closing chapter, treats of miscellaneous concluding matters. Of these, the power to appear by agents is noteworthy, and if it is given, it must be given both to the landholder and to his ryot; if not, both must be deprived of it. The sections 146 and 147 treat of this, and I have, as I stated in a different connection, misgivings as to the exact meaning of the word "landlord" as used in these.

As regards limitation I must not omit to bring into the notice of the Council one important matter the absence of a definite ruling on which has been causing great loss to the landholders.

As it is at present, a landholder's claim to the rent due to him from his tenant is barred by limitation, if for causes within or without his control, he omits to collect it within the period of three years, from the end of the fasli year for which the rent is due.

For example, if a tenant withholds to pay the rent due to his landholders, the latter will sue him in the court, and if for one reason or another the suit should not be disposed of for four or five years, the landholder can claim the rent due only for the last three years, and no more, while the first one or two years' rent will be barred by limitation.

This is what is actually taking place under the revenue law as it is at present, and there is no statutory remedy for this grievance. Consequently I beg leave to propose that in the chapter on limitation in this Bill, it may be advantageously ruled that as regards the claims, pecuniary or otherwise, that are the subjects of litigation in any court, the period of limitation must run only from the date of the disposal of the suit by the final court, but not otherwise.

Section 148 is another very important section, seriously fettering the hands of the landholders and certainly encouraging the ryots to prepare themselves for future litigation.

This section invalidates all the enhancements of rent made by the zamindars during the publication of the Act, *i.e.*, between March 22nd, 1898, and the date of this Bill becoming an Act, and the object of this section is, as the late Mr. Ross says in the Statement of Objects and Reasons, to invalidate any enhancements that the zamindars may make with a view to forestall the provisions of this Act.

That may be a good reason, but this Bill has been before the Madras Government for the last seventeen years, and for the last two years it has been rather actively so, and still it could not get a definite and final shape. How long are the landholders to wait for it? What are they to do in the meanwhile? Such a section as the one under discussion, not only discourages the landholders from enhancing the rent even in conformity with this Bill, but also encourages the ryots to grow too stubborn to

accept even such enhancements as they would, but for such a ruling, have gladly accepted. Seeing that the Bill gives to the Collectors in section 16, the power to revise and adjust land revenue in all cases of dispute, such a limitation as that given in section 148 may well be dispensed with.

RECAPITULATION.

The amended Bill, as I have said in my opening remarks, and as I have tried to show in the above discussion, is not only no perceptible improvement upon the old Bills (those drafted by Messrs. Ross and Carmichael), but is essentially the same in all chief respects, while in some respects it shows retrogression.

(a) If the amended Bill shows some improvement (from a landholder's standpoint of view) in its abolishing the dangerous section on commutation of rent, in its introduction of the principle of kudimaramath, and in its recognition of the landholders' right to the forests and waste lands, and in one or two processual matters.

(b) It is essentially the same as the old Bills in all their most objectionable features, such as the powers given to the Collectors to cancel all undue enhancements made subsequently to May 1871; to countenance all the applications made to him by the ryots for the repairs of irrigation works, in preference to zamindar; to presume every ryot to be an occupancy ryot, regardless of any limitation of time; to discountenance all private agreements entered into by a zamindar and his ryots; and to approve and to tolerate all agreements made between a ryot and an under-ryot.

(c) While in several important matters it exhibits marked retrogression, e.g., in the powers given to the Collector to adopt, in cases of dispute, the rates of land revenue prevailing at the time of the Permanent Revenue Settlement; to compel the zamindars to keep always in good repair all the tanks existing in 1802; to sanction the ryots' applications to mine and quarry in their holding; to permit the ryots to execute the repairs of their irrigation works to the extent of an year's land revenue payable by them, without in the least consulting the zamindars' wishes or convenience; and to allow the zamindars to enhance their ryots' rent only in case of an improvement effected by them on an irrigation work directly or indirectly, but not on the ground of a rise in prices, or the additional fertility imparted to the soil by fluvial action, although an enhancement of rent in the last two cases is allowed by the Bengal Tenancy Act, on the model of which this Bill has been drawn up; and last but not the least, in depriving the zamindars of the title of "landlord" and giving it to their ryots, while they themselves are designated as "landholders."

(d) Not to say that the nomenclature used in the amended Bill is less unambiguous and more confusive than that used in the first Bill.

Freely and unhesitatingly as I have ventured to disagree with the authors of the amended Bill in several places in the foregoing discussion, yet I must assure your Excellency that I have all along done so with great regret and diffidence, and I trust, also without violating that respect which is due from a man in my position not only to the official eminence but to the admitted abilities and broad views of that famous band of revenue experts composing the Select Committee, at whose hands the complicate Bill has had the fortune to undergo its first revision. If, however, it should appear to your Excellency that, in the expression of my humble opinion, I have anywhere exceeded the limits of liberty accorded by the rules of public criticism, I respectfully pray that your Excellency will be graciously pleased to forgive me for it, seeing that this is my first attempt in a matter of this kind.

CONCLUSION.

Such, your Excellency, is my humble and unskilful review of the Madras Land Bill, which has been so long under the contemplation of the Government, but which has, up to date, nevertheless, failed to get a satisfactory shape, in spite of the efforts of most eminent Revenue officers to whom it has, from time to time, been entrusted.

The weight of public opinion, I crave permission to remind your Excellency in Council, has always been against it. Many eminent Judges, Lawyers, and Revenue officers, both in connection with Mr. Carmichael's Bills and in connection with

Mr. Ross's Bill, remarked that an amendment of the existing Rent Act would satisfy the needs of this Presidency much better and more smoothly than such a revolutionary measure.

The Famine Commission of 1887, however, recommended the amelioration of the condition of the zamindari tenants, who, as they thought, were worse off than the Government ryots, and the Government seem to have resolved (as the Hon'ble Mr. Crole said at Ooty) to give effect to that recommendation by passing this enactment; but, as I have tried to point out above, a Bill, so complicated in its structure, so serious and far-reaching in its consequences, and so levelling of all distinctions, is not the measure to carry out such a noble object, since it tends to create more evils than it is intended to remove, inasmuch as the whole tenor of the Bill is to verify the proverb, "Rob Peter and pay Paul." In the matter of enhancement of rent, reduction of rent, creation and extinction of occupancy right, repairs of irrigation works, not to speak of contracts between a landholder and his ryots, the Bill still imperatively calls for radical revision, if it is not the intention of legislature to upset the whole of the existing state of things in the zamindaris by setting up class against class and fostering litigation.

But as the revision which the Bill has received at the hands of the Select Committee is only a provisional revision (as the title says), we, zamindars, respectfully hope that, in the light of the opinions furnished to the Council subsequently to the revision of the Bill, the Select Committee will see their way to give such a smooth shape to this long expected Bill as will satisfy all parties concerned.

If, however, the Bill, even as finally amended by the Select Committee, should still be felt to have some friction, I, in common with all my brethren, am fully sanguine and confident that it shall lose all its friction if it will receive its finishing touch from your Excellency's gracious and impartial hands after it has come before the full Council.

For, though the story that the golden apple of discord which was thrown on the table in the midst of Juno, Minerva and Venus required the judgment of a Paris for the adjustment of the dispute to which it gave rise may be a myth, yet that we, three parties, viz., zamindars, tenants, under-tenants, whose minds have been totally unsettled by the introduction of this much-contested Bill, are anxiously and respectfully awaiting the impartial judgment of your Excellency in Council is a pure reality.

ORDER—No. 131, Legislative, dated 16th December 1899.

Communicated to the Select Committee on the Madras Tenancy Bill.

(True Extract.)

Secretary to Government.

To the Select Committee on the Madras Tenancy Bill.

Exd C. M. Thambuewamy.

Legislative (1899) Department.

CURRENT No. 469.

des^d V.E.

From The Member of Kurapam.

Order No 131 of 12-28
PS

Communicated to the Select Committee on the Madras Tenancy Bill

No. 1141

15-12-28
16-12-28

Dated 14. 12. 28

Received } 14. 12. 28
Registered }

Enclosures

Spare copies 20 cc. with L.C.

15/12/28

Desp^d 8/1

The Select Committee on the Madras Tenancy Bill

SUBJECT.

The receipt of this paper may be reported at the next meeting of the Council when the copies for H.E. & other Hon'ble members will be duly distributed.

15/12/28

15-12-28

Forwarding for Communication to H.E. the Governor & the members of the Legislative Council of his observations on the Land Bill as annexed by the Select Committee

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

First copy sent to Press.

Returned for signature.

Despatched in print.

READ AGAIN G.O. No.
189

CURRENT No.

NUMBER OF COPIES
REQUIRED.

Order complete.
Letter only.
Order complete with Letter.

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.