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Revenue Department

Minutes of Consultations
& Dec 1853

Books 37 & 38

Section 233 & 27 Wyatt & Co

(2)

பாதுகாப்பு பிரிவு — 1.
செப்பனிடுபவர் பெயர்
செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள். 7/07
செப்பனிட்டு முடித்த நாள் 8/07
சரிபார்க்கும் முதல் மே. நி. பா. எ. கையொப்பம்
சரிபார்க்கும் உ. நி. பா. எ. கையொப்பம்
உதவியாளர் கையொப்பம்

5 2/1233

Fort Saint George, Revenue Consultation of 1st December 1857.

No. 37. Read the following letter from D. ELIOTT, Esq., Member of the Legislative Council; to H. FORBES, Esq., Acting Secretary to the Government of Fort Saint George; dated Fort William the 12th November 1857.

SIR,

I find that there has been no communication from the Government of Madras touching the bill "to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort Saint George," which should now be reported upon by the Select Committee. It would be satifactory to me in bringing the bill before the Select Committee to be able to state that in its present shape it is approved by the Government of Madras, or, if any amendments are deemed advisable, to submit them to the Committee for consideration. I would therefore solicit a communication on the subject as early as possible.

Ordered.
To report after 13th Aug. 1857.

Ordered that the following reply be despatched.

No. 38. From H. FORBES, Esq., Acting Secretary to the Government of Fort St. George; to the Honorable D. ELIOTT, Esq., Member of the Legislative Council of India for the Madras Presidency; dated 27th Nov. 1857, No. 1233.

SIR,

I have had the honor to lay before the Right Honorable the Governor in Council your letter of the 12th Instant, and I am directed to inform you that His Lordship in Council approves of the shape in which the bill "to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of Irrigation" in this Presidency, has been brought before the Legislative Council.

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Fort Saint George, Revenue Consultation of 13th May 1856.

No. 46. Read the following *Extract from the Proceedings of the Board of Revenue dated 9th April 1856, No. 1044.*

**Dated 5th March in Consultation 9th April 1856.*

Read letter* from the Deputy Chief Engineer, Centre Division, suggesting the mode in which the Board shall be informed of the different works of Irrigation &c., undertaken by the Department Public Works, and sanctioned by Government for entry in the Budget.

(Here enter No. 1492.)

The Government in Extract Minutes of Consultation dated the 29th August 1855, directed the Board of Revenue to confer with the Chief Engineer and then report to Government what documents it will be proper should be communicated to them from time to time, in order to ensure the end of keeping the Board fully acquainted with the state of existing works upon which the Revenue of Government depends, and the progress of improvement so far as the Revenue may be concerned.

To Chief Engineer, 8th September 1855.
From Dy. Chief Engineer, C. Div. 5th in Cons. 26th February 1855.
To Chief Engineer 26th February 1856.
From Dy. Chief Engineer, 5th March in Cons. 9th April 1856.

2. The Board of Revenue accordingly addressed the Chief Engineer on the subject under date the 8th September 1855, and resolve to lay before the Government the correspondence which has ensued.

†*In Consultation 9th April 1856.*

3. The arrangement proposed by the Chief Engineer is contained in his letter of the 5th March† and is as follows.

"The Civil Engineers of Districts will be directed to forward to the Collectors a monthly list of new works of importance involving an expenditure (say) of above 1,000 Rupees, or of alterations or improvements of existing works of (say) above 2,000 Rupees, and
P. 3. of all new roads; and it is proposed that the Collectors be directed to forward this to the Board of Revenue, briefly enumerating the cost, the object and the probable results; and stating their assent or otherwise to their execution.

The Chief Engineer will on his part give the Board his opinion upon
P. 4. any particular project they may desire to consult him upon, and he will forward to them monthly a list of such works as the Government may order to be included in the next Budget.

A Statement of important works involving an expenditure of 10,000
P. 5. Rupees and upwards shall be forwarded to the Board of Revenue biennially (half yearly?) that they may be acquainted with their actual progress."

4. The Board of Revenue remark that the plan thus proposed appears to them to be well calculated to keep the Board informed of the improvements in progress in the Department of Public Works. But before proceeding to issue any instructions to the Collectors, they lay the subject before the Government for their orders.

5. The Board will propose to direct heads of Districts to submit yearly with the settlement report, a report upon the progress of improvement in their Districts, embodying in it the purport of the monthly lists to be furnished by the Civil Engineers, according to the first of the above rules, and that of the progress reports, copies of which are to be supplied to the Collectors under the orders of Government dated 21st July 1855. The Collectors should afford a short and clear account of the progress of improvement in their Districts, the outlay on repairs and on new works, and its effect on the Revenue of Government and the welfare of the people.

6. By means of these reports and of the information which will be communicated by the Chief Engineer as above proposed, the Board of Revenue will, they consider, be kept sufficiently informed of the progress of public works; but the Government will observe that at the same time it is not provided that the Board should take any prescribed part * in suggesting or regulating the means by which the revenues of the Government are to be augmented and improved, or even selecting the works which they consider most important, or advising as to the order in which they should be taken up.

* *See Regulation I. of* 1803, *Section IV.*

7. The Board feel that it is for the Government to determine whether their co-operation in this respect can be of advantage, and to prescribe the manner in which it can be made available.

8. In illustration of the above remarks, the Board will only refer to the Budget lately laid before the Government. This Budget included works for the improvement of the country at an estimated cost of upwards of a hundred lacks of Rupees, and upon none of the projects which it embraces have the Board been consulted, with the exception of the Canal at Compta in Canara, regarding which a reference was made to one of the Members of the Board who had lately been Collector of the District. The Board have deemed it right thus to shew the position in which they are now placed, and it is for the Government to determine whether the Board being so entirely unconsulted regarding works planned for the improvement of the revenues of the country is in accordance with their intention and views.

(A true Extract.)

(Signed) G. S. FORBES, *Secretary.*

No 47. ORDER THEREON, *No.* 486*; dated* 13*th May* 1856.

In these Proceedings the Board lay before Government the plan which, after conference with the Chief Engineer, they would propose with a view to their being kept informed of the progress of public improvements in the Districts.

2. The documents which the Chief Engineer proposes to communicate to the Board are the following.

1st. A monthly list of new works of importance to cost above 1,000 Rupees, and of alterations or improvements to cost above 2,000 Rupees, and of all new roads, to be furnished by the Civil Engineer to the Collector, and by the latter to the Board.

2nd. The Chief Engineer to give the Board his opinion on any project whenever they may wish to consult him.

3rd. He will also forward to them monthly a list of the works ordered by Government to be included in the Budget.

4th. A sketch of the progress of works estimated to cost above 10,000 Rupees, to be forwarded to the Board half yearly.

The Board propose in addition to the foregoing, to obtain from Collectors with their annual settlement Reports, Reports of the progress of improvement in their Districts to be compiled from the monthly lists to be furnished to Collectors under the first of the foregoing propositions, and from the monthly progress Reports to be also furnished to Collectors by the District Engineers. With this addition, the Board express themselves satisfied with the arrangement, so far as regards information of improvements contemplated or in progress.

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3. In cases of this kind, where information is to be supplied to two or more Departments, it is desirable to avoid the necessity of compiling new documents; by making one set of documents, as far as possible, answer the purposes of all the Departments concerned. Disregard of this rule needlessly multiplies work, and it is unnecessary to remark how vastly such useless work has been created in the Account Department from this cause. In the present case, keeping this rule in view, it appears to Government that the object intended may be attained more simply and not less effectually by a different method from that proposed.

4. According to the Chief Engineer's first proposition, the Collector is to receive from the District Engineer a monthly list of works of certain descriptions. It is not clear what are here intended, whether estimates submitted or works sanctioned; but in either case, the District Engineer has to prepare a fresh list every month in addition to all his other work, and there is no doubt that this would be done grudgingly and with delay. Under the third proposition again, the Chief Engineer is to forward monthly to the Board a list of all works ordered by Government to be included in the next Budget; and this also would probably not be supplied very punctually. But it appears to Government that the information to be conveyed in both these papers will be supplied with more fulness, as well as with more punctuality, if copies are sent to the Board from the Government Office of the Chief Engineer's Reports on estimates submitted, and of the orders of Government thereon. The Proceedings of the Government Office being printed, this can be done without difficulty or delay; and the Board will thus have full information as to all works proposed to Government, whether rejected or approved.

5. There are some other documents to come before Government in the Public Works Department, which may also be advantageously communicated to the Board for the same object of keeping them informed of the operations.

First may be mentioned the preliminary lists ordered by Government in Extract Minutes Consultation February 23d 1856, of projects intended by the local Officers in each District to be investigated for entry in the Budget of the ensuing year. These lists, together with the orders of Government upon them, which will also be communicated, will keep the Board informed of all considerable projects about to be undertaken. A copy of the order of the 23d February will be transmitted to the Board, to shew the nature and object of the lists.

Second. The annual Budget Statements and Report will be communicated to the Board at the same time that they are transmitted to the Government of India, as was done this year.

Third. The general progress Report of the Department, required by the Government of India to be submitted for each year, exactly corresponding in arrangement with the Budget for that year, and shewing the expenditure on every work in it, will be communicated to the Board at the same time that it is forwarded to Calcutta. Fourth, a copy of the General Annual Report of the operations of the Department, to be submitted by the Chief Engineer, reviewing its proceedings in every important particular, will also be furnished to the Board from the Government Office

6. It appears to Government that these Documents will supply the Board with all the information they require. There will be, first, the preliminary lists of Projects to be undertaken; second, the Reports of the Chief Engineer on each one as submitted in a more mature form for sanction, and the Orders of Government upon it; third, in the Budget, the General Statement of all intended operations in the coming year; fourth, a Statement of the actual progress of every work, whether in the Budget, or ordered on emergency; and so far as concerns the former, arranged in the most convenient form for comparison with the Budget; fifth and last, the General review of the whole operations of the Department, exhibiting among other particulars, the results of works executed in former years.

7. By these five Documents and sets of papers, the Board will have full information as to the history and progress of every project brought before Government; and it will be for them to provide for so classifying and arranging all this information in proper Registers, that it shall be always

available and accessible. In addition to this, the Board propose also (para. 5) to receive annual Reports from Collectors of the progress of improvement in their Districts, exhibiting the outlay both on repairs and on new works, and its "effect on the revenue of Government and the welfare of the people." Of this design, the Government fully approve; being of opinion that Reports such as those proposed will be highly useful in many respects. Besides their primary use of conveying information to the Board, they will tend to keep up the interest of Collectors in the works of improvement, and make them in some degree feel their obligation to do all in their power to advance the improvement of their Districts. It will be the duty of the Board to review the Collectors' Reports, and lay them before Government with their own remarks in the form of a general Report. The Board propose that the District Reports should accompany the annual Revenue Reports; but it occurs to Government that it might be better to have them submitted independently and at an earlier date. They will be for the official year which ends on the 30th April.

8. In the last three paras. of the Proceedings under notice, the Board advert to another subject, viz. the degree in which it is the intention of Government that they should be consulted before hand as to works to be undertaken. In the Code for the Department of Public Works which has been passed by Government, it is directed,* in the case of works of irrigation and communication, that projects of magnitude shall be submitted by the Chief Engineer for the opinion of the Board of Revenue, before being recommended for sanction. The omission of that Officer to obtain the Board's opinion on a large irrigation project lately under the consideration of Government, attracted notice, and in returning the scheme for further consideration, this omission was ordered to be supplied. In works of less importance it does not appear expedient to make such conference imperative; it seems better to leave it to the Chief Engineer to apply to the Board in those cases in which it shall seem expedient to him to do so. But if the opinion of the Board shall appear to Government to be desirable in any case whenever the Chief Engineer has not obtained it, the Government will take steps to obtain it, either direct or through the Chief Engineer. It should also be clearly understood that the Board of Revenue will be at full liberty to address either the Government or the Chief Engineer, in connection with the documents to be supplied to them as above provided, whenever they may see occasion to do so.

* *Sec. X. para.* 4.

(Signed) J. D. BOURDILLON,
Secretary to Government.

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STATEMENT OF OBJECTS AND REASONS.

It being the wish of the Government of Madras that the practice of impressing laborers for the execution of public works, which, sanctioned by immemorial custom, formerly prevailed very generaly in that Presidency, but has of late been greatly restricted, should cease entirely, except in certain cases of emergency in which for the common safety of person and property it is deemed necessary still to enforce it, and it being thought proper to define those cases by law, and also to provide that, when they occur, laborers shall not be compelled to work by force, but shall be subject to a penalty if they neglect to comply with a call for their labor duly made to them, and that when working they shall be sufficiently paid for their labor, the first object of the Bill herewith presented is to obtain the sanction of the Legislature to the proposed exception and to make provision to the above effect for cases falling within the exception.

It is needless in this Bill to prohibit the compulsion of labor as the general rule, for that is done by Clause 76 Chapter XVI of the Penal Code, which declares that "whoever unlawfully compels any person to labor against the will of that person shall be punished." What is proposed is to make the compulsion of labor lawful in the emergencies indicated, namely, when there is imminent danger of a destructive inundation from an anticipated breach in the embankment of a tank, river, or canal, or of an anicut or other like work, or when a breach has occurred which unless it be instantly stopped will cause such an inundation. In such cases, and such only, it is asked that power be given to the local authorities to cause a levy *en masse* of the laboring classes in the adjacent village or villages, to throw their labor on the embankment in such a manner as to prevent the impending danger, or to repair the breach which has occurred in time to stop the progress of the mischief already begun.

It is intended that the heads of villages shall call on the laborers of their villages for their services in such emergencies on the requisition of the Officer in charge of the tank, or other work, or of the Tehsildar; or if neither of these Officers is on the spot and the emergency admits of no delay, on the demand of the head of the village in which the danger arises. The Government of Madras insist on "the absolute necessity of giving to the heads of villages the power to make, of their own motion, a requisition for labor on emergency; that the matters to be provided for are emergent and will not brook delay, is the sole ground on which the Government rest their demand for an Act to legalize forced labor, and if the power of immediate action be denied to the local Officer, and must be obtained from some superior who may at the moment be many miles away, the evil to be averted will be done before preventive measures can be commenced, and the Act, when it is passed, will be of no practical use."

No force is to be used to compel the laborers to work when they are so called upon, but they will be liable to fine, or imprisonment, or both, if they refuse or neglect to do so, on conviction before an Officer vested with the jurisdiction of a Magistrate. The laborers are to be paid at remunerating rates from the public Treasury.

Provision is made in the Bill for compulsory requisitions on the inhabitants of the villages for the supply of materials for stopping breaches, an authority which appears to be nearly as necessary as that for compelling labor. Such materials are to be taken at once and receipts given for them, on which payment is to be made from the public Treasury.

The necessity for these compulsory provisions rests on the apprehended danger to the community. But as the tank or other work, the breach of which is likely to cause the danger, may happen to be private property, provision is made for recovering from the owner the amount advanced from the public Treasury.

The second object of this Bill, which is deemed of great importance by the Madras Government, is to provide for the enforcement of customary labor for the purpose of irrigation and drainage. The burden of maintaining the great works of irrigation, such as the embankments of the large tanks, spread over the country, the embankments of rivers and canals, the anicuts by which the waters of the rivers are arrested and forced into lateral channels, and the channels by which they are conducted to the villages, rests on the Government, and by the custom of the country it is on the other hand incumbent on the village communities to keep in repair the water-courses leading from those main channels to the fields.

"It has, from time immemorial, been the custom for the ryots of many of the Districts in this Presidency, to perform, at their own cost, the petty repairs required to the channels by which their lands are irrigated, and the plan has been so systematized in Tanjore, where irrigation is general, that it is a fixed, known, and admitted rule that, while the Meerassadars clear out and repair all the minor channels by which water is led from the main channels to the fields, they also clear and repair the main channels when the expense of the work does not exceed 2½ per cent of the revenue derived from the villages. This long established custom has wanted only a formal enactment to give it the force of law, and that formality being refused, the Government are of opinion that, at no distant day, the custom itself will cease; with its cessation the expense of all the repairs hitherto made by the people must be provided by the State, and the expenditure of this Government in the Department of Public Works will in consequence be much increased. As long as the Public Works executive was under the Collector, his authority was sufficient, and the general custom of the country was followed without a question; but when the executive shall have been transferred to professional agency, and the exercise of the Collector's authority is at an end, the Government are of opinion that, without the aid of the law, all unpaid labor will cease."

Instead of making the refusal or neglect of the villagers to fulfil their duty in this respect a penal offence, the Bill proposes that, the work being done by other means, the recusants shall be liable for the expenses incurred in the execution of it, which in case of dispute are to be determined by a punchayet assembled by order of the Collector through the village or District Moonsiff, as provided by Regulation XII of 1816 in case of dispute regarding the occupying, cultivating, and irrigating of land.

In providing in this manner for the failure of the villagers to perform their part towards the preservation of the channels of irrigation in proper order, the Bill follows in principle the provision contained in Section LXVIII of the Conservancy Act, XIV of 1856.

D. ELIOTT.

The 18th April 1857.

From the Secretary to the Government of Fort St. George, to the Member of the Legislative Council of India for the Madras Presidency, No. 119, dated 17th January 1857.

PUBLIC WORKS DEPT.

SIR,

On the 9th August last I had the honor to forward to you a draft Act "for the protection of works of Irrigation, Navigation, and Drainage," with copies of the correspondence that had taken place on the subject, and I requested, by desire of the Right Honorable the Governor in Council, that the draft might be brought before the Legislative Council with a view to its enactment.

2. It was subsequently suggested to Government that, in the absence of any statement of facts, to shew the necessity of Clause 7 of the draft, (the object of which is to render the compulsion of labor legal in the two cases mentioned in the 3rd Clause of para. 4 of my letter to you, that Clause might possibly be objected to in the Legislative Council, and with the view of supplying this want, the Board of Revenue were requested in Extract Minutes of Consultation of 18th October 1856, to call upon Revenue Officers for a Memorandum or Report as to the custom prevailing in their Districts of demanding labor in any particular cases, with their opinion on the question of the necessity of obtaining legal power to enforce its requisition.

3. The Secretary to the Board of Revenue, in his letter dated 15th December 1856, submits, with the Board's observations, letters from the different Collectors furnishing the information required, and also one from Mr. Forbes, the Collector of

Tanjore, (by whom the Draft Act was in the fir
of the Board, but now detached on special
enclose a copy, contains an abstract of the c
appear necessary to send the originals. The C
only consider the enactment of a law unnec
interest is a sufficient motive to action with th
that in his District the head ryots have sufficie
do what is needful. But this Government c
letter to be a complete refutation of Mr. Smolle
a breach may occur within the limits of a s
quite inadequate to arrest the progress of the e
a large village, when all those whose lands lie f
have no interested motive in stopping it. An
adverting to the opinion expressed by Mr.
the head ryots for the failure of the people,
objectionable in the extreme, and would prob
The inferences suggested by the reports
are that, though legal powers of compuls
present, it may reasonably be supposed tha
of furnishing labor, in the two cases in q
prevalence, and to be one of very long
conditions on which land is held. And
necessity of legal powers of compulsion b
hitherto been enforced under the general
Officers, both under native Governments and
Now, however, that a tendency to evade the d
Districts, particularly in South Arcot, and viole
be resorted to, it seems absolutely necessary th
ning the demand of labor and furnishing legiti
demand without violence. This necessity w
Revenue Officers are deprived of police authority.

t instance framed,) and Acting Member
duty. The Board's letter, of which I
ontents of the Reports; and it does not
illectors of Vizagapatam and Chingleput
ssary. Mr. Smollett thinks that self
e ryots; while Mr. Shubrick contends
t influence to compel the villagers to
onsider paras. 7 and 8 of Mr. Forbes
tt's argument. It is there shewn that
all village, the population of which are
ill, or it may occur in the *lower* part of
rther up the stream than the breach, will
the Board of Revenue justly remark, in
Shubrick, that the system of punishing
to do what is not legally compellable, is
give rise to violence and oppression.
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all Collectors are agreed upon the
vested in the executive. The duty has
definite powers exercised by Revenue
in a minor degree under British rule.
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ut coercion being frequently obliged to
t an enactment should be passed, legali-
mate means for the enforcement of the
ll be still more felt when the Native

4. In the last para. of his letter, Mr. F
being inserted in the Act, making it lawfu
leaves, bamboos, straw, &c., which are as esse
branch. The Board support Mr. Forbes' vie
that the same necessity which justifies the
requires and justifies also the taking of ma
directed to request that the necessary additions

rbes argues the necessity of a Clause
to take materials, as cocoanut-trees and
tial as labor to stop a river or tank
ws, and the Government are of opinion
exaction of labor for a fitting reward,
terials at a fair value. I am therefore
may be made to the Act.

5. It is the hope of this Government that the present communication will have
the effect of removing any doubts in the minds of the Members of the Legislative
Council, as to the necessity for the Clause under notice.

6. When the Act shall be passed, its provisions with rules adapted to local customs and exigencies, will be universally promulgated by means of the Collectorate Presses, so that all classes concerned will be made acquainted with the existence of thes obligations as well as with their extent.

I have the honor to be, &c.

(Signed) J. D. BOURDILLON,

Secretary to Government.

From the Acting Secretary to the Board of Revenue, to the Secretary to Government, Department of Public Works, No. 1233, dated the 15th December 1856.

Sir,

From H. Forbes, Esq.	4th Nov.	in Consulta		7th Nov., 1856.
„ Ganjam,	1st „	in	do.	18th „ „
„ Vizagapatam,	31st Oct.	in	do.	8th „ „
„ Rajahmundry,	7th „	in	do.	17th „ „
„ Masulipatam,	1st Nov.	in	do.	10th Dec., „
„ Guntoor,	1st „	in	do.	10th „ „
„ Nellore,	30th Oct.	in	do.	3rd Nov., „
„ Bellary,	8th „	in	do.	14th „ „
„ Kurnool,	29th Oct.	in	do.	4th „ „
„ Chingleput,	25th „	in	do.	26th Dec., „
„ North Arcot,	30th „	in	do.	10th „ „
„ South Arcot,	27th „	in	do.	10th „ „
„ Tanjore,	8th „	in	do.	12th Nov., „
„ Trichinopoly,	15th „	in	do.	7th „ „
„ Madura,	7th „	in	do.	14th „ „
„ Tinnevelly,	14th „	in	do.	22nd „ „
„ Coimbatore,	12th „	in	do.	15th „ „
„ Salem,	1st „	in	do.	6th „ „
„ Canara,	8th „	in	do.	20th „ „
„ Malabar,	25th Oct.	in	do.	3rd „ „

With reference to Extract Minutes of Consultation, dated 18th October, No. 1900, Public Works Department (Public), I am directed by the Board of Revenue to forward the accompanying letters from the Officers named in the margin, furnishing the information required by Government regarding compulsory labor on Works of Irrigation and Drainage.

2. The Board will briefly notice the more important of these reports.

Ganjam.

3. The practice of employing forced labor exists in all the Zemindaries, batta being given where the distance of the work prevents the laborers returning to their meals. Contributions of chunam, wood, and charcoal are also levied when necessary, each village supplying a certain quantity. In the Government Talooks the ryots have on different occasions been made to pay for large repairs to irrigating channels. It is the custom for Government to clear out certain large channels once a year, and for the ryots to do it a second time if required. The Collector proposes holding Zemindars responsible for the supply of the labor required from their estates, but in cases of

emergency there often would not be time to apply to the Zemindar and it would moreover be necessary to invest proprietors with powers of compelling the attendance of their people before holding them answerable.

Vizagapatam.

4. The Collector of Vizagapatam considers the enactment of a law unnecessary, and states that he has never known an instance in which it was necessary to resort to forced labor, as to save the Revenue and protect their interests is generally a sufficient motive to action with the parties. The Collector was not aware that it is intended that payment should be made for forced labor in cases of emergency, and that in other cases the ryots are merely to be required by law to do what by long established local usage they have heretofore been bound to do. Where the people voluntarily continue to render such services, the proposed law will of course be inoperative, and local variations will in all cases be provided for in the rules which are to be framed under the Act.

Rajahmundry.

5. In Rajahmundry the Collector states that it has never been the practice to require the ryots to execute repairs to Government works, and that the rules on this subject promulgated in 1847, by the then Department of Public Works, have never been brought into operation. In cases of emergency labor has been forced, and in fact was, until a late period, more or less obtained by compulsory means for the construction of ordinary Public Works. The Collector considers that legal powers, such as those contemplated, are necessary. He gives an instance in the case of the Godavery embankment at Veeravallypolem in August last, when recourse was had to forced labor to prevent an irruption of the river which might have been followed by serious destruction of property and loss of life. The laborers were well paid and well treated.

Masulipatam.

6. The Acting Collector of Masulipatam reports that the practice of compelling labor and seizing materials has existed from time immemorial and is continued now, with this difference, that both labor and materials are paid for. The Board would also instance the impost styled Maramut Nisf, noticed in their proceedings dated 23rd October 1856, No. 3329, in illustration of the subject. In the Zemindaries the custom prevails in full force to the present day and is submitted to "often cheerfully and always as a matter of course."

Guntoor.

7. In Guntoor the Acting Collector states that the people claim exemption from the duty of performing works of an ordinary character, on the ground that they contribute a portion of their share of the produce for such contingencies. In cases of emergency it has been the immemorial custom, both during the Zemindar's administration and subsequently, to call for the aid of the village community; the charges incurred were formerly paid out of the "Grama Kharch" or fund contributed by the village community for various purposes. Since the abolition of this fund, the expenses have been borne by Government. The Board do not think it necessary to discuss here the question mooted in paragraph 8 of the Acting Collector's letter as it turns on points of of law and has no direct connection with the subject under consideration.

Nellore.

8. In Nellore the minor irrigating channels, as a general rule, are kept in repair solely by the ryots, and all persons holding land under tanks and channels are required under penalty of a fine to furnish their quota of unpaid labor according to local usage. In this manner, work to the value of Rupees 52,992 has been performed by the villagers themselves during the last five years and extensive operations have been similarly carried on during the present year.

Chingleput.

9. The Collector of Chingleput, in his letter, shows the existence of the custom in that district. He does not however consider a Legislative enactment necessary, as the Meerassadars and Monigars have sufficient influence to compel the villagers to do what is needful. The Board would remark, however, that it is not urged in support of the Draft Act, that legal powers are every where necessary at the present moment, but only that they are so (as the reports now submitted show) in most Districts, and it may reasonably be inferred that sooner or later they will be so in all. The practice in Chingleput of punishing the village officers for the failure of the people to do what is not compulsory is open to serious objection, as unjust to the officers themselves and as holding out to them a temptation to resort to illegal practices when their influence is insufficient to secure the object in view.

South Arcot.

10. The report of the Collector of South Arcot is chiefly valuable, as showing the necessity for a law on the subject. The people, it will be seen, have been gradually failing to conform to the long established custom, and it is now a matter of difficulty to get them to do any such work.

Tanjore.

11. From Tanjore the Board have reports from the Acting Collector and from their colleague now in that District on special duty. The existence of compulsory

labor from ancient times, the present practice, and the necessity of giving the local officers legal powers of compulsion, are fully shown in these communications. The Board would refer in particular to paras. 4 to 10 of Mr. Forbes' letter as showing the absolute necessity of such power being accorded in this Province to obviate serious risk to life and property. The Board concur with Mr. Forbes, that the new Act should render it lawful in cases of emergency to take materials without the consent of the owners if necessary, payment being duly made for the same.

Salem.

12. In Salem the only ordinary work performed by the people is that of keeping the channels of irrigation clear of accumulations. The mode in which this labor is shared varies greatly; in one instance (that of the Cauvery channels) the Government at the survey assumed this duty, including in the Assessment the fees previously paid by the cultivators for this purpose and payment of these fees is now enforced in the same way as that of the ordinary Land Revenue. From the proceeds of these fees an establishment is now maintained for the express purpose of preserving the channels, but the villagers are still liable to demand for extra aid on special occasions. In cases of emergency the agricultural classes attend at the call of the village officers, and no complaint is made against the custom as unjust or oppressive, although the duty is frequently evaded from the absence of rule and penalties.

Trichinopoly, Coimbatore, Bellary.

13. In Trichinopoly, Coimbatore, and Bellary, the existing practice is fully illustrated by the value of the work done by the people, amounting in the latter District (Bellary) to 60,000 Rupees annually, independent of emergent works.

Karnool.

14. In Karnool, the Officiating Agent reports that, in cases of necessity, forced labor was resorted to during the native administration, and the practice has been continued when necessary since the British assumption of the country. A class of Examdars exists in every village called Beygaries, who receive their emoluments on condition of affording their services when required, and their labor suffices on all ordinary occasions.

Canara.

15. In Canara the only kind of work on which the labor of the village community is required is the construction and repair of temporary bunds across nullahs after the rains. A peon is occasionally deputed to aid the Petels in making arrangments for the larger works of this nature, but no further interference is exercised by the Government authorities.

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Malabar.

16. The circumstances of the Malabar District are exceptional, and the proposed Act will be inoperative there. The Acting Collector's suggestions refer to municipal purposes and require no remark on this occasion.

17. The Board have not as yet received any report from the Collector of Cuddapah, but will submit it separately hereafter,

18. The letters from the Collectors of North Arcot and Tinnevelly, and the Acting Collector of Madura, require no particular notice here.

19. The Board regard the above reports as affording sufficient grounds on which to base the application for legal powers, at all events as regards work of emergency.

20. The custom is shown to be of almost universal prevalence and to be one of very long standing. The necessity of legal powers of compulsion being vested in the executive is also very generally advocated.

21. The Board recommend the addition of a clause in regard to materials as suggested by Mr. Forbes, if this can now be done.

Extract from the proceedings of the Board of Revenue, dated 22nd December 1856, *No.* 4375.—*Read the following letter from the Collector of Cuddapah.*

(Here enter 10th December 1856, No. 132.)

Resolved that the above letter be laid before Government with reference to the Board's letter, dated 15th December 1856.

2. The Collector states that the irrigating channels are usually cleared by the ryots, except when extensive injury has been sustained.

3. In cases of emergency when a tank is breached or endangered, forced labor is resorted to, but the people have only in one instance, which occurred recently, refused their assistance on such occasions.

(A True Extract)

(Signed) J. D. SIM,

Acting Secretary to the Board of Revenue.

From H. Forbes, Esq., to the Secretary to the Board of Revenue, Fort Saint George, No. 24, dated Tanjore, 4th November 1856.

Sir,

I have the honor to receive an extract from the Board's proceedings, dated the 22nd ultimo, No. 3510, in which I am requested to afford information on the necessity that exists for having recourse to compulsory labor in cases of sudden emergency such as the breach of channel or river banks.

2. The custom has prevailed in Tanjore from time immemorial, and although the able measures taken by the Civil Engineers, and the attention that has been paid to the public works for many years past, have rendered a recourse to the practice less frequent now than formerly, its necessity on emergent occasions is not the less obvious to all who are practically acquainted with the wants and requirements of the Province. Before the upper anicut was built it was annually necessary to send some thousand people to the head of Seeringham to clear the accumulations of sand; the same measures were adopted at the head of the Veimar before the regulating dam was erected, and the heads of many of the rivers the supply of which is now regulated by masonry works, had from time to time to be cleared by manual labor. The work was never one in which those in the immediate neighbourhood were interested, their supply of water was drawn from some channel taken off higher up the river, and to maintain the cultivation of the lower villages, it was necessary that authority should be exerted to obtain labor on the spot for the work that must necessarily be done. These works however, as I have said, are now not needed, and the necessity for compelling labor is restricted to occasions of rivers breaching their banks.

3. I believe that in some quarters it is even now questioned whether river embankments are advantageous to a country or not. An acquaintance of more than twenty years with the Cavery an its off-shoots, and with the Godavery has left no doubt on my mind upon the subject; but the question has been so thoroughly argued by Colonel Cotton that it would be a waste of the Board's time if I were now to enter upon it. I will therefore only beg them to refer to an article on river embankments in the *Calcutta Review* for October 1847, and proceed with the present subject, assuming that the river embankments will be at all events maintained in Tanjore, where the system has been at work for more than half a century, and where whole fortunes have been invested in landed estates in full reliance that the system will be maintained.

4. In ordinary seasons it is not often that a river breaks its banks, but when a breach occurs the necessity for closing it is emergent. Omitting all irrigating and surplus channels, as far too numerous to mention, there are in Tanjore not less than 105 rivers: the District is a small one, and it is obvious that if a breach in the bank of one be not closed before its waters have burst into another, that other, unable to contain the additional flood thus poured into it, must break, and in its turn empty its accumulated contents into a third, until from North to South would be one wide scene of desolation.

5. The heavy loss of life and property that must inevitably result from the waters of a large river forsaking their accustomed course, and sweeping over the face of the country, is by no means all that is suffered; much land is permanently injured by the sand which the river deposits in its course, and the whole of the cultivation below the breach which depended on irrigation from the river, is deprived of it supply of water.

6. The great emergency of the occasion arises from the rapidity with which a breach enlarges if left to the action of the water. In 1834 the Coodamoorty breached its bank to the extent of ten yards, and notwithstanding that every available measure was adopted to arrest the evil, the breach had widened to eighty yards before it could be closed. On this occasion 400 trees, 6,000 bamboos, 30,000 cocoanut leaves, and 13,000 bundles of straw were expended, besides an outlay of 3,000 Rupees in the laborers' wages. The hurricane of 1853 occasioned 170 breaches, and as I was Collector of the District at the time, I may take upon myself to assert, and I know that Major Lawford who was then the Civil Engineer will support the assertion, that had not authority been exerted to repair the general damage, the cultivation of the ensuing year would have been very generally arrested.

7. But the difficulty now felt probably does not arise from inability to admit the necessity for closing a breach, but from unwillingness to admit that it is necessary to force labor for the purpose; to this point therefore I shall now briefly advert.

8. A breach may occur in the limits of a small village, the population of which is wholly inadequate to arrest the progress of the evil, or in the eastern part of a large village. To all whose lands are situated above it, that is to the west, the breach is of no concern, and to give notice to those below it whose cultivation depends on the water maintaining its usual course, would by delay cause such extension of the evil as no after efforts could retrieve. Moreover in Tanjore, where the entire surface of the delta is cultivated, there is no spare labor; every landowner has his own farm servants, and as the time of the freshes is also the season of cultivation, not a man will spare his laborers from his fields, if his own individual interest be not at stake. When a branch occurs trees must be felled, straw must be had, and labor must be procured; those interested are at too great a distance to supply either, those at hand are too selfish, and unless authority be exercised, the breach must spread, the lands must be destroyed, villages must be swept away, and cultivation must be arrested.

9. Hitherto the Collector's authority has never been questioned and the established custom of the country has been followed, but when the executive is transferred to the Civil Engineer it is very questionable if the same obedience will be shown, and therefore it is that those who know the people and are acquainted with the wants of the Province have advocated a Legislative Act.

10. A copy of the Draft Act, as finally approved by Government, has not been sent to me, and should provision not have been made on the subject, I take leave to recommend that a section be added to make it lawful to take materials as well as labor to stop a river breach. Cocoanut trees, leaves, and straw are as essential as labor, and each individual is naturally desirous that his own should be spared, and those of his neighbour taken, and if the question be asked it is certain that no one will consent. It is not an exaggeration to say that every minute is important when a breach has been made, and arbitrary as it may appear to seize the goods of individuals the measure is absolutely necessary not for the security of the Revenue only but for the preservation of the property of all *salus populi, suprema lex*, and I believe that the legal maxim is unhesitatingly acted upon on occasion of a fire in any large town in England, when houses are pulled down with or without their owners' permission, to arrest the progress of the flames and prevent a general conflagration.

I have, &c.

(Signed) H. FORBES.

From the Acting Secretary to the Government of Fort Saint George, to the Member of the Legislative Council of India for the Madras Presidency.

No. 294, dated 26th March 1857.

Revenue Dept.

Sir,

I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter of the 7th instant, informing the Government that, from the sentiments expressed on the introduction of the Bill which is the subject of your letter of the 21st ultimo, you feel that it would be vain to attempt to gain the assent of the Legislative Council to such a provision as that contained in Section VI of the Draft Act submitted to you with Mr. Beadillon's letter of the 9th of August 1856, and requesting the opinion of the Right Honorable the Governor in Council whether it will be sufficient to provide for the cases referred to in Section VII, negatively, by making them exceptions to the Act introduced by Mr. Grant, or whether the tenor of that Section should be embodied in a seperate Bill. You further lay before the Government your apprehension that the Legislative Council will feel a difficulty in empowering heads of villages to make a requisition for forced labor of their own motion, and wish to be informed if this provision may be modified.

2. In reply, I am directed to state that the Right Honorable the Governor in Council would not wish you to press upon the Legislative Council a measure which you have reason to believe would not meet with their acceptance; but as His Lordship in Council is of opinion that the law applied for is both just and necessary, he desires to

place on record his anticipations of the consequences that will follow a refusal of the legal powers sought for, and to relieve this Government from the responsibility of those consequences.

3. It has, from time immemorial, been the custom for the ryots of many of the Districts in this Presidency, to perform, at their own cost, the petty repairs required to the channels by which their lands are irrigated, and the plan has been so systematized in Tanjore, where irrigation is general, that it is a fixed, known, and admitted rule that, while the Meerassadars clear out and repair *all* the minor channels, by which water is led from the main channels to the fields, they also clear and repair the main channels when the expense of the work does not exceed 2½ per cent. of the revenue derived from the village. This long established custom has wanted only a formal enactment to give it the force of law, and that formality being refused, the Government are of opinion that, at no distant day, the custom itself will cease; with its cessation, the expense of all the repairs hitherto made by the people must be provided by the State, and the expenditure of this Government in the Department of Public Works will in consequence be much increased. As long as the Public Works executive was under the Collector, his authority was sufficient, and the general custom of the country was followed without a question, but when the executive shall have been transferred to professional agency, and the exercise of the Collector's authority is at an end, the Government are of opinion that, without the aid of the law, all unpaid labor will cease.

4. With respect to the manner in which the provisions of Section VII of the Draft Act should be legalized, it appears to the Government that it will not be sufficient to provide for them negatively, by making them an exception from the general rule, and so virtually to sanction them, because, as there is no law in the Presidency legalizing forced labor, to except the provisions of Section VII from the Bill brought in by Mr. Grant to repeal the Bengal Regulation, would have no effect in Madras, and would leave matters precisely as they are. The Government are of opinion that a separate Bill is needed.

5. Finally, I am directed to request that you will press upon the Legislative Council the absolute necessity of giving to the heads of villages the power to make, of their own motion, a requisition for labor on emergency; that the matters to be provided for are emergent and will not brook delay, is the sole ground on which the Government rest their demand for an Act to legalize forced labor, and if the power of immediate action be denied to the local Officer, and must be obtained from some superior who may at the moment be many miles away, the evil to be averted will be done before preventive measures are commenced, and the Act, when it is passed, will be of no practical use.

I have the honor to be, &c.

(Signed) H. FORBES,

Acting Secretary to Government.

Legislative Council.

Annexure

TO

Bill to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort St. George.

1. Statement of objects and reasons.. 1
2. From Secretary to Government of Fort St. George, dated 17th January 1857, and enclosures..... 3
3. From Acting Ditto, dated 26th March 1857.. 12

Price 7 Annas.

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BILL

TO

Make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort Saint George.

Preamble.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers, and canals, and of anicuts and other like works, and it is necessary for the common good to make it obligatory on persons of the laboring classes, when duly called upon, to unite their labor to prevent such breaches, or to repair them instantly; and whereas it is expedient to make legal provision for the enforcement of the duty which by local custom is incumbent on village communities to furnish the labor required for the execution of certain works for the purpose of irrigation and drainage; It is enacted as follows:—

Laborers may be called upon to assist in preventing or repairing breaches in the embankments of tanks, rivers, &c.

I. Whenever it shall appear to the Officer in charge of any tank, river, or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river, or canal being breached, or of a breach being made

in such anicut or other work, and of a destructive inundation being caused thereby which may be prevented by a large body of laborers immediately working together to strengthen the embankment or other work, or when such a breach has occurred if it shall appear to such Officer that it can be repaired and the inundation caused by it be stopped by the immediate employment of a large body of laborers for that purpose, it shall be lawful for such Officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the laboring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach as the case may be. In the absence of the said Officer it shall be lawful for the Tehsildar of the talook to make such requisition in his stead. And if neither the said Officer nor the Tehsildar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion to call upon the laborers as aforesaid of his own village and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the laborers of their villages to co-operate in the work necessary for preventing or repairing the breach.

Punishment for refusing or neglecting to comply with such call.

II. Any male person of the laboring classes being duly called upon by the head of his village to labor as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse, shall be punished with a fine which may

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extend to one hundred Rupees, or with simple imprisonment which may extend to one month, or with both.

Rate of remuneration for laborers so employed.

III. Every person who shall be employed on such work under such requisition shall be paid for his labor by day at the highest rate paid in the neigbourhood for similar work, and if he is required to work at night at double such rate.

Mode of payment.

Recovery of advances from private persons.

IV. Payment shall be made to the laborers from the public Treasury; and if the laborer shall have been employed upon a work belonging to a private person, the amount advanced from the Treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of Land Revenue.

Inhabitants of villages may be called upon for the supply of certain materials.

V. It shall be lawful for heads of villages on the requisition of the Officer in charge of such works as aforesaid, or in his absence on the requisition of the Tehsildar, or, in case of emergency, when neither such Officer nor the Tehsildar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, cocoanut trees and leaves, bamboos, straw, and the like, necessary for stopping breaches in the em-

bankments of tanks, rivers, and canals, and to take such articles wherever they may be found, giving receipts for them in writing;

Supplies how to be paid for.

such supplies shall be paid for from the public Treasury at the highest prices which can be obtained for such articles in the neighbourhood; and when the work for which they

Recovery of advances from private persons.

are used belongs to a private person the amount advanced from the Treasury shall be recoverable from him by the same means by which arrears of Land Revenue are recoverable.

VI. Whenever by local custom any

Liability of person bound, but refusing to contribute labor to a work of irrigation or drainage usually executed by the joint labor of a village community.

work for the purpose of irrigation or drainage or connected therewith is usually executed by the joint labor of a village community, any person bound to contribute labor to such work, who refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the Tehsildar or other superior Revenue Officer, shall be liable to pay any expense incurred in the execution of the work by reason of his default. The amount of such expense shall, in case of dispute, be determined summarily by a village or District punchayet assembled by order of the Collector through the village or District Moonsiff according to the rules for assembling such punchayets prescribed in Regulations V and VII of 1816. The amount awarded by the punchayet shall be payable on demand; and on non-payment the same may be levied by distress and sale of the goods of the defaulter, or may be recovered by the same means by which arrears of Land Revenue are recoverable.

Legislative Council.

Compulsory Labor for the maintenance of certain works of irrigation.

(Fort St. George.)

A

BILL

TO

Make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort St. George.

(Prepared and brought in by Mr. Eliott.)

Read a first time on the 18th April 1857.

Price 3 Annas.

From

D. Elliott Esquire.

Member of the Legislative Council

To

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1233

A. Forbes. Esquire.

Acting Secretary to the Government

of Fort St. George.

Dated Fort William the 12th November 1857

Sir,

I am directed to acquaint you that there has been no communication from the Government of Madras touching the Bill "to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort St. George" which should now be reported upon by the Select Committee. It would be satisfactory to me in bringing the Bill before the Select Committee to be able to state that in its present shape it is approved by the Government of Madras, or, if any amendments are deemed advisable,

to

Noted
To be referred after
13th August 1857

to submit them to the Committee for consider-
ation. I would therefore solicit a communica-
tion on the subject as early as possible.

I have the honor to be,
Sir,
Your Most Obed.t Serv.t

Member of the Legislative Council

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Brick that he received
of [illegible] that is wanted.

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[illegible]

A.S. Copy Desp. 27:
To Kramer
Public Dup. 28 Jpds.

No. 1233.

A. D.

Delivered. 19/1238

Sir

I have had the honor
to receive Your Excellency's
two letters of the 12th Inst.
and have communicated
the contents to the Right
Honorable the Governor
in Council
who desires me to express
his Excellency's
Sir Provideny, Lord

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brought before the
Legislative Council

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Mayfield 8.