

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1682	Press Mis.
1684-1685	
Dated 11-9-1863	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
11th September 1863.*

No. 164. Read the following Proceedings of the Board of Revenue, dated 28th August 1863,
No. 5,411 :—

Read Proceedings of the Board of Revenue, dated 29th July 1863, No. 4,722.

Read also the following letter from the Collector of Vizagapatam, dated 8th August 1863,
No. 580.

1. In reply to Board's Proceedings, No. 4,722, dated 29th July ultimo, regarding Act No. XX of 1863, and its effect on the extensive landed endowments under the management of the Rajah of Vizianagrum, I have the honor to state that the superintendence I refer to is the "general superintendence" vested by Section 2 of Regulation VII of 1817 in the Board of Revenue, whose local agent the Collector of the Zillah is declared to be (Section VIII).

2. The argument I would respectfully press is, that I was not relieved of this agency, nor the Board of this superintendence till the passing of the present Act. It is observed by the Board that there is nothing left to relinquish, inasmuch as the revenues of the villages in question have even heretofore been collected and distributed by the Rajah. But if reference be had to the wording of Section 4 of the Act, it will be seen that it is not necessary that the revenues of the land should have been administered by the Board: the words are "under the superintendence or in the possession of the Board of Revenue." *Possession* there never was, but *Superintendence* must be considered to have existed up to the present moment, or why the repeal of Regulation VII of 1817, "so far as the duties of the Board of Revenue in the Presidency of Fort Saint George and "their local agents embrace the superintendence, &c.," as set forth in the Preamble of Act XX of 1863?

3. There is another point of view. If the villages under their superintendence be not now formally transferred by the Board to the present Manager, agreeably to Section 4, then Section 5 can never become applicable, and in the event of a disputed succession, the community interested in the worship of all or any of these religious establishments, will be debarred from the short, simple, and inexpensive procedure for securing the appointment of an *ad interim* administrator, together with all other benefits of this important enactment.

1. Ordered that the above papers be submitted to Government for their orders.

2. The question raised in this case is, whether the general Statutory Superintendence exercised by the Board of Revenue under Regulation VII of 1817 over religious endowments must, under the provisions of Act XX of 1863, be formally transferred by the local Government, even in cases in which such general superintendence has never been actively exercised.

3. Mr. Carmichael is of opinion that certain extensive landed endowments in the Vizianagrum Zemindary, in the Vizagapatam District, ought to be thus formally transferred to the Vizianagrum Rajah, though successive Rajahs, up to the present Rajah, have retained the lands under their own charge, and have undertaken the management of the temples in the Zemindary without any interference on the part of the Board of Revenue; Regulation VII of 1817 not having in fact been called into active operation in respect to the temples and endowments belonging to the Vizianagrum Zemindary.

4. The Board in their Proceedings dated 29th July 1863, No. 4,722, expressed an opinion that in this case it was not necessary under Act XX to make a formal transfer. They conceived that Regulation VII of 1817 being repealed in general terms by Section 1, Act XX of 1863, a transfer by a formal Act was not needed except when the Board's local agent was in possession of an endowment, or was exercising over it a direct and immediate superintendence. Mr. Carmichael differs from the Board on this point, and the Board, seeing that the case admits of a doubt, submit the question for the consideration of Government.

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*Proceedings of the Madras Government, Revenue Department,
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5. If the Government should consider that by Act XX of 1863, the local Government is required to make a formal transfer in respect to every endowment throughout the country, the whole of which were placed under the general superintendence of the Board of Revenue by Regulation VII of 1817, the Board request that the Government will be pleased to determine in what manner such transfer is to be effected.

No. 165.

ORDER THEREON, 11th September 1863, No. 1,682.

The Government incline to the view taken by the Board of Revenue of the question referred to in these Proceedings. It appears to them that the repeal of Regulation VII of 1817 abolishes the *general* superintendence which the Board were by law empowered to exercise over religious endowments, and that under Act XX of 1863 the Government have formally to transfer to Trustees only property over which the Board have exercised some *real* superintendence. But the question being one of law, the Government Pleader, to whom the Board's present communication with its enclosure, will be forwarded, will be requested to favor the Government with his advice thereon. Mr. Dale will also be desired to state in what manner the transfer is to be made if it is necessary in the cases supposed by Mr. Carmichael.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

To the Government Pleader,
Board of Revenue.

Exd. S. T. Augustin.

No. 5,411.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 28th August 1863.

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2. The argument I would respectfully press is, that I was not relieved of this agency, nor the Board of this superintendence till the passing of the present Act. It is observed by the Board that there is nothing left to relinquish, inasmuch as the revenues of the villages in question have even heretofore been collected and distributed by the Rajah. But if reference be had to the wording of Section 4 of the Act, it will be seen that it is not necessary that the revenues of the land should have been administered by the Board: the words are "under the superintendence or in the possession of the Board of Revenue." *Possession* there never was, but *Superintendence* must be considered to have existed up to the present moment, or why the repeal of Regulation VII of 1817, "so far as the duties of the Board of Revenue in the Presidency of Fort Saint George and "their local agents embrace the superintendence, &c.," as set forth in the Preamble of Act XX of 1863?

3. There is another point of view. If the villages under their superintendence be not now formally transferred by the Board to the present Manager, agreeably to Section 4, then Section 5 can never become applicable, and in the event of a disputed succession, the community interested in the worship of all or any of these religious establishments, will be debarred from the short, simple, and inexpensive procedure for securing the appointment of an *ad interim* administrator, together with all other benefits of this important enactment.

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(A true Copy and Extract.)

Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.,

with copy of Board's Proceedings dated 29th July 1863, No. 4,722.

Copy to D. F. Carmichael, Esq., Collector of Vizagapatam.

Exd. J. Wright.

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For the Co:
11th September 1863. JRS

Gov^r Pleader with signature 12th Sept
Board of Revenue