

MADRAS RECORD OFFICE.

Government of Madras.

Revenue
Department DEPARTMENT.

G.O. No. 2906

Press
MIS

473-482

Dated

25-11-

1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Read again G. O. dated 9th February 1861, No. 318, Revenue Department.

No. 473. Read also the following Proceedings of the Board of Revenue, dated 26th August 1861, No. 4,623.

Read the following letters from the Collector of North Arcot, dated 23rd July and 2nd August 1861, Nos. 170 and 184 :—

(In Cons. 25th July and 5th August 1861, Nos. 4,621 and 4,889.)

1. Ordered that the above letters and the accompanying addresses from the Zemindars of Kalastri and Kavetnuggur, protesting against the resumption by Government of the revenue derived from the Moturpha tax within their Estates, be submitted for the consideration of Government, with reference to their Proceedings noted in the margin.

Procs. of Govt., Nos. 318 and 319, R. D., dated 9th February 1861.
Do, No. 450, R. D., dated 23rd February 1861.

2. The arguments in support of their right to retain this source of revenue, and to object to its withdrawal even on payment of compensation are very fully stated in the Zemindars' petitions.

3. The Board will briefly notice them, and the extent of their bearing.

4. The original Kabuliats or agreements taken in September 1802, from the Zemindars of Venkatagerry, Kalastri, Bomraz or Kavetnuggur, and Sydapore are collected in one volume in the Board's records, and are all in the same form, corresponding with that of the Sunnud-i-Milkeut Istimrar granted to these Zemindars, but altogether differing from the standard form of Sunnud granted to the Zemindars in ordinary cases, in connection with the permanent Settlement of the Revenue.

See letter from Special Commissioner to Mr. Stratton, dated 25th August 1802.

5. The following is a brief abstract of the contents of the Kabuliat :—

Clause 1.—Recites former tenure, by payment to Carnatic Government of annual Peshkush, by military service, and by presentation of Nuzzers and Fines and that by the Treaty of 12th July 1792, the dependance on the Nawab had been transferred to the British Government.

Clause 2.—That the British Government had determined to commute the military service for an equivalent payment in money.

Clause 3.—Fixes the permanent annual demand of Government on account of Peshkush "which shall never be liable to change under any circumstances."

Clause 4.—Provides for the establishment of Courts of Justice.

Clause 5 is as follows :—

"The permanent demand of the British Government fixed upon my Zemindary I consider and acknowledge to be exclusive of the revenue to be derived from the manufacture and sale of Salt and Saltpetre; exclusive of the *sayer* or duties of every description, the entire administration of which the Government reserves to itself; exclusive of the tax on spirituous liquors and intoxicating drugs; and exclusive of all lands and *russooms* heretofore appropriated to the support of Police Establishments. I consider also that the Government reserves to itself the entire exercise of its discretion in continuing or abolishing temporarily or permanently the articles of revenue included according to the custom and practice of the country under the several heads above stated."

Clause 6.—Guarantees the regular payment of the Peshkush.

Clause 7.—Declares the extent of the right to transfer the property in the Zemindary wholly or in part.

Clause 8.—Declares the liability of the Estate to be sold under a decree of Court, but that the Courts were to have no jurisdiction in respect of debt contracted previously to 1792.

Clause 9.—Provides for the due apportionment of the Peshkush in the event of a division of the Zemindary.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Clause 10.—Limits the extent to which a separate Estate may be formed.

Clause 11.—Guarantees the maintenance of the Establishment of Curnums.

Clause 12.—Accepts the responsibility for the Police of the Zemindary.

Clause 13.—Undertakes to enter into written engagements with the Ryots, and to grant regular receipts.

Clause 14.—General undertaking to discharge public engagements punctually, and to promote the prosperity of the Ryot.

Clause 15.—Re-affirms the perpetual character of the engagement with Government, and closes the Kabuliat.

6. It will be seen on comparison with the standard form of Istimrar Sunnud that those of which the above Kabuliats are the counterpart differed in many essential points, particularly in the declared character of the original tenure, in the grounds assigned for the change, in the reserved items of public revenue, which do not include the excise on articles of consumption, the personal and professional taxes and taxes on markets, fairs, and bazaars, and the Lakhiraj lands and alienated lands paying a quit-rent, other than those appropriated to the support of the Police. A reference to the letter addressed to Government by the Special Commissioner on 12th August 1802, and to the Government reply dated 24th idem, will shew that this difference was not unintentional.

7. It is also to be observed that the liability to the jurisdiction of the Courts is to commence only from the date of subjection to the British Government, and that the Police of the Zemindaries is left in the hands of the Zemindar.

8. Of the four Zemindaries above-named, that of Sydapore was sold for arrears and purchased on behalf of Government in 1811.

Venkatagerry, Kalastri, and Kavetnugger remain on their original footing.

9. In paragraph 3 of their Proceedings, No. 318, R. D. dated 9th February 1861, already quoted, Government declared that the collection of Moturpha in these Zemindaries must cease; but in their Proceedings, No. 319, R. D. of the same date on the Board's Proceedings of 11th January 1861, No. 183, submitting a letter from the Collector of North Arcot reporting very fully on the position of the Zemindars and Polygars of his District, including those of Kalastri and Kavetnugger, in respect to the Moturpha tax, Government stated that they would await the Board's recommendations on the subject. The Board resolve therefore to avail themselves of the present opportunity to submit their views on the whole question of the disposal of the Moturpha in those localities where it has hitherto been legally collected by private individuals.

Paragraphs 7, 8, 9, 10, 26, 34, 35, 36, and 37.

10. In their Proceedings, dated 9th March 1826, the Board stated the reasons which induced them to recommend that in the Hill Zemindaries of Ganjam and Vizagapatam, and the Zemindaries and Jaghires of Venkatagerry, Sydapore, and Woodiagherry in Nellore, and Kalastri and Bomraz or Kavetnugger in North Arcot, this source of revenue should be left in the hands of the Zemindars.

From Ganjam, dated 4th, in Cons. 15th Jan. 1821.

the fixed Peshkush had been calculated, and that the local officers objected on grounds of policy as well as of justice to its resumption.

12. The local officers assumed that all the sources of revenue detailed in Mr. Brown's accounts furnished to the Circuit Committee were included in the assets on which the Peshkush was calculated, but the Board have shown in their Proceedings No. 3,690, dated 12th July 1861, that so far from this being the case, an allowance was expressly made in each case for the deduction of the reserved items of revenue, including the Moturpha, from the assets. Thus the objection to the resumption on the ground of its injustice was really without foundation, and as to the impolicy, the Board greatly doubt whether at the time the resumption would have excited any irritation, had the perfect justice of the measure been known and been fully explained to those concerned.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

13. The Board have already, in their Proceedings above quoted, expressed their opinion that no objection exists at the present time to the resumption, and none has been expressed by the Collector.

14. In Vizagapatam it appeared that although the Moturpha was not actually included in the assets of income assigned to the Zemindars, for in only one division of the three divisions into which the District was formerly divided was any mention made of the item among the assets, and there it had been proposed to commute it for a quit-rent on the sites of the houses of artisans, still the assumption of the Moturpha revenue on behalf of Government had not been made, as the Judge of the District Court had ruled that Government were not, in the then state of the Law, legally empowered to enforce the demand, and also on grounds of good policy the Collector objected to the resumption "at least for the present" in the Hill Zemindaries and in the other ancient Estates.

From Vizagapatam, dated 21st November, in Cons. 6th December 1821.

Cassimco'tah,
Coudakeralah,
Moonagapakah,
Ankapilly,
Melloopakah,
Divelly,

Sarvasiddy,
Royaveram,
Nuckapilly,
Stromapoor,
Goducherlah,
Woonutlah,

Vamoolahpoody,
Cottacottah,
Punchadurlah,
Waltair,
Woopadah.

15. He held, however, that when resumption took place, in the first division alone, including the Hoondahs shewn in the margin, could compensation be claimed as of right. The whole amount of the item as included in their assets was only 3,476 Rupees.

16. The Board considered that in the Hill Zemindaries it should continue to be collected by the Zemindars, but that elsewhere it should be resumed without delay and without regard to the small amount which had been included as above shewn in the assets of the Estates in the first division, which they observed was less than one per cent. of the whole assets, amounting to Rupees 3,59,422, on which the Peshkush was calculated.

17. The subject was more recently discussed in Extract Minutes of Consultation, No. 1,281, Revenue Department, dated 4th December 1856, and the orders then given had the effect of restricting the collection of Moturpha to the Zemindars of the first division who were entitled to it, and who had apparently continued the collection to the present time in the original form and not in that of a quit-rent on the house sites for which it had been designed to commute it, and also to the Hill Zemindars.

18. It was ordered in Extract Minutes of Consultation, No. 762, Revenue Department, dated 23rd June 1855, that compensation should, notwithstanding the above quoted opinion of the Board, be given on the resumption of the Moturpha to the proprietor of Cassimco'tah, the only one of the above 17 Estates that has not lapsed to Government, and in the Hill Zemindaries the proprietors have no right to the tax. Mr. Fane in his letter of 13th October 1860 expresses his opinion that there is no objection to the resumption of the tax in these cases, and that no difficulty need be apprehended in carrying it out.

Paragraph 5.

19. In Purlah Kimedy, which was transferred from Vizagapatam to Ganjam, a portion of the Moturpha in the form of a quit-rent on the house sites of Merchants, Artizans and dealers appears to have been included in the assets left with the Zemindar, but the strictly personal and professional taxes were abolished.

In Cons., 23rd October.

20. In Extract Minutes of Consultation, dated 4th December 1856 above quoted, the Government directed that as Purlah Kimedy was in the charge of the Government officers and was likely to remain so, the Moturpha should continue to be collected by the Agent, the demand being revised and objectionable items remitted.

Commissioner Northern Circars, to Government, dated 22nd November 1854, paragraphs 39 to 41.
Extract Minutes of Consultation, dated 23rd June 1855, paragraph 13.

Paragraph 7.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

21. In regard to the Nellore and North Arcot Zemindaries above enumerated, the Board, in their Proceedings of 9th March 1826 observe, that the ancestors of the proprietors had been acknowledged by the Government of Delhi as their immediate officers, and that as the Sunnud issued to them differed from the standard form in this, among other respects, that the Moturpha was not reserved to Government, the faith of Government was thus pledged to its continuance.

Paragraph 26.

Paragraph 37.

From Government, dated 18th July 1826, paragraph 2.

22. The Government concurred with the Board in thinking that these Estates must be exempted from the operation of any general order for the resumption of the Moturpha on behalf of Government.

From Collector of North Arcot, dated 27th November, in Cons. 4th December 1820,

23. Regarding Kalastri and Kavetnuggur a previous reference had been made to the Board when in 1820 it was directed that steps should everywhere be taken to collect the Moturpha on behalf of Government, the Collector stating that the Zemindars objected to the order on the ground that their Sunnuds contained no reservation of this item by Government, and the Board in reply directed the Collector to abandon all claim on the part of Government to the collection of the tax within the limits of the Zemindaries, and to inform the Zemindars that they were free to collect the Moturpha as formerly "the amount thereof being included in the assets on which their Peshkush was fixed."

24. Under the circumstances of the case it would perhaps have been more correct to say that the amount had not been deducted from the sources of income left in the hands of the Zemindars, as their Peshkush was not calculated on any estimate of income, but was fixed on the amount paid previously to the subjection of the Zemindars to the British Government, *plus* the amount for which their military service had been commuted, and *minus* the allowance made on account of the reservation by Government of the management of the Salt, Sayer, and Abkari, as sources of revenue.

25. It is, however, clearly shewn in the report of Mr. Stratton to the Special Commissioner, dated 14th July 1801, that in some form or other the Moturpha had been a customary source of revenue to the Zemindars, and it may fairly be questioned how far Government, after the issue of the Istimrar Sunnud, are competent to meddle with it, more than with any other part of their income.

26. The Act No. XVIII. of 1861, for imposing a duty on Arts, Trades, and Dealings, repeals Regulation V. of 1832 which legalized the general assessment of the Moturpha by Government and its realization in the same manner as the Land Revenue; but as this Regulation did not originate the demand on account of Moturpha in the Zemindaries, so neither can its repeal render that demand illegal which was not so otherwise.

27. The Board do not care to remark on the reprehensible tone of part of the Kalastri petition or on the assumption of the title of Highness in the translations appended to it, as these improprieties are really chargeable not to the petitioner but to his Vakeel.

28. They feel, however, considerable doubt whether they should consent to forward a petition purporting to emanate from the "Rajah of Kalastri," but this also being clearly the act of his Vakeel, the Board are unwilling on this account to delay the consideration of the Zemindar's appeal. They have called upon the Collector for copies and translations of the originals of Appendices A. and B., and they would submit to Government that in passing orders on this matter, this unwarrantable assumption should not be allowed to pass unnoticed.

29. The Appendix D., being copy of an Extract from the Proceedings of the Board of Revenue dated 8th July 1816, would rather tell against the pretensions of the Zemindar were it correct in its premises, but it assumes throughout that the Peshkush of the Zemindary was fixed on a detailed estimate of assets which nowhere appears to have been the case in these western Poliems.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

30. Appendix E. merely proves that the Zemindar, who had been originally entrusted with the Police of the Zemindary, could not be compelled to provide for the payment of a salaried Head of Police, when he was no longer willing to perform the duties himself, or when it was considered inexpedient longer to entrust them to him.

31. The Board would request particular attention to the petition from the Zemindar of Kavetnuggur and to its enclosures, which shew that the right of these Zemindars legally to resume Lackiraj lands in their Zemindaries under the terms of their Sunnuds on lapse or breach of the conditions of the grant, and that no reversionary interest therein vests in Government in preference to the Zemindars, has been admitted and ruled by the highest Courts of Justice in the land, on the ground that the Sunnud contained no reservation of these rights to Government, and that therefore they must be vested in the Zemindar. The same line of argument must lead to the admission of the Zemindar's right to the Moturpha and to the absence of any legal power in Government arbitrarily to assume it for itself.

32. The Extract Minutes of Consultation No. 67, Revenue Department, dated 21st January 1856, on the Board's Proceedings of 7th idem, shews instances in which the Zemindar's assertion of his rights under his Sunnud was admitted and deferred to by Government in the matter of the village of Condapolliem.

33. Under the foregoing circumstances, the Board are of opinion that the collection of Moturpha by the Zemindars of Venkataghirri, Kavetnuggur, and Kalastri should not be interfered with by Government.

34. The Board would also draw attention to the case of the Arni Jaghire, the previous history of which is succinctly narrated in their letter to Government, dated 31st January 1825.

35. The tenure of the present family, under terms recognized by the British Government, dates back to at least 1762. Those terms consisted solely of the payment of an annual Nuzzer, and a reference to the Proceedings of Government, dated 30th August 1853, No. 986, Revenue Department, will shew that Government, on the occasion of the succession of the present Jaghire-dar, did not think fit to provide for the resumption of the Moturpha, but directed that the Jaghire-dar should be informed that Government reserved to itself the right of dealing with this source of income hereafter as they might think fit.

36. There is undoubtedly great difference between the position of a Jaghiredar and of the holders of Estates on tenures of the nature of those of Venkataghirri, Kavetnuggur, and Kalastri, but considering the very lengthened tenure of the Jaghire and the very unreserved nature of the grant, the Board cannot but feel doubtful of the propriety of resuming the Moturpha in this case also.

37. The Board do not consider that the proposed course will in any way interfere with the operation of the duty on Arts, Trades and dealings except in so far as that the tax would not be levied on behalf of Government in the Zemindaries. The Act imposing the duty does not require, and the Board do not believe it to be practically necessary, to make any provision for the case of an individual paying Moturpha to the Zemindar and being assessed to the Income tax on behalf of Government.

38. The Board believe that the foregoing will comprise almost the whole of the cases in which the Moturpha is now legally collected otherwise than on behalf of Government. A reference has been made by the Collector of Malabar in regard to the Bibi's revenue from houses, but this the Board believe to be essentially different in principle from the professional Moturpha and to be unaffected by the Order of Government.

39. There may be a few cases of holders of Shrotriems and Polliems paying an unvarying amount to Government, and legally collecting the Moturpha, but these will probably easily admit of settlement by way of compensation, and will be submitted in due course for the orders of Government.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

No. 474. Proceedings of the Board of Revenue, dated 4th September 1861, No. 4,771.
Read the following letter from the Collector of North Arcot, to the Secretary to the Board of Revenue, Chepauk, dated Chittoor, 17th August 1861, No. 202:—

1. As directed in your letter dated 10th instant, No. 4,333, I have the honor to enclose copies and attested translations of my letter to the Zemindar of Kalastri, and of the Notification published to the residents in the Zemindary.

Dated 25th April 1861.

2. The Board will find, on comparing the vernacular copy of the letter with the translation, that there are in the former idiomatic expressions which cannot be rendered in English, but which when taken with the context soften down any apparent asperity in the general tone of the communication.

3. Wholly unsuccessful in obtaining from these Zemindars their Income tax papers, and with but a very limited time to prepare the Moturpha statistics of their estates, I felt it was absolutely necessary to force them to declare how they intended to act. Worded as it is, my letter failed to call forth any protest until the last moment, and by the tenor of intermediate correspondence, I was led to believe that the accounts were under preparation, and would be eventually submitted.

4. Whilst on this subject, it may not be out of place to acquaint the Board that after repeated calls, the Jaghiredar of Arni has at length submitted to the Sub-Collector copies of his Moturpha accounts for the last three years. In reporting this, the Sub-Collector informs me that these accounts are in Mahratta, and were copies unaccompanied by any vouchers, and that he had, therefore, called upon the Jaghiredar to furnish the original papers to enable him to verify their correctness. According to the returns thus received, the collections of Moturpha during Fuslies 1267, 1268, and 1269 were as severally exhibited in the margin. As the Beriz of the Jaghire is computed to be Rupees — the proprietor would thus by his own figures realize a moiety and upwards of his Peshkush Rupees 10,000 from the proceeds of the Moturpha tax.

	RS.	A.	P.
Fusly 1267.....	5,333	5	0
1268.....	5,518	11	2
1269.....	5,572	15	2

ENCLOSURE No. 1.

ABSTRACT.—Translation of a letter addressed to the Zemindar of Kalastri, by the Collector of North Arcot, respecting the transmission of Moturpha accounts.

ENCLOSURE No. 2.

ABSTRACT.—Translation of a notice issued by the Collector of North Arcot, to the Merchants and other persons residing within the precincts of the Kalastri Zemindary.

1. Ordered to be submitted to Government with the literal translation, prepared in the Board's office, of the letter addressed to the Zemindars by the Collector, with reference to the Board's Proceedings dated 26th August 1861, No. 4,625, paragraph 28.

2. As the Board anticipated, the objectionable phrases in the translation submitted by the Collector are not borne out by the original; But the Board still think that the style of communication does not sufficiently recognize the fact that the Zemindar is not on an equality with Government, but is in the position of a subject.

No. 475. Proceedings of the Board of Revenue, dated 19th December 1861, No. 7,120.
Read the following letter from the Collector of Nellore, to the Secretary to the Board of Revenue, Chepauk, dated 14th December 1861, No. 274:—

1. I have the honor to forward copy of a printed petition from the Zemindar of Venkatagiri.

2. The Board having already recommended the Zemindar for the favorable consideration of Government, it will not, I trust, be any disadvantage to the Zemindar, that this petition was not forwarded sooner.

3. The omission was an oversight, and in expressing my regret for the oversight, it is only necessary I should add my recommendation that the Zemindar's petition be complied with.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Ordered to be submitted to Government in continuation of the Board's Proceedings, dated 26th August 1861, No. 4,625.

No. 476. Proceedings of the Board of Revenue, dated 28th February 1862, No. 1,407.
Read the following letter from the Acting Collector of North Arcot, to the Secretary to the Board of Revenue, Madras, dated Chittoor, 24th February 1862, No. 43:—

Vide letter to Board, dated 23rd July 1861, No. 170.
9th February 1861.

1. In reporting upon the remonstrance of the Zemindars of Kalastri and Kavetnuggur against the Order* of Government, directing the resumption of Moturpha in the proprietary estates, Mr. Robinson informed the Board of his instruction to the Deputy Collector in charge of the Zemindari tracts to abstain from taking any further action in the matter.

2. The Zemindar of Kalastri, who was also prohibited from collecting the Moturpha tax, now reports that he has collected the dues from such of the rate-payers whose indigent circumstances made him apprehensive of their failing in their payments at a future date.

3. In the absence of any order authorizing such a proceeding, I beg to be favored with the instructions of the Board whether the Zemindars may be permitted to collect the tax in the aforesaid manner, or whether it should be collected by Government and kept in deposit.

Ordered to be submitted for the decision of Government, with reference to the Board's Proceedings, dated 26th August 1861, No. 4,625.

No. 477. Proceedings of the Board of Revenue, dated 3rd July 1862, No. 4,315.
Read the following letter from the Collector of Nellore, to the Secretary to the Board of Revenue, Madras, dated Krishnapatam, 3rd April 1862, No. 68:—

1. I have the honor to inform the Board that a question has been put from the Venkatagiri Zemindary, as to whether the Moturpha tax may be levied as usual.

2. The Moturpha was of course abolished wherever Act XVIII. of 1861 was introduced. But as it cannot be said that this Act was introduced into the Venkatagiri Zemindary, it seems doubtful whether the abolition of the Moturpha tax can be considered to have been carried out there; and should the Board approve, I would reply to the Agent of the Zemindar to the above effect, and at the same time intimate, that with reference to the said Act, I shall feel myself precluded from entertaining any cases under Regulation V. of 1822, of the recovery of arrears of Moturpha.

Ordered to be submitted to Government, in continuation of the Board's Proceedings, dated 26th August 1861, No. 4,625, which is still under consideration.

No. 478. Proceedings of the Board of Revenue, dated 16th December 1862:—
Read the following letter from the Acting Collector of North Arcot; to the Secretary to the Board of Revenue, Madras, dated Chittoor, 9th December 1862, No. 255.

* Dated 3rd November 1862, No. 87.

1. The Jaghiredar of Arni has addressed to me a Khat* stating that the collection of Moturpha being interdicted in his Estate, he has during these two years suffered a loss of about 12,600 Rupees, and prays that he may be permitted to collect the tax with arrears.

2. In paragraph 36 of their Proceedings, dated 26th August 1861, No. 4,625, the Board have taken a favorable view of his claim, and it now remains to decide whether he should be permitted to collect the tax, or whether compensation should be awarded to him.

3. Act II. of 1862 abolishing this impost, I apprehend, applies to proprietary estates as well as other tracts. If so, it is illegal to collect Moturpha in such estates.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Vide letter to Board, 24th February 1862.

4. The Zemindar of Kalastri has notwithstanding been collecting Moturpha, which was already brought to the Board's notice. As no orders have been passed thereon, I beg to solicit instructions for my guidance.

Ordered to be submitted to Government in continuation of the Board's Proceedings quoted by the Collector which are now before Government.

No. 479. Proceedings of the Board of Revenue, dated 26th January 1863, No. 483.

Read the following letter from the Acting Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 10th January 1863, No 7 :—

From the Collector to the Sub-Collector, dated 28th October 1862, No. 156.
From the Sub-Collector to the Collector, dated 19th November 1862, No. 203.

1. I have the honor to enclose for orders copies of the correspondence noted in the margin.

2. From these papers, the Board will observe that 36 inhabitants of Arni were charged

with the Income tax in addition to the Moturpha paid by them to the Jaghiredar, while others paid no Income tax at all when it fell below the Moturpha demand payable by them to the Jaghiredar, or paid only the excess of Income tax over the latter.

3. In the Estates of Carvetnuggur and Calastry where the privilege of levying Moturpha has been reserved to the Zemindars, the practice has been to charge Income tax without any reference to the other impost.

4. Under these circumstances, I beg to solicit instructions as to which course is the correct one. It does not appear to me clear whether the Proceedings of the Board, No. 4,136, dated 12th September 1860, refer to the Presidency generally, or only to Government Talooks in it.

From the Sub-Collector of North Arcot, to the Acting Collector of North Arcot, dated Vellore, 19th November 1862, No. 203.

1. I have the honor, with reference to your letter of the 28th ultimo, No. 156, to inform you

The enclosure herewith returned, that prior to June 1861, 36 inhabitants of the Arni Jaghire paying Moturpha tax to the Jaghiredar were assessed to the Income tax, and paid the same without claiming any deduction on account of Moturpha tax. This amount was therefore brought to account and remitted to the District Treasury, but subsequently some others having objected to pay Income tax in addition to Moturpha, I, with reference to the Board's Circular dated 12th September 1860, No. 4,136, issued to the Sub-Magistrate at Arni under date the 1st June 1861, an order directing him to collect Income tax only to the extent that it was in excess of the amount of Moturpha tax paid to the Jaghiredar. This order appears to have been acted upon in all subsequent cases, so that there are only the 36 persons named in the enclosed statement from whom Income tax has been unduly collected in addition to Moturpha tax and carried to public account. The Statement shows the Moturpha and Income tax demands against each of these individuals.

2. Referring to the inquiry in paragraph 3 of your letter, I beg to state that the payers of Moturpha tax to the Jaghiredar were not assessed to the Income tax when the latter tax fell below the former, and that there were only six such cases in Arni.

(True Copy.)

(Signed) J. FRASER, Acting Collector.

From the Acting Collector of North Arcot, to the Sub-Collector of North Arcot, dated Chittoor, 28th October 1862, No. 156.

1. I have the honor, with reference to your letter dated 30th ultimo, No. 152, to state, that I do not clearly comprehend what has been actually done in regard to charging Income tax on those who have hitherto been paying Moturpha to the Jaghiredar of Arni.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Dated 15th August 1861, No. 90.

2. In the Telugu Memorandum noted in the margin, Mr. Barlow observes that some of the Ryots of Arni Jaghire having requested that the amount of Moturpha paid by them to the Jaghiredar might be deducted from the assessment charged to them on account of Income tax, you issued an order dated 1st June 1861 to the Sub-Magistrate of Arni, directing him to collect from such parties the difference between these imposts.

3. It thus appears to me that your order applies only to particular cases where the amount of Income tax exceeds the Moturpha, and I should like to know what steps have been taken to relieve those parties who pay to the Jaghiredar a Moturpha tax exceeding the amount of Income tax assessed on them. For instance, suppose the Moturpha tax paid by a certain individual is Rupees 50, the Income tax to which he is liable being 20 Rupees; I wish to know whether the 20 Rupees are remitted on the ground that he pays Moturpha in excess to the Jaghiredar, or whether they are collected in addition to Moturpha.

4. The individuals who have presented to me the enclosed Urzee noted in the margin represent, that your order of 1st June 1861 alluded to has not been carried out in regard to them.

5. As I think it necessary to submit the matter for the orders of the Board, I beg that you will furnish me with full information on the subject at an early date.

(True Copy.)

(Signed) J. FRASER, Acting Collector.

1. Ordered to be submitted for the decision of Government, with reference to the Board's Proceedings, dated 26th August 1861, No. 4,625, on the subject of the collection of Moturpha in the Kalastri and Kavetnuggur Estates and in the Arni Jaghire.

2. So long as the Moturpha tax existed in the Government Talooks, the Board do not doubt that the Zemindar's legitimate demand on the same account was properly taken into consideration in assessing the Income tax in Zemindaries.

3. But unless Government admit the Zemindar's right to continue to levy this tax on his own account, the Board are of opinion that its tacit recognition by reducing the Government demand for Income tax is wrong in principle.

No. 480. Proceedings of the Board of Revenue, dated 7th June 1861, No. 3,498.

Read the following letter from the Collector of Nellore, dated 23rd May 1861, No. 148 :—

1. Adverting to the Board's Proceedings of the 26th November last, No. 7,499, requesting me to submit two distinct Statements of Moturpha collections for the Venkatagiri and Kalastri Estates, &c., and to state whether the continued demand has been prohibited, and how, I have the honor to forward for the Board's consideration translation of a letter addressed to me by the Zemindar of Kalastri, under date the 27th February last.

2. The Zemindar, it will be observed, declines to afford me any information as regards the collection of the tax in question in his Estate, pending the result of an appeal made by him in 1861, which he states was sent on to Government in August 1861, with the Board's recommendation for favorable consideration. He also states, it will be seen, that as the Moturpha forms an item on which the Peshkush of his Estate was calculated, and that if once allowed to fall into arrears, the difficulty of collection is very great, he has not refrained from collecting it during the last two years.

3. Under these circumstances, I have the honor to request the Board's orders in the matter, as without the particulars called for from the Zemindar being furnished me, I am unable to submit the statement as respects his Estate required by the Proceedings above quoted.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

To the Collector of Coimbatore.

1. In acknowledging the receipt of your letter of the 23rd December 1863, No. 12, requesting to be furnished within two months with a Statement shewing the Moturpha collections of the Zemindary Talooks of Pamaru and Sitarampuram, both attached to the Zillah of Nellore, and to be informed whether this tax has been levied in my Zemindary during the last two Fuslies, and whether I have any rights to such collection, I have the honor to state that on my intimating to you on the 13th September 1861, in reply to your letter of the 10th August of the same year, that an appeal petition had been presented to the Board by Mr. J. B. Norton, on behalf of my Zemindary exhibiting my rights to this tax levied from a very remote period, and on my requesting you to suspend exercising your authority in the Moturpha affair until the result of my application to the Board is known, you were pleased to inform me by letter No. 16 of the 14th December 1861, that orders had been issued to the local officers complying with my requests.

2. The Collector of Chittoor had, by letter dated 10th August 1861, informed me that no Moturpha accounts would be demanded from me, and that he would exercise no authority in the matter until the result of my application to the Board is known; a copy of which letter I have already submitted to you with my letter to your address of the 13th September 1861.

3. As you have again desired me to show my rights to the tax without referring to the past correspondence on the subject, I forward herewith for your perusal a duplicate copy of my appeal petition to the Board exhibiting the said rights.

4. It appears that the appeal petition alluded to above, has been referred to Government on the 26th August 1861, with the favorable recommendation of the Board, and that it is still under the consideration of the former.

5. On the ground that the tax in question is included in the total Peshkush of my Zemindary, and considering the great difficulty to be experienced in its collection if it once falls in arrears, I have not refrained myself from making the collections.

6. The Collector of Chittoor reported to the Board on the 24th February 1861, the fact of the Moturpha tax being collected in my Zemindary, and it appears that the matter was referred by the Board on the 28th idem for the consideration of Government.

7. Under these circumstances, I have the honor to state that it is not possible to supply you with the Moturpha accounts asked for in your letter No. 12 of the 23rd December 1863, until the orders of Government on the subject have been received.

27th February 1864.

Seal of the
Zemindar of
Kalastri.

(True translation.)

(Signed) J. W. B. DYKES, Collector.

1. The Collector will please to send up the Statement of Moturpha collections in cases other than those of the Venkatagiri and Kalastri Zemindaries, with the information called for in the Board's Proceedings cited in his letter.

2. Copy of his letter will be submitted for the consideration of Government in connection with the representation of the Kalastri Zemindar already before them.

No. 431. Proceedings of the Board of Revenue, dated 31st August 1865, No. 5,354.

Read the following letter from the Collector of Nellore, to the Acting Secretary to the Board of Revenue, dated 9th June 1865, No. 111 :—

1. I have the honor to submit, for the orders of the Board, an application received from the Zemindar of Venkatagiri, dated 30th July 1864, for Rupees 38,707, to be remitted out of his

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Peshkush this year, as the amount he has refrained from collecting under the head of Moturpha since 1861-62.

2. The Zemindar puts his annual collections under this head at Rupees 12,902.

3. And on the receipt of this request, I referred it to the Deputy Collector, who was then engaged with similar claims other than those of Venkatagiri and Kalastri.

4. I now learn from the Deputy Collector, that he has made no inquiries on the subject with reference to the Board's Proceedings of the 7th June 1864, and as from those Proceedings it might be inferred, that, pending the orders of Government, no steps were to be taken in regard to Venkatagiri and Kalastri, I beg to be favored with the Board's instructions as to whether this view of the case is correct.

5. At the same time, I beg to call the Board's attention to the terms of the Notification in the District Gazette of the 17th April 1861, paragraph 3 annexed,* and the increasing difficulties there will be as years go on in deciding whether the terms of this Notification have been complied with, and compensation is legally due, if otherwise claimable.

* Also of 3rd August, same year, likewise annexed.

To the Collector of Nellore.

After presenting usual respects, we beg to bring to your notice that your Inayatnamah, No. 40, dated 15th April 1861, with reference to the Revenue Board's Circular, No. 1,658, dated 3rd April 1861, and the Orders of Government, dated 9th and 23rd February 1861, respectively, stating that from the 1st July 1861, Moturpha tax in the Zemindaries, Polliems, Shrotriems, &c., should be collected on behalf of Government; that the Zemindars and others should not collect the money therewith connected for themselves; that in some cases it was ordered that the Moturpha tax collected during the past three Fuslies should be ascertained, and the amount deducted from the Peshkush; that the collection of the said tax should be ordered to be discontinued on our behalf, but to be made on behalf of Government from 1st July 1861; that the original Moturpha accounts prepared in our office should be sent to your office on or before the 1st May; and that the sum to be deducted from the Peshkush will be ascertained after an examination of those accounts; this Inayatnamah having been received, we explained to you the disadvantages arising to us from the collection being made on Government's behalf.

Upon this you sent to us the Inayatnamah, No. 18, dated 26th December 1861, stating that our appeal has been referred to the Board, and that Hukums have been issued to the Sub-Magistrates and others in order that no measures may be adopted regarding Moturpha accounts till another order shall be passed.

We have also received and understood the contents of your Inayatnamah, dated 23rd December 1863, No. 11, stating that, as the Board have instructed by their Proceedings, No. 7,409, that a separate statement respecting our Zemindary's Moturpha should be submitted with your report, we should prepare and send a detailed account of the Moturpha paid by each gild or class of traders; that we should report whether, during the past one or two Fuslies, the Moturpha tax was collected or not; and that we should explain what rights we have to collect the tax from the different gilds.

Accordingly we send herewith a statement shewing clearly the date, Fuslies, and Talooks, for three Fuslies from 1267 to the close of 1269, regarding the Moturpha of our Zemindary.

It will appear from Account No. I., that the amount of Moturpha for those three Fuslies is Rupees 38,707-2-1, making an average of Rupees 12,902-6-0 every year.

With reference to the item called Music Contract it should be remarked, that this is a sum which the musicians of Sri Kasi Viswanathaswamy Covil have been paying to meet the expenses for erecting a pandal and doing other charities at the time of festival. This item, Rupees 63-15-6, was collected for Fusly 1273, and applied to purposes of charity. This item having been included under the head of Moturpha from time immemorial, it is not right at present to exclude it from

Proceedings of the Madras Government, Revenue Department,
25th November 1865.

that head, or include it under the head of Zemin revenue. The confirmation of this charity is at your pleasure.

It will appear from the Account No. II., that the amount of Moturpha due for Fusly 1270 is Rupees 1,579-13-1, and that the sum of 1,475-10-3 was collected during 1271, 1272, and 1273.

From the Account No. III., will appear those items which having been included under the head of Moturpha hitherto, were lately excluded.

From No. IV., will appear those items which though connected with Moturpha were only lately included under it.

From No. V., will appear reasons for the difference existing between the amounts entered in this account and the Income tax accounts.

Although the Moturpha item is not mentioned in the Sunnud of our Zemindary, yourself state in the said Inayatnamah No. 40, that it appears from the records of your office that, upon the correspondence which passed between the then Collector and the Revenue Board, the authorities ordered that the privilege of collecting Moturpha in the Zemindary should belong to ourselves. We, therefore, refrain from making further explanation on the subject.

We hope that the sum of Rupees 38,707-2-0, found for Fuslies 1271, 1272, 1273 to be the average may be refunded, and 12,902-6-0 found to be the average for every year, may be deducted from the Peshkush.

(A true Translation.)

30th July 1864.

(Signed) C. KUPPURAMASAMI SASTRE.

Extract from a Notification in the Nellore District Gazette, dated 17th April 1861.

3. And notice is hereby given that from the 1st of July next, the Moturpha falling due in all Zemindaries, Polliems, and Shrotriems, &c., throughout this District, will be collected in behalf of Government, and that no payments after that date to other parties will be allowed by Government, as a set off against the Government demand.

Notification in the Nellore District Gazette of 3rd August 1861.

1. In the District Gazette of the 20th April, it has been notified, under date the 17th idem, that, from the 1st July 1861, the collection of Moturpha by private individuals, shall every where cease; and that Moturpha falling due in all Zemindaries, Polliems, &c., will from that date be collected in behalf of Government.

2. It was then further notified, that no payments after the 1st July to other parties would be allowed by Government, as a set off against the Government demand.

3. And the attention of all concerned is again called to the said notice, the provisions of which will now be strictly enforced.

1. The Board observe that the Collector should not have submitted the vernacular document which forms the enclosure to his letter without a translation, and he should have explained why this document was delayed nearly a year in his office.

2. As the matter referred to was fully discussed in the Board's Proceedings under date 26th August 1861, No. 4,625, the Board will request that the orders of Government may be passed on those Proceedings.

Proceedings of the Madras Government, Revenue Department,
25th November 1865.

No. 482. ORDER THEREON, 25th November 1865, No. 2,906.

Miscellaneous.

1. The question which the Government proceed to consider in the following review, is whether it is necessary and proper to maintain and enforce the prohibition on the collection of Moturpha in the Zemindaries of Vencatagiri, Cavetnuggur or Bomraz, and Calastri, and the Jaghire of Arni, issued in the G. O. of 9th February 1861, above recorded.

2. The collection of the Peshkush due by these Poligars to the Nawab of the Carnatic, according to the fixed amounts stated, was transferred to the Company by the treaty of July 1792, the right of sovereignty over the Poligars being reserved to the Nawab. This reservation was effectively annulled by the later treaty of July 1801, which transferred to the Company the administration of the Government of the Carnatic and the exclusive right to its revenues.

3. Instructions were issued to "the Collector of the Western Poligar Peshkush" to furnish the information necessary to enable Government to reform the Government of the Poliams, and on 12th August 1802, the Special Commissioners, Messrs. Petrie, Cockburn, and Webbe, submitted two letters from the Collector with their proposals for commuting the Military service due by these Poligars.

4. In estimating the Poligars' assets, the following Miscellaneous items of revenue were included:—

	Taxes on Castes and Trades.	Sayer.	Arrack.	Salt.	Total of Items 2, 3 and 4.
	1	2	3	4	5
	Pags.	Pags.	Pags.	Pags.	Pags.
Vencatagiri	1,539	7,000	885	1,057	8,942
Calastri	1,133	5,082	465	55	5,602
Bomraz or Cavetnuggur ...	2,764	5,451	931	...	6,382

5. Mr. Stratton, the Collector, at paragraph 19 of his Report on the Poligars' resources, dated 14th July 1801, writes as follows:—

"Under the head of Moturpha may be ranked three species of taxation, viz. :—

1st.—The Abkarry, or tax on intoxicating drugs and spirituous liquors, the license of selling them being rented to particular individuals.

2ndly.—The tax on trades, such as Weavers, who pay a stated sum on each loom, Oil Mongers on each oil mill, &c., which is levied in proportion to their gains, and varies in every village. The collection of these taxes is also in some instances under rent.

3rdly.—Ground-rent which is levied on each house, and is regulated by the caste and condition of the person inhabiting it; rent of cocoanut, mango, and tamarind groves, as also the rent of fish procured from tanks, &c.

6. At paragraph 35 of their letter, dated 12th August 1802, the Special Commissioners state with reference to their proposed Peshkush for Vencatagiri, in com-

putation of the former Peshkush and condition of Military service, "From the above sum of Pagodas 1,20,000 we propose to deduct the revenue arising from Sayer, spirituous liquors, and salt, articles which it is the intention of your Lordship in Council to retain under the administration of the Company's Government," and accordingly in the statement annexed to their letter *these* three items of revenue as shewn above are deducted from the proposed Peshkush, and the net residue is proposed as the permanent demand from 12th July 1802. The same is the case as regards the Calastri and Cavetnuggur Estates.

7. In the Government Proceedings, dated 13th August 1802, it was resolved that the several recommendations of the Special Commission should be adopted in full, and on 24th August, the Governor, Lord Clive, recorded his Minute on the subject in opposition to Mr. Dicks' objections recorded on 17th August, to carrying out the measure of reducing the Military power of these Poligars, and laid before Council the drafts of the letters which he proposed to address to the Poligars in question, and of the instructions to the Special Commission.

8. In each of these draft letters the following passage occurs :—

"But it being my intention to reserve in the hands of the Company the administration of the revenues derived from Sayer, Salt, and Spirituous Liquors, I have deducted from your commuted equivalent the total amount of these branches of revenue, being according to the accounts furnished by you Star Pagodas ————— per annum," the amount in each case being that shewn in the above Statement as the total of these three items of revenue.

9. Lord Clive's recommendations were adopted by the Government, and Istimrar Sunnuds were issued accordingly to the Poligars.

10. The terms of these Sunnuds were peculiar to meet the requirements of the cases; and the reservations were, in accordance with the previous papers, limited to the Salt, Sayer, and Abkarri revenues, and did not include the Moturpha as in the ordinary Istimrar Sunnuds. The emoluments assigned for the support of the Police were also reserved, but *not* the La-Khiraj and favorably assessed lands generally, and in this respect also the Sunnuds were peculiar.

11. From the foregoing it is evident that the Moturpha existed as an ordinary item of revenue in the Poliems prior to the Government devolving on the British nation; that it was included in the estimate of assets on which the Poligars' future income was calculated when their Military service was commuted; and that it was not reserved by the Government, as was done in the case of ordinary Zemindaries.

12. It has next to be considered how far the enactments on the subject have affected the Poligars' right to collect this item of revenue.

13. The only enactment on the Statute book relating to Moturpha prior to its abolition, is Regulation V. of 1832, which in the preamble declares the customary liability of certain classes to the tax, and the doubt which had arisen whether the absence of demand was a bar to the future levy of the tax, and then proceeds to enact that the customary liability shall be maintained, and that the plea of previous non-payment shall not bar the future demand.

14. This Regulation was repealed by Act XVIII. of 1861, which imposed a duty on Arts, Trades, and Dealings, which again was repealed by Act II. of 1862, except so far as it repealed

Dated 16th July 1861.

the Regulations and parts of Regulations therein mentioned.

15. The position of the Moturpha question, therefore, as regards the Law, is precisely the same now as it was before Regulation V. of 1832 was passed, which Regulation, it is to be observed, did not *create* the right of these Zemindars to collect Moturpha. That right had existed and been exercised for very many years before 1832, indeed from time immemorial. What may be the legal rights of the Zemindars in the matter of Moturpha in the present condition of the Law on this subject, is a question on which the Government is not competent to pass an authoritative decision.

16. It has been shown that the item was not reserved by Government as in the case of ordinary Zemindaries, and it may here be observed that in the case of the La-Khiraj lands the non-reservation by Government of the reversionary right has been expressly allowed to be equivalent to the cession to these Zemindars of that which in ordinary Zemindaries was reserved by Government.

17. It has also been pointed out that the Government are not competent to give any authoritative decision as to the legality or otherwise of the collection of Moturpha by the Zemindars. If under the present condition of the Law the demand on the part of the Zemindars be not legal, it will be for their sub-tenants to resist it. The question may then be judicially considered, and authoritatively decided.

18. It remains to be considered whether it is necessary or desirable for Government by enactment, now to insist on resuming the source of revenue, compensating the Zemindars by an equivalent remission of Peshkush.

19. The question was brought forward by the Board in their Acting Secretary's letter, dated 10th December 1860, in anticipation of the enactment of the Bill to impose a duty on Arts, Trades, and Professions, which was passed in July 1861,

Proceedings of Government, dated 9th February 1861.

and also in view of the fact that payment of the Moturpha was ordered to be accepted as *pro tanto* exempting from liability to pay the Income Tax; and the Board pointed out that in G. O. dated 4th December 1856, No. 1,281, Revenue Department, the question of resumption in Zemindaries generally, on payment of compensation where the demand was authorized, was discussed with reference to the contemplated abolition of the Moturpha generally and with the object of extending the relief to the Ryots in Zemindaries; a very different set of circumstances from that which existed when the Board wrote.

20. The relinquishment of the Moturpha by Government in its Ryotwary Talooks in no way necessitated the abolition of the tax in those Zemindaries where the collection was not prohibited by the Sunnud. It was purely a question for the Zemindar to decide whether, if the collection were legal, the receipts from the tax would counterbalance the disadvantage under which his estate would labor from exceptional taxation.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

21. The reason derived from the order allowing payment of Moturpha, *pro tanto* to exempt from Income Tax, no longer exists.

22. The argument derived from the relinquishment of the Moturpha by Government, and the expediency of putting all artizans on an equality, loses its force in face of the fact that the Town's Municipal Act, which has just received the assent of the Governor General, contemplates a local tax on Trades and Professions as a main source of income for Municipal purposes, including Town Police; while in Zemindaries the Government having assumed the responsibility of maintaining the necessary Police from general revenues, they are debarred from assessing any additional special tax for this purpose.

23. Under these circumstances it appears to the Government that they are not called upon to insist on the resumption of this item of revenue from the Zemindars of Vencatagiri, Cavetnuggur or Calastri, and the Collectors will accordingly understand that the prohibition against their collecting Moturpha according to custom is withdrawn so far as Government are concerned. The Zemindars will be responsible for keeping within the Law.

24. The same course may be adopted in regard to the Jaghire of Arni, in which, although the "Jodi" or quit-rent is not based on an estimate of assests, there is no reason to doubt that the customary Moturpha formed from time immemorial an item of income to the Jagiredar, while it would be impossible to arrive at any trustworthy estimate on which to adjust compensation for its resumption were resumption insisted on.

25. It is observed from the letter of the Collector of North Arcot, in Board's Proceedings, dated 26th August 1861, No. 4,625, that the Government Order of 9th February 1861 was not carried out in the Zemindaries of Cavetnuggur or Calastri, or in the Jaghire of Arni, and from the correspondence submitted with the Board's Proceedings, dated 28th February and 10th December 1862, 26th January 1863, and 7th June 1864, it seems evident that the collection of Moturpha by the Zemindars and Jaghiredar was never discontinued. No question of compensation in regard to the interval since the date of the Government Order need therefore be considered in these cases.

26. In regard to Venkatagiri the Collector of Nellore will, with reference to his letter dated 9th June 1865, ascertain and report to what amount of remission, if any, the Zemindar is fairly entitled on account of any discontinuance of Moturpha collections under the G. O. of 9th February 1861.

27. He will observe that the estimated amount of the yearly income from this source left to the Zemindar when the Peshkush was permanently settled, was Pagodas 1,539, including ground-rent on houses, gardens, &c.

28. It would, be well if possible, that in his estimate of loss of income by the Zemindar, if any, he should distinguish between the amount for which payment of income tax to the Government was *substituted*, and the amount absolutely lost by the prohibition and gained by the usual payers.

(Signed) W. HUDLESTON,
Acting Secretary to Government.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Read again G. O. dated 9th February 1861, No. 318, Revenue Department.

No. 473. Read also the following Proceedings of the Board of Revenue, dated 26th August 1861, No. 4,625.

Read the following letters from the Collector of North Arcot, dated 23rd July and 2nd August 1861, Nos. 170 and 184 :—

(In Cons. 25th July and 5th August 1861, Nos. 4,821 and 4,889.)

1. Ordered that the above letters and the accompanying addresses from the Zemindars of Kalastri and Kavetnuggur, protesting against the resumption by Government of the revenue derived from the Moturpha tax within their Estates, be submitted for the consideration of Government, with reference to their Proceedings noted in the margin.

2. The arguments in support of their right to retain this source of revenue, and to object to its withdrawal even on payment of compensation are very fully stated in the Zemindars' petitions.

3. The Board will briefly notice them, and the extent of their bearing.

4. The original Kabuliats or agreements taken in September 1802, from the Zemindars of Venkatagerry, Kalastri, Bomraz or Kavetnuggur, and Sydapore are collected in one volume in the Board's records, and are all in the same form, corresponding with that of the Sunnud-i-Milkeut Istimrar granted to these Zemindars, but altogether differing from the standard form of Sunnud granted to the Zemindars in ordinary cases, in connection with the permanent Settlement of the Revenue.

See letter from Special Commissioner to Mr. Stratton, dated 25th August 1862.

5. The following is a brief abstract of the contents of the Kabuliat :—

Clause 1.—Recites former tenure, by payment to Carnatic Government of annual Peshkush, by military service, and by presentation of Nuzzers and Fines and that by the Treaty of 12th July 1792, the dependance on the Nawab had been transferred to the British Government.

Clause 2.—That the British Government had determined to commute the military service for an equivalent payment in money.

Clause 3.—Fixes the permanent annual demand of Government on account of Peshkush "which shall never be liable to change under any circumstances."

Clause 4.—Provides for the establishment of Courts of Justice.

Clause 5 is as follows :—

"The permanent demand of the British Government fixed upon my Zemindary I consider and acknowledge to be exclusive of the revenue to be derived from the manufacture and sale of Salt and Saltpetre; exclusive of the *sayer* or duties of every description, the entire administration of which the Government reserves to itself; exclusive of the tax on spirituous liquors and intoxicating drugs; and exclusive of all lands and *russooms* heretofore appropriated to the support of Police Establishments. I consider also that the Government reserves to itself the entire exercise of its discretion in continuing or abolishing temporarily or permanently the articles of revenue included according to the custom and practice of the country under the several heads above stated."

Clause 6.—Guarantees the regular payment of the Peshkush.

Clause 7.—Declares the extent of the right to transfer the property in the Zemindary wholly or in part.

Clause 8.—Declares the liability of the Estate to be sold under a decree of Court, but that the Courts were to have no jurisdiction in respect of debt contracted previously to 1792.

Clause 9.—Provides for the due apportionment of the Peshkush in the event of a division of the Zemindary.

*Revenue 1865 Dept
Pro of Govt for noun*

No 2906

*Pro of the Madras Govt
D/ 25 November/65*

14/9/60

26-4-4

19-9-11

13-2-12

No. 472-474

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Clause 10.—Limits the extent to which a separate Estate may be formed.

Clause 11.—Guarantees the maintenance of the Establishment of Curnums.

Clause 12.—Accepts the responsibility for the Police of the Zemindary.

Clause 13.—Undertakes to enter into written engagements with the Ryots, and to grant regular receipts.

Clause 14.—General undertaking to discharge public engagements punctually, and to promote the prosperity of the Ryot.

Clause 15.—Re-affirms the perpetual character of the engagement with Government, and closes the Kabuliati.

6. It will be seen on comparison with the standard form of Istimrar Sunnud that those of which the above Kabuliats are the counterpart differed in many essential points, particularly in the declared character of the original tenure, in the grounds assigned for the change, in the reserved items of public revenue, which do not include the excise on articles of consumption, the personal and professional taxes and taxes on markets, fairs, and bazaars, and the Lakhiraj lands and alienated lands paying a quit-rent, other than those appropriated to the support of the Police. A reference to the letter addressed to Government by the Special Commissioner on 12th August 1862, and to the Government reply dated 24th idem, will shew that this difference was not unintentional.

7. It is also to be observed that the liability to the jurisdiction of the Courts is to commence only from the date of subjection to the British Government, and that the Police of the Zemindaries is left in the hands of the Zemindar.

8. Of the four Zemindaries above-named, that of Sydapore was sold for arrears and purchased on behalf of Government in 1811.

Venkatagerry, Kalastri, and Kavetnugger remain on their original footing.

9. In paragraph 3 of their Proceedings, No. 318, R. D. dated 9th February 1861, already quoted, Government declared that the collection of Moturpha in these Zemindaries must cease; but in their Proceedings, No. 319, R. D., of the same date on the Board's Proceedings of 11th January 1861, No. 183, submitting a letter from the Collector of North Arcot reporting very fully on the position of the Zemindars and Polygars of his District, including those of Kalastri and Kavetnugger, in respect to the Moturpha tax, Government stated that they would await the Board's recommendations on the subject. The Board resolve therefore to avail themselves of the present opportunity to submit their views on the whole question of the disposal of the Moturpha in those localities where it has hitherto been legally collected by private individuals.

Paragraphs 7, 8, 9, 10, 26, 34, 35, 36, and 37.

10. In their Proceedings, dated 9th March 1826, the Board stated the reasons which induced them to recommend that in the Hill Zemindaries of Ganjam and Vizagapatam, and the Zemindaries and Jaghires of Venkatagerry, Sydapore, and Woodiagherry in Nellore, and Kalastri and Bomraz or Kavetnugger in North Arcot, this source of revenue should be left in the hands of the Zemindars.

11. In the case of Ganjam the reason was that the item was included in the assets on which the fixed Peshkush had been calculated, and that the local officers objected on grounds of policy as well as of justice to its resumption.

12. The local officers assumed that all the sources of revenue detailed in Mr. Brown's accounts furnished to the Circuit Committee were included in the assets on which the Peshkush was calculated, but the Board have shown in their Proceedings No. 3,690, dated 12th July 1861, that so far from this being the case, an allowance was expressly made in each case for the deduction of the reserved items of revenue, including the Moturpha, from the assets. Thus the objection to the resumption on the ground of its injustice was really without foundation, and as to the impolicy, the Board greatly doubt whether at the time the resumption would have excited any irritation, had the perfect justice of the measure been known and been fully explained to those concerned.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

13. The Board have already, in their Proceedings above quoted, expressed their opinion that no objection exists at the present time to the resumption, and none has been expressed by the Collector.

From Vizagapatam, dated 21st November, in Cons. 6th December 1821.

14. In Vizagapatam it appeared that although the Moturpha was not actually included in the assets of income assigned to the Zemindars,

for in only one division of the three divisions into which the District was formerly divided was any mention made of the item among the assets, and there it had been proposed to commute it for a quit-rent on the sites of the houses of artisans, still the assumption of the Moturpha revenue on behalf of Government had not been made, as the Judge of the District Court had ruled that Government were not, in the then state of the Law, legally empowered to enforce the demand, and also on grounds of good policy the Collector objected to the resumption "at least for the present" in the Hill Zemindaries and in the other ancient Estates.

Cassimco'tah,
Co'idakerlah,
Moonagapakah,
Ankapilly,
Melloopakah,
Dively,

Sarvasidly,
Royaveram,
Nuckapilly,
Strerampoor,
Goducherlah,
Woonutlah,

Vamoolahpoody,
Cottaco'tah,
Pudichalurah,
Waltair,
Woopadah.

15. He held, however, that when resumption took place, in the first division alone, including the Hoondahs shewn in the margin, could compensation be claimed as of right. The whole amount of the item as included in their assets was only 3,476 Rupees.

16. The Board considered that in the Hill Zemindaries it should continue to be collected by the Zemindars, but that elsewhere it should be resumed without delay and without regard to the small amount which had been included as above shewn in the assets of the Estates in the first division, which they observed was less than one per cent. of the whole assets, amounting to Rupees 3,59,422, on which the Peshkush was calculated.

17. The subject was more recently discussed in Extract Minutes of Consultation, No. 1,281, Revenue Department, dated 4th December 1856, and the orders then given had the effect of restricting the collection of Moturpha to the Zemindars of the first division who were entitled to it, and who had apparently continued the collection to the present time in the original form and not in that of a quit-rent on the house sites for which it had been designed to commute it, and also to the Hill Zemindars.

18. It was ordered in Extract Minutes of Consultation, No. 762, Revenue Department, dated 23rd June 1855, that compensation should, notwithstanding the above quoted opinion of the Board, be given on the resumption of the Moturpha to the proprietor of Cassimco'tah, the only one of the above 17 Estates that has not lapsed to Government, and in the Hill Zemindaries the proprietors have no right to the tax. Mr. Fane in his letter of 13th October 1860 expresses his opinion that there is no objection to the resumption of the tax in these cases, and that no difficulty need be apprehended in carrying it out.

Paragraph 5.

In Cons., 23rd October.

19. In Purlah Kimedy, which was transferred from Vizagapatam to Ganjam, a portion of the Moturpha in the form of a quit-rent on the house sites of Merchants, Artizans and dealers appears to have been included in the assets left with the Zemindar, but the strictly personal and professional taxes were abolished.

Commissioner Northern Circars, to Government, dated 22nd November 1854, paragraphs 39 to 41.
Extract Minutes of Consultation, dated 23rd June 1855, paragraph 13.

20. In Extract Minutes of Consultation, dated 4th December 1856 above quoted, the Government directed that as Purlah Kimedy was in the charge of the Government officers and was likely to remain so, the Moturpha should continue to be collected by the Agent, the demand being revised and objectionable items remitted.

Paragraph 7.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

21. In regard to the Nellore and North Arcot Zemindaries above enumerated, the Board, in their Proceedings of 9th March 1826 observe, that the ancestors of the proprietors had been acknowledged by the Government of Delhi as their immediate officers, and that as the Sunnud issued to them differed from the standard form in this, among other respects, that the Moturpha was not reserved to Government, the faith of Government was thus pledged to its continuance.
- Paragraph 26.
Paragraph 37.
- From Government, dated 18th July 1826, paragraph 2.
22. The Government concurred with the Board in thinking that these Estates must be exempted from the operation of any general order for the resumption of the Moturpha on behalf of Government.
- From Collector of North Arcot, dated 27th November, in Cons. 4th December 1820.
23. Regarding Kalastri and Kavetnuggur a previous reference had been made to the Board when in 1820 it was directed that steps should everywhere be taken to collect the Moturpha on behalf of Government, the Collector stating that the Zemindars objected to the order on the ground that their Sunnuds contained no reservation of this item by Government, and the Board in reply directed the Collector to abandon all claim on the part of Government to the collection of the tax within the limits of the Zemindaries, and to inform the Zemindars that they were free to collect the Moturpha as formerly "the amount thereof being included in the assets on which their Peshkush was fixed."
24. Under the circumstances of the case it would perhaps have been more correct to say that the amount had not been deducted from the sources of income left in the hands of the Zemindars, as their Peshkush was not calculated on any estimate of income, but was fixed on the amount paid previously to the subjection of the Zemindars to the British Government, *plus* the amount for which their military service had been commuted, and *minus* the allowance made on account of the reservation by Government of the management of the Salt, Sayer, and Abkari, as sources of revenue.
25. It is, however, clearly shewn in the report of Mr. Stratton to the Special Commissioner, dated 14th July 1801, that in some form or other the Moturpha had been a customary source of revenue to the Zemindars, and it may fairly be questioned how far Government, after the issue of the Istimrar Sunnud, are competent to meddle with it, more than with any other part of their income.
26. The Act No. XVIII. of 1861, for imposing a duty on Arts, Trades, and Dealings, repeals Regulation V. of 1832 which legalized the general assessment of the Moturpha by Government and its realization in the same manner as the Land Revenue; but as this Regulation did not originate the demand on account of Moturpha in the Zemindaries, so neither can its repeal render that demand illegal which was not so otherwise.
27. The Board do not care to remark on the reprehensible tone of part of the Kalastri petition or on the assumption of the title of Highness in the translations appended to it, as these improprieties are really chargeable not to the petitioner but to his Vakeel.
28. They feel, however, considerable doubt whether they should consent to forward a petition purporting to emanate from the "Rajah of Kalastri," but this also being clearly the act of his Vakeel, the Board are unwilling on this account to delay the consideration of the Zemindar's appeal. They have called upon the Collector for copies and translations of the originals of Appendices A. and B., and they would submit to Government that in passing orders on this matter, this unwarrantable assumption should not be allowed to pass unnoticed.
29. The Appendix D., being copy of an Extract from the Proceedings of the Board of Revenue dated 8th July 1816, would rather tell against the pretensions of the Zemindar were it correct in its premises, but it assumes throughout that the Peshkush of the Zemindary was fixed on a detailed estimate of assets which no where appears to have been the case in these western Poliems.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

30. Appendix E. merely proves that the Zemindar, who had been originally entrusted with the Police of the Zemindary, could not be compelled to provide for the payment of a salaried Head of Police, when he was no longer willing to perform the duties himself, or when it was considered inexpedient longer to entrust them to him.
31. The Board would request particular attention to the petition from the Zemindar of Kavetnuggur and to its enclosures, which shew that the right of these Zemindars legally to resume Lackiraj lands in their Zemindaries under the terms of their Sunnuds on lapse or breach of the conditions of the grant, and that no reversionary interest therein vests in Government in preference to the Zemindars, has been admitted and ruled by the highest Courts of Justice in the land; on the ground that the Sunnud contained no reservation of these rights to Government, and that therefore they must be vested in the Zemindar. The same line of argument must lead to the admission of the Zemindar's right to the Moturpha and to the absence of any legal power in Government arbitrarily to assume it for itself.
32. The Extract Minutes of Consultation No. 67, Revenue Department, dated 21st January 1856, on the Board's Proceedings of 7th idem, shews instances in which the Zemindar's assertion of his rights under his Sunnud was admitted and deferred to by Government in the matter of the village of Condapolliem.
33. Under the foregoing circumstances, the Board are of opinion that the collection of Moturpha by the Zemindars of Venkataghirri, Kavetnuggur, and Kalastri should not be interfered with by Government.
34. The Board would also draw attention to the case of the Arni Jaghire, the previous history of which is succinctly narrated in their letter to Government, dated 31st January 1825.
35. The tenure of the present family, under terms recognized by the British Government, dates back to at least 1762. Those terms consisted solely of the payment of an annual Nuzzer, and a reference to the Proceedings of Government, dated 30th August 1853, No. 936, Revenue Department, will shew that Government, on the occasion of the succession of the present Jaghire-dar, did not think fit to provide for the resumption of the Moturpha, but directed that the Jaghire-dar should be informed that Government reserved to itself the right of dealing with this source of income hereafter as they might think fit.
36. There is undoubtedly great difference between the position of a Jaghire-dar and of the holders of Estates on tenures of the nature of those of Venkataghirri, Kavetnuggur, and Kalastri, but considering the very lengthened tenure of the Jaghire and the very unreserved nature of the grant, the Board cannot but feel doubtful of the propriety of resuming the Moturpha in this case also.
37. The Board do not consider that the proposed course will in any way interfere with the operation of the duty on Arts, Trades and dealings except in so far as that the tax would not be levied on behalf of Government in the Zemindaries. The Act imposing the duty does not require, and the Board do not believe it to be practically necessary, to make any provision for the case of an individual paying Moturpha to the Zemindar and being assessed to the Income tax on behalf of Government.
38. The Board believe that the foregoing will comprise almost the whole of the cases in which the Moturpha is now legally collected otherwise than on behalf of Government. A reference has been made by the Collector of Malabar in regard to the Bibi's revenue from houses, but this the Board believe to be essentially different in principle from the professional Moturpha and to be unaffected by the Order of Government.
39. There may be a few cases of holders of Shrotriems and Polliems paying an unvarying amount to Government, and legally collecting the Moturpha, but these will probably easily admit of settlement by way of compensation, and will be submitted in due course for the orders of Government.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

No. 474. Proceedings of the Board of Revenue, dated 4th September 1861, No. 4,771.

Read the following letter from the Collector of North Arcot, to the Secretary to the Board of Revenue, Chepauk, dated Chittoor, 17th August 1861, No. 202 :—

1. As directed in your letter dated 10th instant, No. 4,333, I have the honor to enclose copies and attested translations of my letter to the Zemindar of Kalastri, and of the Notification published to the residents in the Zemindary.

Dated 25th April 1861.

2. The Board will find, on comparing the vernacular copy of the letter with the translation, that there are in the former idiomatic expressions which cannot be rendered in English, but which when taken with the context soften down any apparent asperity in the general tone of the communication.

3. Wholly unsuccessful in obtaining from these Zemindars their Income tax papers, and with but a very limited time to prepare the Moturpha statistics of their estates, I felt it was absolutely necessary to force them to declare how they intended to act. Worded as it is, my letter failed to call forth any protest until the last moment, and by the tenor of intermediate correspondence, I was led to believe that the accounts were under preparation, and would be eventually submitted.

4. Whilst on this subject, it may not be out of place to acquaint the Board that after repeated calls, the Jaghiredar of Arni has at length submitted to the Sub-Collector copies of his Moturpha accounts for the last three years. In reporting this, the Sub-Collector informs me that these accounts are in Mahratta, and were copies unaccompanied by any vouchers, and that he had, therefore, called upon the Jaghiredar to furnish the original papers to enable him to verify their correctness.

	RS.	A.	P.
Fusly 1267.....	5,333	5	0
1268.....	5,518	11	2
1269.....	5,572	15	2

According to the returns thus received, the collections of Moturpha during Fuslies 1267, 1268, and 1269 were as severally exhibited in the margin. As the Beriz of the Jaghire is computed to be Rupees — the proprietor would thus by his own figures realize a moiety and upwards of his Peshkush Rupees 10,000 from the proceeds of the Moturpha tax.

ENCLOSURE No. 1.

ABSTRACT.—Translation of a letter addressed to the Zemindar of Kalastri, by the Collector of North Arcot, respecting the transmission of Moturpha accounts.

ENCLOSURE No. 2.

ABSTRACT.—Translation of a notice issued by the Collector of North Arcot, to the Merchants and other persons residing within the precincts of the Kalastri Zemindary.

1. Ordered to be submitted to Government with the literal translation, prepared in the Board's office, of the letter addressed to the Zemindars by the Collector, with reference to the Board's Proceedings dated 26th August 1861, No. 4,625, paragraph 28.

2. As the Board anticipated, the objectionable phrases in the translation submitted by the Collector are not borne out by the original; but the Board still think that the style of communication does not sufficiently recognize the fact that the Zemindar is not on an equality with Government, but is in the position of a subject.

No. 475. Proceedings of the Board of Revenue, dated 19th December 1861, No. 7,120.

Read the following letter from the Collector of Nellore, to the Secretary to the Board of Revenue, Chepauk, dated 14th December 1861, No. 274 :—

1. I have the honor to forward copy of a printed petition from the Zemindar of Venkatagiri.
2. The Board having already recommended the Zemindar for the favorable consideration of Government, it will not, I trust, be any disadvantage to the Zemindar, that this petition was not forwarded sooner.
3. The omission was an oversight, and in expressing my regret for the oversight, it is only necessary I should add my recommendation that the Zemindar's petition be complied with.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Ordered to be submitted to Government in continuation of the Board's Proceedings, dated 26th August 1861, No. 4,625.

No. 476. Proceedings of the Board of Revenue, dated 28th February 1862, No. 1,407.

Read the following letter from the Acting Collector of North Arcot, to the Secretary to the Board of Revenue, Madras, dated Chittoor, 24th February 1862, No. 43 :—

1. In reporting upon the remonstrance of the Zemindars of Kalastri and Kavetnuggur against the Order* of Government, directing the

Vide letter to Board, dated 23rd July 1861, No. 170.
9th February 1861.

resumption of Moturpha in the proprietary estates, Mr. Robinson informed the Board of his instruction to the Deputy Collector in charge of the Zemindari tracts to abstain from taking any further action in the matter.

2. The Zemindar of Kalastri, who was also prohibited from collecting the Moturpha tax, now reports that he has collected the dues from such of the rate-payers whose indigent circumstances made him apprehensive of their failing in their payments at a future date.

3. In the absence of any order authorizing such a proceeding, I beg to be favored with the instructions of the Board whether the Zemindars may be permitted to collect the tax in the aforesaid manner, or whether it should be collected by Government and kept in deposit.

Ordered to be submitted for the decision of Government, with reference to the Board's Proceedings, dated 26th August 1861, No. 4,625.

No. 477. Proceedings of the Board of Revenue, dated 3rd July 1862, No. 4,315.

Read the following letter from the Collector of Nellore, to the Secretary to the Board of Revenue, Madras, dated Krishnapatam, 3rd April 1862, No. 68 :—

1. I have the honor to inform the Board that a question has been put from the Venkatagiri Zemindary, as to whether the Moturpha tax may be levied as usual.

2. The Moturpha was of course abolished wherever Act XVIII. of 1861 was introduced. But as it cannot be said that this Act was introduced into the Venkatagiri Zemindary, it seems doubtful whether the abolition of the Moturpha tax can be considered to have been carried out there; and should the Board approve, I would reply to the Agent of the Zemindar to the above effect, and at the same time intimate, that with reference to the said Act, I shall feel myself precluded from entertaining any cases under Regulation V. of 1822, for the recovery of arrears of Moturpha.

Ordered to be submitted to Government, in continuation of the Board's Proceedings, dated 26th August 1861, No. 4,625, which is still under consideration.

No. 478. Proceedings of the Board of Revenue, dated 16th December 1862 :—

Read the following letter from the Acting Collector of North Arcot; to the Secretary to the Board of Revenue, Madras, dated Chittoor, 9th December 1862, No. 255.

1. The Jaghiredar of Arni has addressed to me a Khat* stating that the collection of Moturpha being interdicted in his Estate, he has during these two years suffered a loss of about 12,600 Rupees, and prays that he may be permitted to collect the tax with arrears.

* Dated 3rd November 1862, No. 27.

2. In paragraph 36 of their Proceedings, dated 26th August 1861, No. 4,625, the Board have taken a favorable view of his claim, and it now remains to decide whether he should be permitted to collect the tax, or whether compensation should be awarded to him.

3. Act II. of 1862 abolishing this impost, I apprehend, applies to proprietary estates as well as other tracts. If so, it is illegal to collect Moturpha in such estates.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Vide letter to Board, 24th February 1862.

4. The Zemindar of Kalastri has notwithstanding been collecting Moturpha, which was already brought to the Board's notice. As no orders have been passed thereon, I beg to solicit instructions for my guidance.

Ordered to be submitted to Government in continuation of the Board's Proceedings quoted by the Collector which are now before Government.

No. 479. Proceedings of the Board of Revenue, dated 26th January 1863, No. 483.

Read the following letter from the Acting Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 10th January 1863, No 7 :—

From the Collector to the Sub-Collector, dated 28th October 1862, No. 156.
From the Sub-Collector to the Collector, dated 19th November 1862, No. 203.

1. I have the honor to enclose for orders copies of the correspondence noted in the margin.
2. From these papers, the Board will observe that 36 inhabitants of Arni were charged with the Income tax in addition to the Moturpha paid by them to the Jaghiredar, while others paid no Income tax at all when it fell below the Moturpha demand payable by them to the Jaghiredar, or paid only the excess of Income tax over the latter.

3. In the Estates of Carvetnuggur and Calastry where the privilege of levying Moturpha has been reserved to the Zemindars, the practice has been to charge Income tax without any reference to the other impost.

4. Under these circumstances, I beg to solicit instructions as to which course is the correct one. It does not appear to me clear whether the Proceedings of the Board, No. 4,136, dated 12th September 1860, refer to the Presidency generally, or only to Government Talooks in it.

From the Sub-Collector of North Arcot, to the Acting Collector of North Arcot, dated Vellore, 19th November 1862, No. 203.

The enclosure herewith returned.

1. I have the honor, with reference to your letter of the 28th ultimo, No. 156, to inform you that prior to June 1861, 36 inhabitants of the Arni Jaghire paying Moturpha tax to the Jaghiredar were assessed to the Income tax, and paid the same without claiming any deduction on account of Moturpha tax. This amount was therefore brought to account and remitted to the District Treasury, but subsequently some others having objected to pay Income tax in addition to Moturpha, I, with reference to the Board's Circular dated 12th September 1860, No. 4,136, issued to the Sub-Magistrate at Arni under date the 1st June 1861, an order directing him to collect Income tax only to the extent that it was in excess of the amount of Moturpha tax paid to the Jaghiredar. This order appears to have been acted upon in all subsequent cases, so that there are only the 36 persons named in the enclosed statement from whom Income tax has been unduly collected in addition to Moturpha tax and carried to public account. The Statement shows the Moturpha and Income tax demands against each of these individuals.

2. Referring to the inquiry in paragraph 3 of your letter, I beg to state that the payers of Moturpha tax to the Jaghiredar were not assessed to the Income tax when the latter tax fell below the former, and that there were only six such cases in Arni.

(True Copy.)

(Signed) J. FRASER, Acting Collector.

From the Acting Collector of North Arcot, to the Sub-Collector of North Arcot, dated Chittoor, 28th October 1862, No. 156.

1. I have the honor, with reference to your letter dated 30th ultimo, No. 152, to state, that I do not clearly comprehend what has been actually done in regard to charging Income tax on those who have hitherto been paying Moturpha to the Jaghiredar of Arni.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Dated 15th August 1862, No. 90.

2. In the Telugu Memorandum noted in the margin, Mr. Barlow observes that some of the Ryots of Arni Jaghire having requested that the amount of Moturpha paid by them to the Jaghiredar might be deducted from the assessment charged to them on account of Income tax, you issued an order dated 1st June 1861 to the Sub-Magistrate of Arni, directing him to collect from such parties the difference between these imposts.

3. It thus appears to me that your order applies only to particular cases where the amount of Income tax exceeds the Moturpha, and I should like to know what steps have been taken to relieve those parties who pay to the Jaghiredar a Moturpha tax exceeding the amount of Income tax assessed on them. For instance, suppose the Moturpha tax paid by a certain individual is Rupees 50, the Income tax to which he is liable being 20 Rupees; I wish to know whether the 20 Rupees are remitted on the ground that he pays Moturpha in excess to the Jaghiredar, or whether they are collected in addition to Moturpha.

4. The individuals who have presented to me the enclosed Urzee noted in the margin represent, that your order of 1st June 1861 alluded to has not been carried out in regard to them.

5. As I think it necessary to submit the matter for the orders of the Board, I beg that you will furnish me with full information on the subject at an early date.

(True Copy.)

(Signed) J. FRASER, Acting Collector.

1. Ordered to be submitted for the decision of Government, with reference to the Board's Proceedings, dated 26th August 1861, No. 4,625, on the subject of the collection of Moturpha in the Kalastri and Kavetnuggur Estates and in the Arni Jaghire.

2. So long as the Moturpha tax existed in the Government Talooks, the Board do not doubt that the Zemindar's legitimate demand on the same account was properly taken into consideration in assessing the Income tax in Zemindaries.

3. But unless Government admit the Zemindar's right to continue to levy this tax on his own account, the Board are of opinion that its tacit recognition by reducing the Government demand for Income tax is wrong in principle.

No. 480. Proceedings of the Board of Revenue, dated 7th June 1864, No. 3,498.

Read the following letter from the Collector of Nellore, dated 23rd May 1864, No. 148 :—

1. Adverting to the Board's Proceedings of the 26th November last, No. 7,499, requesting me to submit two distinct Statements of Moturpha collections for the Venkatagiri and Kalastri Estates, &c., and to state whether the continued demand has been prohibited, and how, I have the honor to forward for the Board's consideration translation of a letter addressed to me by the Zemindar of Kalastri, under date the 27th February last.

2. The Zemindar, it will be observed, declines to afford me any information as regards the collection of the tax in question in his Estate, pending the result of an appeal made by him in 1861, which he states was sent on to Government in August 1861, with the Board's recommendation for favorable consideration. He also states, it will be seen, that as the Moturpha forms an item on which the Peshkush of his Estate was calculated, and that if once allowed to fall into arrears, the difficulty of collection is very great, he has not refrained from collecting it during the last two years.

3. Under these circumstances, I have the honor to request the Board's orders in the matter, as without the particulars called for from the Zemindar being furnished me, I am unable to submit the statement as respects his Estate required by the Proceedings above quoted.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

To the Collector of Coimbatore.

1. In acknowledging the receipt of your letter of the 23rd December 1863, No. 12, requesting to be furnished within two months with a Statement shewing the Moturpha collections of the Zemindary Talooks of Pamaru and Sitarampuram, both attached to the Zillah of Nellore, and to be informed whether this tax has been levied in my Zemindary during the last two Fuslies, and whether I have any rights to such collection, I have the honor to state that on my intimating to you on the 13th September 1861, in reply to your letter of the 10th August of the same year, that an appeal petition had been presented to the Board by Mr. J. B. Norton, on behalf of my Zemindary exhibiting my rights to this tax levied from a very remote period, and on my requesting you to suspend exercising your authority in the Moturpha affair until the result of my application to the Board is known, you were pleased to inform me by letter No. 16 of the 14th December 1861, that orders had been issued to the local officers complying with my requests.

2. The Collector of Chittoor had, by letter dated 10th August 1861, informed me that no Moturpha accounts would be demanded from me, and that he would exercise no authority in the matter until the result of my application to the Board is known; a copy of which letter I have already submitted to you with my letter to your address of the 13th September 1861.

3. As you have again desired me to show my rights to the tax without referring to the past correspondence on the subject, I forward herewith for your perusal a duplicate copy of my appeal petition to the Board exhibiting the said rights.

4. It appears that the appeal petition alluded to above, has been referred to Government on the 26th August 1861, with the favorable recommendation of the Board, and that it is still under the consideration of the former.

5. On the ground that the tax in question is included in the total Peshkush of my Zemindary, and considering the great difficulty to be experienced in its collection if it once falls in arrears, I have not refrained myself from making the collections.

6. The Collector of Chittoor reported to the Board on the 24th February 1861, the fact of the Moturpha tax being collected in my Zemindary, and it appears that the matter was referred by the Board on the 28th idem for the consideration of Government.

7. Under these circumstances, I have the honor to state that it is not possible to supply you with the Moturpha accounts asked for in your letter No. 12 of the 23rd December 1863, until the orders of Government on the subject have been received.

27th February 1861.

Seal of the
Zemindar of
Kalastri.

(True translation.)

(Signed) J. W. B. DYKES, *Collector.*

1. The Collector will please to send up the Statement of Moturpha collections in cases other than those of the Venkatagiri and Kalastri Zemindaries, with the information called for in the Board's Proceedings cited in his letter.

2. Copy of his letter will be submitted for the consideration of Government in connection with the representation of the Kalastri Zemindar already before them.

No. 481. Proceedings of the Board of Revenue, dated 31st August 1865, No. 5,354.

Read the following letter from the Collector of Nellore, to the Acting Secretary to the Board of Revenue, dated 9th June 1865, No. 111:—

1. I have the honor to submit, for the orders of the Board, an application received from the Zemindar of Venkatagiri, dated 30th July 1864, for Rupees 38,707, to be remitted out of his

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

Peshkush this year, as the amount he has refrained from collecting under the head of Moturpha since 1861-62.

2. The Zemindar puts his annual collections under this head at Rupees 12,902.

3. And on the receipt of this request, I referred it to the Deputy Collector, who was then engaged with similar claims other than those of Venkatagiri and Kalastri.

4. I now learn from the Deputy Collector, that he has made no inquiries on the subject with reference to the Board's Proceedings of the 7th June 1861, and as from those Proceedings it might be inferred, that, pending the orders of Government, no steps were to be taken in regard to Venkatagiri and Kalastri, I beg to be favored with the Board's instructions as to whether this view of the case is correct.

5. At the same time, I beg to call the Board's attention to the terms of the Notification in the District Gazette of the 17th April 1861, paragraph 3 annexed,* and the increasing difficulties there will be as years go on in deciding whether the terms of this Notification have been complied with, and compensation is legally due, if otherwise claimable.

* Also of 3rd August, same year, likewise annexed.

To the Collector of Nellore.

After presenting usual respects, we beg to bring to your notice that your Inayatnamah, No. 40, dated 15th April 1861, with reference to the Revenue Board's Circular, No. 1,668, dated 3rd April 1861, and the Orders of Government, dated 9th and 23rd February 1861, respectively, stating that from the 1st July 1861, Moturpha tax in the Zemindaries, Polliems, Shrotriems, &c., should be collected on behalf of Government; that the Zemindars and others should not collect the money therewith connected for themselves; that in some cases it was ordered that the Moturpha tax collected during the past three Fuslies should be ascertained, and the amount deducted from the Peshkush; that the collection of the said tax should be ordered to be discontinued on our behalf, but to be made on behalf of Government from 1st July 1861; that the original Moturpha accounts prepared in our office should be sent to your office on or before the 1st May; and that the sum to be deducted from the Peshkush will be ascertained after an examination of those accounts; this Inayatnamah having been received, we explained to you the disadvantages arising to us from the collection being made on Government's behalf.

Upon this you sent to us the Inayatnamah, No. 18, dated 26th December 1861, stating that our appeal has been referred to the Board, and that Hukums have been issued to the Sub-Magistrates and others in order that no measures may be adopted regarding Moturpha accounts till another order shall be passed.

We have also received and understood the contents of your Inayatnamah, dated 23rd December 1863, No. 11, stating that, as the Board have instructed by their Proceedings, No. 7,499, that a separate statement respecting our Zemindary's Moturpha should be submitted with your report, we should prepare and send a detailed account of the Moturpha paid by each gild or class of traders; that we should report whether, during the past one or two Fuslies, the Moturpha tax was collected or not; and that we should explain what rights we have to collect the tax from the different gilds.

Accordingly we send herewith a statement shewing clearly the date, Fuslies, and Talooks, for three Fuslies from 1267 to the close of 1269, regarding the Moturpha of our Zemindary.

It will appear from Account No. I., that the amount of Moturpha for those three Fuslies is Rupees 38,707-2-1, making an average of Rupees 12,902-6-0 every year.

With reference to the item called Music Contract it should be remarked, that this is a sum which the musicians of Sri Kasi Viswanathaswamy Covil have been paying to meet the expenses for erecting a pandal and doing other charities at the time of festival. This item, Rupees 63-15-6, was collected for Fusly 1273, and applied to purposes of charity. This item having been included under the head of Moturpha from time immemorial, it is not right at present to exclude it from

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

that head, or include it under the head of Zemin revenue. The confirmation of this charity is at your pleasure.

It will appear from the Account No. II., that the amount of Moturpha due for Fusly 1270 is Rupees 1,579-13-1, and that the sum of 1,475-10-3 was collected during 1271, 1272, and 1273.

From the Account No. III., will appear those items which having been included under the head of Moturpha hitherto, were lately excluded.

From No. IV., will appear those items which though connected with Moturpha were only lately included under it.

From No. V., will appear reasons for the difference existing between the amounts entered in this account and the Income tax accounts.

Although the Moturpha item is not mentioned in the Sunnud of our Zemindary, yourself state in the said Inayatnamah No. 40, that it appears from the records of your office that, upon the correspondence which passed between the then Collector and the Revenue Board, the authorities ordered that the privilege of collecting Moturpha in the Zemindary should belong to ourselves. We, therefore, refrain from making further explanation on the subject.

We hope that the sum of Rupees 38,707-2-0, found for Fuslies 1271, 1272, 1273 to be the average may be refunded, and 12,902-6-0 found to be the average for every year, may be deducted from the Peshkush.

(A true Translation.)

30th July 1864.

(Signed) C. KUPPURAMASAMI SASTRE.

Extract from a Notification in the Nellore District Gazette, dated 17th April 1861.

3. And notice is hereby given that from the 1st of July next, the Moturpha falling due in all Zemindaries, Polliems, and Shrotriems, &c., throughout this District, will be collected in behalf of Government, and that no payments after that date to other parties will be allowed by Government, as a set off against the Government demand.

Notification in the Nellore District Gazette of 3rd August 1861.

1. In the District Gazette of the 20th April, it has been notified, under date the 17th idem, that, from the 1st July 1861, the collection of Moturpha by private individuals, shall every where cease; and that Moturpha falling due in all Zemindaries, Polliems, &c., will from that date be collected in behalf of Government.

2. It was then further notified, that no payments after the 1st July to other parties would be allowed by Government, as a set off against the Government demand.

3. And the attention of all concerned is again called to the said notice, the provisions of which will now be strictly enforced.

1. The Board observe that the Collector should not have submitted the vernacular document which forms the enclosure to his letter without a translation, and he should have explained why this document was delayed nearly a year in his office.

2. As the matter referred to was fully discussed in the Board's Proceedings under date 26th August 1861, No. 4,625, the Board will request that the orders of Government may be passed on those Proceedings.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

No. 482. ORDER THEREON, 25th November 1865, No. 2,906.

Miscellaneous.

1. The question which the Government proceed to consider in the following review, is whether it is necessary and proper to maintain and enforce the prohibition on the collection of Moturpha in the Zemindaries of Vencatagiri, Cavetnuggur or Bomraz, and Calastri, and the Jaghire of Arni, issued in the G. O. of 9th February 1861, above recorded.

2. The collection of the Peshkush due by these Poligars to the Nawab of the Carnatic, according to the fixed amounts stated, was transferred to the Company by the treaty of July 1792, the right of sovereignty over the Poligars being reserved to the Nawab. This reservation was effectively annulled by the later treaty of July 1801, which transferred to the Company the administration of the Government of the Carnatic and the exclusive right to its revenues.

3. Instructions were issued to "the Collector of the Western Poligar Peshkush", to furnish the information necessary to enable Government to reform the Government of the Poliams, and on 12th August 1802, the Special Commissioners, Messrs. Petrie, Cockburn, and Webbe, submitted two letters from the Collector with their proposals for commuting the Military service due by these Poligars.

4. In estimating the Poligars' assets, the following Miscellaneous items of revenue were included:—

	Taxes on Castes and Trades.	Sayer.	Arrack.	Salt.	Total of Items 2, 3 and 4.
	1	2	3	4	5
	Pags.	Pags.	Pags.	Pags.	Pags.
Vencatagiri	1,539	7,000	885	1,057	8,942
Calastri	1,133	5,082	463	55	5,602
Bomraz or Cavetnuggur ...	2,764	5,451	931	...	6,382

5. Mr. Stratton, the Collector, at paragraph 19 of his Report on the Poligars' resources, dated 14th July 1801, writes as follows:—

"Under the head of Moturpha may be ranked three species of taxation, viz. :—

1st.—The Abkarry, or tax on intoxicating drugs and spirituous liquors, the license of selling them being rented to particular individuals.

2ndly.—The tax on trades, such as Weavers, who pay a stated sum on each loom, Oil Mongers on each oil mill, &c., which is levied in proportion to their gains, and varies in every village. The collection of those taxes is also in some instances under rent.

3rdly.—Ground-rent which is levied on each house, and is regulated by the caste and condition of the person inhabiting it; rent of cocoanut, mango, and tamarind groves, as also the rent of fish procured from tanks, &c.

6. At paragraph 35 of their letter, dated 12th August 1802, the Special Commissioners state with reference to their proposed Peshkush for Vencatagiri, in com-

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

mutation of the former Peshkush and condition of Military service, "From the above sum of Pagodas 1,20,000 we propose to deduct the revenue arising from Sayer, spirituous liquors, and salt, articles which it is the intention of your Lordship's Council to retain under the administration of the Company's Government," and accordingly in the statement annexed to their letter these three items of revenue are shewn above are deducted from the proposed Peshkush, and the net residue is proposed as the permanent demand from 12th July 1802. The same is the case as regards the Calastri and Cavetnuggur Estates.

7. In the Government Proceedings, dated 13th August 1802, it was resolved that the several recommendations of the Special Commission should be adopted in full, and on 24th August, the Governor, Lord Clive, recorded his Minute on the subject in opposition to Mr. Dicks' objections recorded on 17th August, to carry out the measure of reducing the Military power of these Poligars, and laid before the Council the drafts of the letters which he proposed to address to the Poligars in question, and of the instructions to the Special Commission.

8. In each of these draft letters the following passage occurs:—

"But it being my intention to reserve in the hands of the Company the administration of the revenues derived from Sayer, Salt, and Spirituous Liquor
"I have deducted from your commuted equivalent the total amount of these branches of revenue, being according to the accounts furnished by you State
"Pagodas ————— per annum," the amount in each case being that shewn in the above Statement as the total of these three items of revenue.

9. Lord Clive's recommendations were adopted by the Government, and Istimrar Sunnuds were issued accordingly to the Poligars.

10. The terms of these Sunnuds were peculiar to meet the requirements of the cases; and the reservations were, in accordance with the previous papers, limited to the Salt, Sayer, and Abkarry revenues, and did not include the Moturpha as in the ordinary Istimrar Sunnuds. The emoluments assigned for the support of the Police were also reserved, but not the La-Khiraj and favorably assessed lands generally, and in this respect also the Sunnuds were peculiar.

11. From the foregoing it is evident that the Moturpha existed as an ordinary item of revenue in the Poliems prior to the Government devolving on the British nation; that it was included in the estimate of assets on which the Poligars' future income was calculated when their Military service was commuted; and that it was not reserved by the Government, as was done in the case of ordinary Zemindari.

12. It has next to be considered how far the enactments on the subject have affected the Poligars' right to collect this item of revenue.

13. The only enactment on the Statute book relating to Moturpha prior to abolition, is Regulation V. of 1832, which in the preamble declares the customary liability of certain classes to the tax, and the doubt which had arisen whether the absence of demand was a bar to the future levy of the tax, and then proceeds to enact that the customary liability shall be maintained, and that the plea of previous non-payment shall not bar the future demand.

*Proceedings of the Madras Government, Revenue Department,
25th November 1865.*

14. This Regulation was repealed by Act XVIII. of 1861, which imposed a duty on Arts, Trades, and Dealings, which again was repealed by Act. II. of 1862, except so far as it repealed

Dated 16th July 1861.

the Regulations and parts of Regulations therein mentioned.

15. The position of the Moturpha question, therefore, as regards the Law, is precisely the same now as it was before Regulation V. of 1832 was passed, which Regulation, it is to be observed, did not create the right of these Zemindars to collect Moturpha. That right had existed and been exercised for very many years before 1832, indeed from time immemorial. What may be the legal rights of the Zemindars in the matter of Moturpha in the present condition of the Law on this subject, is a question on which the Government is not competent to pass an authoritative decision.

16. It has been shown that the item was not reserved by Government as in the case of ordinary Zemindaries, and it may here be observed that in the case of the La-Khiraj lands the non-reservation by Government of the reversionary right has been expressly allowed to be equivalent to the cession to these Zemindars of that which in ordinary Zemindaries was reserved by Government.

17. It has also been pointed out that the Government are not competent to give any authoritative decision as to the legality or otherwise of the collection of Moturpha by the Zemindars. If under the present condition of the Law the demand on the part of the Zemindars be not legal, it will be for their sub-tenants to resist it. The question may then be judicially considered, and authoritatively decided.

18. It remains to be considered whether it is necessary or desirable for Government by enactment, now to insist on resuming the source of revenue, compensating the Zemindars by an equivalent remission of Peshkush.

19. The question was brought forward by the Board in their Acting Secretary's letter, dated 10th December 1860, in anticipation of the enactment of the Bill to impose a duty on Arts, Trades, and Professions, which was passed in July 1861,

Proceedings of Government, dated 9th February 1861.

and also in view of the fact that payment of the Moturpha was ordered to be accepted as *pro tanto* exempting from liability to pay the Income Tax; and the Board pointed out that in G. O. dated 4th December 1856, No. 1,281, Revenue Department, the question of resumption in Zemindaries generally, on payment of compensation where the demand was authorized, was discussed with reference to the contemplated abolition of the Moturpha generally and with the object of extending the relief to the Ryots in Zemindaries; a very different set of circumstances from that which existed when the Board wrote.

20. The relinquishment of the Moturpha by Government in its Ryotwary Talooks in no way necessitated the abolition of the tax in those Zemindaries where the collection was not prohibited by the Sunnud. It was purely a question for the Zemindar to decide whether, if the collection were legal, the receipts from the tax would counterbalance the disadvantage under which his estate would labor from exceptional taxation.

21. The reason derived from the order allowing payment of Moturpha, *pro tanto* to exempt from Income Tax, no longer exists.

22. The argument derived from the relinquishment of the Moturpha by Government, and the expediency of putting all artizans on an equality, loses its force in face of the fact that the Town's Municipal Act, which has just received the assent of the Governor General, contemplates a local tax on Trades and Professions as a main source of income for Municipal purposes, including Town Police; while in Zemindaries the Government having assumed the responsibility of maintaining the necessary Police from general revenues, they are debarred from assessing any additional special tax for this purpose.

23. Under these circumstances it appears to the Government that they are not called upon to insist on the resumption of this item of revenue from the Zemindars of Vencatagiri, Cavetnuggur or Calastri, and the Collectors will accordingly understand that the prohibition against their collecting Moturpha according to custom is withdrawn so far as Government are concerned. The Zemindars will be responsible for keeping within the Law.

24. The same course may be adopted in regard to the Jaghire of Arni, in which, although the "Jodi" or quit-rent is not based on an estimate of assests, there is no reason to doubt that the customary Moturpha formed from time immemorial an item of income to the Jagiredar, while it would be impossible to arrive at any trustworthy estimate on which to adjust compensation for its resumption were resumption insisted on.

25. It is observed from the letter of the Collector of North Arcot, in Board's Proceedings, dated 26th August 1861, No. 4,625, that the Government Order of 9th February 1861 was not carried out in the Zemindaries of Cavetnuggur or Calastri, or in the Jaghire of Arni, and from the correspondence submitted with the Board's Proceedings, dated 28th February and 16th December 1862, 26th January 1863, and 7th June 1864, it seems evident that the collection of Moturpha by the Zemindars and Jaghiredar was never discontinued. No question of compensation in regard to the interval since the date of the Government Order need therefore be considered in these cases.

26. In regard to Venkatagiri the Collector of Nellore will, with reference to his letter dated 9th June 1865, ascertain and report to what amount of remission, if any, the Zemindar is fairly entitled on account of any discontinuance of Moturpha collections under the G. O. of 9th February 1861.

27. He will observe that the estimated amount of the yearly income from this source left to the Zemindar when the Peshkush was permanently settled, was Pagodas 1,539, including ground-rent on houses, gardens, &c.

28. It would, be well if possible, that in his estimate of loss of income by the Zemindar, if any, he should distinguish between the amount for which payment of income tax to the Government was *substituted*, and the amount absolutely lost by the prohibition and gained by the usual payers.

(Signed) W. HUDLESTON,
Acting Secretary to Government.

No. Read the following Proceedings of the Board of Revenue:—

Submitting, with remarks, certain letters from the Collector of North Arcot, forwarding addresses from certain Zemindars protesting against the resumption of the revenue derived from the Mohturfa Tax within their Estates. (Here enter 26th August 1861, No. 4,625.)

No. Submitting, with remarks, a letter from the Collector of North Arcot, forwarding translation of a letter addressed to the Zemindar of Kalastry respecting the transmission of Mohturfa accounts. (Here enter 4th September 1861, No. 4,771.)

No. Submitting a letter from the Collector of Nellore, forwarding a Petition from the Zemindar of Venkatagerry requesting that he might be allowed to continue the collection of Mohturfa in his Zemindary as heretofore. (Here enter 19th December 1861, No. 7,120.)

No. Submitting for the orders of Government a letter from the Collector of North Arcot, bringing to notice the collection of Mohturfa by the Zemindar of Kalastry. (Here enter 28th February 1862, No. 1,407.)

No. Submitting a letter from the Collector of Nellore, referring to the Board a question put by the Venkatagerry Zemindar as to whether the Mohturfa Tax may be levied as usual. (Here enter 3rd July 1862, No. 4,315.)

No. Submitting copy of a letter from Acting Collector of North Arcot on the subject of permitting Arnee Jaghiredar to collect Mohturfa in his Estate. (Here enter 16th December 1862.)

No. Submitting with the Board's opinion a letter from the Acting Collector of North Arcot, soliciting instructions as to the course to be pursued in levying Income Tax from the inhabitants of Arnee who pay Mohturfa Tax to the Zemindar. (Here enter 26th January 1863, No. 483.)

ORDER THEREON, 24th February 1864, No.

No. 1 These Proceedings of the Board of Revenue relate to the Mohturfa Tax in certain Zemindaries.

2. The Board first refer to the claims of the proprietors of the Estates marginally noted to continue the levy of the Tax, notwithstanding its general abolition by Acts XVIII of 1861 and II of 1862.

3. The question is clearly not one which an Order of Government can definitively settle; for the Government cannot prevent the law taking its course, if it be infringed; nor can a declaration of their opinion make that legal which is not so in law.

4. The Government will, however, briefly state for the Board's information the chief grounds on which they differ from them on this question.

I. The Zemindaries in question are all held under Regulation XXV of 1802 which expressly declares that the Mohturfa shall be reserved to the State. The Government are bound by the law as much as their subjects, the non-reservation of the Mohturfa would clearly be a contravention of the law and therefore void *ab initio*.

II. The Zemindars must have some legal warrant for levying such a Tax; for Government clearly could not convey to private individuals by deed the right of taxing the public for the exercise of trades, professions, and the like. Now the Regulation under which these Estates are held precludes the transfer of this right to their proprietors, and the Acts of 1861 and 1862 preclude the Government themselves from levying it; clearly therefore the Government could neither originally give nor can they now continue such a privilege.

III. The Sunnuds of these Estates do not confer the right of levying Mohturfa. The Tax is omitted from the usual list of special reservations, and the Government; so long as the levy of Mohturfa was legal, gave this omission its full weight by abstaining from resuming its collection when that course was being adopted in other Estates; but a mere omission in a conveyance to reserve a privilege which the law of the land then declared non-transferable does not amount to the creation of a right. A Zemindar in virtue of his Sunnud cannot claim what cannot lawfully be levied.

IV. The abolition of the Mohturfa is an act of the Government in its legislative capacity. No Sunnud or tenure exempts any one from the operation of laws which in the interests of the community at large are duly enacted from time to time; and all that individuals, prejudiced by such laws can claim is compensation for the losses inflicted. An illustration of this is afforded by the law for taking land for public purposes. In Zemindaries Government made over to Zemindars for a valuable consideration their landed rights; yet by subsequent legislation land required for public purposes can be taken against the will of the Zemindar—due compensation being granted. Here the right invaded is not one inferrible from an omission to reserve it, but one formally and expressly conveyed and within the competence of the Government legally to convey.

V. Another very important consideration is that Government are not, as formerly, seeking to resume the Mohturfa in order to collect it on behalf of the State; nor even simply abolishing it and leaving the Zemindars to bear the loss as best they may. They have recognized the claim which long enjoyment of the privilege creates, and have offered compensation for the loss its withdrawal entails. More than this proprietors cannot expect without asserting the untenable proposition that their Sunnuds place them absolutely beyond the reach of all subsequent legislation "framed," as those Sunnuds express it, "from time to time for the improvement of the condition of the people."

5. The above are the chief reasons for the opinion of Government that the abolition of the Mohturfa is universal throughout the Presidency, and that the only tenable claim now is for compensation.

6. The Government have passed orders separately on paragraphs 11 to 13 of the Board's Proceedings.

7. In the case of the Jaghiredar of Arnee the Government in 1853 notified that they reserved power to deal with the Mohturfa in his property in any way they might think fit. The only point therefore is to ascertain how far his resources are affected by the abolition of the tax.

8. The Board will therefore call on the Zemindars interested in the question to submit claims for compensation within six months—~~notifying to them that~~ after that term no such claims will be received.

(True Extract.)

Secretary to Government.

Proof submitted for
approval.

Utopia

Dec 29/01

Note. No MS. Draft. or order
or minutes. or papers of
any kind can be found as
the authority for this proof.
No. of No. 12 has never
been issued. It appears
not to have been finally
approved as there is a
correction in this proof.

L.R.

These notes are sufficient
to present to your committee

Read again 20. 21. 22. 23.
24. 25. 26. 27. 28.

to collect the evidence

Read also the following No.

to the committee

of the 1st of Nov.

to the committee

26. Aug. 01. 26. 27.

to the committee

2. Sept. 01. 27. 28.

to the committee

19. Sept. 01. 28. 29.

to the committee

28. Feb. 02. 29. 30.

to the committee

26. Jan. 02. 30. 31.

to the committee

31. Aug. 03.

to the committee

In question 1. to 10.

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

to the committee

the administration of the Govt
of the nation & the exclusive
right to its names.

Instructions were issued
to the Col: of the Western Virginia
Insurrection & furnish the information
necessary to enable Gov: to inform
the Gov: of the States and on
12 Aug: 1862. to Special Commr.
James A. Lieke Colburn & by the
submission two letters from the
Col: with his proposals for
commuting the military service
due by these Virginians.

In estimating the League
assets the following miscellaneous
items from the books included
Tape, & Cigarettes, & Soap, & ~~toilet~~ ^{Sanitary} paper

Items of Income	Page	Page	Page	Page	Total of
Arrears	1537	7000	585	1057	8942
Calcutta	1133	5782	465	55	5602
Bombay or	2764	5457	931	"	6382
Carriage					

Dr. Walter H. Pelt. at June 19.
His report on the Pigeons' resources
of the July 1888. with as follows
shaded the head of Antiochian
and the number three species of creation

2^d. The duty or Tax on spirits
including drugs & spirituous liquors
the licence of selling them being granted
to particular individuals.
2nd. The tax on Indes such as
Licences who pay a stated sum on
each loom. Oil Hangers on each
oil mill &c. &c. is levied in proportion
to their gains and varies in every village.
The collection of these taxes is also in
some instances under rent.

3^d. Ground Rent &c. is levied
on each house & is regulated by the state
and condition of the persons inhabiting it,
such as Cocoa nut, sugar, & Immured
Gardens, besides the limit of Rice growing
from Tanks. &c. " " " "

At para 35 of this
letter of 12 Aug. 1902 the
Special Commr. states with
reference to this proposed reduction
for Vinkatagiri in commutation
of the former ^{existing of} ~~reduction~~ ^{of} Military
Service, "From the above sum
of Rs 1,20,000 we propose to deduct
the amounts arising from charges
on spirituous liquors, salt, articles
&c. it is the intention of J. L. Kip
to permit to remain under the
administration of the Comptroller
Government" and accordingly

in the statement annexed
to this letter three items
of Govt. account have
been deducted from the proposed
budget & the net remainder
proposed as the permanent
demand from 12 July 1802.

The same is the case as
regards the Calcutta
& Cooch Behar
Districts.

In the Govt. No. of 13 Aug. 1802
it was ordered that the several
recommendations of the Special
Commission ^{should be} adopted in full
and on 24 Aug. the Govt. Lord Cornwallis
recorded his dissent on the subject
in opposition to W. Dickes objection recorded on 17 Aug.
& carrying out the measure of reducing
the military power of the Brigades
and laid before Council the draft of the
letter which he proposed to address to the
Brigades in question. & of the instructions
to the Special Commission.

In each of these draft letters the
following passage occurs

"But it being my intention to remove
"in the hands of the Company the administration
"of the revenues derived from Sops, Salt, &
"Spirits & Liqueurs, I have deducted from
"your committed equivalent the total amt.
"of these branches of revt. - being according
"to the accounts furnished by you 1800 Pagodas
"per annum - the amt. in each

was being that shown in
the above state! as the total
of these three items of
revt.

Some of these recommendations
were adopted by the Govt. &
determined & issued accordingly to the
Brigades

The terms of these recommend-
ations were limited. & met
the requirements of the
cases; and the revenue
was not, in accordance
with the previous papers,
limited to the Salt, Sops,
and Alkany revt. &
did not include the
distrophs as in
the ordinary estimate
summed. The estimate

* assigned for the support of
the three revt. also included
but not the Salt, Sops &
Spirits & Liqueurs
separately. and in this respect
also the estimate was
peculiar.

From the foregoing it
is evident that the
distrophs exist as an
ordinary item of revt.
in the Districts prior to
the Government's going
into the British system.
that it was included
in the estimate of
assets on 23rd 1802

2^d the action of these provisions
of that in ordinary jurisdictions
was removed by Govt.

It has also been shown pointed out that
the Govt. is not in the position of the law on
the subject & from the decisions of the
Governors from collecting the customary revenue
and it only remains to be
considered whether it is
necessary or desirable
for Govt. to subject
or assuming the source
of revenue compensating
the Zamindars by an
equivalent remission
of Escheat

The question was brought forward
to H. in his letter of 10. Dec 50
in anticipation of the enactment of
the Bill & in view of the fact that Govt.
proposals. It was passed in July 51.
and also in view of the fact that Govt.
of the Escheat was ordered to be accepted
the Govt. was exempted from liability to
pay the income tax. and the H. pointed out that

Ex. of Govt.
8. 4. 36. 57.

2^d of a Dec. 50 58. 10. 1201.
The question of assumption in
jurisdictions generally on
last of the jurisdiction which
the Government can exercise
was discussed & it was
the contemplated abolition
of the Escheat generally. On
the subject of extending the
right of the Govt. in jurisdictions
is very different & of course
stances from that of Escheat
since the H. Govt.

The relinquishment of the
Escheat by Govt. in its right
is very valuable in no way
reversing the abolition
of the law in those jurisdictions
where the collecting was not
done as such a question
for the Zamindars to decide
if they are to be relieved from
the Govt. with counter balance
the disadvantages under
the Escheat would labor
from exceptional taxation.

The reason derived
from the order allowing
pay of Escheat for
taxes & brought from
Income tax no longer
exist.

The argument derived
from the relinquishment of
the Escheat by Govt.

not possible to be done
and the Govt. is not in the position
of the law on the subject & from the
decisions of the Governors from collecting
the customary revenue and it only remains
to be considered whether it is necessary
or desirable for Govt. to subject or
assuming the source of revenue
compensating the Zamindars by an
equivalent remission of Escheat

82-2906

25th Nov / 65
Read again G.O. of 9th Feb.
161 No 318, R.D.

Read also the following
Pro. of the Bd. of Revenue

of 26th Aug. / 61 No 4625.

4th Sept / 61 " 4471.

19th Dec. / 61 " 4120.

28th Feb. / 62 " 1404

3rd July / 62 " 4315.

16th Dec. / 62 " —

26th Jan. / 63 " 483.

7th June / 64 " 3498.

31st Aug. / 65 " —

The question which
the Govt. proceed to consi-
der in the following review
is whether it is necessary
and proper to maintain
and enforce the prohibi-
tion on the collection of
Maturpha in the Zamin-
daries of Venkatagiri-
Carnatungur or Rourah,
and Calcutta and the Ja-
ghir of Amri issued in
the G.O. of 9th Feb. / 61
above recorded. — The

HR

HR

GP

The collection of the Peshkush due by these Poligars to the Nawab of the Carnatic, according to the fixed amounts stated, was transferred to the Compt^l by the treaty of July 1792 - the right of sovereignty over the Poligars being reserved to the Nawab.

This reservation was effectively annulled by the later treaty of July 1801 which transferred to the Compt^l the administration of the Govt^l of the Carnatic and the exclusive right to its revenues.

Instructions were issued to the Coll^l of the Western Poligar Peshkush to furnish the information necessary to enable Government to reform the Govt^l of the Poligars, and on 12th Aug^t

1802

1802 - the Special Commissioners Messrs Petrie, Lockhart and Webb submitted two letters from the Coll^l with their proposals for commutating the Milki service due by these Poligars.

In estimating the Poligars' assets the following miscellaneous items of revenue were included

	Taxes on Cattle and Trades	Suppl	Arack	Salt	Total of Items 2, 3 & 4
	1	2	3	4	
Venkatagiri	Pags 1539	Pags 7000	Pags 885	Pags 1057	Pags 8942
Calastri	1133	5782	465	55	5602
Bomray or Carnatnuggur 3	2764	5451	931	"	6382

Mr Stratton the Coll^l at para. 19 of his report on the Poligars' resources of 14th July 1801, writes as follows.

"Under the head of allotments may be pointed three species of taxation - viz -

1st The Akharry, or Tax on intoxicating drugs and spirituous liquors - the license of selling them being granted to particular individuals.

2nd

2^{ndly} The Tax on Trades such as Weavers who pay a stated sum on each Loom. Oil Mongers on each Oil-Mill &c, which is levied in proportion to their gains and varies in every village. The collection of these Taxes is also in some instances under rent. —

3^{rdly} Ground rent which is levied on each House and is regulated by the Caste and condition of the person inhabiting it; rent of Coconut, Mango, and Tamarind groves, as also the rent of Fish produced from Tanks, &c.

At para 35 of their letter of 12th Aug. 1802 the Spl. Commrs state in the reference to their proposed Peshkush for Venetagaris in commutation of the former Peshkush & condition of Military Service, "From the above sum of Rs 12,000 we propose to deduct the revenue arising from Sagar, spirituous liquors and salt-
ants."

articles which it is the intention of your Lordship in Council to retain under the administration of the Company's Government" and accordingly in the statement annexed to their letter these three items of revenue as shown above are deducted from the proposed Peshkush, and the net residue is proposed as the permanent demand from 12th July 1802. The same is the case as regards the Palatry and Panet-meggar Estates.

In the Govt Pro. of 13th Aug. 1802 it was resolved that the several recommendations of the Special Commission should be adopted in full, and on 24th Aug. the Govt Lord Clive recorded his dissent on the subject in opposition to Mr. Dick's objections recorded on 14th Aug. to carrying out the measure of reducing the Military power of these Princes, and laid before Council the draft of the letter which he proposed.

to address to the Poligars
in question - and of the in-
structions to the Special
Commission -

In each of these draft
letters the following passage
occurs: -

"But it being my intention
to reserve in the hands of the
Compt^{rs} the administration
of the revenues derived from
Sugar, Salt, and Spirituous
Liquors, I have deducted from
your commuted equivalent
the total amount of these
branches of revenue - being
according to the accounts
furnished by your Star Pa-
raders — per annum" —
the amount in each case being
that shown in the above
Statement as the total of
these three items of revenue.

Lord Clive's recom-
mendations were adopted
by the Govt^y and Estimur
sumunds were issued ac-
cordingly to the Poligars. —

The terms of these
sumunds were peculiar -
to meet the requirements
of

Chittur

of the cases; and the re-
servations were, in accord-
ance with the previous
papers, limited to the Salt-
sayer and Alkharaj reve-
nues, and did not include
the Motupla as in the or-
dinary Estimur sumunds.
The emoluments assigned
for the support of the Police
were also reserved. But not
the La-Kharaj and favorably
assessed lands generally - and
in this respect also the sum-
unds were peculiar. —

From the foregoing
it is evident that the Mo-
tupla existed as an ordi-
nary item of revenue in
the Poligars prior to the
Govt^y devolving on the
British nation - that it
was included in the es-
timate of Assets on which
the Poligars future in-
come was calculated when
their Milt^y service was
commuted - and that
it was not reserved by
the Govt^y as was done
in the case of ordinary
Zemindaries. — It

It has next to be considered how far the enactments on the subject have affected the Poligars right to collect this item of revenue. —

The only enactment on the Statute-book relating to Moturpha prior to its abolition, is Reg. V of 1832, which in the preamble declares the customary liability of certain classes to the tax - and the doubt which had arisen whether the absence of demand was a bar to the future levy of the tax - and then proceeds to enact that the customary liability shall be maintained and that the plea of previous non-payment shall not bar the future demand. —

This Regn. was repealed by Act XVIII of 1861, which imposed a duty on Acts, Trades and Dealings, which again was repealed by Act II of 1862 except so far as it

of 16th July 1861.

+ which regulation it is to be observed did not create the right of these zemindars to collect Moturpha. Their right had existed & been exercised for very many years before 1832 in direct & continuous manner.

repealed the Regulations and parts of Regulations therein mentioned. —

The position of the Moturpha question therefore as regards the law, is precisely the same now as it was before Regn. V of 1832 was passed. What may be the legal rights of the zemindars in the matter of Moturpha in the present constitution of the law on this subject is a question on which the Govt. is not competent to pass an authoritative decision. —

It has been shown that the item was not reserved by Govt. as in the case of ordinary zemindaries and it may here be observed that in the case of the La-Khiraj lands the non-reservation by Govt. & the reversionary right has been expressly allowed to be equivalent to the reservation to these zemindars of that which in ordinary zemindaries was reserved by Govt.

It.

It has also been pointed out that the Govt are not competent to give any authoritative decision as to the legality or otherwise of the collection of Motorphes by the Zemindars.

It remains to be considered whether it is necessary or desirable for Govt as an act of state or by enactment, now to insist on resuming the source of revenue, compensating the Zemindars by an equivalent remission of Peshkash.

The question was brought forward by the then Ag. Secy's letter of 10th Decr 60 in anticipation of the enactment of the Bill to impose a duty on Arkes, Trades, and Professions, which was passed in July 61, and also in view of the fact that payment of the Motorphes was ordered to be accepted as pro tanto exemption from land tax.

If under the present condition of the Law the demand on the part of the Zemindars be not legal, it will be for this Government to resist it. The Government may then be judicially considered authoritative to decide.

Pro. of Govt.
7-9 Feb. '61

liability to pay the Income Tax; and the Bd pointed out that in G.O. of 4th Decr 1856 No 1281, R.D. the question of resumption in Zemindaries generally on payment of compensation where the demand was authorised, was discussed with reference to the contemplated abolition of the Motorphes generally and with the object of extending the relief to the Ryots in Zemindaries; a very different set of circumstances from that which existed when the Bd wrote.

The relinquishment of the Motorphes by Govt in its Ryotwary settlements in no way necessitated the abolition of the Tax in those Zemindaries where the collection was not prohibited by the sunnud. It was

was purely a question for the Zamindar to decide whether, if the collection were legal, the receipts from the tax would counterbalance the disadvantage under which his Estate would labor from exceptional taxation. —

The reason derived from the order allowing payment of Maturpha, pro tanto to exempt from Income tax no longer exists. —

The argument derived from the relinquishment of the Maturpha by Govt. and the expediency of putting all artisans on an equality loses its force in face of the fact that the Town Municipal Act which has just received the assent of the Govt. Genl. contemplates a local tax on trades and professions as a main

main source of income for Municipal purposes including Town police, while in Zamindari the Govt. having assumed the responsibility of maintaining the necessary police from general revenues they are debarred from assessing any additional special tax for this purpose. —

Under these circumstances it appears to the Govt. that ^{they are not} neither ~~can~~ ^{it is not} on consideration of justice or expediency or on any plea of consistency is it necessary or desirable to insist on the resumption of this item of revenue from the Zamindars of Ben-
eatagiri - Parnettugur
or Calcutta - and the collectors will accordingly understand that the prohibition against their

their collecting Motives, according to custom is withdrawn so far as Govt. are concerned. The proprietors will be responsible for keeping within the Law. -

The same course may be adopted in regard to the Jaghires of Amir in which altho' the "Jodi" or quit rent is not based on an estimate of assets, there is no reason to doubt that the customary Motimpha formed from time immemorial an item of income to the Jagirdars, which it would be impossible to arrive at any trustworthy estimate on which to adjust compensation for its resumption were resumption insisted on. —

It is observed from
the letter of the Coll^r of
N. Acad in B^d Pro. d^y 4
26th Augt/51. No 4625 that
the Gov^t order of 9th Feb^r
/51.

It was not carried on the
the boundaries of
vednuggur or Calastri
in the jaghirc of Bani,
from the correspon-
ce submitted with
Bd's Pro. of 28th Feb.
1866 Decr 1862, 26th Jan.
3 and 4th June 1864 it seems
sent that the collection
of Moturpha by the Zy-
mundars and Jaghirc-
dar was never discont-
d. A question of
compensation in regard
to the interval since
the date of the Govt.
order ^{need} ^{be} ~~can~~ therefore ~~will~~
~~be~~ ~~paid~~ ~~in~~ ~~these~~ ~~cases~~. —

In regard to Pea-
rce giving the Colts of
Nellore mill, with re-
ference to his letter of
the June 1865 ascertain if
as to what amount
of remission ^{if any} the Zamin-
dar is fairly entitled
account of any
discontinuation

Revenue 1865 Departt.
Pro: of Govt for November
No. 2906.

Pro: of the Madras Govt.
27th Nov^r 1865.

Pro of the Board of Revenue.
10th July 1866 A 2050.

Pro of the Board of Revenue 31st May
A 1118-

Pro of the Board of Revenue 24
Sept 1868 A 3186.

2 a p.m. orders on the
subject whether it is necessary
and proper to maintain and
prohibition on the
of Moturphat in
aries of Venkata-
iggar on Bomray
and the Jaghni