

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	/50/	Press
		Mis.
	<i>94-85</i>	
Dated	<i>5-7-1867</i>	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
5th July 1867.*

No. 94. Read the following Proceedings of the Board of Revenue, dated 14th June 1867, No. 3,653.

Read the following letters :—

From the Collector of Ganjam,	dated 27th October 1866, No. 2,893.
„ „ of Vizagapatam,	dated 6th September „ „ 351.
„ „ of Kistna district,	dated 20th October „ „ 321.
„ „ of Nellore,	dated 12th October „ „ 172.
„ „ of Bellary,	dated 13th August „ „ 123.
„ „ of Cuddapah,	dated 10th August „ „ 169.
„ „ of Kurnool,	dated 9th August „ „ 314.
„ „ of Madras,	dated 6th October „ „ 262.
„ „ of North Arcot,	dated 17th September „ „ 178.
„ „ of South Arcot,	dated 15th September „ „ 211.
„ „ of Tanjore,	dated 20th August „ „ 145.
„ „ of Trichinopoly,	dated 6th August „ „ 277.
„ „ of Madura,	dated 23rd August „ „ 322.
„ „ of Tinnevely,	dated 13th August „ „ 217.
„ „ of Coimbatore,	dated 25th August „ „ 149.
„ „ of Salem,	dated 11th August „ „ 161.
„ „ of South Canara,	dated 28th August „ „ 314.
„ „ of Malabar,	dated 30th November „ „ 204.
„ „ of Sub-Collr. Godavery,	dated 29th August „ „

1. Resolved that the foregoing correspondence be submitted to Government, with reference to their Order, dated 22nd June 1866, No. 1,533.

2. It will be observed that the Collectors are unanimous in considering it most desirable that Tahsildars should be empowered by an enactment, to enforce attendance at their Cutcherries of persons concerned in the settlement of matters connected with Revenue administration.

3. The Sub-Collectors of the Kistna and Godavery districts do not seem to think any enactment necessary, and state that Tahsildars are in the habit of enforcing attendance although not legally empowered to do so. The Collectors of Madras and Tanjore also point out that Tahsildars take the law into their own hands, but the Board agree with them in considering such a practice most undesirable.

4. The Deputy Collector of Tanjore further remarks that Tahsildars who are inclined to indolence take advantage of the state of the law to put off the decision of cases, on the ground that they are powerless to compel the attendance of the parties concerned.

5. The Collectors of Nellore and South Arcot recommend that travelling allowance should be paid to parties summoned by the Tahsildars, the expense being defrayed by the disputants; and they consider (the Board think rightly) that such a course would offer a great check to vexatious and purely litigious complaints.

6. The Assistant Collector of Vizagapatam suggests that the proposed Act should include Sub-Magistrates or Deputy Tahsildars as well as Tahsildars in which suggestion the Board concur.

*Proceedings of the Madras Government, Revenue Department,
5th July 1867.*

7. Under the circumstances the Board would recommend that Tahsildars and Deputy Tahsildars be empowered to enforce attendance of persons whose presence is requisite for the due despatch of revenue business; but, as suggested by the Sub-Collector of Nellore, in order to guard against oppression, they consider that the cases in which processes may be issued should be clearly defined.

No. 95.

ORDER NUMBER 5th July 1867, No. 1,501.

Land Revenue.

The Board will submit a draft of the law which they would wish to have enacted.
(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

No. 5,192.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 27th July 1866.

1. It has been represented to the Board that inconvenience and delay has been experienced in the disposal of revenue matters, in consequence of Tahsildars not being empowered by law to summon persons to attend at their Cutcheries, for the settlement of matters connected with the Revenue Administration. The Acting Advocate General has been consulted on the subject; and his opinion, which there is no reason to question, is that Tahsildars are not so empowered by existing law, the only law which gave them any such power, viz., Regulation III. of 1831, having been repealed by Act XVII. of 1862.

2. The Government have, in their Proceedings dated 22nd June 1866, No. 1,533, invited the Board to communicate their views on this subject after consultation with Collectors. The Board, therefore, request Collectors to report on the two following points:—

I. Whether any difficulty is experienced in obtaining the attendance of parties on matters connected with the Revenue Administration.

II. Whether any enactment is really needed giving power to Tahsildars to enforce attendance.

3. In answering the foregoing inquiries, it must be borne in mind that the Penal Code does not, as was supposed, give the power needed. Section 174 of that Code empowers public officers to enforce the attendance of persons under certain penalties; but it appears that those powers can only be exercised by a public officer acting in a judicial, or quasi-judicial capacity.

(A true Extract.)

(Signed) R. A. DALYELL,
Sub-Secretary.

(True Copy.)

(Signed) W. SCHARLIEB,
First Assistant.

To All Collectors.

From C. N. POCHIN, Esq., Acting Collector of Trichinopoly, to the Secretary to the Board of Revenue, dated Marungapury, 6th August 1866, No. 145.

I beg to reply to the request contained in the Proceedings of the Board, No. 5,192, dated 27th July 1866. It is a fact in this District that the Tahsildars find a difficulty in obtaining the attendance of parties on matters connected with the Revenue Administration, more especially since the publishing of the order of the High Court, in which it was laid down that Section 174 of the Penal Code could not be exercised against parties failing to appear according to a summons in a Revenue matter. I am constantly receiving reports from the Tahsildars that the delay in such and such a case is in consequence of the non-attendance of parties sent for. I am of opinion that an enactment to enforce attendance before Tahsildars in Revenue matters is really needed. Of course provisions might be made which would prohibit the needless summoning of parties, and as to the serving of summons it might be advisable in matters of complaint brought or referred to the Tahsildar by the Collectors, and their subordinate European officers, to employ batta Peons, to be paid for by the party cost in the dispute. In Revenue cases in which the Government was as it were the Plaintiff, the summons might be served by the Peons attached to the Tahsildars' offices.

Exd. T. Cartledge.

1865. Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE,
To All Collectors.

Dated 27th July 1866.

Received

No. 5,192.

Requesting Collectors to report whether any difficulty is experienced in obtaining the attendance of parties at Tahsildars' Courts, and whether any enactment is really needed giving power to Tahsildars to enforce such attendance.

From H. E. SULLIVAN, Esq., Acting Collector of Kurnool, to the Secretary to the Board of Revenue, dated Peapully, 9th August 1866, No. 169.

In reply to the Board's Proceedings, dated 27th ultimo, No. 5,192, I have the honor to state that, although I cannot call to mind any particular case where difficulty has been experienced in obtaining the attendance of parties on matters connected with the Revenue Administration, I am decidedly of opinion that Tahsildars should be empowered to enforce attendance when necessary.

Exd. T. Cartledge.

From H. G. SMITH, Esq., Collector of Cuddapah, to the Secretary to the Board of Revenue,
dated 10th August 1866, No. 123.

1. With reference to the Board's Proceedings of the 27th July 1866, No. 5,192, I have the honor to submit my report on the points therein adverted to.
2. Undoubtedly much difficulty is often experienced by the Tahsildars in obtaining the attendance of parties in matters connected with the Revenue Administration, and, therefore, I think it best to have an enactment giving power to Tahsildars to enforce attendance.

Exd. T. Cartledge.

From the Honorable D. ARBUTHNOTT, Collector of Salem, to the Secretary to the Board of Revenue, dated Hurrur, Uttengeri Taluk, 11th August 1866, No. 149.

With reference to the Board's Proceedings of the 27th ultimo, No. 5,192, I have the honor to state that much inconvenience is experienced in this District from Tahsildars not having power to summon parties whose appearance is required before them in Revenue matters, and that an enactment giving them this power is really needed. There are cases arising every day in Revenue Administration in which the attendance of parties is necessary, and since the repeal of Regulation III. of 1831, Tahsildars are obliged to send the Revenue summonses which they may issue, to myself or to the Divisional officers for signature, and this is not only attended with trouble and inconvenience, but also retards the prompt despatch of public business.

Exd. T, Cartledge.

From A. WEDDERBURN, Esq., Collector of Bellary, to the Secretary to the Board of Revenue,
dated 13th August 1866, No. 172.

1. With reference to the Proceedings of the Board of Revenue, dated the 29th of July 1866, I have the honor to state that considerable difficulty is experienced in obtaining the attendance of parties in revenue inquiries before Tahsildars, and that consequently an enactment, giving power to Tahsildars to enforce attendance, is urgently required.

2. There are many miscellaneous subjects connected with the revenue administration, which Tahsildars have either originally to investigate, or which are referred to them for report; delay or refusal to attend by parties summoned to give evidence, information, or explanations, is detrimental to public business, and frequently to justice.

3. Matters connected with the occupation of land, and the registration of puttahs, or of rent-free land, whether it be that a summary decision has to be given on the one hand, or a report, on the other, it is obvious that some means of enforcing the attendance of other than subordinate officials, who can be departmentally fined, or otherwise punished for non-attendance, should be provided for, the officer responsible for the decision or report.

4. There are also cases in which the Tahsildar acts, in a quasi-judicial capacity, as for instance, inquiry into cases of revenue departmental fraud, referred for inquiry and report, with proceedings under Regulation VII. of 1828.

5. The propriety of investing an officer who is entrusted with powers of investigation, and report, as well as deciding on cases, which require the attendance of parties before him, is so self-evident, that further argument, or illustration, is unnecessary.

Edw. J. Wright.

From R. K. PUCKLE, Esq., Collector of Tinnevely, to the Secretary to the Board of Revenue,
dated 13th August 1866, No. 322.

In reply to the first query contained in the Board's Proceedings, No. 5,192, dated the 27th July 1866, I have the honor to inform you, that much of the delay attendant on the settlement of revenue matters in the Taluks, is attributable to the Tahsildar having no authority to compel the presence of the parties concerned at a given time or place; and in reply to the second, I think some enactment is necessary, as the course now pursued is to issue a katalci, or injunction, to the parties wanted, which they dare not disobey entirely, though, knowing that there is no authority to compel their attendance, they delay attending on various pretences as long as it suits their purposes. Revenue and Magisterial officers might be entrusted with the same authority to summon, and I do not think that this authority would be abused by the one class more than the other, the more particularly as in most cases Revenue and Magisterial powers are vested in the same individual.

Exd. J. Wright.

1. With reference to the Board's Proceedings of the 27th ultimo, No. 5,192, I have the honor to state that much difficulty is experienced in procuring the attendance of parties before Tahsildars in matters connected with the revenue administration, and that an enactment empowering these officers to enforce the same is urgently and indispensably required.

2. In days gone by, when the people were generally ignorant of law, and when the very name of the Tahsildar carried with it a ready obedience, the necessity for a legislative provision to enforce attendance was not felt. Now, however, the state of things is materially changed, and the people know full well that the Tahsildar's summons is a mere invitation which it is optional with them to respond to or not, just as it suits their inclination and convenience. The consequence is, that the disposal of various revenue matters of every day occurrence is very much impeded, in fact the reason generally assigned by the Tahsildars for lengthened delays in replying to references is that the parties concerned would not appear.

3. I beg to enclose, for the Board's perusal, the report of Deputy Collector Srinivassa Row on this subject, which contains a remarkably clear exposition of the present state of things.

ENCLOSURE No. 1.

From A. SRINIVASSA ROW, Deputy Collector, to the Officiating Collector of Tanjore, dated 14th August 1866, No. 112.

1. With reference to your foot-note on the Proceedings of the Board of Revenue, dated 27th ultimo, No. 5,192, I have the honor to state that the absence of all law empowering the attendance of persons at the taluk cutcherries in connexion with revenue cases has to a serious extent affected the revenue administration of the country. That considerable inconvenience and delay have been experienced in the disposal of revenue matters, in consequence of Tahsildars not being empowered to enforce the attendance of persons at their cutcherries, for the settlement of matters connected with revenue administration, is singularly apparent in every stage of a revenue proceeding.

2. This want has so seriously clogged the revenue administration that even the most active and energetic Tahsildars have not unfrequently failed to give satisfaction in the discharge of their revenue duties.

3. Day after day, revenue cases involving revenue disputes are filed in different cutcherries, and unfortunately the disposal of them is delayed for months and years owing to the non-attendance of the parties connected with these cases. The Tahsildars send "Kutles" to persons calling

i. e. "Orders to appear."

upon them to attend at their Cutcherries on a certain appointed day. The peon that carries the "Kutle" is made to wait for days in the village, and the parties generally disappear, knowing that they are required to attend at the cutcherry. The peon returns to the taluk cutcherry and reports that the parties were not found. If the peon that carries the kutle is an intelligent and energetic fellow, he prevails upon the parties to affix their signatures to the kutle, and returns the kutle to the Tahsildar. But the parties take their own time in calling at the cutcherry.

4. When any revenue case has to be settled, without delay, in pursuance to the orders from the Huzar, the Tahsildar sends two or three "Kutles" with orders to the peons to drag the parties to the cutcherry anyhow. It is unnecessary here to go into the evils which this obnoxious system gives rise to. Not unfrequently, the peons use criminal force, particularly when stringent and peremptory orders are given them, by the Tahsildars, to secure the attendance of parties.

6. Again, this unsatisfactory state of law is often taken advantage of by some of the evil disposed or lethargic Tahsildars, who put off revenue cases of importance involving questions of an intricate nature for months and years, under pretence that a principal party connected with the case has not made his appearance, though repeatedly summoned to appear.

7. In former days, when the people were ignorant and when the name of Tahsildar is dreaded, there was no difficulty in obtaining the attendance of parties. Times are changed. Every man has in his hand a volume of the Penal Code and Procedure Code. Every person knows that Tahsildars are powerless in issuing summons in the Revenue Department. Such a state of things loudly and unquestionably calls for an enactment giving power to Tahsildars to enforce attendance.

(True Extract.)

(Signed) G. BANBURY,
Officiating Collector,

From V. H. LEVINGE, Esq., Collector of Madura, to the Secretary to the Board of Revenue,
dated 23rd August 1866, No. 277.

In reply to the Proceedings of the Board, dated the 27th ultimo, No. 5,192, I have the honor to report that difficulty is experienced in obtaining attendance of parties before the European and Native Revenue officers for conducting the revenue administration, and that it is necessary that such attendance should be enforced by an enactment. The Sub-Collector, the Deputy Collector, and the Tahsildars whom I have consulted, are unanimous in the above opinion on the matter.

Exd. J. Wright.

From P. GRANT, Esq., Collector of Coimbatore, to the Secretary to the Board of Revenue, dated
Ootacamund, 25th August 1866, No. 217.

1. In reply to the Proceedings of the Board of Revenue, dated 27th July 1866, No. 5,912, I beg to refer you to my letters of the 4th October 1864, No. 79, and of the 1st March 1866, No. 58.

2. Many revenue disputes of a minor character, similar to those detailed in the accompanying Schedule, are brought before the Tahsildars, but as the law stands at present, they have no power to summon the parties and witnesses, and the consequence is, that much hardship is thereby inflicted on the poorer ryots especially.

3. The Tahsildars have, moreover, complained to me that their business at times comes to a stand-still by their summonses being utterly disregarded.

—
SCHEDULE.

No.

Subject.

1. Disputes about durkhast for lands between rival parties wishing to obtain them for cultivation.
2. Disputes referred to in Official Memorandums from one Tahsildar to another Tahsildar relative to land.
3. Disputes relative to the collection of revenue, and to possession of land.
4. Disputes regarding boundaries and appropriation of water.
5. Enquiries relating to disputed arrears of revenue.
6. Enquiries regarding distribution of Inam title deeds.
7. Enquiries held to ascertain the truth of various claims to Inams referred to by the Inam Commissioner.
8. Enquiries held for distribution of Board endorsements.
9. Enquiries held in view to awarding compensation to parties whose lands have been taken up by the Railway Companies.
10. Disputes relative to land required by the Railway Companies.

(Signed.) P. GRANT,
Collector.

Exd. J. Wright.

From W. M. CADELL, Esq., Collector of South Canara, to the Secretary to the Board of Revenue,
dated Mangalore, 28th August 1866, No. 161.

1. With reference to the Board's Proceedings, dated the 27th July 1866, No. 5,192, I have the honor to state that in my judgment an enactment empowering Tahsildars as well as Deputy Tahsildars to summon persons to attend at their Cutcherries for the settlement of revenue matters before them, has been a long felt want, and such an enactment is not only desirable, but absolutely necessary ; I may observe that the absence of this power has been the chief cause of the delay in the disposal of many of the cases that are now pending in the Taluk Cutcherries.

2. The officers of this District whom I have consulted, as also all the Tahsildars, are unanimous in thinking that an enactment giving them this power is urgently required.

Exd. T. Cartledge.

From E. F. WEBSTER, Esq., Acting Sub-Collector, in charge of the Godavery District, to the Secretary to the Board of Revenue, dated Cocanada, 29th August 1866, No. 204.

1. I have the honor to submit my opinion on the two points referred for report by the Board in their Proceedings of the 27th July 1866, No. 5,192.

2. With regard to the first inquiry, I beg to state that no instance in this District has come under my notice in which Tahsildars have experienced difficulty in obtaining the attendance of parties on matters connected with the Revenue Administration. The Tahsildars, whose opinions I have obtained on this question, state that they sometimes find a difficulty in obtaining the presence of parties whose attendance is necessary to enable them to report on some Petitions referred to them from the Huzur for inquiry. But they do not cite any particular instance in which this difficulty has been felt, and I am of opinion that the evil which really exists is the vicious system of referring to Tahsildars for preliminary report all kinds of complaints, which, if worth anything at all, should form the subject of a quasi-judicial investigation, such for instance as complaints made under Regulations IX. of 1822, VII. of 1828, or VI. of 1831. I therefore answer the first question in the negative.

3. With regard to the second inquiry, it seems to me that all matters connected with the Revenue Administration, which lie within the jurisdiction of District Revenue Officers, will be found to fall within one of two classes:—First, those cases which arise between the Government officer and the private individual; and secondly, disputes between Ryot and Ryot. With regard to the first class, it is certain that the Jummahbundy can be made as well in the absence as in the presence of the villagers, because the accounts show to the uttermost farthing what each man has to pay, and when he should pay it, and if this amount is not paid into the village treasury by the appointed time, attachment and sale of property follow as a matter of course, and without any necessity for summoning the defaulter. On the other hand, the only complaint which the Ryot is likely to make against Government is, that he has been made to pay too much for his lands. A reference to the village accounts, and an examination of the Carnum, will always be sufficient to show the Tahsildar whether there has been any mistake or malversation; if the former, it can be rectified by the Collector or the Board; and if the latter, the trial will be a judicial one authorized under Regulation VII. of 1828.

4. Village officers are always completely at the beck and call of Tahsildars, and a necessity for sending a summons to them never arises except in judicial cases.

5. With regard to revenue disputes between Ryot and Ryot, it will be found that in ninety-nine cases out of a hundred the right of occupancy and cultivation forms the gist of the complaint; in every such case it is competent to the Collector (as Magistrate) to put one party in possession under Section 318 of the Code of Criminal Procedure, or to try the case (should the facts warrant his doing so) as a criminal trespass under the Penal Code, or to refer the parties to a Civil Suit under Section 319 of the Code of Criminal Procedure, or to refer it to his subordinate under Section 273 of the same Code. But in many such cases it has been the erroneous practice for Tahsildars to summon both disputants and hold a sort of desultory inquiry into the case, with the view of reporting the matter to the Collector.

6. I hold, therefore, that no enactment is needed to give power to Tahsildars to enforce attendance, and I am further of opinion that if such power be given them, it will be abused.

7. Ryots who ought to be in their fields attending to their crops, will be liable on every trivial occasion to be summoned to the Taluk Cutcherry, possibly many miles away, and there to dance attendance on the Tahsildar while he draws up his preliminary report on a charge which has, perhaps, no foundation in fact.

8. I once met with a case where an endorsement had been sent through a Tahsildar for delivery to the party. The Tahsildar sent a summons to the man to appear and receive his endorsement, which being disobeyed, a warrant issued, and the wretched man was brought to the Cutcherry in durance vile.

Exd. T. Cartledge.

From J. A. C. BOSWELL, Esq., Principal Assistant Collector of Vizagapatam, to the Collector of Vizagapatam, dated Waltair, 6th September 1866.

1. With reference to the Proceedings of the Board of Revenue, No. 5,192, dated 27th July, forwarded to me for my opinion, I have the honor to state that, after making due inquiries, I find that much difficulty is often experienced by the Tahsildars in obtaining the attendance of parties on matters connected with the Revenue Administration. This difficulty entails delay in the despatch of public business. The Tahsildar has either to wait the convenience of the parties required to attend, or to have them brought before him by a Peon, which he is not at present empowered to do; but which is the course, I have reason to believe, generally adopted.

2. Besides cases directly connected with the Revenue Administration, when the attendance of parties may be required for the purpose of renewals and transfers of puttahs, inquiry into charges of concealed cultivation, &c., there are also many petty disputes regarding boundaries and the distribution of water, which a Tahsildar is often promptly able to settle amicably by compromise, or arbitration, if he can only get the parties before him; and this avoids the longer procedure of Regulation XII. of 1816, by which such suits are adjudicable by a village or District Panchayet. I am, therefore, of opinion that it would be very desirable to have an enactment, giving power to Tahsildars to enforce attendance.

1. Submitted, in original, to the Board of Revenue, with reference to their Proceedings, dated 27th July 1866, No. 5,192.

2. It is suggested that the proposed Act shall include Sub-Magistrates, as well as Tahsildars.

VIZAGAPATAM,
7th September 1866.

(Signed) D. F. CARMICHAEL,
Collector.

Exd. T. Cartledge.

From C. W. READE, Esq., Collector of South Arcot, to the Secretary to the Board of Revenue,
dated Cuddalore, 15th September 1866, No 178.

1. In reply to the Board's Proceedings of the 27th July last, No. 5,192, I have the honor to state my opinion that experience unquestionably attests the necessity that exists for some enactment empowering Tahsildars and other Revenue officers exercising co-ordinate jurisdiction, to enforce the attendance of parties in matters connected with the Revenue Administration.

2. I further think that, if legislation be resorted to, provision should be made for granting due remuneration to witnesses and others summoned at the instance of revenue disputants. My belief is that, if such charge be made to fall on the latter at the discretion of the officers, a great check will be offered to vexatious and purely litigious complaints, which are so common at present, but which it is very difficult to punish under any existing law; and it seems to me clear that all witnesses in a revenue suit or complaint are as much entitled to batta, as those summoned in a Criminal trial, or in a regular Civil suit before our Courts. All witnesses not cited by either of the contending parties, but whose evidence may be required by the presiding officer, should likewise receive batta; but whether at the public charge, or at that of either of the parties in whose interest they may appear, is a point for consideration.

Exd, T. Cartledge.

From J. D. ROBINSON, Esq., Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 17th September 1866, No. 262.

1. I have the honor to acknowledge the receipt of the Proceedings of the Board, dated 27th July, No. 5,192, requesting me to report on the two following points :—

First.—Whether any difficulty is experienced in obtaining the attendance of parties on matters connected with the Revenue Administration.

Second.—Whether any enactment is really needed, giving power to Tahsildars to enforce attendance.

2. Believing myself that the multiplication of petty legislation is in itself an evil, and should, as far as possible, be avoided, I yet think that as the law now stands, it has become necessary to strengthen our Revenue officers in the exercise of their functions in such capacity beyond the point to which the provisions of the Penal Code have been construed to reach.

3. What seems to be wanted is a short legislative enactment declaring Tahsildars legally competent to issue summonses in all matters pertaining to Revenue Administration, and thus to give them the power of enforcing such process under Section 174, Indian Penal Code, in the event of non-attendance or other default. In the existing state of the law, Tahsildars can only issue summonses in petty cases falling under Regulation IX. of 1822, and are absolutely powerless as respects all requisitions for the attendance of parties connected with the numberless other matters pertaining to the Revenue Administration, which have to pass through their hands.

Clause 2, Section 4, of Regulation VI. of 1828.

Exd. T. Cartledge.

From J. R. COCKERELL, Esq., Acting Collector of Madras, to the Secretary to the Board of Revenue, dated Sydapett, 6th October 1866, No. 314.

1. I have the honor to submit my opinion upon the subject mooted in Proceedings of the Board, No. 5,192, which is, whether as Tahsildars have, by the abrogation of Regulation III. of 1831, been deprived of the power of summoning, that power should be restored to them by a fresh enactment.

2. The Board desire, in the first place, to be informed whether any difficulty is experienced in obtaining the attendance of parties on revenue matters. In reply to this question, I have to state I think there is the same reluctance, on the part of the public, to attend Revenue offices, as there is to appear in Courts in connection with Judicial investigations. Persons will not voluntarily come in contact with any authority, unless they require redress, and have an object in seeking the interference of officers connected with the administration. Hence, the Tahsildars do find difficulty in securing the attendance of persons whose evidence they need. They know there is at least an ambiguity about their powers of summoning in revenue matters, and they get over the difficulty, in fact, when a person whose presence they require will not appear, by straining their authority. Their habit is to despatch a peon to invite the party to come forward.

3. And it is not seldom that the attendance of ryots in a Tahsildar's Cutcherry is needed. Their evidence is wanted frequently in connection with durkhast cases; with questions of measurement of land; of the payment of kist by puttahdars, &c., &c.; I consider Tahsildars should have the power of enforcing the attendance of parties by summons.

Ed. J. Wright.

From T. A. N. CHASE, Esq., Acting Collector of Nellore, to the Secretary to the Board of Revenue, dated 12th October 1866, No. 321.

1. In reply to the Board's Proceedings, No. 5,192, dated 27th July 1866, I have the honor to inform you (I) that difficulty is experienced in obtaining the attendance of parties in matters connected with the Revenue Administration. My information is received from the Sub-Collector, Head Assistant Collector, and the Tahsildars. Regarding the Sub-Collector and Head Assistant Collector the question was settled by the Board's Circular, No. XXXIII. of 1866, dated 20th September, Proceedings No. 6,731.

2. Concerning Tahsildars, however, I think, (II) that it will be necessary that an enactment be passed to give them powers to enforce attendance. There should, I consider, never be a Revenue summons issued without a fee being paid, as well as a travelling allowance paid by the complainant for all the witnesses he may have summoned.

3. I forward the Sub-Collector's letter for the information of the Board.

ENCLOSURE No. 1.

From the Honorable J. C. ST. CLAIR, Sub-Collector of Nellore, to the Collector of Nellore, dated Ramapatam, 27th August 1866, No. 96.

1. In reply to the questions in paragraph 2 of the Proceedings of Board of Revenue, dated 27th July, a copy of which was forwarded to me with your endorsement, No. 117, on the 6th instant, I have the honor to state that, by reports received from the Tahsildars of the Sub-division, it appears that a real difficulty is experienced by them in obtaining the attendance of parties in purely Revenue matters.

2. With regard to the second question, there can be no doubt that an enactment authorizing the issue of processes in such cases, and prescribing a penalty for disregard of them, would meet this difficulty, and would, at the same time, deprive Tahsildars of their chief excuse for the gross delay, which too frequently attends the disposal of matters referred to them for inquiry. In this respect such an enactment would be of great benefit to the Revenue Administration of the country, and it would, moreover, obviate the anomaly, in these days of strict legality, of an officer in a high position issuing notices, which may be treated with contempt by those to whom they are addressed.

3. But, on the other hand, there is reason to fear that the power thus conferred upon Tahsildars, might, in the hands of many of them, be converted into a means of annoyance and oppression, either through inconsiderateness or something worse. It would be difficult to supervise, in the same degree as in criminal matters, the proceedings of these officers with regard to the issue of processes, and as the latter would necessarily be served by Revenue peons, and not by officers of a separate department, an important check, which exists with regard to the issue and service of criminal processes, would be wanting.

4. I think, therefore, that, although it is desirable for the Revenue Administration that such an enactment should be passed, it is necessary, for the protection of the people, that the cases in which processes may be issued should be clearly defined, and that such rules and returns should be prescribed as would afford a means of detecting and checking any irregularity on the part of the officers concerned, both in issuing and serving such processes.

(True Copy).

(Signed) T. A. N. CHASE,
Acting Collector.

Exd. T. Cartledge.

From G. THORNHILL, Esq., Collector of the Kistna District, to the Secretary to the Board of Revenue, dated Masulipatam, 20th October 1866, No. 251.

1. With reference to the Board's Proceedings, dated 27th July last, No. 5,192, I have the honor to report that, on the receipt of the Proceedings in question, I called on the Sub-Collector, the Head Assistant and the General Deputy Collector, and the several Tahsildars for their views on the subject. The replies* of the

* Originals to be returned.

former officers are herein enclosed for the Board's information.

2. The Tahsildars state that they experience much difficulty in obtaining the attendance of parties on matters connected with the Revenue Administration.

3. Disputes regarding irrigation, occupation, boundaries, and transfers of lands and other matters, are of frequent occurrence, and, without the power of enforcing the attendance of parties, Tahsildars are apt to be much inconvenienced, and unnecessary delays will constantly occur in the disposal of simple revenue cases. I think it, therefore, necessary that such power should be conferred on Tahsildars, and would suggest that they should be empowered to impose a fine of 5 Rupees for a first offence, and 10 Rupees for a second offence, subject to appeal to the Collector.

ENCLOSURE No. 1.

From W. WILSON, Esq., Acting Sub-Collector of the Kistna District, to the Collector of the Kistna District, dated Guntur, 15th August 1866, No. 155.

1. With reference to your endorsement on the Board's Proceedings, No. 5,192, dated the 27th ultimo, I have the honor to observe that the questions of Revenue administration generally coming before the Tahsildars may be broadly divided into (1) those affecting private individuals only; and (2) those in which the conduct of public officers is impugned. In the latter they derive jurisdiction only on a reference from the division officer under Clause 1st, Section 1, Regulation VII. of 1828. Clause 2nd of this Section vests them with the same powers as Collectors acting under Regulation IX. of 1822, and, therefore, with the power of issuing summons to witnesses, &c. Disobedience to such a summons is provided for, however, in such a round about and unsatisfactory way, that it in effect goes unpunished, *quoad* the Regulation: the High Court have ruled that offences made punishable under a special law, and the Penal Code indifferently may be punished under either, though the kind of punishment awardable under the one may differ from that under the other. If the punishment of the special law can be superseded by that of the general, and if the offence is the same, I can see no valid reason for not holding that the procedure of the latter may be also adopted in lieu of the former. Now a Tahsildar acting under Regulations VII. of 1828, and IX. of 1822, is a public servant legally competent, as such, to issue summons, and the person summoned is legally bound to obey such summons, for the law provides the means of compelling it. For disobedience, therefore, to such a summons, the summoner would be liable under Section 174 of the Penal Code. The other variety of cases coming before a Tahsildar affect only the person complaining, or him and other private individuals. These generally resolve themselves into Civil or Criminal Suits; the former are easily disposed of by a disclaimer of jurisdiction; the latter he can dispose of, with reference to the jurisdiction which the law confers upon him. In the comparatively rare cases in which the public revenue has to be provided for, to avoid loss, the persons upon whom the Tahsildar must usually depend for information are the village officials, contumacy on whose part can be met easily by fine or dismissal.

Much of the inconvenience that is said to have arisen from the want of the power of summons is the result of Tahsildars enquiring, and being called upon to enquire into Arzees, which on the face of them exclude all interference by the Revenue authorities.

2. To lighten their file as much as possible, I long since directed Tahsildars in cases apparently within their legitimate cognizance as affecting the Government revenue, as in the distribution of water, &c., invariably to call upon the dissatisfied to appear in person on a specified date, and, in case of his failure, to take no further notice of the matter. The good effect of this may be seen every day in the huge volumes of reports that come up many years after the cause of action arose, wherein the complainant declares himself satisfied. The writing of an Arzee to a Government officer is to a native what writing to "The Times" is to an Englishman. Both are convenient safety valves, and in both there is generally "mair cry than 'oo". It is very seldom that the invitation to come forward in person is responded to. I do not consider any legislation necessary in the matter.

ENCLOSURE No. 2.

From A. J. STUART, Esq., Acting Head Assistant Collector of the Kistna District, to the Collector of the Kistna District, dated Bezwada, 15th August 1866, No. 103.

1. With reference to Board's Proceedings, No. 5,192, dated 27th July 1866, I have the honor to state that I have not found any difficulty in obtaining the attendance of parties in matters connected with Revenue administration.

2. I think, however, that some provision for enforcing attendance would be advantageous, particularly in the case of Tahsildars whose Revenue business would, I think, be more punctually carried on if they had powers of punishment in case of delay.

ENCLOSURE No. 3.

From V. VENKATACHELLEM, Deputy Collector, to the Collector of the Kistna District, dated Narsarowpetta, 28th August 1866, No. 48.

1. I have the honor to acknowledge the receipt of your Memorandum, dated * — August 1866, sending Proceedings of the Revenue Board, dated 27th July 1866, calling for information on the following points:—

* Blank in the original.

1. Whether any difficulty is experienced in obtaining the attendance of parties on matters connected with the Revenue administration?

2. The law point that a Tahsildar has not authority to issue a summons in Revenue matters, and to punish disobedience to it, is not generally known up to this time.

3. Section 4, Regulation VII. of 1828, authorized Tahsildars to issue summons to witnesses in cases referred to them by Collectors.

4. Section 67, Act VIII. of 1865 (Madras Act) authorizes a Collector to cause a local enquiry in the matter in dispute by any officer subordinate to him. This is clearly applicable to the Tahsildar, and he is authorized by the Section to take evidence in the matter which cannot be done without summoning witnesses. This shews that the Legislature considered that the Tahsildar had such power.

5. Section 38, Act XX. of 1866 (Registration Act) authorizes Revenue officers to issue summons to the persons whose evidence may be necessary.

6. Under the analogy of such provisions, the Tahsildars have been issuing summons in Revenue matters, and most of the parties have been attending agreeably to the summons. Very few persons having disobeyed such summons, the Tahsildars fined such parties under Section 174 of the Indian Penal Code. The High Court having ruled that a "Tahsildar is not legally com-

"petent to issue a summons and disobedience to such summons would not be punishable under "Section 174, Indian Penal Code;" and such fines having been refunded to the parties, disobedience to the summons of Tahsildars has become general. Consequently every Tahsildar has been complaining of the difficulty of getting the attendance of parties and witnesses in the Revenue matters.

Whether any enactment is really needed giving power to Tahsildars to enforce attendance? 7. It is urgently required: an enactment empowering Tahsildars to impose a fine not exceeding 1 Rupee for the first offence, and

3 Rupees for the second offence will do. Authority to be vested in Collectors to order the refund of such fine upon a perusal of the report of fines if there be no sufficient grounds, although no formal appeal is preferred.

8. Collectors to have authority to impose higher fine on the recommendation of Tahsildar, if he considers 3 Rupees fine is not sufficient.

Exd. J. Wright.

From G. S. FORBES, Esq., Collector of Ganjam, to the Secretary to the Board of Revenue,
dated Chetterpore, 27th October 1866, No. 2,893.

With reference to the Board's Proceedings, No. 5,192, of the 27th July last, I have the honor to state that difficulty is occasionally experienced in procuring the attendance of parties on matters connected with the Revenue Administration, and I am, therefore, of opinion that an enactment empowering the Tahsildars and Deputy Tahsildars to enforce attendance would be an advantage; the knowledge that such a law existed, would probably render it unnecessary to apply its provisions except on rare occasions.

Esq. T. Cartledge.

From G. A. BALLARD, Esq., Collector of Malabar, to the Secretary to the Board of Revenue,
dated Calicut, 30th November 1866, No. 314.

1. Adverting to the Board's Proceedings, dated the 27th July 1866, No. 5,192, I have the honor to report that the decided majority of Tahsildars in this district consider that it is desirable that an Act, empowering Tahsildars to summon persons on matters connected with the Revenue administration, should be passed; and I am of the same opinion.

2. If the working of such an Act is watched, and Periodical returns called for, so that the number of processes issued under it, by the respective Tahsildars, is constantly under notice, I do not conceive that the authority entrusted will lead to abuse.

Exd. J. Wright.

16th October / 64 No 163-164
9 June / 66 - 217-218
22 June / 66 - 493-494

Per- 1867. Department
Pro: of Govt for Secy

No. 1617.

PROCEEDINGS OF THE BOARD OF REVENUE.
To all Collectors.

Dated 14th June 1867.

Received

No. 3,653.

Submitting, with remarks, opinions of Collec-
tors as to necessity for an Act empowering
Tahsildars to summon persons at their Cutcherries
on revenue matters, and recommending that
such power be conferred on Tahsildars and
Deputy Tahsildars.

21st 15th 5th July

N. 94795