

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	705	Press Mis.
¹⁷⁰⁻⁷¹ Dated	13-5-1870	19

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
13th May 1870.*

No. 170. Read the following Proceedings of the Board of Revenue, dated 21st February 1870, No. 1,178:—

Read again Board's Proceedings, dated 15th March 1869, No. 1,754.

Read also the following letters:—

From	Collector of Ganjam	dated 29th March 1869, No. 186.
"	" of Vizagapatam,	" 5th April " " 162.
"	" of Godavery District,	" 4th Aug. " " 186.
" Offg.	" of Kistna District,	" 27th April " " 110.
"	" of Nellore,	" 23rd " " " 755.
" Acting	" of "	" 8th July " " 1,340.
"	" of Bellary,	" 6th April " " 58.
" "	" of Cuddapah,	" 8th " " " 40.
"	" of Kurnool,	" 10th " " " 107.
" "	" of Madras,	" 17th Sept. " " 311.
"	" of North Arcot,	" 29th April " " 115.
"	" of South Arcot,	" 28th July " " 169.
"	" of Tanjore,	" 29th March " " 55.
"	" of Trichinopoly,	" 17th April " " 69.
"	" of Madura,	" 7th " " " 123.
"	" of Tinnevely,	" 13th May " " 208.
"	" of Coimbatore,	" 31st " " " 105.
" Commissioner	of the Neilgherries,	" 8th June " " 79.
"	Collector of Salem,	" 17th April " " 75.
" Offg.	" of Malabar,	" 23rd Sept. " " 265.

IN these Proceedings the Board circulated to all Collectors a letter from the Acting Collector of South Canara, pointing out that inconvenience had been experienced by the repeal of Regulation V. of 1822, in so far as it had deprived the people of a simple mode of redress in the case of disputes regarding cultivation, occupation, and irrigation of lands.

2. All Collectors were requested to report whether they had experienced the same inconvenience as that complained of by Mr. Thomas.

3. The question had previously been raised in 1866, and had been disposed of in Board's Proceedings, dated 26th November of that year.

4. The Board then, concurring in the opinion expressed by a certain number of Officers to whom the matter had been referred, decided that no re-enactment of the repealed law was necessary or expedient.

5. In the replies received to the subsequent reference there is, as was to be expected, a considerable diversity of views.

6. The Collector of Ganjam (Mr. Carmichael) was not of opinion that any change of law was necessary; he believed that hundreds of petty disputes were settled by private arbitration, and deprecated the interference of Government Officers with this simple mode of settling differences; he also pointed out that the award of a private Panchayet might be enforced in a cheap manner by the provisions of Section 327 of the Code of Civil Procedure.

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7. The Collector of Vizagapatam (Mr. Minchin) was of opinion that "the repeal of Section 18 left Collectors without authority to interfere in the settlement of land disputes."
8. The Collector of Godavery (Mr. Fraser) had found no inconvenience to result from the repeal of the section in question, and stated that cases of trespass, etc., were generally disposed of magisterially.
9. The Officiating Collector of Kistna (Mr. Boswell) regretted the loss of the powers conveyed by Sections 11 and 18 of Regulation V. of 1822; he was of opinion that the repeal of those sections had led to many cases being improperly brought before the Magistrates as charges of criminal trespass which would have been formerly disposed of under the Regulation in question, and recommended that the power of referring such cases to Panchayets should be revived.
10. The Collector of Nellore (Mr. Dykes) was not of opinion that any inconvenience had been caused by the repeal of the Regulation.
11. The Acting Collector of the same district (Mr. Melville) desired its re-enactment.
12. The Collector of Bellary (Mr. Sullivan) was opposed to re-enactment; he pointed out that in the present day the awards of Panchayets seldom carried weight, or were allowed to be final.
13. The Collector of Cuddapah (Mr. VansAgnew) was of opinion that the repealed powers should be re-granted to Collectors.
14. The Collector of Kurnool (Mr. Chase) had not felt inconvenience from the repeal in Kurnool; but, adverting to his former experience in Kistna, was of opinion that the law should be re-enacted.
15. The Acting Collector of Madras (Mr. Thornhill) stated that the inconvenience complained of had not been felt in the Madras District.
16. The Collector of North Arcot (Mr. Robinson) desired the provisions of Regulation V. of 1822 to be re-enacted, as he had found that cases which would have been disposed of under it were now made the subject of charges for criminal trespass.
17. The Collector of South Arcot (Mr. Reade) regretted the repeal of the Regulation in question. So far as the summary powers of Collectors under Section 2 were concerned, he had not found Panchayets successful in South Arcot.
18. The Collector of Tanjore (Mr. Morris) had not experienced any inconvenience.
19. The Collector of Trichinopoly, (Mr. Banbury) although avers to the revival of Panchayets, had found the criminal law too much resorted to in cases of trespass, and desired that Collectors should be re-invested with summary powers to dispose of disputes regarding the occupation, etc., of land.
20. The Acting Collector of Madura (Mr. J. R. Arbuthnott) desired a renewal of the repealed Regulation.
21. The Collector of Tinnevely (Mr. Longley) also desired that the repealed sections should be re-enacted.
22. The Acting Collector of Coimbatore (Mr. Webster) had not found any inconvenience to result from the repeal of the law.
23. The Commissioner of the Neilgherries (Mr. Brecks) on the other hand reported that the loss of the Regulation had caused inconvenience among the poorer cultivators in the hills.

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24. The Collector of Salem (Mr. Pochin) was of opinion that the restoration of Section 18, Regulation V. of 1824, would be a great boon.
25. It will thus be seen that, amidst many conflicting views, a majority of the Collectors were of opinion that the repeal of Regulation V. of 1822 had led to a certain amount of practical inconvenience by depriving the people of a speedy means of settling disputes regarding occupation and cultivation of land.
26. It is also pointed out by many Collectors that, owing to the repeal of the Regulation in question, there has been a tendency on the part of the people to prefer, and of the Sub-Magistrates to entertain, charges of criminal trespass and to put the criminal law in force in matters of simple disputed rights to the occupation of land.
27. The means for settling disputes provided by Regulation V. of 1822 were two-fold, either by summary action on the part of the Collectors under Section 11, or by reference to Panchayet under Section 18.
28. Under the former section Collectors were empowered to adjudicate summarily in cases where land or crops were forcibly taken possession of. Under the latter section the powers of referring certain disputes to Panchayet under Section 4, Regulation XII. of 1816, was extended to all disputes regarding land between ryot and ryot.
29. The majority of cases properly coming under the first quoted section are now, no doubt, tried by Magistrates as criminal trespasses.
30. It is no doubt true that in many cases to which the criminal law is not applicable, charges of criminal trespass are made and entertained, but cases of this nature would not have properly been cognizable under Section 11, which provided only for summary jurisdiction where the act complained of had been *forcible*.
31. To re-enact that section as it stood would, therefore, not be providing a remedy for the evil complained of. Still less would a remedy be found in reviving the power to refer all disputes to a Panchayet, as provided by Section 18.
32. Panchayets, as *constituted by authority*, under Regulation XII. of 1816, were exceedingly cumbrous and unsatisfactory Courts, and their decisions were seldom allowed to be final. Complaints of corruption on the part of the members were generally made by the losing party.
33. Panchayets so constituted are inapplicable in the present state of the law, and should not be revived.
34. There is nothing in the repeal of the Regulation in question to prevent the employment of private arbitration in the settlement of disputes, and there is no doubt that it is largely and beneficially used.
35. It is also worthy of note that the award of a private Panchayet can be made to have the force of a legal decree by resort to Section 327 of the Code of Civil Procedure, as shown by the Collector of Ganjam.
36. The Board are of opinion that the re-enactment of either or both of these sections would have no useful result.
37. It remains to be determined whether any new enactment whatever is required.
38. The Collector of Trichinopoly (Mr. Banbury) says, in paragraph 3 of his letter, dated 17th April 1869, No. 69,
"What we really require is a brief Act, which would give Collectors authority to decide summarily and speedily all these cases of disputed possession as regards

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lands and water, and to award damages; so that these trespasses could not be committed as they now are with impunity for the sake of annoyance and to gratify ill-feelings. The party deeming himself aggrieved would, of course, have the Civil tribunal to resort to. This course would not only afford justice to the injured, but would prevent any loss in revenue, and would, moreover, legally confer upon Collectors that summary revenue power which is most certainly required."

39. This probably expresses the wants of Collectors pretty fairly, and an enactment of the kind would not be without value. It would certainly remove from the Magistrates' files many cases which now improperly appear there. It would in many instances afford justice to the injured and prevent loss in revenue. On the other hand it would throw an enormous amount of work on the Revenue Department which can be much better done by the Civil Courts. On the whole the Board do not think that a sufficient case has been made out for fresh legislation.

40. The abuse of Magisterial authority, which sometimes occurs, will decrease as the law of criminal trespass becomes better known.

41. The Board are of opinion, however, that as a change has been asked for by so many Collectors, the case should be laid before Government for their orders.

No. 171.

ORDER THEREON, 13th May 1870, No. 705.

Miscellaneous.

THE Government concur with the Board in thinking that a sufficient case has not been made out for fresh legislation.

2. The practical obstacle to resort to arbitration under Regulations V. and VII. of 1816 lay in the difficulty of procuring the consent of both parties to that mode of adjudication. If both parties agree to arbitration there is no necessity for the Collector's intervention, and the award of the arbitrators can be enforced under Section 327 of the Civil Procedure Code, while if they do not agree, the Moonsiff's jurisdiction to appoint a Panchayet is barred by law.

3. It was on this account that the Section of Regulation V. of 1822 relating to the subject was abrogated by Act VIII. of 1865 (Madras.)

4. Whether it is expedient to provide by law for the compulsory adjudication of petty disputes by arbitration or some cheaper and speedier method than resort to the regular Civil tribunals, is a question which could not be restricted to land disputes, but would require to be treated on general principles of law, and it was doubtless duly considered when Chapter VII. of the Civil Procedure Code was enacted.

(True Extract.)

(Signed)

R. A. DALYELL,

Acting Secretary to Government.

To the Board of Revenue.

Exd. E. C. Shunker.

No. 3,249.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 12th May 1870.

Read the following letter from J. H. BLAIR Esq., Collector of Sea-Customs, to the Acting Secretary to the Board of Revenue, dated Madras, 9th May 1870, No. 365:—

PENDING the result of an appeal now before the High Court, as to the legality of a recent seizure of opium, and a further representation † on the subject generally, I have the honour to request the Board will be good enough to address Government, with a view to the necessary Notification being published, under Section 23, Act VI. of 1863,

• Board's Proceedings, No. 8,362, 11th November 1869.
† Letter to Board, 26th April 1870, No. 321.

prohibiting the export of opium.

2. The question as to the importation of opium should also be settled. If the import duty † leviable under Schedule A., Act VI. of 1844, cannot legally be enforced, opium on importation is free, this error should also be remedied if possible.

† Advocate-General's opinion, paragraph 9, in Board's Proceedings, No. 1,275, 15th March 1870.
24 Rupees per seer of opium.

3. As the Governor-General only can issue the Notification, under Section 23 of Act VI. of 1844, I would respectfully suggest, a communication by telegram being made.

4. It is absolutely necessary that early steps should be taken in this matter, as it is already known that opium may be exported free. This is clear from advertisement in the *Madras Standard*, of which copy is sent (to be returned).

ENCLOSURE No. 1.—Copy of *Madras Standard*.

SUBMITTED for the orders of Government.

2. In the present state of the law, it seems to the Board most desirable that a Notification prohibiting the export of opium not covered by a pass, should be issued, under Section 23, Act VI. of 1863, by the Governor-General in Council.

3. As regards duties leviable on imported opium, the Board believe that the special reservation in Section 1, Act. VIII. of 1868, leaves the law in this respect just as it was before. A similar point with regard to the duty on salt has recently been referred to the Advocate-General by Government.

(A true Copy and Extract.)

J. G. Gole
Acting Secretary.

To the Acting Secretary to Government, Revenue Department,
with an enclosure.

Copy to the Collector of Sea-Customs, Madras.

Exd. G. A. Turton.

Cost. of 1870: 371/15.

To REVENUE.

THE BOARD OF REVENUE.

Dated May, 13th.

Recd.

Exd.

G. O., 13th May, 1870, No. 703.

MAY.

Nos. 170-171.

Disputes relating to land.—Proceedings Board of Revenue, relating to the inconvenience experienced in their settlement owing to the repeal of Regulation V. of 1822, with orders thereon.

*File of collector's
replies.*

1481-

1870.

BOARD of REVENUE,

MADRAS.

PROCEEDINGS, 12TH MAY 1870, No. 3,240.

Recd 12 May 70
Encl

Encl

MAY.
No. 3,240.

Opium.—Letter from Collector of Sea Customs requesting that a Notification prohibiting export of, may be published under Section 23, Act, VI of 1863, submitted for orders of Government.

From D. F. CARMICHAEL, Esq., Collector of Ganjam, to the Acting Secretary to the Board of Revenue, dated Chatterpore, 29th March 1869, No. 186.

I beg to reply to the Board's Circular Proceedings, No. 1,754, dated 15th March instant.

For anything that appears to the contrary in the letter from the Acting Collector of South Canara which raises this question, it might be supposed that Collectors were formerly enabled to refer the disputes mentioned, to a Panchayet, whether the parties wished it or not. The fact, however, is that before reference to a Village Panchayet the Collector had to ascertain that both agreed to the procedure; and before reference to a District Panchayet that one of them did so.

2. I believe that hundreds of petty disputes are annually settled by private arbitration between parties in the same rank of life in every district in the Presidency. Mr. Thomas, it seems, has found it so in South Canara, "Panchayets are a very popular means of redress in this district." Then why not leave well alone; why above all call in the Collector? Unhappy man! already there is scarcely anything which does not come before a Madras Collector: from an earthquake to a broken slopbasin in a Travellers' Bungalow, nothing is too grand or too mean for him.

3. But with this avowal about the popularity of Panchayets, what can be Mr. Thomas's meaning in paragraph 4, that the Ryots "are now left without any more speedy means of redress than the expensive one of a Civil Suit, and the expenses, difficulties, and delays attending a Civil Suit are such that the great majority of the poor are afraid to face them, and consequently are not unfrequently deprived of their just rights."? He may suppose, perhaps, that there is no cheap and ready means of enforcing a private Panchayet's award. If so, he is in error; half a rupee will do it effectually.— *Vide* Section 327, Code of Civil Procedure.

4. As to any portion of Regulation V. of 1822 not having been attentively considered, when Madras Act VIII. of 1865 repealed the whole of that enactment, I do not think the supposition will be borne out, if reference is made to the correspondence and reports which preceded the passing of Act VIII. It may be said perhaps, then why was not Regulation XII. of 1816 simultaneously repealed? The answer is that when the dispute is between Zemindar and Ryot or Zemindar's Renter and Ryot, the latter is so heavily weighted, that it is proper to give him the means of compelling the former to submit himself, through the Collector, to a Panchayet of impartial persons, but between ryot and ryot this reason can seldom or ever exist.

Exd. T. Cartledge.

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From J. I. MINCHIN, Esq., Collector of Vizagapatam, to the Acting Secretary to the Board of Revenue, dated 5th April 1869, No. 162.

With reference to the Board's Proceedings dated March 15th, 1869, No. 1,754, forwarding Mr. Thomas's letter on the inconvenience caused by the repeal of Section 18, Regulation V. of 1822, I have the honor to state that I was lately considering the advisability of addressing the Board on the same subject, as the repeal of that Section has left the Collector without authority to interfere at all in the settlement of disputes in which Government Ryots are a party, concerning irrigation.

2. The summary settlement of such matters has always been considered inherent in the Collector's authority, but there is at present no Regulation on which he can act, and his interference under existing circumstances is without legal sanction.

3. I beg to forward copy of a letter from my Principal Assistant, pointing out the inconvenience caused by this state of things.

ENCLOSURE No. 1.

From H. SEWELL, Esq., Acting Principal Assistant Collector, to the Collector of Vizagapatam, dated 2nd April 1869, No. 21.

In reply to your Memorandum at foot of the Proceedings of Board of Revenue, dated March 15th, 1869, No. 1,754, I have the honor to state that several petitions have been presented before me lately referring to the "cultivating, occupying, and irrigating of land" in the ryotwary (that is, now permanently settled) parts of the Sub-division, which petitions I have been obliged to reject owing to the repeal of Regulation V. of 1822.

2. As the only remedy the parties now have in such cases is a Civil Suit, I am of opinion that a large amount of inconvenience is caused by the said repeal, and that it would be beneficial if Section 18, Regulation V. of 1822, could in some way be re-enacted.

(True Copy.)

(Signed) J. I. MINCHIN,
Collector.

Exd. T. Cartledge.

From J. FRASER, Esq., Collector of the Godavery District, to the Acting Secretary to the Board of Revenue, Cocanada, dated 4th August 1869, No. 186.

With reference to the Proceedings of the Board of Revenue, dated 15th March last, No. 1,754, I have the honour to report that I have experienced no inconvenience in consequence of the repeal of Section 447, Regulation V. of 1822. During the five years I have been in this district, I have met with no cases of disputes between ryot and ryot respecting the occupying, cultivating, and irrigating of land, which they wished to refer to punchayet. Cases relating to trespass and encroachments of lands, which rarely occur, are generally tried magisterially under Section 447 of the Penal Code.

2. The Sub-Collector reports that on different occasions ryots requested of him that their disputes of the above description might be referred to punchayets, and have expressed their dissatisfaction at being referred to the Civil Courts.

Erd. F. R. Bantleman.

From J. A. C. BOSWELL, Esq., Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 27th April 1869, No. 110.

I HAVE the honor to reply to the Board's Proceedings, dated 15th March 1869, No. 1,754.

2. The settlement of disputes by Panchayet is a course of procedure peculiarly suited for a primitive state of society, and one to which the Natives of India have been accustomed from early ages. It is, therefore, to be regretted I think, that we have not done more to utilize this institution in our administration of justice. The tendency of all recent legislature has been to make the administration of justice more and more expensive and complex, in accordance with our western ideas of civilization. There can be no doubt that the petty disputes of our ryots respecting the occupying, cultivating, and irrigating of land can be much more speedily and satisfactorily settled in a council of the elders of the villagers, who probably all individually are intimately acquainted with the position of the lands and the history of its occupants for years past, and know at starting more about the rights of the case than any other Court could attain to after the tedious examination of a dozen witnesses, probably with a vast amount of hard survey on both sides. There is something which answers to public spirit even in a small village community, and as witnesses would not have the face to tell such barefaced lies before the local elders in the gate as they would before a distant Court, so a village Panchayet will seldom give a decision so prejudicial as to outrage the feelings of their fellow villagers.

3. The consequence of the repeal of Sections XI. and XVIII. of Regulation V. of 1822, has been to bring a vast number of charges of trespass into our Magisterial Courts, and many of our Sub-Magistrates failing to see the distinction between Criminal and Civil trespass as clearly set forth in Section 441 of the Penal Code, where the former is defined, they are continually in the habit of "clutching jurisdiction" and inflicting the punishment of fine and imprisonment in cases where the accused has simply advanced a *bona fide* claim, in occupying land to which he believed he had a full right.

4. Under Section XI. Regulation V. of 1822, persons forcibly dispossessed of their lands or crops were at liberty to bring the case before the Collector, who, upon proof of such forcible ejection and of the actual previous possession by such ejected party, was authorized to restore the lands or crops. This provision was not spared when Regulation V. of 1822 was repealed by Act (Madras) VIII. of 1865, for the reason that another remedy was already provided for this very case, under Section 15 of Act No. XIV. of 1859, by which a person unlawfully dispossessed of immovable property may recover possession by filing a summary suit within six months before a Civil Court. To this day it is a popular fallacy generally believed, that the Magistrate is bound to uphold in possession of land any previous occupant who has been wrongfully ousted, and when such charges are dismissed, and the complainant is referred to the Civil Courts for redress, it is felt to be a real hardship, for the prosecution of a Civil Suit is a luxury which demands both time and money.

5. The elements that constitute Criminal trespass as punishable under Section 447, Indian Penal Code, are when one enters into or upon property in possession of another (1) with intent to commit an offence (2) or to intimidate (3) insult or (4) annoy any person in possession of such property. Under Chapter XXII. C. C. P. for the settlement of disputes relating to the possession of land or the right of use of any land or water, a Magistrate before he can act, must be satisfied that a dispute likely to cause a breach of the peace exists, and must first record the grounds of his being so satisfied. Further, it is only a Magistrate with full powers that can act under this Chapter.

6. What would be very desirable and what would be considered a real boon in the way or legislation by the people would be, to provide, that cases of disputes respecting the occupying, cultivating and irrigating of land, whether between proprietors or renters or their ryots and

between ryot and ryot, may be referred by Collectors to Panchayets for settlement. I beg to enclose copies of the replies of Mr. Comyn, Acting Sub-Collector, and Mr. Grahame, Acting Head Assistant, who are both in favor of reviving the provisions of Section 18 of Regulation V. of 1822.

ENCLOSURE No. 1.

From W. F. GRAHAM, Esq., Acting Head Assistant Collector of the Kistna District, to the Officiating Collector of the Kistna District, dated Bezawada, 15th April 1869, No. 135.

With reference to your endorsement No. 49, on the Board's Proceedings, No. 1,754, dated 15th March 1869, I beg to state that as far as my experience goes, very little, if any inconvenience has arisen from the repeal of Act No. V. of 1822. In the charges which I have had, disputes such as the Acting Collector of South Canara mentions, are of very rare occurrence. In a serious case, i. e. when the value of the property in dispute is at all considerable, the parties would almost certainly have recourse to a Civil Court.

2. In a petty case, the parties would most probably get two or three of their friends to arbitrate between them.

3. At the same time, I am decidedly of opinion, that the power conferred by Section XVIII. of Regulation V. of 1822, of referring to a punchayet, disputes as to occupation, irrigation and cultivation of land arising between ryot and ryot might with advantage be restored to Revenue Officers. This might be done by a very short Legislative Enactment, and would, I think, diminish to some extent the work in many Civil Courts.

(True Copy)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

From W. H. COMYN, Esq., Acting Sub-Collector, to the Officiating Collector of the Kistna District, dated Bapatla Talook, 24th April 1869, No. 24.

With reference to your endorsement on Board's Proceedings, No. 1,754, dated 15th March 1869, I have the honor to inform you that I am of opinion that Section XVIII. of Regulation V. of 1822, should be revived.

2. The Revenue authorities at present have no means of deciding disputes of the nature alluded to therein. The parties are driven for redress to the Civil Courts. They not unfrequently "try" the Magistrate first; and I believe many cases of this nature are taken up by the Sub-Magistracy as criminal trespass, or if not taken up as such, complaints regarding them are brought before these Officers under that head.

(True Copy.)

(Signed) J. A. C. BOSWELL,
Officiating Collector.

Exd. G. A. Turton.

From J. W. B. DYKES, Esq., Collector of Nellore, to the Acting Secretary to the Board of Revenue, dated 23rd April 1869, No. 755.

I HAVE the honor to acknowledge the receipt of the Proceedings of the Board, dated 17th ultimo, No. 1,754, calling for report whether the inconvenience experienced in South Canara is felt in the District of Nellore from the repeal of the Regulation V. of 1822, and, in reply, beg to state that during the ten years that I have been in this district I doubt that as many Panchayets have been assembled under the Regulation in question. Its repeal, therefore, in this respect cannot be considered here an inconvenience.

Exd. T. Cartledge.

From R. J. MELVILLE, Esq., Acting Collector of Nellore, to the Acting Secretary to the Board of Revenue, dated 8th July 1869, No. 1,340.

In answer to the Board's Proceedings, dated March 15th, 1869 No. 1,754, I have the honour to state that I am of opinion that it would be certainly advisable to re-enact Section 18 of Regulation V. of 1822. In this opinion I am supported by the majority of the Officers in charge of Divisions in this District. The effect of the absence of any such provision has been to make the Sub-Magistrate's attempt by stretching the law, to bring purely Civil cases under the Sections of the Indian Penal Code, provided for Criminal Trespass and Mischief.

Exd. T. Cartledge.

From H. E. SULLIVAN, Esq., Collector of Bellary, to the Acting Secretary to the Board of Revenue, dated 6th April 1869, No. 58.

IN reply to the Proceedings of the Board of Revenue, No. 1,754, dated 15th ultimo, I have the honor to state that I do not consider it advisable that Collectors should be re-invested with the powers conferred on them by the Regulation quoted by the Collector of South Canara, which was repealed by Act VIII. of 1865.

2. It would have the effect of throwing upon the Collectors half of the Civil work of the Zillah, with, so far as I can see, no beneficial results to the people. Many, to save law expenses, would doubtless agree in the first instance to the difference being referred for the decision of a Panchayet; but the cases would be very rare where such decision would give satisfaction to both parties. My experience teaches me that however valuable an institution a Panchayet may have been in former days, its decisions carry little weight with them now. The party cast on the suit invariably brings forward a charge of partiality and corruption, and to sift this involves another investigation as long as the original suit, so that I think justice is more speedily and effectually done in the ordinary Courts of judicature.

Exd. T. Cartledge.

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From G. VANSAGNEW, Esq., Acting Collector of Cuddapah, to the Acting Secretary to the Board of Revenue, dated 8th April 1869, No. 40.

ADVERTING to their Proceedings of the 15th ultimo, No. 1,754, I have the honor to remind the Board that I addressed them from North Arcot last year on the subject of the repeal by Act No. VIII. of 1865, of Section No. 18 of Regulation V. of 1822, more particularly with reference to irrigation disputes.

2. I submitted, for their approval, the directions which I had found it necessary to issue to my Divisional Officers advising them that, as the law now stands, they should never interfere in any such dispute between ryots, in which the interests of the Public Revenue were not sufficiently importantly involved to justify the Collector, in the event of his confirming their orders on appeal, in subjecting himself to the risk of the Civil action, which might be brought against him for illegal interference.

3. Irrigation disputes between parties constantly occur, which so materially affect the State revenue, that I doubted not the Board and the Government would, in such cases, consider it expedient to approve of a Collector's interfering under those mythical "general powers" with which, when any useful, but illegal object is to be gained, it is sometimes convenient to consider him to be invested.

4. And in nine such cases out of ten, his interference unsupported by law, as it would be—would be accepted by the parties as conclusive of the dispute, and whatever order he might choose to issue would be obeyed, but, if in the tenth case the parties, or either of them, were to laugh at his order, and to refuse point blank, to obey it, the Collector would be left in a very undignified position, with no resource, but to seek permission to file a suit in defence of State interests.

5. On behalf therefore of poor Collectors, as well as of the "poor and more or less ignorant cultivators," for whom Mr. Thomas pleads, I think that the old law should be revived.

6. I believe I told the Board in my former letter that the great majority of Revenue Officers and of the public were still in happy ignorance of the existing state of the law on the subject. That statement is to the full, borne out by my subsequent experience in this district. Apparently not a soul here, with whom I have come in contact, had the remotest notion but that the Collector was equally empowered by law, as ever he was, to adjudicate all disputes between ryots regarding occupation, cultivation and irrigation.

7. My repeated refusals to assume a jurisdiction, which I have not, have produced a condition of bewilderment, not only in the minds of the ryots to whom I have imparted the secret during this Jummahbundy, and who, I fear, regard me in consequence as a very degenerate Collector, but in those of all the revenue officials, who, I incline to think, firmly believe that I am laboring under an extraordinary delusion. It is utterly beyond the comprehension of unsophisticated Cuddapah that the Collector should hesitate—law or no law—to issue any order he may think right and conducive to the comfort of the people—or to his own comfort for the matter of that.

8. If Cuddapah ever emerges from its present bewilderment, I think the weaker ryots are likely to have hard times, unless, in the meantime protected by the revival of the old provision of law.

9. And if the Board do not hear of much inconvenience having been hitherto occasioned by the repeal of Act No. V. of 1822, I think they may safely conclude that the absence of such inconvenience is solely attributable to the general ignorance I have described of the change in the law caused by such repeal, and to the consequent fact that the jurisdiction, of which they were deprived, has, nevertheless, continued to be very generally assumed and exercised by Revenue Officers.

10. This is obviously a most unsatisfactory state of things. We should either be authorized by law, or should—as I do—refuse to interfere.

Exd. G. A. Turton.

147
From T. A. N. CHASE, Esq., Collector of Kurnool, to the Acting Secretary to the Board of Revenue, dated 10th April 1869, No. 107.

I HAVE the honor to state in reply to Board's Proceedings of 15th March 1869, No. 1,754, that since joining this district I have received no complaint of the inconvenience resulting from the repeal of Regulation V. of 1822, the parties in dispute generally resorting to the Civil Courts for redress.

2. I think, however, that it is highly desirable that the repealed enactment should be revived to protect the ryots from the expense, delay, and difficulties attending a Civil Suit.

3. A number of these cases are settled, but not satisfactorily, by Tahsildars in their Magisterial capacity under Section 447 of the Penal Code.

4. When I was Acting Collector of the Kistna District in 1865, I brought the matter to the Board's notice.* The Board called for further particulars, but as I left the district before I could

* Vide Board's Proceedings, No. 584, of 25th January 1866.
supply the information, the matter seems to have dropped there, for I have seen no further Proceedings of the Board on the subject till the present Proceedings, to which this is a reply, reached me.

Ed. T. Cartledge.

1/5.
From G. THORNHILL, Esq., Acting Collector of the Madras district, to the Acting Secretary
to the Board of Revenue, dated Sydapet, 17th September 1869, No. 311.

With reference to Board's Proceedings, dated 15th March 1869, No. 1,754, I have the honour
to report that the inconvenience complained of by the Acting Collector of South Canara, as
resulting from the repeal of Regulation V. of 1822, has not been experienced in this district.

Exd. J. Wright.

From J. D. ROBINSON, Esq., Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Poothalpet, 29th April 1869, No. 115.

I HAVE the honor to state, with reference to the question mooted in the Board's Proceedings, dated 15th March 1869, No. 1,754, that I agree with Mr. Thomas in thinking it very desirable that the provisions of Section 18 of Regulation V. of 1822, in its connection with Regulation XII. of 1816, should be revived. I cannot say how far Mr. Thomas is right in supposing that Section 18 of Regulation V. of 1822 was inadvertently swept away when the Regulation was repealed by the Rent Recovery Act; but the Board will, I believe, find that it is the opinion of the majority of the officers whom they may have consulted, that Section 447, Indian Penal Code, and Chapter XXII. of Criminal Procedure Code, do not provide a ready and intelligible means of redress in the class of cases to which Section 18 of the Regulation in question was applicable.

2. There can be no doubt that Section 447, Indian Penal Code, is now resorted to in a vast number of cases to which it is quite inapplicable.

The litigant has recourse to it as a cheaper and more expeditious mode of testing his right than by Civil action, and the subordinate Revenue authorities having no other means of affording redress in cases in which the intention is not criminal stretch the section to meet the necessity and to cover their own doubtful action in the matter.

For these reasons there is probably no class of case in which decisions are so frequently the subject of appeal.

3. Chapter XXII. of Criminal Procedure Code is likewise inapplicable, or at least is too cumbersome to be readily resorted to in the class of cases which might be disposed of under the old Regulation.

4. As the law stands trespass cases figure far too predominating in our criminal files. Three-fourths of these cases are probably of a purely Civil nature, and should never have been entertained; and being a species of litigation which is peculiarly demoralising it is very desirable that Section 18 should be revived as the means alike of removing many present difficulties and uncertainties in administering the law and affording to the poorer class of ryots a ready and cheap form of redress.

Erd. J. Tulloch.

From C. W. READE, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated Pondicherry, 28th July 1869, No. 169.

In acknowledgment of the Board's Proceedings, No. 1,754, of the 15th March, I have the honour to state my opinion very much in concurrence with that of Mr. Thomas, Acting Collector of Canara, and I think in the absence of any provision in the Rent Recovery Act VIII. of 1863, in substitution of certain sections of Regulation V. of 1822, conferring summary powers on a Collector in the cases indicated, it is much to be regretted that the latter Regulation was unreservedly repealed.

2. My experience of Panchayets in this district is, however, unfavourable to that mode of settling disputes between ryot and ryot. In some parts of the country, and as I know in Canara, the Panchayet system is popular, but I do not think it is so generally.

3. I should be glad to see some enactment similar in the power it conferred to Section 11, Regulation V. of 1822, and it would be a help to Revenue administration, and often, I believe, save recourse to the Penal Code, Section 447 of which is frequently strained in order to give redress to an aggrieved party for want of other means available under the law to render justice.

4. I enclose copies of two reports on the subject from my late Sub-Collector and Head Assistant.

ENCLOSURE No. 1.

From W. F. HATHAWAY, Esq., Sub-Collector, to the Collector of South Arcot, dated Chidamburam, 31st March 1869, No. 88.

With reference to the Proceedings of the Board of Revenue of the 15th instant, I have the honour to state that I decidedly think that there ought to be some power to decide disputes about land, and specially the irrigation of it; and that the present absence of this is a crying evil.

2. I think, however, that we want something more than Regulation XII. of 1816, which is so tender as to provide that the wrong-doer shall have power to veto all proceedings against him by denying the plaint and declining to submit to arbitration. Clause 8, Section 5, is such a lame and impotent conclusion that I am quite content to see it defunct.

3. Again, the little power that there is confined to cases of "disputes between ryot and ryot," I think this a defect. I do not like the plan of the protection of Government property being wholly dependant on petty squabbles between the ryots, so that we cannot guard the property of the State without bringing in some ryot on one side as a nominal litigant. I think that the Government should have full power to get cases of this sort settled *proprio motu*, whether there was any dispute between ryot and ryot or not, and whether the wrong-doer consented to a Panchayet or not. At present there is actually nothing that can be done: the ryots take up land that has been refused them, and seize water to which they have no right, absolutely unchecked. To give an illustration: there has been a practice in this district of any ryot who likes taking water from an irrigation channel without any leave to his own Punjab land that is not entitled to it, and thus defrauding the holders of Nunjah land of what they are entitled to. They are forbidden to do it, but they know they cannot be touched, and they merely pay the additional water-rate, laugh at the impotent threats of the Revenue officials, and take the water again the next year as usual. Last year I gave most stringent orders that water was not to be diverted to Punjab land in this way without leave, until all the Ain (regular) Nunjah had been supplied. There is this moment a case before me in the village of Kilchokanadampett. The supply of water was scanty and scarcely enough for the regular Nunjah; but notwithstanding this, five ryots opened the channel and carried off water to their dry fields, and thus got crops of paddy to which they were not entitled. The consequence is, much of the regular Nunjah perished to the extent, that is, of 30

acres. The village officials reported it at the time, and said that they had tried to stop these people taking away the water, but that they would not listen. I sent notices to them that complaints had come against them, and that if they had any claim to the water they should come up and show what right they had to it. They signed the notices to show that they had seen them, but paid not the slightest further attention, and did not think of appearing.

4. I mention this, not because there is anything particular about it, as there are scores of similar cases, but merely as an instance that has just happened to come before me while I am writing. What is to be done in such a case? It is possible that I might specially take up one of such cases and bring it under a section of the Penal Code, but there would be great difficulty of proof. To show this, I will refer to one case that I did take up last year because it was peculiarly flagrant, No. 108 of 1868. The Engineer Officer pressed it on my notice, and objected to the diversion of water; but instead of it turning out a simple matter, the trial took two months, and the record is one of the largest on the Calendar. Special surveys had to be made of the ground, various officials inspected it and gave their evidence; the accused cited all the chief persons he could think of, and thus took up the time of various officials; old records were sent for from your office and that of the Superintending Engineer, and the case was at length established chiefly by the accident of the evidence of a previous Engineer being obtainable, and a chit that he wrote in 1858, which he was able to swear to. It was the *cause celebre* of the year, and cost me 15 days' hard work.

5. This will show that it is out of the question to attempt a criminal trial for every one of these cases which may amount to hundreds in the year. We want power for a Collector to give directions as to how water is to be used and to punish disobedience. I do not think that he should be obliged to eke out his own inability by the help of the Penal Code, but should have power to enforce his own orders. Considering the enormous value of the property at stake, and the manner in which it supplies a large part of the whole revenue of the State, I think it is extraordinary that it should be left so utterly undefended as it is; and it is for this reason that I think it a matter of far too great moment to leave to be settled haphazard in petty "disputes between ryot and ryot" by irresponsible Punchayets.

6. Nor can I say that my experience of Punchayets has been happy. I have tried a great many, but found that it was universally understood that the two jurymen whom each disputant appointed should decide in his favour as a matter of course, and that there was no attempt at any decision on the merits. Each man put in his two friends who voted for him in sublime indifference as to what the case was, and I therefore at length left off trying Village Punchayets.

7. In my report of the 4th January last I noticed the absolute impracticability of Section 318 of Criminal Procedure Code, which only maintains the party in possession (probably the wrong-doer) until the case can be settled by a Civil suit, the arrangement not professing on the face of it to be on the merits or anything but a temporary make-shift. I need not recapitulate all that I wrote, but as I said then, I think we want inferior Courts to try *petty* land cases, similar to Small Cause Courts for debt, the maximum being, say, 5 Acres or 50 Rupees value, and the Judge being of the standard of an ordinary Sub Magistrate. Such an institution, with power to a Collector to give orders and enforce them with regard to the occupation and irrigation of land, would, I think, be far more thorough and satisfactory than leaving matters to the unaccountable fancies of Punchayets.

ENCLOSURE No. 2.

From A. L. LISTER, Esq., Acting Head Assistant Collector, to the Collector of South Arcot, dated Tindevanum, 2nd April 1869, No. 83.

In reply to your endorsement, dated 25th March, on Board's Proceedings, No. 1,754, I have the honour to state that although Regulation V. of 1822 was repealed before I commenced Revenue work, I have often sighed over its repeal and felt the mockery of justice in referring to a Civil Court poor ryots who, I well know, cannot afford to go there.

2. Every day as I acquire more experience I feel more and more that a great majority of the poor ryots "are not unfrequently deprived of their just rights."

3. I agree with Mr. Thomas that Section 447 of the Penal Code does not apply to a great number of these cases, but I am reluctantly compelled to allow Sub-Magistrates to strain this section; for otherwise, as a Magistrate or a Revenue officer I should be unable to prevent a ryot being forcibly ejected from land of which he was indisputably in occupation; a poor ryot may plough and sow a field, and a rich ryot with some shallow pretext of a right to the land may reap it, and without using the provisions of Section 447 of the Penal Code, I am powerless to avert this grant wrong.

4. I do not think Chapter XXII. of the Criminal Procedure Code applies to cases of disputed occupation between ryot and ryot, and I think it would be very little use if it did; for Section 318 only enables a Magistrate to keep in possession the party who is in actual possession; this person is nearly always the wrong-doer, who has ousted some poor ryot; the poor man complains after he has been turned out of possession, and all I can do is to tell him that by his own admission the other party is in possession, and that he must recover his possession by means of a Civil Suit; whereas if Regulation V. of 1822 had not been repealed, I could at once put him in possession under Section 11 and award equitable costs and damages against the offender.

Exd. T. Cartledge.

19
From G. L. MORRIS, Esq., Collector of Tanjore, to the Acting Secretary to the Board of Revenue,
dated Combaconum, 29th March 1869, No. 55.

With reference to the Proceedings of the Board, dated 15th March 1869, No. 1,754, I have
the honor to state that inconvenience has not been experienced in this District from the repeal of
Regulation V. of 1822, on account of Panchayets not having been popular means of redress in Tan-
jore, and their decisions very seldom giving satisfaction.

Exd. T. Cartledge.

From G. BANBURY, Esq., Collector of Trichinopoly, to the Acting Secretary to the Board of Revenue, dated Voitalay Gudalore, 17th April 1869, No. 69.

With reference to the question contained in the Board's Proceedings, No. 1,754, dated 15th March 1869, I have the honor to state that it does not seem to me advisable to resuscitate Section 18 of Regulation V. of 1822, as, considering the present state of education and enlightenment, Panchayets must be deemed things of the past, and not equal to the spirit of the age. Even in the later days of their existence, there was considerable difficulty in working the system; there were delays and difficulties in assembling the conclave; they took an enormous time to come to a decision, and this decision when arrived at was generally null and void owing to some informality. It is true that now and again some intricate and complicated cases may arise which could be settled, better by Panchayet than by any other method; but practically this can now be done without any Act or Regulation. As a rule it may be said that for ordinary matters the people will not now be content with Panchayets which belonged to a by-gone period.

2. The main difficulty now experienced by the authorities, and most keenly felt by the people at large, is the want of some speedy and summary mode of redress when disputes and trespasses arise regarding the possession of landed property. In a district like this where land is valuable and the assessment light these cases are very numerous. The mortgagee, or the puttahdar, neither of whom may be in possession, thinks it time he should try his hand at cultivating what he imagines he has a right to, and forcibly enters upon the land. The man in possession then seeks redress, and from that moment his troubles begin. The Government and Mr. Robinson the Inspector General are strongly against cases of Criminal trespass which relate to land being taken up under Section 447, Indian Penal Code; the High Court have ruled they can be entertained: thus there is doubt and difference of opinion in the minds of the Sub-Magistrates of the 2nd Class who solve the difficulty, as a rule, by not taking up the case and thus saving themselves any further trouble in the matter. The ousted possessor then tries his chance with the Full power Magistrate under Chapter 22, Code of Criminal Procedure. Here very probably he is told that there is not sufficient ground for believing that there is a likelihood of breach of the peace; so he must go about his business, or the Full power Magistrate may be of a strictly technical turn of mind, and say, "you admit that your opponent took forcible possession and ploughed the land; moreover you are now come here leaving him there; so it is clear the opponent is in possession, and that possession I am bound under Chapter 22 to maintain, so you can get no good here. Go to Civil Court." The suitor thus driven to his wits end resorts finally to the Court with all its attendant delays, vexations, and expenses, although he had law, justice, and everything else on his side; only one case as far as I can find has ever been settled by the District Magistrates of this Province under Chapter 22, and in that instance the land was made over to neither party. I worked the Chapter when in Tanjore and found it answer very satisfactorily; but then there are the two impediments above mentioned which present great technical difficulties.

3. What we really require is a brief Act which would give Collectors authority to decide summarily and speedily all these cases of disputed possession as regards lands and water, and to award damages; so that these trespasses could not be committed as they now are with impunity for the sake of annoyance and to gratify ill-feelings. The party deeming himself aggrieved would of course have the Civil Tribunals to resort to. This course would not only afford justice to the injured, but would prevent any loss in Revenue, and would, moreover, legally confer upon Collectors that summary Revenue power which is most certainly required.

Exd. T. Cartledge.

20.
From J. R. ARBUTHNOTT, Esq., Officiating Collector of Madura, to the Acting Secretary to the Board of Revenue, dated 7th April 1869, No. 123.

IN answer to the Board's Proceedings, dated the 15th ultimo, No. 1,754, I have the honor to inform the Board that no inconvenience is experienced from the repeal of Regulation V. of 1822; for, the procedure referred to by Mr. Thomas was but little used in this district even before the repeal of Regulation V. of 1822. I am, however, strongly in favor of the settlement of disputes by arbitration, and would therefore advocate the renewal of the former enactment referred to by Mr. Thomas.

Exd. T. Cartledge.

From C. T. LONGLEY, Esq., Acting Collector of Tinnevely, to the Acting Secretary to the Board of Revenue, dated Trichendur, 13th May 1869, No. 208.

I HAVE the honor to reply to Board's Proceedings, No. 1,754, dated the 15th March. There is no doubt the repeal of Regulation V. of 1822 has swept away two most useful provisions as contained in Sections 11 and 18: the first relating to the forcible dispossession of land; the second providing for the settlement of all disputes respecting the occupancy, cultivation, or irrigation of land between ryot and ryot. Section 447 of the Indian Penal Code is not applicable to the majority of such cases, and Act VIII. of 1865 nowhere provides for the disposal of cases of "forcible dispossession" or disputes respecting occupancy, etc., between ryot and ryot. The law, as it now stands, is certainly defective as regards the settlement of such disputes, and I strongly recommend the provisions of both the above Sections being made the subject of Legislation. I forward the opinions expressed by my Divisional Officers. I quite agree with the opinions expressed by the Sub-Collector and General Deputy that Panchayets were not much resorted to as a means of redress in Tinnevely.

ENCLOSURE No. 1.

From J. B. PENNINGTON, Esq., Sub-Collector of Tinnevely, to the Acting Collector of Tinnevely, dated Shermadevi, 13th April 1869, No. 66.

I HAVE the honor to acknowledge the receipt of your docket, No. 1,099, of the 9th instant, enclosing copy of the Board's Proceedings, No. 1,754, of the 15th ultimo, and calling upon me to state my opinion as to the advisability of reviving Section 18 of Regulation V. of 1822, and in reply I beg to inform you that I entirely concur with Mr. Thomas in his remarks as to the inapplicability of Section 447 of the Penal Code, or Chapter 22 of the Code of Criminal Procedure, to many of these cases, and as to the desirability of some alteration in the law as it stands at present. The time of the Magistracy is far too much taken up with that notorious Section in cases where there is really no criminal intention at all involved.

2. But I doubt if a Panchayet is a good way of remedying this evil. So far as my experience goes, the decisions of Panchayets are invariably scouted by the losing side, and the members only expose themselves to reckless charges of bribery and corruption. I think it would be better to enact that Sub-Magistrates of the second-class should have power to decide as to the actual possession of lands, the occupancy of which is disputed by a *really* summary inquiry subject to no appeal or revision except by means of a Civil Suit.

From C. J. CROSTHWAITE, Esq., Acting Head Assistant-Collector, to the Acting Collector of Tinnevely, dated Strivycuntam, 24th April 1869, No. 37.

In reply to your docket, No. 1,100, dated 9th instant, I have the honor to state that the only inconvenience I have felt since the repeal of Regulation V. of 1822, is the want of a satisfactory and practical mode of procedure for the disposal of complaints alleging forcible dispossession of land or crops. It is difficult to deal with all such matters under the Criminal law, and the consequence is that the Police and Magistracy are perpetually hampered with complaint of technical robbery and even dacoity.

2. It is simply ridiculous to treat a riot accompanied with dispossession of grain as dacoity, and in most cases the difficulty of discerning the element of dishonesty on the part of the accused is very great. Then there is the difficulty about indemnifying the injured party. It is generally impossible to recover the crops, and the only hope of redress the complainant has is that the Magistrate will award him compensation. The clandestine removal of crops which is provided for in Act VIII. of 1865 is a matter which can easily be dealt with as theft; but I must say I have often felt that some such remedy as that provided in Section 11, Regulation V. of 1822 is a desideratum.

From T. VENCAT ROW, General charge Deputy Collector, to the Acting Collector of Tinnevely, dated 1st May 1869, No. 14.

With reference to your docket, No. 1,101, dated 9th instant, requiring me to report whether any inconvenience is experienced in consequence of repeal of Regulation V. of 1822, I have the honor to observe that the only Section, the repeal of which is stated to occasion the inconvenience,

is Section 18 of the above Regulation. In my experience the repeal of that Section does not seem to produce in this district the results such as those experienced in South Canara, because the reference of disputes relating to the occupying, cultivating, and irrigating of lands for the decision of Panchayet was a matter of rare occurrence in this district when the Section was in force.

2. The provisions of Regulation XII. of 1816 appear to partake of the nature of rules relating to Civil matters. Plaint is to show when the cause of action arose, and Collector was authorised to transfer the lands to plaintiff; but it is not specified within what limit of time an action could be brought from the date of cause of action.

Clause 1, Section 4.
Clause 5, Section 5.

On the other hand, by the analogy of all the laws, actions for recovery of land from the possession of another party upon whatever ground it might have been (unless forcibly taken possession of) were always considered to fall within the cognizance of the Courts; hence few suits regarding occupancy of land were brought before the Collector. The revival, therefore, of Section 18 without further clear Rules as to the nature of actions to be brought, and under what limitations, would be next to useless in this district.

3. There is, however, another Section in Regulation V. of 1822, the repeal of which by the Rent Recovery Act has occasioned much trouble, namely, 11, relating to forcible dispossession of lands or crops. Cases of this nature are common in this district. Persons upon some color of right or other pretence frequently dispossess parties in possession or obstruct them from cultivating; when the party aggrieved complains, the defendant pleads possession, and the Sub-Magistrate dismisses the charge referring the party to a Civil Suit. He is driven to go to Court or resort to force himself to get back possession, and owing to these disputes the land is left waste. Whereas before the Rent Recovery Act came into force, Sub-Magistrates used to report such cases to Collectors, who held a summary inquiry and rendered justice under the above Section. I would, therefore, respectfully suggest that a representation may be made for the revival of the above Section, and if Section 18 were also to be revived, that some further clear Rules in connection with the subject may be laid down.

(True Copies.)

(Signed) C. T. LONGLEY,
Acting Collector.

Exd. T. Cartledge.

From A. McC. WEBSTER, Esq., Acting Collector of Coimbatore, to the Acting Secretary to the Board of Revenue, dated Coimbatore, 31st May 1869, No. 195.

In reply to the Board's Proceedings of the 15th March 1869, No. 1,754, I have the honor to report that as Panchayets were not often resorted to in this district, no inconvenience has been experienced by the repeal of Regulation V. of 1822.

Exd. J. Tulloch,

23
From J. W. BREEKS, Esq., Commissioner of the Neilgherries, to the Acting Secretary to the Board of Revenue, dated Ootacamund, 8th June 1869, No. 79.

With reference to Proceedings of the Board, No. 1,754, of the 15th March 1869, I have the honor to report that some inconvenience is experienced by the repeal of Regulation V. of 1822.

2. Land disputes between ryot and ryot frequently occur in this district. The majority of the disputants are in a poor condition and are incapable of comprehending Law proceedings, and shrink from a means of redress which involves them in delay and expense.

Exd. J. Tulloch.

From C. N. POCHIN, Esq., Collector of Salem, to the Acting Secretary to the Board of Revenue,
dated 17th April 1869, No. 75.

In reply to the Board's Proceedings of the 15th ultimo, No. 1,754, I have the honor to state that the repeal of the entire Regulation V. of 1822 has been felt inconvenient in this district, and I have already brought the same to the notice of Government, and recommended the restoration of Section 18 of the Regulation in question, in my letter, No. 56, of the 17th September 1868, a copy of which is enclosed for the Board's information.

2. This matter was brought forward prior to the letter from the Collector of South Canara to the Board, on which their Proceedings under reply have been issued.

ENCLOSURE No. 1.

From C. N. POCHIN, Esq., Collector of Salem, to the Acting Assistant Secretary to Government,
Legislative Department, dated 17th September 1868, No. 56.

I HAVE the honor to acknowledge the receipt of your Circular Memorandum of the 2nd instant, No. 227, calling for any observations on the provisions of the Bill for repealing certain enactments which have ceased to be in force or have become unnecessary.

2. It is proposed to repeal only a portion of Section 4 of Regulation XXIII. of 1802. I see no reason why the whole of this Regulation should not at once be repealed. As far as Revenue Officers are concerned it is already become void. There is nothing in the Regulation which renders its existence desirable. It only contains Departmental rules which are to be found elsewhere, and the penal clause of the Regulation is only dismissal, which the Departmental rules already confer on Collector. Indeed, there is a better penal clause for any remissness or fraud on the part of Record-keepers in Regulation IX. of 1822.

3. There is another Section in Regulation II. of 1803 which has fallen altogether into disuse. This is Section 11, which requires Collector to keep a diary and submit it to the Board of Revenue monthly. This may well be repealed.

4. It is proposed to repeal Section 12 of Regulation XII. of 1816. This is all right, but the usefulness of this Regulation has been much affected by the repeal, by Act VIII. of 1865, of the whole of Regulation V. of 1822. Section 18 of the last mentioned enactment extended the provisions of Regulation XII. of 1816 to disputes between ryot and ryot, and as long as Act VIII. of 1865 does not make any provisions in this respect, the entire Regulation (V. of 1822) ought not to have been repealed. The restoration of Section 18 of Regulation V. of 1822 will therefore be a great boon.

5. It is always much better that ryots should settle their land and water disputes by arbitration rather than having recourse to our Courts.

(True Copy.)

(Signed) C. N. POCHIN,
Collector.

Exd. T. Cartledge.

From A. McC. WEBSTER, Esq., Officiating Collector of Malabar, to the Acting Secretary to the Board of Revenue, dated Calicut, 23rd September 1869, No. 235.

With reference to the Board's Proceedings, dated 15th March 1869, No. 1,754, I have the honour to state that the provisions of Section 18, Regulation V. of 1822, do not appear to have been much used in this district, and that its re-enactment does not therefore seem necessary. By Chapter 6, Act No. VIII. of 1859, both parties can refer cases to arbitration.

2. The only difference between that Chapter and the old Regulation is that by the latter, one party agreeing to have a dispute decided by Panchayet could force the other party to agree also. I doubt the justice of this old law, and am not of opinion that it should be revived.

Exd. G. A. Turton

trespass which would have been formerly disposed of under the Regulation in question, and recommended that the power of referring such cases to Panchayets should be revived.

10. The Collector of Nellore (Mr. Dykes) was not of opinion that any inconvenience had been caused by the repeal of the Regulation.

11. The Acting Collector of the same district (Mr. Melville) desired its re-enactment.

12. The Collector of Bellary (Mr. Sullivan) was opposed to re-enactment; he pointed out that in the present day the awards of Panchayets seldom carried weight, or were allowed to be final.

13. The Collector of Cuddapah (Mr. VansAgnew) was of opinion that the repealed powers should be re-granted to Collectors.

14. The Collector of Kurnool (Mr. Chase) had not felt inconvenience from the repeal in Kurnool; but, adverting to his former experience in Kistna, was of opinion that the law should be re-enacted.

15. The Acting Collector of Madras (Mr. Thornhill) stated that the inconvenience complained of had not been felt in the Madras District.

16. The Collector of North Arcot (Mr. Robinson) desired the provisions of Regulation V. of 1822 to be re-enacted, as he had found that cases which would have been disposed of under it were now made the subject of charges for criminal trespass.

17. The Collector of South Arcot (Mr. Reade) regretted the repeal of the Regulation in question. So far as the summary powers of Collectors under Section 2 were concerned, he had not found Panchayets successful in South Arcot.

18. The Collector of Tanjore (Mr. Morris) had not experienced any inconvenience.

19. The Collector of Trichinopoly (Mr. Banbury), although averse to the revival of Panchayets, had found the criminal law too much resorted to in cases of trespass, and desired that Collectors should be re-invested with summary powers to dispose of disputes regarding the occupation, etc., of land.

20. The Acting Collector of Madura (Mr. J. R. Arbuthnot) desired a renewal of the repealed Regulation.

21. The Collector of Tinnevely (Mr. Longley) also desired that the repealed sections should be re-enacted.

22. The Acting Collector of Coimbatore (Mr. Webster) had not found any inconvenience to result from the repeal of the law.

23. The Commissioner of the Neilgherries (Mr. Brecks) on the other hand reported that the loss of the Regulation had caused inconvenience among the poorer cultivators in the hills.

24. The Collector of Salem (Mr. Pochin) was of opinion that the restoration of Section 18, Regulation V. of 1824, would be a great boon.

25. It will thus be seen that, amidst many conflicting views, a majority of the Collectors were of opinion that the repeal of Regulation V. of 1822 had led to a certain amount of practical inconvenience by depriving the people of a speedy means of settling disputes regarding occupation and cultivation of land.

26. It is also pointed out by many Collectors that, owing to the repeal of the Regulation in question, there has been a tendency on the part of the people to prefer, and of the Sub-Magistrates to entertain, charges of criminal trespass and to put the criminal law in force in matters of simple disputed rights to the occupation of land.

27. The means for settling disputes provided by Regulation V. of 1822 were two-fold, either by summary action on the part of the Collectors under Section 11, or by reference to Panchayet under Section 18.

28. Under the former section Collectors were empowered to adjudicate summarily in cases where land or crops were forcibly taken possession of. Under the latter section the powers of referring certain disputes to Panchayet under Section 4, Regulation XII. of 1816, was extended to all disputes regarding land between ryot and ryot.

29. The majority of cases properly coming under the first quoted section are now, no doubt, tried by Magistrates as criminal trespasses.

No. 8,510.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd November 1866.

Read again letter from the Acting Collector of the Kistna District, dated 20th December 1865, in Board's Proceedings, 25th January 1866, No. 534.

Read again letter from the same Officer, dated 10th February 1866, in Board's Proceedings, 27th February 1866, No. 1,402.

Read also the following letters:—

From R. K. PUCKLE, Esq., Deputy Director of Revenue Settlement, to the Secretary to the Board of Revenue, dated Sooramungalum, 1st February 1866, No. 8.

1. In reply to Proceedings, No. 534, dated 25th January 1866, calling on me for an opinion as to how far the retention of the powers formerly derived from Section 18, Regulation V. of 1822 are necessary, or desirable for Settlement purposes, I have the honor to inform you that I made the Settlement of the Trichinopoly District under the general authority of Act XXVIII. of 1860, by which it is lawful for any person exercising the powers of a Collector to fix the boundaries of fields, to register the rights of claimants, and to settle such claims subject to appeal to higher authority, or to the Civil Court. Thousands of cases, similar to those alluded to by Mr. Chase, were thus disposed of; the rights of those in occupation being invariably upheld and recognised, pending the decision of the Civil Court. I have not heard of any fresh suits having arisen from this settlement, while I know that many long standing disputes were thus terminated, without trouble or expense to the contending parties.

2. The claim of each ryot to have his holding separately settled and registered, was fully recognised, and as every particular connected with each holding, or sub-division of a survey block, was investigated, and recorded, while each sub-division was separately lettered, and treated as a separate number in the Register, Puttah, and Jumgahbundy Chittah,* the Collector has

* No. 5 of the Manual of Village Accounts.
now to uphold this registry, if disputed, until reversed by decree of the Court.

3. I cannot understand the necessity of the Collector settling disputes after the Settlement is made, or how a Ryotwary settlement can be made at all until every dispute has been previously settled; but even supposing the registry to be insufficient, and that a supplementary settlement has to be made by the Collector at any future period, the general authority of Act XXVIII. of 1860, which seems to be sufficient for the Settlement officer, is even more so for the Collector, who, in his capacity of Magistrate, can maintain in possession the occupants of land, or those enjoying any right or privilege, or may exclude contending parties altogether from entry, until their claims are adjudicated.

From R. E. MASTER, Esq., Officiating Director of Revenue Settlement, to the Secretary to the Board of Revenue, dated on Circuit at Godavery District, Amlapore, 22nd February 1866, No. 231-6.

1. In reply to the Board's Proceedings of the 25th ultimo, No. 534, I have the honor to state that the retention of the powers formerly derived from Section 18, Regulation V. of 1822, is not, in my opinion, necessary or desirable for settlement purposes. My experience leads me to coincide with the Board in their opinion as to the practical inoperativeness of the repealed Section. I myself very rarely exercised the powers which it gave, and when I did so, found it anything but a rapid or satisfactory mode of adjusting a dispute. By Section 6, Act XX. of 1855, it was provided that boundary disputes arising in the course of the demarcation of lands preparatory to survey, should be settled in the manner prescribed by Regulation XII. of 1816, but this mode of adjustment was found in practice so extremely tedious and unsatisfactory, that in the new Boundary Act (XXVIII. of 1860) an entirely different course of procedure was laid down.

2. In ordinary cases, I think, the powers which Magistrates possess, to maintain present possession, are ample for the temporary adjustment of disputes, pending the decision of the Civil Courts. Innumerable petty disputes are summarily adjusted in the course of a Settlement, by consent of the parties, and on a verbal examination of the village officers and assembled ryots, when a few questions bring out the truth; but in these petty cases, it is neither practicable, nor desirable, to adopt the formal and protracted procedure of a punchayet under Regulation XII. of 1816, while, in cases of more importance, the maintenance of present possession is all that is necessary.

From G. THORNHILL, Esq., Collector of the Kistna District, to the Secretary to the Board of Revenue, dated Masulipatam, 29th October 1866, No. 366.

1. With reference to Board's Proceedings, dated 27th February 1866, No. 1,402, I have the honor to state that, in my opinion, the law as it stands, is sufficient to meet all the cases formerly disposable under Regulation V. of 1822.

2. Act XXVIII. of 1860 provides the requisite powers for fixing boundaries in cases of dispute.

3. Any infringement of boundaries once fixed is, of course, punishable magisterially. Disputed possession or succession can always be settled by maintaining the actual holder in possession, until disturbed by the decree of a Civil Court.

4. Irrigation disputes are usually disposable by a Magistrate as criminal trespass, or mischief.

5. The only advantage that I can foresee as likely to arise from re-enacting any part of Regulation V. of 1822, would be the substitution of the summary process, and powers of a Revenue Court for those of a District Munsiff. The disputes of ryots would, probably, be more speedily settled by the former, than by the latter.

The Board concur in the opinion, expressed in the letters above recorded, that the existing law is sufficient to meet the class of cases which was formerly adjudicable under Section 18, Regulation V. of 1822, and that no re-enactment of the former provisions of law is necessary or expedient.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To the Collector of the Kistna District.
,, the Officiating Director of Revenue Settlement.
,, the Collector of Tinnevely.

Exd. J. Wright.

Concurring in opinion with Officiating Director of Revenue Settlement and with Collectors of Tinnevely and Kistna district that existing law is sufficient to meet cases of boundary and other disputes formerly adjudicable under Section 18, Regulation V of 1822.

Dated 29th November 1866.

No. 8,510.

PROCEEDINGS OF THE BOARD OF REVENUE.

No.

1866.

Department.

30. It is no doubt true that in many cases to which the criminal law is not applicable, charges of criminal trespass are made and entertained, but cases of this nature would not have properly been cognizable under Section 11, which provided only for summary jurisdiction where the act complained of had been forcible.

31. To re-enact that section as it stood would, therefore, not be providing a remedy for the evil complained of. Still less would a remedy be found in reviving the power to refer all disputes to a Punchayet, as provided by Section 18.

32. Punchayets, as constituted by authority, under Regulation XII. of 1816, were exceedingly cumbrous and unsatisfactory Courts, and their decisions were seldom allowed to be final. Complaints of corruption on the part of the members were generally made by the losing party.

33. Punchayets so constituted are inapplicable in the present state of the law, and should not be revived.

34. There is nothing in the repeal of the Regulation in question to prevent the employment of private arbitration in the settlement of disputes, and there is no doubt that it is largely and beneficially used.

35. It is also worthy of note that the award of a private Punchayet can be made to have the force of a legal decree by resort to Section 327 of the Code of Civil Procedure, as shown by the Collector of Ganjam.

36. The Board are of opinion that the re-enactment of either or both of these sections would have no useful result.

37. It remains to be determined whether any new enactment whatever is required.

38. The Collector of Trichinopoly (Mr. Banbury) says in paragraph 3 of his letter, dated 17th April 1866, No. 69:—

"What we really require is a brief Act, which would give Collectors authority to decide summarily and speedily all these cases of disputed possession as regards lands and water, and to award damages; so that these trespasses could not be committed as they now are with impunity for the sake of annoyance and to gratify ill-feelings. The party deeming himself aggrieved would, of course, have the Civil tribunal to resort to. This course would not only afford justice to the injured, but would prevent any loss in revenue, and would, moreover, legally confer upon Collectors that summary Revenue power which is most certainly required."

39. This probably expresses the wants of Collectors pretty fairly, and an enactment of the kind would not be without value. It would certainly remove from the Magistrates' files many cases which now improperly appear there. It would in many instances afford justice to the injured and prevent loss in revenue. On the other hand it would throw an enormous amount of work on the Revenue Department which can be much better done by the Civil Courts. On the whole the Board do not think that a sufficient case has been made out for fresh legislation.

40. The abuse of Magisterial authority, which sometimes occurs, will decrease as the law of criminal trespass becomes better known.

41. The Board are of opinion, however, that as a change has been asked for by so many Collectors the case should be laid before Government for their orders.

(A true Extract.)

(Signed) J. GROSE,
Sub-Secretary.

To the Acting Secretary to Government, Revenue Department,
with file of Collectors' replies.

Copy to all Collectors.

Exd. T. Cartledge.

1870.
Board of Revenue,
MADRAS.

PROCEEDINGS, 21ST FEBRUARY 1870, No. 1,178.

Encl.

Received

FEBRUARY.

No. 1,178

Regulation V. of 1852.—Reports from Collectors as to inconvenience experienced in settling disputes regarding occupancy, irrigation, and cultivation of land, owing to repeal of—, and necessity for re-enactment of repealed law, submitted to Government with remarks against fresh legislation on subject.

No. 628

~~From~~ *Proceedings of the High Court*Dated 28th February 1870.

FOR ORDERS.

Rev. 628/70.
 Pres. 15th May/70 Ld. 170.

I concur in the the
 Board that a suf-
 -ficient case has not
 been made out for
 post legation.

The practical dif-
 -ficulty of resort to
 arbitration under
 Regulation V & VII of
 1816 lay in the ne-
 cessity of procuring
 the consent of both
 parties to that method
 of adjudication - of
 course & here the
 parties agree there is
 no necessity for the
 Col.

Class intervention.

While if they do not
agree the House of Reps.
restriction is passed
by law.

It was on this
occasion that the
Sections of Reg.  of
1822 relating to the
subject were abrogated
by Act 8 of 1865. Modern.

Like then it is
expedient to provide
by law for the com-
pensation of the
party disfranchised by
arbitration or some
other means & thereby
prevent them resort
to the regular Civil
Court.

Question - a bill which
it has been discussed
as of course such a
law could not be
restricted to ~~some~~ ^{land}
disfranchisement. The question
was then left to the
discretion of the Chap. VI
of the Civil Procedure
Code was enacted.

J. D. S.

FOR ORDERS.

Revenue Department.

No. 705

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 13th May 1870.
Read the following. Proceedings of the
Board of Revenue.

Submitting, with remarks,
Reports from collectors as to incon-
veniences experienced in settling
disputes regarding occupancy,
irrigation, and cultivation of land,
owing to repeal of Regulation V
of 1822 and necessity of re-enact-
ment of repealed law against
fresh legislation on subject.

(H.C. 21st February 1870. No. 1178)

The Government con-
cur with the Board in thinking
that a sufficient case has not
been made out for fresh legis-
lation.

J. D. S. N.
B. A.

2 The practical diffi-
culty of resort to arbitration
under Regulations V and VII of
1816 lay in the difficulty of
procuring the consent of both
parties to that mode of ad-
judication.

33
dication. If both parties agree
to arbitration there is no neces-
sity for the collector's interven-
tion, and the award of the
arbitrators can be enforced
under Sec. 327 of the Civil Pro-
cedure Code, while if they
do not agree, the Munsiff
jurisdiction to appoint a pun-
chayat is barred by law.

3 It was on this ac-
count that the Sec. of Regu-
lation of 1822 relating to the
subject was abrogated by Act
VIII of 1865 (Madras)

Whether it is expedient
to provide by law for the com-
pulsory adjudication of petty
disputes by arbitration or some
cheaper and speedier method
than resort to the regular
civil tribunals is a question
which

which could not be restricted
to land disputes, but would
require to be treated on general
principles of law, and it is
doubtless duly considered.
Chapter VII of the Civil Pro-
cedure Code was enacted.

Mr.

14 Feb 1874

W. H. Hall

Left
Biffington court
at 10 o'clock of the
Ratton, V. 17 1821

and
and

11

11