No. 92. Read the following letter from H. WELLESLEY, Esq., Officiating Secretary to the Chief Commissioner of Mysore, (Department of Agriculture, Revenue, and Commerce,) to the Hon. W. HUDLESTON, Chief Secretary to the Government of Fort St. George, dated Nandidroog, 30th April 1873, No. 519-5:—

I HAVE the honour, by direction of the Officiating Chief Commissioner, to forward, for the consideration and orders of His Excellency the Governor in Council,

From Officiating Commissioner, Nandidroog Division, No. 13 R, dated 13th April 1873.

copies of the marginally noted letter and of its enclosures on the subject of a dispute between the ryots of the Gollahalli village in the Betmangala Taluq of the Kolar District and the Izardars of the Kungoondi Zemindari in the North Arcot District, in respect of the use by the former of the surplus water of the Oblappanakere tank in the Peddur Konerikuppa village of that Zemindari, and to submit the following observations:—

2. It will be seen from the papers forwarded that the Mysore ryots claim the use of the surplus water on the ground of long usage, and that the Izardars, while admitting that the ryots were permitted to use the water, maintain that they (Izardars) were compensated for the concession by the grant of a piece of land for cultivation in the Mysore territory, which has since been resumed. They add that, if this grant be revived, they will have no objection to continuing the supply of water.

3. On the other hand, the taluq records, according to the Deputy-Commissioner of Kolar, show that the land in question was granted to the Konerikuppa village for quite another object, namely, to serve as compensation for damage caused (by submersion) to certain lands in that village by the Gollahalli tank when it filled, and that after the tank was breached about forty years ago, the land was resumed.

4. The Collector of North Arcot, to whom the matter was referred, expresses his inability to deal with the case, observing that the point at issue is one for adjudication by the Civil Courts. The Officiating Chief Commissioner is, however, of opinion that, as the dispute lies between subjects of Her Majesty and those of a foreign State (the water-supply of which is also, in some slight degree, concerned), it is not one which can be decided in a Court of law. It appears to Mr. Gordon that the matter should be decided by arbitration; and if His Excellency in Council concurs in this view, the Officiating Chief Commissioner would suggest that a Madras officer may be deputed to meet the Deputy-Commissioner of Kolar at the scene of the dispute, and in conjunction with Mr. Krishnaiengar submit proposals for its final settlement.

Proceedings of the Madras Government, Revenue Department,
14th May 1873.

No. 93. ORDER THEREON, 14th May 1873, No. 484.

Miscellaneous.

FORWARDED to the Acting Collector of North Arcot for early report, through the Board of Revenue.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.

Proceedings of the Chief Commissioner of Mysore, Department of Agriculture, Revenue and Commerce, 30th April 1873.

From the officiating Commissioner of the Nandidroog Division, To the Secretary to the Chief Commissioner of Mysore, No. R. 13, dated Bangalore, 18th April 1873.

I have the honor to submit for the Chief Commissioner's consideration and orders, copy of a letter from the Deputy Commissioner, Kolár District, with copies of the correspondence between that officer and the Collector of North Arcot, in connection with the right of the Mysore Government to the use by the ryots of Gollahalli village in the Bétmangala Talook, of the surplus water of the Oblappanakere in the village of Kónerekuppa of the Kungoondy Zemindary in the North Arcot District.

2. As an important principle was involved in the reference, I communicated with Colonel Pearse on the subject, and elicited the following expression of his views :—

"I concur with Mr. Krishnaiengar that the dispute is not of a civil character, but is essentially a boundary dispute, involving the right to diminish the supply of surplus water on the part of a friendly State which is situated nearer the water-shed, and which is clearly laid down in Wheatly as a purely international question. I am therefore of opinion that the dispute should be settled on the system heretofore adopted whenever such disputes have arisen between the people possessing land or having supposed rights along the border, namely, that an officer from Her Majesty's Districts should meet an officer from the Mysore side and arbitrate on the point. If any other course is followed, all the expense to Government and the labor of officers for the past half-dozen years will turn out to be simply money and time wasted, as every point settled during that period may become the subject of a suit before the Courts, and in that case, I would ask, who is to represent the British Government in the Mysore Courts, or the Mysore Government in Her Majesty's Local Courts."

From the Deputy Commissioner of the Kolár District, To the Commissioner of the Nandidroog Division, No. 2060—818, dated 29th March 1873.

I have the honor to submit for orders, copies of the correspondence noted in the margin between myself and the Collector of the North Arcot District, regarding the use by the ryots of Gallahalli village in the Bétmangala Talook, of the surplus water of Oblappanakere of Peddúr Kónerekuppa village of Kungoondy Zemindary in the North Arcot District.

*1 Letter No. 627—366, dated 18th July 1872, from Deputy Commissioner to Collector.
1 Letter „ 790, dated 19th November 1872, from Collector to Deputy Commissioner.
1 Letter „ 1979—1189, dated 12th March 1873, from Deputy Commissioner to Collector.
1 Letter „ 275, dated 21st March 1873, from Collector to Deputy Commissioner.

2. The facts of the case are, that the ryots of Gollahalli in Mysore were from a long time using the waste water of Oblappanakere in the British Territories after it fell into a stream, for irrigating a portion of their lands, and they now complain that they are prohibited from doing so, by the izárdárs of Kungoondy Zemindary.

3. On my representing the matter to the Collector of North Arcot, that officer stated that as 3—4 cawnies of land, said to have been given by this Government as compensation for this purpose to the Peddúr Kónerekuppa village in Kungoondy zemindary was resumed when the tank was out of order, the izárdars demurred to allow the use of the surplus water unless this extent of land is restored, the tank being now in good condition.

4. On an examination of the records of the Bétmangala Talook, I find that this extent of land has nothing to do with the present question. This land was given as compensation for land in the Kónerekuppa village which used to be submerged by the Gollahalli tank when it was in good order. Now that it has been in a ruined condition for about 40 years, the enjoyment of the Gollahalli land by the Kónerekuppa village has very fairly ceased to exist. On laying these facts before the Collector and moving in the matter again, that officer states that the case is of a civil nature, and further that the Izárdars of Peddúr Konerekuppa village declare that the surplus water of the Oblappanakere was never made use of by the Gollahalli villagers, who, on the other hand, maintain that they had used the water from a long time. As regards the civil nature of the case, I beg to submit that it is more a dispute between the British Territory and a Native State relative to the right of the latter to the use of the water falling into a stream from a tank in the former, than a case between two parties in the same territory, and I therefore think that the common rule of resorting to a Civil Court is not applicable to this case. Under these circumstances I would beg to suggest that officers connected with both Governments may be deputed te settle the case on its merits at the disputed spot in the same manner as boundary disputes.

Proceedings of the Chief Commissioner of Mysore, Department of Agriculture, Revenue and Commerce, 30th April 1873.

From the Deputy Superintendent, Kolár District, To the Collector of the North Arcot District, No. 627—360, dated Kolár, 18th July 1872.

I have the honor to bring to your notice that the ryots of Gollahalli village of Kyásamballi Hóbli of the Bétmangala talook of my District, have preferred a complaint to the effect that they are prohibited by Nanjundaiya and Gungachári, izárdars of the Kungoondy zemindary from using, as usual, the surplus water of the Oblappanakere tank of Peddúr village belonging to the Zemindary, for the irrigation of a portion of their lands. As it appears that this right has been enjoyed by the ryots of Gollahalli for many years, I shall feel obliged by your kindly directing the izárdars to refrain from molesting them.

From the Acting Collector of North Arcot, To the Deputy Superintendent, Kolár District, No. 790, dated Chittoor, 19th November 1872.

In reply to your letter No. 627—360, dated 18th, July last, I have the honor to forward herewith copy of my General Deputy's Telugu Memo No. 56, dated 2nd instant, from which you will learn that the Obalappa tank, which had been in ruins for the last 25 years, was only repaired last year: when this tank was in good condition it used to irrigate the lands of the Gollahalli village and for this purpose 3—4—0 cawnies of land of this village were given to Konerikuppa Agrahára as "Nírasaradi made," which was resumed after the tank was ruined. The izárdars now state that if the above named 3—4—0 cawnies of land is again allowed, they will permit the Gollahalli villagers the use of the Obalappa tank water as usual. I may here mention that as the dispute is clearly one of a civil nature, I am unable to interfere in the matter.

From the Deputy Commissioner, Kolár District, To the Collector of North Arcot, No. 1979—1190, dated Kolár 12th March 1873.

I have the honor to acknowledge the receipt of your letter No. 790 of the 19th November 1872, forwarding a copy of your General Deputy Collector's Memorandum No. 56 of the 2nd idem to your address on the subject of the complaint of the ryots of the Gollahalli village of the Bétamangala Talook, regarding the prohibition of the use for their lands of the surplus water of the Obalappanakere tank of Peddúr Konerikuppa village of the Kungoondy zemindary.

2. It is stated in the Deputy Collector's memorandum that an extent of 3—4—0 cawnies of land had been granted by the Mysore Government to the Peddúr Konerikuppa village as compensation for utilizing the water of the Obalappanakere tank for the lands of Gollahalli village, and that as the ryots of the former village have been dispossessed of the land they refuse to give the water.

3. But the case appears to be quite different. The records of the Bétmangala Talook shew that an extent of one Kandi and $4\frac{3}{8}$ Padies of land belonging to Gollahalli village had been given to the Peddúr Konerikuppa agrahára as a sort of compensation for the lands of this village having been submerged by the water of the Gollahalli tank, but this tank having breached about 40 years ago, and being still in a ruined condition, the land in question has ceased to be enjoyed by the ryots of Peddúr Konerikuppa since the breach of the tank.

4. What the ryots of Gollahalli village claim is, not the water of the Peddúr Konerikuppa tank itself but its surplus water, after it falls into a stream. Under these circumstances, I beg that you will be so good as to issue such instructions as you may deem proper in the matter, so that the ryots of the Gollahalli village may continue to utilize the stream water, a right which they had enjoyed for a long time.

From the Acting Collector of North Arcot, To the Deputy Commissioner, Kolár District, No. 275, dated Chittoor, 21st March 1873.

In reply to your letter No. 1967—1180 dated 12th instant, I have the honor to inform you that the izárdárs of the Peddúr village in the Kungoondy zemíndáry have stated before the Kungoondy Sub-Magistrate that the surplus water of the Obalappa tank was never made use of by the Gollahalli villagers, while the latter in their turn have deposed that they were using it for the last 8 years. As this dispute is clearly of a civil nature as observed by Mr. Whiteside, in his letter to you dated 19th November last, No. 790, I am unable to interfere in the matter.

Rev

Inv 1273

No 484.

Forwarded to the Actg Collr of Inld Revt for early report through the Board of Revenue

14 May '73.

14 To the Bd of Rev dtd 23 May/73.

Note

If the Honble Mr Jan considers that the letter from the Collr of K. A which are printed as enclosures to the Deputy Comr's letter of 29 March are sufficient

he would call the attention

expression of opinion by
the local Officers of this
Govt, it would probably
have time to pass orders
on the case at once. It
will then have to be
determined whether
any decision which may
a joint Commission as
that proposed might
annul at once be made
binding upon the two
parties to the dispute

JMD.

G-O

Water despute between myth
of Kolar Dt + the Izardars
of Kongoondi village of Nath
Arcot-

Hon. Sir

Despatch
from

C.9 Kay/73 R. 14 May