

1879

Gono SGO

G.S. 1879

G.S. 1874

- (1) Number of Pages 42
(2) Date of repair 11/10 8-66
(3) Initials of the Referencer.....

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	560	Press
B.P. No.		~~Mis.~~
Dated	6-5-	1874 -196.

Not to be folded or roughly handled

No. 86. Read the following Proceedings of the Board
1871, No. 4,657:—

The Board of Revenue resolve to propose to Government restrictions imposed by the present state of the law to the property,—a subject which frequently comes under their notice.

2. In the Regulation (XXV. of 1802) constituting the acting in conformity with Hindu Law, are at liberty (Section 8) to transfer in perpetuity their proprietary right in the whole or in any part of their estate, such sale, gift, or other transfer, being first registered and the land separately assessed by the Collector. However, in Section 9, Regulation XXVI. of the same year, which was passed on the same day as Regulation XXV., the proviso is inserted that, "where estates may be divided into parts, charged with a less proportion of the permanent land-tax than the sum of 500 Pagodas, such division shall not be valid in the Udawlut," but such division shall continue to be liable for the entire amount of the permanent land-tax in the same manner as if the separation had not been made."

3. This proviso (to which there is nothing similar in any other Regulation) came in course of time, and the Board have been able to discover) came in course of time, and it was resolved to modify it. The object of the Regulation has been "to facilitate the realization of the land-revenue in allowing Zemindars to be sub-divided into portions, in a hamlet in extent, though the amount of the sub-assessment is not less than 500 Pagodas. This concession, it was hoped, would not seriously impede or obstruct the collection of the public revenue," Regulation I. of 1819.

4. No changes in the law have been made since 1819, and it is unjust as it stands both to Zemindars and to the public revenue. A restriction in the matter could be effected without doing violence to the public revenue.

5. First, as to Zemindars.—Under the old law, a grant by a Zemindar of land as a gift, i.e., either absolutely free from rent or at a favourable rent, held good only during the life-time of the grantor; that every succeeding Zemindar within twelve years of his succession. But under the new law, run at the death of the grantor it never stops, and the holder of his predecessor, is, moreover, compelled to alienate lands, except where they consist of certain lands, Collector to register and sub-assess them as separate lands.

6. The hardship and inequality of the Law is illustrated thus: A and B are minor Zemindars under the Court of Wards. A's grandfather made ten endowments to as many dancing girls. His son and successor held the Z. bringing any suit for resumption. A, his son, is

See Advocate-General's opinion, Government Order, dated 3rd July 1871, No. 1,150.

the dancing girl or her heirs with the land-tax a

7. A therefore has nothing to complain of of both cases are identical, except that instead of made ten endowments to as many dancing girls aggregate, these assignments are quite as valuable because they none of them happen to consist of content not only to lose the lands, but to pay the whole Zemindari.

8. Second.—The hardship that may be obvious. A revenue sale may at any moment

Revenue, dated 9th November

the removal, by legislation, of the free sub-divisions of Zemindari in their capacity of Court of Wards. permanent Settlement, Zemindars, 8) to transfer in perpetuity their such sale, gift, or other transfer, Collector. However, in Section 9, same day as Regulation XXV., the parts, charged with a less proportion of the permanent land-tax than the sum of 500 Pagodas, such division shall not be valid in the Udawlut," but such division shall continue to be liable for the entire amount of the permanent land-tax in the same manner as if the separation had not been made."

Bengal Regulations, so far as the to be considered "impolitic and of its enactment is expressly stated to "and the modification made consisted of less than one village or dependent of the permanent land-tax might be "not seriously impede or obstruct the

and the Board proceed to show that erees, and that a complete removal of ment to the punctual realization of the

Limitation, it appears to have been a grant by a Zemindar of land as a gift, i.e., either absolutely free from rent or at a favourable rent, held good only during the life-time of the grantor; that every succeeding Zemindar within twelve years of his succession. But under the new law, run at the death of the grantor it never stops, and the holder of his predecessor, is, moreover, compelled to alienate lands, except where they consist of certain lands, Collector to register and sub-assess them as separate lands.

is illustrated thus: A and B are minor Zemindars under the Court of Wards. A's grandfather made ten endowments to as many dancing girls. His son and successor held the Z. bringing any suit for resumption. A, his son, is

the dancing girl or her heirs with the land-tax a

7. A therefore has nothing to complain of of both cases are identical, except that instead of made ten endowments to as many dancing girls aggregate, these assignments are quite as valuable because they none of them happen to consist of content not only to lose the lands, but to pay the whole Zemindari.

8. Second.—The hardship that may be obvious. A revenue sale may at any moment

the removal, by legislation, of the free sub-divisions of Zemindari in their capacity of Court of Wards. permanent Settlement, Zemindars, 8) to transfer in perpetuity their such sale, gift, or other transfer, Collector. However, in Section 9, same day as Regulation XXV., the parts, charged with a less proportion of the permanent land-tax than the sum of 500 Pagodas, such division shall not be valid in the Udawlut," but such division shall continue to be liable for the entire amount of the permanent land-tax in the same manner as if the separation had not been made."

*Proceedings of the Madras Government, Revenue Department,
6th May 1874.*

Not only may this happen in the consideration, whose tenement, a Zemindari, so as to cease to become remains as it is.

9. While, however, alienation recognized by the Collector, it may revenue sale, owing to the neglect through motives of pride, indifference, or ancestors, but which he can never either party can show that the then and in that case the Zemindar and the alienee, security against done by repealing Regulation I. so far as it provides "for prevention of assessment."

10. *Third.*—Whatever difficulty Government finds no hindrance to a permanently settled estate. The commission on the amount, to collect their taluqs; and a similar arrangement on the minutely separated portions would pay to the Deputy-Tahsildar.

No. 87.

ORDER TO

Miscellaneous.

Advocate-General) to prepare and issue Regulation I. of 1819 (so far as it provides "for prevention of the public assessment.")

2. The object of the Bill is to enable Zemindars by enabling them to pay *peishkush* in those cases where the extent of less than one entire village of Limitations; (2) to secure arrears due by the Zemindar parties join in applying for it, the Collector of the district, except under

To the Hon. D. F. Carmichael, Acting
Advocate-General.
the Legislative Department.
the Board of Revenue.

Ed. F. R. Pankleman.

of a gratuitous alliance, but in that of a holder for a valuable premises less than an entire village, cannot be separated from the answerable for the Zemindar's *peishkush* so long as the law

under an entire village in extent can never, at present, be happen that alliances of larger portions are ruined by a the Zemindar to separate such portions from his estate, in spite even to depreciate the value of property once his. What, therefore, the Board recommend is, that, when on (whether large or small) is absolutely unassailable, be able to get the proportionate relief from his *peishkush*; due sale for arrears due on the Zemindari. This may be (so as not to revive any enactments it rescinds) except fraud, corruption, or error, in the distribution of the public

were anticipated in 1819, experience has proved that the to the collection of the petty items of revenue in a are very willing, on payment to them of a moderate *peishkush* recently imposed on Inam lands situated within could readily be made for realizing the land-tax payable states, while the holders of more considerable portions

6th May 1874, No. 500.

The Government resolve to request the Acting Chief Secretary (after communication with the Advocate-General) to prepare a Bill in the Legislative Council for repeal of any enactment it rescinds, except fraud, corruption, or error, in the distribution

and is, it will be seen, (1) to give relief to the Zemindars a proportionate deduction from their arrears to resume alienated lands,—the same being or dependent hamlet,—is barred by the Act of such lands against a revenue sale for understood, of course, that, unless both assessment would be made by the Collector of a competent Court.

(Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

Secretary to Government.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 9th November 1871.

The Board of Revenue resolve to propose to Government the removal, by legislation, of the restrictions imposed by the present state of the law, to the free sub-divisions of Zemindary property: a subject which frequently comes under their notice in their capacity of Court of Wards.

2. In the Regulation (XXV. of 1802) constituting the Permanent Settlement, Zemindars, acting in conformity with Hindu Law, are at liberty (Section VIII.) to transfer in perpetuity their proprietary right in the whole or in any part of their estates; such sale, gift or other transfer being first registered, and the land separately assessed by the Collector. However, in Section IX. Regulation XXVI. of the same year, which was passed on the same day as Regulation XXV., the proviso is inserted that, "where estates may be divided into portions, charged with a less proportion of the permanent land-tax than the sum of 500 Pagodas (Rupees 1,750) per annum, such separation of lands shall not be valid in the U-dawlat," but "the proprietor of the estate before such division shall continue to be liable for the entire amount of the permanent land-tax, in the same manner as if the separation had not been made."

3. This proviso (to which there is nothing similar in the Bengal Regulations, so far as the Board have been able to discover) came, in course of time, to be considered "impolitic and inexpedient"; and it was resolved to modify it. The object of its enactment is expressly stated to have been "to facilitate the realization of the land revenue"; and the modification made consisted in allowing Zemindaries to be sub-divided into portions not less than one village or dependant hamlet in extent, though the amount of the sub-assessment of the permanent land-tax might be under 500 Pagodas. This concession, it was hoped, would "not seriously impede or obstruct the collection of the Public Revenue," Regulation I. of 1819.

4. No changes in the law have been made since 1819: and the Board proceed to show that it is unjust, as it stands, both to Zemindars and to transferees, and that a complete removal of restriction in the matter could be effected without detriment to the punctual collection of the revenue.

5. First, as to Zemindars. Under the old Law of Limitation, it appears to have been held that a grant by a Zemindar of land as *Lakhiraj*, i.e. either absolutely free from rent, or on a favourable rent, held good only during the life-time of the grantor: that every succeeding

Sadder Decree No. 6 of 1821.
No. 414 of 1860.

Zemindar might impeach it, provided he did so within twelve years of his succession. But under the present law, when once the Statute begins to run at the death of the grantor, it never stops, and a Zemindar, whose claim is barred by the *laches* of his predecessor, is moreover compelled to go on paying the public demand upon the alienated lands, except where they consist of entire villages, in which case he can require the Collector to register and sub-assess them as separate estates under the above cited Regulation.

6. The hardship and inequality of the Law may be illustrated thus:—A. and B. are minor Zemindars under the Court of Wards. A's grandfather gave five villages in Inam to a favourite dancing girl. His son and successor held the Zemindary twelve years, when he died without bringing any suit for resumption. A., his son, is barred by his father's neglect from recovering the villages, but under Regulation I. of 1819 the Court of Wards can secure him a very considerable measure of relief, by saddling the dancing girl or her heirs with the land tax assessable on the property.

See Advocate-General's opinion, Government Order, dated 3rd July 1873, No. 1,150.

7. A. therefore has nothing to complain of: but with B. it is different. The circumstances of both cases are identical, except that instead of five villages to one dancing girl, his grandfather made ten endowments to as many dancing girls out of the lands of twenty villages. In the aggregate, these assignments are quite as valuable as the single one made by A.'s ancestor; but, because they none of them happen to consist of an entire village or dependant hamlet, B. must be content not only to lose the lands, but to pay the Government *peskush*, as originally fixed upon the whole Zemindary.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 9th November 1871.

The Board of Revenue resolve to propose to Government the removal, by legislation, of the restrictions imposed by the present state of the law, to the free sub-divisions of Zemindary property: a subject which frequently comes under their notice in their capacity of Court of Wards.

2. In the Regulation (XXV. of 1802) constituting the Permanent Settlement, Zemindars, acting in conformity with Hindu Law, are at liberty (Section VIII.) to transfer in perpetuity their proprietary right in the whole or in any part of their estates; such sale, gift or other transfer being first registered, and the land separately assessed by the Collector. However, in Section IX. Regulation XXVI. of the same year, which was passed on the same day as Regulation XXV., the proviso is inserted that, "where estates may be divided into portions, charged with a less proportion of the permanent land-tax than the sum of 500 Pagodas (Rupees 1,750) per annum, such separation of lands shall not be valid in the Udawlut," but "the proprietor of the estate before such division shall continue to be liable for the entire amount of the permanent land-tax, in the same manner as if the separation had not been made."

3. This proviso (to which there is nothing similar in the Bengal Regulations, so far as the Board have been able to discover) came, in course of time, to be considered "impolitic and inexpedient"; and it was resolved to modify it. The object of its enactment is expressly stated to have been "to facilitate the realization of the land revenue"; and the modification made consisted in allowing Zemindaries to be sub-divided into portions not less than one village or dependant hamlet in extent, though the amount of the sub-assessment of the permanent land-tax might be under 500 Pagodas. This concession, it was hoped, would "not seriously impede or obstruct the collection of the Public Revenue," Regulation I. of 1819.

4. No changes in the law have been made since 1819: and the Board proceed to show that it is unjust, as it stands, both to Zemindars and to transferees, and that a complete removal of restriction in the matter could be effected without detriment to the punctual realization of the revenue.

5. First, as to Zemindars. Under the old Law of Limitation, it appears to have been held that a grant by a Zemindar of land as *Lakhiraj*, i.e. either absolutely free from rent, or on a favourable rent, held good only during the life-time of the grantor: that every succeeding

Sudder Decree No. 6 of 1821.
No. 414 of 1860.

Zemindar might impeach it, provided he did so within twelve years of his succession. But under the present law, when once the Statute begins to run at the death of the grantor, it never stops, and a Zemindar, whose claim is barred by the *laches* of his predecessor, is moreover compelled to go on paying the public demand upon the alienated lands, except where they consist of entire villages, in which case he can require the Collector to register and sub-assess them as separate estates under the above cited Regulation.

6. The hardship and inequality of the Law may be illustrated thus:—A. and B. are minor Zemindars under the Court of Wards. A's grandfather gave five villages in Inam to a favourite dancing girl. His son and successor held the Zemindary twelve years, when he died without bringing any suit for resumption. A., his son, is barred by his father's neglect from recovering the villages, but under Regulation I. of 1819 the Court of Wards can secure him a very considerable measure of relief, by saddling the dancing girl or her heirs with the land tax assessable on the property.

See Advocate-General's opinion, Government Order, dated 2nd July 1873, No. 1,159.

7. A. therefore has nothing to complain of: but with B. it is different. The circumstances of both cases are identical, except that instead of five villages to one dancing girl, his grandfather made ten endowments to as many dancing girls out of the lands of twenty villages. In the aggregate, these assignments are quite as valuable as the single one made by A's ancestor; but, because they none of them happen to consist of an entire village or dependant hamlet, B. must be content not only to lose the lands, but to pay the Government *peshkash*, as originally fixed upon the whole Zemindary.

Revenue Dept.

Memo. for Orders

REVENUE DEPARTMENT.

No. 3718

560
4

From

Dated 9th November 1871.

FOR ORDERS.

25 of
indian
strictly
their
not
law
and
Peshkash
on
uh
also
of
no

such separate estate
should be created with
a less jumma than 500
Star Pagodes.

8. *Second*—The hardship that may arise to the grantee of a portion only of a village is obvious. A revenue sale may at any moment destroy a title which has otherwise become perfect. Not only may this happen in the case of a gratuitous alienance, but in that of a holder for a valuable consideration, whose tenement, if it forms less than an entire village, cannot be separated from the Zemindary, so as to cease to become answerable for the Zemindar's peshkash, so long as the law remains as it is.

9. While, however, alienations under an entire village in extent can never, at present, be recognized by the Collector, it may often happen that alienances of larger portions are ruined by a Revenue sale, owing to the neglect of the Zemindar to separate such portions from his estate, through motives of pride, indifference, or spite, even—to depreciate the value of property once his ancestors' but which he can never re-gain. What therefore the Board recommend is, that, when either party can show that the alienation (whether large or small) is absolutely unassailable, then and in that case the Zemindar shall be able to get the proportionate relief from his peshkash; and the alienee, security against a revenue sale for arrears due on the Zemindary. This may be done by repealing Regulation I. of 1819 (so as not to revive any enactments it rescinds) except so far as it provides "for preventing fraud, corruption or error, in the distribution of the public assessment."

10. *Third*—Whatever difficulties were anticipated in 1819, experience has proved that the Government finds no hindrance whatever to the collection of the petty items of revenue in a permanently settled estate. The Zemindars are very willing, on payment to them of a moderate commission on the amount, to collect the quit-rents recently imposed on Inam lands situated within their taluqs; and a similar arrangement could readily be made for realizing the land-tax payable on the minuter separated portions of their estates; while the holders of more considerable portions would pay to the Deputy-Tahsildar direct.

(A true Extract.)

J. W. Cunningham
Acting Secretary

To the Secretary to Government, Revenue Department.

Not to be published.

Sub-divisions of Zemindary property, by the
Removal, by legislation, of restrictions
imposed by present state of law, recommended
to Government.

NOVEMBER.
No. 4,657.

Revised. 2/10/71

PROCEEDINGS, 5TH NOVEMBER 1871, No. 4,657.
24/11/1871
Ecl.

1871. Oct
Board of Revenue,
MADRAS. 4/3/71

Revenue Dept.

Memo. for Orders

60

5

8. Second—The hardship that may arise to the grantee of a portion only of a village

25 of
mindan
propriety
of their
not
law
and
kept back
some
such
alien.

of

1802 provided that no
such separate estate
should be created with
a less summa than 500
Star Pagodas.

Oct

of
N
co
N
Y
ro
E
th
ad
at
th
ad
do
so
:
G
P
co
th
or
A

1802 provided that no
such separate estate
should be created with
a less summa than 500
Star Pagodas.

No. 4657 - 6 May 1871

Abolitions of Zemindari property, by pro-
cess—Removal, by legislation, of restrictions
imposed by present state of law, recognized
Government.

NOVEMBER.
No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

NOV 5TH NOVEMBER 1871, No. 4,657.

21st

Memo. for Orders
on No 3718.

60

FOR ORDERS.

I should like
first to see the
advocate's
pleas or by the
decision on both
points by that in
the circumstances
stated the claim
cannot be
sustained by me.
cessors and that
register with the
proper authorities
the proper course
is to be taken.

I should like to see
the advocate's
pleas on the
points.
A. J.

Section 8, Regn 25 of
1802 empowered Zemindars
to alienate their proprietary
right in any part of their
estates in manner not
inconsistent with law
and by registration and
apportionment of Peshkash
to relieve themselves from
liability for peshkash
in respect of such alien-
ated lands.

Section 9, Regn 26 of
1802 provided that no
such separate estate
should be created with
a less jumma than 500
Star Pagodas.

C 25-11-1871 R. 1st Div. for R. 1st
R. C. 11: R. 1st Div. for R. 1st

NOVEMBER.
No. 4637.

1071.
170 of Belenue,
MADRAS. 3718.
PROG. 5TH NOVEMBER 1871, No. 4637.
21st Nov 1871
Encl.

to divisions of Zemindary property, by pro-
cess—Removal, by legislation, of restrictions
imposed by present state of law, recognition of
Government.

No. 4637 - 6. 11. 1871

obv
No
con
Zer
ret

rec
Re
thr
and
oil
the
an
do
so
"
Go
pe
co
th
on
wo

1871-72
25-11-1871
R. C. 11: R. 1st Div. for R. 1st
R. C. 11: R. 1st Div. for R. 1st

But Regⁿ 1 of 1819
rescinded this last pro-
vision, and provided
in lieu of it. that with
the consent of the Board
of Revenue alienations
may be made of not
less than one entire village
or dependant hamlet with
defined boundaries - with-
out limitation as to the
amount of the permanent
land tax chargeable there-
on.

The Board now propose
that this last limitation
in regard to area shall
also be abolished by re-
pealing Regⁿ 1 of 1819
except in so far as it
rescinds any previous
enactment or provides for

presenting fraud, corruption
or error in the apportion-
ment of the Peshkush
on the whole State.

The effect will be to
enable Zemindars to
alienate their rights in
any portion of their Estate,
however small, provided
they do not thereby violate
the law, and by registra-
tion and apportionment
of peshkush to relieve
themselves from any future
liability on account of
such alienated portion.

To obviate difficulties
in collecting the petty frag-
ments of Peshkush, they
contemplate entrusting
the collection
to the Zemindars as
in the case of Nam Ghat

parents & giving them a
small commission to com-
pensate for their trouble.

I think the step pro-
posed is in the right
direction.

Orders are requested.

L.B.

380
Bds Prop - 9th Nov 1871

No 4.657.

Proposing the removal, by legislation,
of the restrictions imposed by the
present state of the law — on
subdivisions of Zamindary property.

The inconveniences & hardships
here pointed out constantly came under
my notice as Collector in the two largest
Zamindary districts of the Prov,
& when a member of the Bd of Rev I
drafted these Props in consequence.

+
Ganjam
Vijayapuram.

2. With the exception of the Gentle
I think the necessity for granting Mr. Linn, the Council does not include
the chief is very clearly put in any who were members when he
the Board's proceedings (chaired 19th Nov 71) Props came up from the Bd at the
by Mr. Michael) and that their end of '71.
recommendation should be
accepted. & Resn. 1 of 1819
be repeated to Mr. Linn
prepared by the Board.

3. The Gentle Mr. Linn has submitted an
the proposal - but there are no remarks
by other former members of Council.
I therefore accumulate the papers
for final order.

MR

17/3/73
I understand Mr. Linn to intend that
the provision of an Act part of Resn. 1 of 1819

majority of the High Court
Justice Holmes dissenting/
decided that the alienations
from India are null & void
have not been registered &
notably assessed (R.A No 23 of 1885)

It has also been laid down
in the case in S.O. 3 July 71 No 1150 / that
the land has only a life-estate
in the hands of the
in the hands of the

And by Law (Section 111 Reg
1802) he cannot exempt any
of his estate from its share of the

view; and under the
action of the Law of
Limitations, are
causing serious injustice
to

Commissioner of the
Land Revenue

Permanent Assessment.

It seems hard to believe
that the Legislature by the new
Statute of Limitations, intended
that any length of possession should
render indefeasible and perpetual
a tenure which was absolutely null
at creation - which was in excess of
the donor's power - and directly op-
posed to the law.

Surely the commission-looks
 him of the case is that such a tenure
 can only be permissive - and that
 the right of terminating it rests in
 each successive proprietor. How can

a friend as the time it would ⁵⁶⁰ ~~be~~
himself proceed - how can any of
successor of his - continue rich
a gift to the benighted of living
successors - being that each has
but a life - Estate? - in the

It is also said that the
new Law should have retrospective
effect in the very same point -
By the decision of the Supreme
Court was made by the State
of the Law should be copied
to for as to make the cause of action

Verd; and, under the
action of the Law of
Limitations, are
causing serious injustice
to

from the common law and of
 the Act - I have, by the interme-
 diary of it - very frequently
 whose predecessor - or whose himself
 relying on the accepted in the practice
 of the law, I have slept in that right
 for 12 yrs. is for ever excluded from
 asserting them - I have been free to them
 & he can do as he pleases of
 peace & liberality, and as com-
 plete Estates they would be, if
 created in accordance with,
 instead of in clear opposition
 to the law of the land. I am sure

"May not only be wanting ^{to}
 the minor can do terms of registration
 & access to - but may also be the
~~defects~~ "a signant to the law - and
 some down to the binding laws or to
 to the regulations of the British
 put" and yet to their validation
 & legislation!

It seems to me nothing
 of consideration & he then we should
 bring the effect of the law
 under the consideration of the
 Supreme Court. I believe in one of the
 cases before us, the present position of

view; and, under the
 action of the Law of
 Limitations, are
 causing serious injustice

will be a better assessment
and the holding of a few acres
here & there. The assessment in these
cases is based on the same basis as the
value of the whole has been
the value of the whole estate &
the calculation must be based on
the average of several years!

On the whole I do not
think the proposal expedient. Our
revenue is safe under all circum-
stances, and we must trust that
landowners being aware of the law will
look upon it as being in their own interest.

I question the propriety of saying that
in the case of an unregistered alienator, the
time runs from the date of grant. L. G. P.

I think that the
proposals of the Board
should be put into
the form of Law at
once. The condition
of the local Zamindari
Law, which they
draw attention, imposes
restrictions on a
recognized right of
alienation, which
are no longer needed
or convenient from
a fiscal point of
view; and, under the
action of the Law of
Limitations, are
causing serious injustice
to

will to ascertain the assessment
 on the basis of a few acres.
 here, & there. The assessment in these
 cases is based on the same principle as
 their value as the whole has been
 to the value of the whole estate &
 the calculation must be based on
 the average of several years!

On the whole I do not
 think the proposal expedient. Our
 revenue is safe under all circum-
 stances, and we must trust that
 landlords being aware of the law will
 look to their own interests.

I question Mr Maynes dictum that
 in the case of an unregistered alienator, the
 time runs from the date of grant. L. G. S.

I think that the
 proposals of the Board
 should be put into
 the form of Law at
 once. The condition
 of the local Landlord
 Law, which they
 draw attention, imposes
 restrictions on a
 recognized right of
 alienation &c, which
 are no longer needed
 or convenient from
 a fiscal point of
 view; and, under the
 action of the Law of
 Limitations, are
 causing serious injustice
 to

to Zamindars and
their ahinees.

The permanent
Settlement was not
designed to alter or
curtail any of the
ordinary legal incidents
of permanently settled
property - legal alienation
subdivisions &c. are
distinctly authorized
by the Law - Subject,
however, to some
restrictions and
protective procedure,
which were considered
advisable for fiscal
convenience - viz.
Registration and
Sub-assessment by
the Mutor and limitation
as regards Sateen to
500 Pagodas and late
to

to one Village or Sute
hamlet (Reg: I of 1819).
The motive of these
provisos was clearly
fiscal and they
should not be
maintained against
the development of the
Law of property unless
insuperable difficulties
stand in the way. I
see no such insuperable
difficulty.

I greatly doubt
the soundness of the
construction put by
the Old Sudder on the
latter clause of
Section 8 of Reg: XXV of
1802. I think that
the proviso was intended
to prevent an unregistered
alienation being set up
to

to defeat a revenue
claim and not to
annul the transaction
as between the parties
to it. Be this as it
may; the Law of
Limitations has
come in to mitigate
the evil of that ruling,
and now an old
alienation cannot be
disturbed on quasi-fiduciary
grounds. I hold that
this is in no way
repugnant to the Law
of the permanent
Settlement. Lawful
gammindari alienations
are properly affirmed
and no longer avoidable
- if the Statute has
run against them
a condition, which
is clearly in conformity
with the spirit of

legislation and
sound policy, as now
recognized on all
hands, and now to
reserves or restrictions,
are recognized as
valid against the
Effect of the Statute.

But it is found
that the old fiscal
restrictions above
alluded to operate
irritably and tend
to defeat or contravene
the ^{right} ~~Law~~ secured
under the Statute,
and, I think, that
they should therefore
be relaxed & superseded,
so as to bring our
fiscal administration
into conformity with
that Law ~~and~~ so as
to

to enable the utmost
freedom in dealing
with the land of all
kinds.

First - as regards
procedure, I think
that, so soon as under
the Law of Limitation,
or otherwise an alienation
of any part of a
permanently settled
estate becomes an
permanent and
separate holding, the
Mortgagee should be
required to review
the assessment of
the estate, and apportion
the demand accordingly.
Either party's objections
notwithstanding - I
would modify Section 8
of Regⁿ XXV of 1802 to this effect:
The

Next - as regards
Regⁿ I of 1819, I would
as proposed by the
Board repeal the
restriction as to extent
of the alienation interest -
such restrictions
are I think anachronisms,
they are avoided in
practice - and they
clearly tend to defeat
the intention & spirit
of the Law - both of
permanent settlement
and limitation.

As respects fiscal
inconvenience of
allowing the Law
to take full effect,
I anticipate in general
little difficulty either
as regards apportionment
of demand or collection.
The

to enable the utmost
freedom in dealing
with the land of all
kinds.

First - as regards
procedure, I think
that, so soon as under
the Law of Limitation,
or otherwise an alienation
of any part of a
permanently settled
estate becomes a
permanent and
separate holding, the
Mortgagee should be
required to review
the assessment of
the estate, and apportion
the demand accordingly.
Either party's objections
notwithstanding - I
would modify Section 8
of Regⁿ XXV of 1802 to this effect.
Next -

Next - as regards
Regⁿ I of 1819, I would
as proposed by the
Board repeal the
restriction as to extent
of the alienation interest
- such restrictions
are I think anachronisms,
they are avoided in
practice - and they
clearly tend to defeat
the intention & spirit
of the Law - both of
permanent settlement
and limitation.

As respects fiscal
inconvenience of
allowing the Law
to take full effect,
I anticipate in general
little difficulty either
as regards apportionment
of demand or collection.
The

The Settlement Account
as a rule, Shastees,
show the permanent
demands against a
Zamindari Estate
Village-war. When
entire villages are
comprised in the
alienation, the
apportionment will
therefore not be
difficult. Where
a fractional part
of a village constitutes
the alienation, there
may be some trouble
in apportioning the
demands, but I do
not consider that
any such difficulty
will be found as to
justify a practical
denial of right and
interference with the
Law

Law of Limitations

I would place
the papers in the
hands of the Advocate
General and direct
the preparation of a
draft Law to repeal
Regulation I of 1819 and
modify Regulation XXV
of 1802 to the extent that
may be required to
affirm and Confirm
such alienations

1/1
~~W. B. Pitt~~
W. B.

N^o 560 - 6 May 1874.

Pres. Prop. Bd. Rev. No 4657

2/9 & 20/7/74.

The acting Chief Secy (after consult: with

The Govt resolve to request the Advocate General) to prepare & bring in a Bill in the Legislative Council, for repealing Reg. I of 1819 (so as not to revive any enactment it rescinds) except so far as it provides "for preventing fraud, corruption or error, in the distribution of the public assement."

2. The object of the Bill proposed is, it will be seen, Sec (1) to give relief to Zamindars by enabling them to procure a proportionate deduction from their peschew, in those cases where their claim to resume alienated lands on the same being of less extent than one entire village or dependant hamlet - is barred by the Act of Limitations; (2) to secure alienees of such lands against a Revenue Sale for arrears due by the Zamindar. It is understood, of course that, unless both parties join in applying for it, no such assement will be made by the collector of the district, except under the decree of a competent Court. L.H.P. Jan 4/74.

I do not concur,
for the reasons
stated in my
previous note.

J.D.S.

Mb
25/11

