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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.G.O. No. 10Press
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Revenue. (1884)

Department.

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PRESS OF

G.O., No.

Dated 8- 84

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[Date]

Summ. 2.1 for 1884

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue, dated 17th September 1883, No. 2789 :—

Read—the following Memorandum by H. G. TURNER, Esq., Acting Collector of Vizagapatam, dated 9th March 1883; and endorsement by M. HAMMICK, Esq., Assistant Secretary to Government, dated Ootacamund, 13th October 1883 :—

The want of an enactment like the Encumbered Estates Act now in force in Scinde (XX of 1881) and other provinces of India is much felt in this district. The district chiefly consists of permanently-settled Zamindaris and Proprietary estates. These Zamindars and Proprietors are generally very extravagant. As they are possessed of large estates, the money-lenders are always ready to advance them money with the ulterior object of getting into their hands the estates or portions of them.

2. Already the undermentioned estates are more or less heavily involved :—

- | | |
|---------------|-----------------|
| (1) Mádugula. | (4) Chemudu. |
| (2) Sálúr. | (5) Pachipenta. |
| (3) Uratla. | |

3. Of these, Mádugula, Uratla and Pachipenta are so heavily encumbered that it is utterly impossible for the hereditary owners thereof to recover them from their present embarrassed condition. Many of the villages of the two latter estates have been sold by the Civil Courts and transferred to the money-lenders. Even the portions that now remain in the hands of the hereditary owners are still heavily encumbered.

4. The Sálúr Zamindar being unable to redeem the estate from its present difficulties has requested the Government to manage the estate on his behalf. The debt on this estate when it was made over by the Court of Wards to the present young Zamindar in 1880 was Rs. 60,000. During these two years, from mismanagement consequent on the incompetency of the Zamindar, the debt has been enormously increased. It now amounts to over Rs. 2,70,000. The number of creditors is more than 25. All the debts are now overdue. The creditors are all clamouring for repayment. It is impossible for Government to satisfy, out of the surplus revenue of the estate, the claims of all these creditors at one and the same time. There is nothing to prevent these creditors from filing suits and taking out execution. The result will be the dismemberment of the estate, which is inexpedient on political and other grounds. Without an Act like the Encumbered Estates Act, it is hardly possible for Government to set matters right in regard to this estate.

5. Further, there is nothing to prevent the Zamindar from incurring fresh liabilities while the estate continues under Government management. What good can result to the estate by Government management if the Zamindar can incur fresh liabilities on one hand while the Government are clearing off the debts on the other? Now Government hold the estate under a power of attorney given by the Zamindar. They are thus only his agents and, so far as I can see, there is nothing to prevent him from collecting the rents of the estate on one hand, while Government are collecting on the other. The Zamindar no doubt promises to abstain from incurring fresh liabilities or from collecting rents from the ryots. But the Zamindar is so timid that he is unable to refuse to sign any paper that may be placed before him by his mother or by her hangers-on. Government cannot prevent him from signing fresh bonds for real or imaginary debts, or from signing receipts for rents collected from ryots. The Encumbered Estates Act in force in other provinces provides for all these difficulties. It renders the Zamindar, while

the estate continues under Government management, incompetent to incur fresh liabilities or to give receipts to the ryots for rents. It divests the Civil Courts of power to entertain suits against such estates and gives power to Government to settle the claims of the creditors.

6. The Chemudu estate has been under usufructuary mortgage for a heavy debt, and it is now in the hands of the mortgagee.

7. If it is the wish of Government that the permanently-settled estates should be preserved intact, it is highly desirable that the provisions of the Encumbered Estates Act in force in other provinces of India should be extended to this presidency. Such an enactment will not only save the estates already on the verge of ruin, but the very fact of the existence of such an enactment will be enough to save many an estate from becoming encumbered. The very knowledge of the existence of the Act will operate as a wholesome check on money-lenders and its provisions need seldom be enforced.

8. It is true that when an estate becomes encumbered from the extravagance of its holder, he ought to suffer the consequences of his own imprudence. But two considerations outweigh this—firstly, the ancient Zamindaris are of the nature of estates-in-tail. The Zamindar has no more than a life-interest. It is not right that the successor should suffer the consequences of his predecessor's folly and be rendered unable, on account of the debts contracted by his predecessor, to perform the proper function of a landlord, to the detriment of the interests of himself and of the people committed to his charge; secondly, it is desirable that these estates in a district like this should, on political considerations, be preserved in the hands of the descendants of the ancient families. Many of these estates spread into the hills, and there is much danger of an outbreak when the hillmen are subjected to the exactions of some low-country usurer. I have brought the necessity of this measure to notice on one or two occasions in letters to the Board of Revenue, and all that is wanted is discussion of the measure by officials of experience to determine whether or not the Legislature should take the action I propose.

Transferred to the Chief Secretary to Government for disposal.

(By Order.)

GOVERNMENT HOUSE,
OOTACAMUND,
7th April 1883.

(Signed) A. AWDRY, Captain, R.E.,
Private Secretary.

No. 773.

Referred to the Board of Revenue for remarks.

(By Order.)

OOTACAMUND,
17th April 1883.

(Signed) M. HAMMICK,
Acting Assistant Secretary.

Resolution—dated 17th September 1883, No. 2789.

With the above communication, the Government forward for the remarks of the Board a memorandum submitted by Mr. Turner, Acting Collector of Vizagapatam, to His Excellency the Governor, during his late tour, advocating the enactment of a law, similar to the Encumbered Estates Act in force in Scinde and other provinces of India, for the protection of the Zamindars of his district. In connection with his proposals for extricating the Zamindar of Sálúr from his pecuniary embarrassments, Mr. Turner had brought this subject to the Board's notice, but they did not consider that there were in the circumstances of the particular case sufficient grounds for advising Government to take legislative action in the matter. Mr. Board's Proceedings, dated 2nd April 1883, No. 914. Turner, however, was informed that he was at liberty to address them again on the subject in a separate communication, explaining fully his reasons for the exceptional legislation advocated by him.

2. In his memorandum now before the Board, Mr. Turner states that the Vizagapatam district consists chiefly of Zamindaris and Proprietary estates; that the Zamindars and Proprietors of these estates are generally very extravagant and at the mercy of money-lenders who readily advance them money with the view eventually of getting possession of their estates or portions of them; that many of the estates are already very heavily encumbered and likely soon to fall to pieces; that it is impossible for the hereditary proprietors of the estates to rescue them from their embarrassed condition; and that if it is the wish of Government that permanently-settled estates should be preserved intact, it is highly desirable that the provisions of the Encumbered Estates Act in force in other provinces of India should be extended to this presidency.

3. The Board have given very careful consideration to this important question, but are unable to give their support to Mr. Turner's proposal. If, as he puts it, it is the wish of Government that permanently-settled estates should be maintained in the hands of Zamindars, in spite of their reckless extravagance, there can be no doubt that an Act like the Scinde Encumbered Estates Act (XX of 1881) would enable the object to be attained very effectually; for the moment the Act is applied to any estate the proprietor becomes legally incompetent to manage it; the operation of the Civil Courts in regard to all transactions connected with it is suspended; and the Collector acquires plenary powers to settle the debts in such manner as he may deem proper and to keep the estate under his management till the debts are liquidated. It is evident, however, that the very drastic character of the remedy would need an altogether exceptional state of circumstances to justify its application. The ruin of ancient families, as indeed of all families which have for any length of time occupied distinguished and influential positions, however brought about, is always a circumstance which for the moment naturally excites much sympathy and commiseration, but such special legislation as that proposed must have for its justification some paramount necessity and not merely a transient, and perhaps false, sentiment. Setting aside then the consideration due to ancient families as such, the question of legislation may be viewed in four aspects, viz., in its effect (1st) upon the Zamindars for whose protection it is intended; (2ndly) on persons who have lent, or may hereafter lend, them money; (3rdly) on the condition of the ryots on their estates; and (4thly) as a measure of political necessity for the safety of the State; and the Board consider that, so far as this presidency is concerned, in none of these respects is the proposed legislation called for.

4. As regards the first point, it must be observed that the Hindu law of equal division of inheritance among children applies to all Proprietary estates and Zamindaris excepting ancient estates of an impartible character, and eventually the dismemberment of all permanently-settled estates with the above exceptions, cannot be arrested though it may be stayed off for a time by legislation of the kind proposed. Moreover, even in regard to ancient estates, it is difficult to say that the rule of primogeniture always applies. In the case of the large and ancient Zamindari of Núzvid, which was supposed to be governed by the rule of primogeniture, the Privy Council recently decided that it was not so, and that the ordinary law of equal division of inheritance applied. Nothing, therefore, short of an enactment strictly entailing permanently-settled estates on the eldest branch of the family, or in tail male would prevent their being broken up; but such a law, besides revolutionizing the Hindu law of inheritance and depriving the junior members of the family of their just rights, would be in direct opposition to the terms of the sanads on which the estates are held and of Regulation XXV of 1802, the professed object of which was to confer on Zamindars rights of full proprietorship with liberty to alienate or transfer their estates or portions of them, provided the exercise of such rights was not inconsistent with the provisions of Hindu or Muhammadan law.

Vide Selections from the Despatches of Sir Thomas Munro by Sir Alexander Arbuthnot, Vol. 1, pages 117, *et seq.*

Sir Thomas Munro during his Governorship advocated the passing of an entail regulation for preserving ancient Zamindaris intact; but, probably in view of difficulties in determining to what estates the law should be made applicable, the project was abandoned. The law of entail, the Board believe, has elsewhere been found to be not altogether beneficial to the interests of the general public, and the

tendency of modern legislation has been to confine it within the narrowest possible limits. Without a law of entail, however, a Zamindar cannot be restrained from selling portions of his property, and if he can sell them, it is difficult to see why he should be restrained from charging or encumbering them. The Board consider that where the sole cause of a Zamindar's difficulties is, as is almost always the case, his profligate extravagance, the Government only aid, abet, and encourage that extravagance by interposing to protect him from the natural consequences of his misconduct, for no other reason than that he is a Zamindar. Such interposition, when it takes place in pursuance of a settled policy, must, in the long run, have the effect of weakening the sense of responsibility in Zamindars to manage their estates efficiently, give rise to constant appeals from them to Government to extricate them from their difficulties by relieving them of the management of the estates which they have brought to the verge of ruin, and necessitate their being continually maintained in a state of tutelage. Of the five estates mentioned in Mr. Turner's memorandum as being heavily encumbered, Mádugula is under the management of the Court of Wards, who are doing their best to put its affairs in order, and Chemudu was, until lately, also in their charge. Sálúr was, for a long time, under the management of the Court of Wards and was handed over to the Proprietor only in 1879 with a cash balance of Rs. 15,000, after paying all debts except a sum of Rs. 60,000 repayable by instalments, and the Zamindar, in the course of three years, has not only managed to spend the whole of the cash balance in addition to the annual income of the estate, but to run into debt to an amount exceeding two lakhs of rupees. The Uratla estate was, with the consent of the Proprietor, managed by the Collector with a view to extricate him from his difficulties, with the result that a considerable portion of the Zamindar's debt was paid off and the estate was handed back to him on his giving an assurance that he would manage it properly henceforward, yet, since it was given over to him, his debts have again accumulated. These examples show that when Government, after years of assiduous nursing, succeed in putting the affairs of an estate into order and hand it back to the owner tolerably free from liabilities, there is no guarantee that he will not relapse into his former habits of extravagance and plunge the estate once more into difficulties. There is now, at least, the wholesome fear among Zamindars that they will in the end have to suffer the consequences of their inefficient management, however insufficiently that fear may operate in most cases, but when once it is declared, as a matter of settled policy, that however reckless their conduct may be the Government always hold themselves in readiness to shield them from the consequences of their folly, there will not be any incentive whatever to future amendment. Mr. Turner admits that when an estate becomes encumbered from the extravagance of a Zamindar, he ought to suffer the consequences of his own imprudence, but remarks that an ancient Zamindari is of the nature of an estate-in-tail; that the Zamindar has no more than a life-interest in it, and that it is not right that the successor should suffer the consequences of his predecessor's folly, and be rendered unable, on account of the debts contracted by him, to perform the proper functions of a landlord, to the detriment of the interests of himself and of the people committed to his charge. The law in regard to impartible Zamindaris, as laid down in recent decisions, appears to be that a Zamindar has only a life-interest in his Zamindari, and that his debts are not binding on the reversioner unless contracted for the benefit of the estate, excepting when the reversioner is a son, in which case the debt is binding if it was not contracted for immoral or illegal purposes. Doubtless, when the son succeeds to the property of his father burdened with debts, he is at a disadvantage, but of this he can hardly complain, as it is the operation of the same Hindu law which gives him the reversionary interest in the estate, while at the same time it imposes restrictions upon the reversion which greatly neutralize its value by making it subject to payment of debts. The question whether, when, irrespective of the rights of the reversioners, a Zamindar so grossly neglects the duties of a landlord as to impoverish his tenantry, he should not be compelled to perform his duties, is a separate one and not connected with the proposed legislation.

5. As regards the effect of the proposed legislation on persons who have lent money to Zamindars, their interests are in a great measure sacrificed to those of the

latter, as the payment of their claims may be indefinitely postponed under the settlement made by the Collector. The persons who lend money are not always professional money-lenders, for in some of the very cases above referred to, large sums have been lent by other Zamindars; nor is it the case that all money-lenders are usurers and profit by driving unconscionable bargains with confiding Zamindars. Mr. Turner considers that the very existence of an Encumbered Estates Act, by diminishing the credit of the Zamindars and their facilities for borrowing, will render its frequent application in practice unnecessary. So long, however, as Zamindars are not actually prohibited from borrowing, a more probable result of putting the Act in force occasionally would probably be to drive the more respectable money-lenders out of the field and place the Zamindars at the mercy of the lowest class of usurers, who would take to money-lending as a gambling speculation, and, in view of the uncertain character of the security offered, would impose harder conditions on their debtors than ever.

6. Adverting to the question whether the proposed legislation is necessary in the interests of the ryots of the Zamindaris, the Board do not find that the Zamindari system is possessed of such intrinsic merits as to deserve to be perpetuated at all hazards. The evidence available is entirely the other way. The inquiries instituted into the working of the Zamindari system in Rajahmundry district by Sir H.

* G.O., 14th April 1846, No. 432.

† G.O., 29th March 1849, No. 310.

Montgomery in 1845,* and again by Mr. Walter Elliot in Guntúr in 1847,† disclosed flagrant abuses, and though with the general improvement of the

country, the condition of the ryots in the Zamindari tracts has also improved, this state of things has been brought about, not in consequence of the good management by Zamindars of their estates, but in spite of their oppressive and inefficient administration. The Zamindars have done little or nothing to improve the condition of the large tracts of country committed to their care; in most cases, the irrigation works in these tracts have been neglected and are in a disgraceful state of disrepair, while the village servants who have been placed under their control have not been maintained in a state of efficiency. The large incomes derived from the estates are squandered away in incessant litigation or dissipation or wild extravagance, and when the tenantry have to suffer the effects of adverse seasons, their landlords, the Zamindars, are neither able nor willing to assist them. In passing

G.O., dated 14th April 1846, No. 432. orders on Sir H. Montgomery's report, the Government remarked in connection with the estates sequestrated for arrears of peshkash: "Upon a careful consideration of the Commissioner's report, the Most Honorable the Governor in Council can see no ground to believe that if these estates are restored to the possession of the Zamindars, such an alteration in their character and habits, and such an improved system of management, will take place, as will secure justice to the ryot and prosperity to the district. On the contrary, he has the strongest reason to conclude that, even should the peshkash be greatly reduced, the same results now brought to notice would again be manifested on the occurrence of adverse seasons, droughts and other difficulties. With these views, His Lordship in Council concurs generally in the opinion expressed both by the Commissioner and the Board, that it is not advisable to perpetuate the Zamindari system in the Rajahmundry district, and that attention should be immediately and steadily directed to the introduction of a system which shall foster and protect the interests of the ryots themselves, and consequently that when such estates fall into arrears, they should be brought to sale under the provisions of the law and purchased on account of Government." The Court of Directors also, with reference to Mr. Walter Elliot's report on the

G.O., 29th March 1849, No. 310.

Guntúr Zamindars in 1847, observed that it "places beyond doubt that the

Zamindars of Guntúr wasted, in a long continued course, their extravagance, litigation and excess, not only those legitimate resources of their estates which formed the basis of the permanent settlement, and which, as we have stated, were amply sufficient to meet the occasional occurrence of calamitous seasons, but the large additional sums which they are proved to have extorted under various pretences from the ryots." Further on they wrote thus: "In your future arrangements

connected with these districts, we would impress on you the expediency of a stricter application of the sale law for the recovery of arrears of revenue. The leniency which has hitherto been practised in this respect has subjected the Government to great losses, without, as we believe, any real benefit to the Zamindars who have been thus favored. Its usual effect has been merely to avert for a time the dispossession of the Zamindars, whose estates it has ultimately been found necessary to bring to sale, burdened with increased balances. In all ordinary cases where estates known to be moderately assessed fall into arrears, except perhaps in the instance of some of the Hill Zamindaris, which could not be conveniently managed by our officers, the provisions of the law should be enforced. The practice of pensioning dispossessed Zamindars—a practice almost if not altogether unknown under the Bengal Presidency—must be discontinued, and you should prohibit all interference in arranging the private debts of Zamindars on the part of the officers of Government, whose whole time and attention should be devoted to their proper duties connected with the revenue administration of the country." The Board do not consider that anything has occurred in later years which necessitates a departure from the policy thus laid down by the Court of Directors. There is no reason to suppose that if money-lenders should get possession of portions of Zamindaris, the ryots would fare worse under them than under the present Zamindars. Money-lenders are generally shrewd men of business and quite alive to their interests, and if perhaps less indulgent in the exaction of their dues are likely in their own interest not to allow the affairs of their estates to get into inextricable confusion.

7. Lastly, it is stated that the proposed legislation is necessitated by political considerations. The Board question the existence of any such political necessity. They fail to see what service Zamindars have rendered to Government or to the people that they should be maintained in spite of themselves and their follies, or what danger they can threaten that would make it politic to maintain or to conciliate them. Estates as old, if not older and as great as those of Vizagapatam, have disappeared from the Zamindari rolls of other districts in the Northern Circars, but their disappearance caused no convulsion, and scarcely a regret among the people with whom their proprietors had lived. Mr. Walter Elliot, in connection with the resumption of Zamindaris in Guntur in 1847, wrote as follows: "My own experience of the sentiments of the people of the district does not confirm the opinion expressed by the Board of Revenue that the assumption of the estates by Government would be generally unpopular. On the contrary, the best and most respectable individuals whom I met with declared their anxiety to be placed under a permanent system of administration that would protect them from the vexatious interference of the renting system, and from the exactions and oppression under which they had so long suffered. As for feelings of attachment to the persons or families of the Zamindars, I could not discover that any such existed beyond the range of their immediate followers." This was written more than thirty-five years ago, and since that time the change that has taken place in the circumstances of the country has had the tendency of weakening rather than strengthening any remnant of feudal feeling which might then have existed. The circumstances of this presidency, in which the Zamindars have for upwards of a century been deprived of military power and civil and criminal jurisdiction, are entirely different in this respect from those of Scinde, Oude, and other provinces of India, which within the memory of the existing generation were governed by petty independent chiefs.

8. The Board are aware that exceptional arrangements may occasionally be found necessary in reference to Hill Zamindaris in the Agency Tracts, but such cases must be dealt with specially as they arise and not form the basis for general legislation. When it is expedient to interfere in the affairs of such Zamindaris, Government can always do so by granting a loan to the Zamindar for the liquidation of his debts and taking a mortgage of the estate, as has been done in the case of the Ramnad Zamindari. In regard to other estates also the Collector can, in exceptional cases, interfere under the provisions of the Code of Civil Procedure relating to the execution of decrees. The Code recognizes a distinction between cases in which the debts sought to be enforced against an estate are specially charged against it and cases where they are not, and in the latter event enables the Collector to intervene to save,

if possible; landed property from being inconsiderately sold for the satisfaction of simple debts. This seems to be the utmost limit to which protective legislation can be carried. Government already do a great deal in an indirect way to enable Zamindars to manage their estates efficiently. In calamitous seasons they suspend the collection of the peshkash, and when estates come under the management of the Court of Wards they endeavor to put their affairs in order and to educate the Zamindars in their duties. If, notwithstanding these advantages, the Zamindars are unable to hold their ground, the Board consider that so far as policy is concerned it is the highest political wisdom to oppose no artificial obstacles to their decay. If special protective legislation is to be undertaken it must rather be in the interests of neglected tenants than in those of wasteful landlords who have abused their position and influence.

9. In conclusion the Board would draw the attention of Government to the suggestion contained in their Proceedings, dated 7th March 1879, No. 618, in regard to the appointment of a Commission to inquire into the neglected condition of irrigation works in Zamindaris, the state of village establishments, &c., and to devise measures to compel Zamindars to perform the duties they owe to their tenantry.

(A true Copy and Extract.)

(Signed) J. A. DAVIES,
Acting Secretary.

To the Chief Secretary to Government, Judicial Department, with Government Reference returned and with copies of Board's Proceedings, 7th March 1879, No. 618, and 2nd April 1883, No. 914.

Copy to the Collector of Vizagapatam.

Endorsement, No. 2011.

Transferred to the Revenue Department.

ORDER—dated 8th January 1884, No. 10, Revenue.

Miscellaneous.

The Government concur in the opinions expressed by the Board of Revenue in the resolution recorded above.

2. The matters referred to in paragraph 9 are now under the consideration of Government and orders will be issued shortly.

(True Extract.)

(Signed) E. S. LAFFAN,
for Secretary to Government.

To the Board of Revenue.
,, the Judicial Department.
,, the Director of Revenue Settlement and Agriculture.
,, the Public Works Department, Irrigation Branch.

Exd. W. H. French.

100 Copies.

Original

Govt. of (1884) Madras.

REVENUE.

Original

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Encl.

G.O., 8th January 1884, No. 10.

JANUARY.

Encumbered Estates Act.

Board's opinion that the proposed extension of the — of other provinces of India to this presidency is not desirable, concurred in.

No. 618.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th March 1879.

Read the following file of replies to Board's Proceedings, dated 28th March 1876, No. 851:—

Letter from the Collector of Ganjam,	dated 11th June 1877, No. 1,956.
" " " of Vizagapatam,	" 28th Oct. 1876, " 1,524.
" " " of Godavari,	" 2nd June " " 151.
" " " of Kistna,	" 14th Sept. 1877, " 1,993.
" " " of Nellore,	" 16th Nov. 1876, " 3,214.
" " " of Cuddapah,	" 19th Sept. " " 238.
" " " of Bellary,	" 27th Aug. 1877, " 681.
" " " of Kurnool,	" 7th July 1876, " 304.
" " " of Madras,	" 28th " " " 252.
" " " of Chingleput,	" 20th June " " 374.
" " " of North Arcot,	" 17th Aug. " " 387.
" " " of South Arcot,	" 26th July " " 327.
" " " of Tanjore,	" 24th Jan. 1877, " 287.
" " " of Trichinopoly,	" 15th June 1876, " 161.
" " " of Madura,	" 12th Aug. " " 300.
" " " of Tinnevely,	" 8th July " " 431.
" " " of Coimbatore,	" 10th June " " 117.
" " Commr. of the Nilgiris,	" 9th " " " 32.
	recorded in Board's Proceedings, dated 7th March 1879, Mis. No. 2,224.
" " Collector of Salem,	dated 15th Nov. 1876, No. 301.
" " " of South Canara,	" 15th " " " 2,127.
" " " of Malabar,	" 25th Aug. " " 226.

In their Proceedings, dated 8th September 1871, No. 3,876, the Board called attention to the judgment of the High Court in Special Appeal No. 9 of 1870, and urged upon Government the necessity of obtaining an enactment affirming in unmistakable terms the right of occupancy possessed by Zemindari ryots, and in G.O., dated 13th March 1876, No. 366, the Government called on the Board to enquire and report whether the results anticipated by the Board had ensued and to what extent. The replies received from District Officers on the subject will now be forwarded for the information of Government. Many of them comprise discussions at considerable length as to what the respective rights of Zemindars and their ryots really are, but as the object of the Government in making this reference was merely to ascertain facts with regard to the operation of the judgment in question, these discussions will be but briefly noticed in the remarks which will be made below.

2. The Collectors of all districts except Ganjam, Vizagapatam, and Nellore report that the ruling in question has had no effect in their districts. Most of these Collectors and officers consulted by them incline to the opinion that this is mainly owing to the decision of the High Court in the case in question not being widely known, but as a matter of fact nothing has as yet resulted from it to the detriment of the ryots.

3. Mr. Grahame when Acting Principal Assistant in charge of Ganjam is unable to cite any instance of an ejectment which can be attributed to the judgment of the High Court in the case referred to, but alludes to general complaints of extortionate practices brought against the Zemindars of Chikati and Kallikot in 1875 as showing

that the decision has had the effect of emboldening landholders successfully to enforce arbitrary terms upon their tenants, and of paralyzing the efforts of the tenants successfully to resist the demands of the landholders. In the case of the Chikati Zemindar, however, there seems to have been a thorough reconciliation between the Zemindar and the ryots after the death of the Diwan, and Mr. Davidsen, who was Collector of Ganjam when the complaints against the Kallikot Zemindar were preferred, regarded the ryots' claims as unreasonable and out of the question.

4. From Vizagapatam there is a general *consensus* of opinion that no ryot can now successfully contest a suit of ejectment. Some hold that the decision in question changed the law, others that it merely gave legal sanction to the previously existing practice, but amongst the many Revenue and Judicial Officials, Zemindars and Diwans consulted by the Collector there is not one who expresses an opinion that the effect of the decision has been other than disadvantageous to the position of the ryot. The Acting Senior Assistant Collector writes, "since the ruling has rendered it clear that tenants have no occupancy rights, the Civil Courts are extensively resorted to, and the present practice is to pass a decree of ejectment on proof that the term of the putta has expired," and this statement of the existing state of affairs seems to be fully borne out by the other testimony adduced.

5. From Nellore the Collector reports that he does not learn that the tenure of

* Regular Appeal No. 21 of 1873.

" " " 29 " "

lands generally has been rendered precarious by the ruling, but two cases* are cited in which it is stated that a decree in favor of the Zemindar of Kalahasti was specifically based on the High Court's decision in question. Copies of the District Court's judgments in both cases are forwarded. In only one of these, viz., Regular Appeal No. 29 of 1873, do the Board find any allusion to the decision, but the case is an important one as it appears that under the High Court's ruling the District Judge, though expressing much regret, considered himself to be bound to decide against a tenant of seventy-three years' standing on the ground that his lease was clearly from year to year, determinable at the close of any particular fasli.

6. It will thus be seen that it is only from three districts that the decision of the High Court in question is reported to have led as yet to the results anticipated by the Board. As regards Ganjam the connection between the cases cited and the High Court's decision is not very clear; in Nellore, though the ruling has as yet had no general effect, it has received judicial notice in very decided terms; and in Vizagapatam it seems to be generally conceded that the decision has in effect dealt a death-blow to the hopes of the party who contended that the Zemindary ryot was not a mere tenant-at-will.

7. The Collector of Cuddapah remarks that, as there was a special contract in the case in question, he doubts whether the ruling goes so far as to lay down that every tenant can be ousted at the caprice of his landlord, and the same view is advocated at great length by the Diwan of Venkatagiri. There is no doubt much truth in this view, but it seems to be clearly established that wherever the judgment has been relied on by landlords it has had the practical effect of rendering the tenant's position much less secure. Perhaps this might be counteracted by getting a well-selected case brought under the judicial cognizance of the High Court, as suggested in paragraph 31 of the Diwan's letter, and Collectors might be instructed accordingly, but local customs differ greatly and a really representative case may not be easy to find. The Board incline to think that the whole question of the relations of Zemindars as landlords stands at present on a very unsatisfactory footing, and that the sooner the difficulty is faced and dealt with in a thorough and efficient manner the better for all parties concerned.

8. The questions of their relations to their tenants, of their liabilities in times of pressure and famine, of their responsibilities as regards keeping up public works† on which the well-being and indeed the lives of numbers depend, of the status of village officers in Zemindaries, of the

† G.O., Public Works Department, dated 10th September 1878, No. 722-1.

maintenance of village accounts and collection of statistics, each and all of these questions seriously demand attention, and the Board do not see that it can be efficiently given unless an officer or a commission is specially deputed for the enquiry. In their opinion the subject is large enough and important enough to render such a course most desirable.

(A true Extract.)

(Signed) J. STURROCK,
Acting Secretary.

(True Copy.)

(Signed) C. SIVASANKARA MOODELY,
for First Assistant.

To the Secretary to Government, Revenue Department,
with a file of replies, and copy of Board's Procs., 7th March 1879, Mis. No. 2,224.
.. all Collectors.

Exd. A. Grubert.

PROCEEDINGS OF THE BOARD OF REVENUE.

READ—the following letter from H. G. TURNER, Esq., Acting Collector of Vizagapatam, to the Secretary to the Board of Revenue, dated Vizagapatam, 15th January 1883, No. 60:—

With reference to the Proceedings of the Board of Revenue, No. 9390, Miscellaneous, dated 2nd* December 1882, I beg to enclose, for the perusal of the Board of Revenue, a translation of the power of attorney given me in my official capacity by the Zemindar of Sálúr. In their telegram, dated 23rd November 1882, the Government simply stated that they sanctioned my recommendations regarding the Sálúr estate. I at once communicated this to the Zemindar who was very anxious to know the orders of Government. He was in such a great hurry to hand over the estate to Government that immediately on receipt of my letter he came down to Vizagapatam and executed this power of attorney and registered it. In these circumstances, I regret I was not able to submit the draft of the power of attorney for the previous approval of the Board of Revenue. In drawing up this document the provisions of the Scind Encumbered Estates Act have been followed. I am not sure that all the terms of this document can be enforced in a Court of Law; but I am certain that the insertion of them in the power of attorney will act as a deterrent against the Zemindar from incurring further liabilities and against sowcars making him advances while the estate remains under Government management.

2. The case of this estate strongly demonstrates the great necessity for extending the Encumbered Estates Act to this Presidency, and I respectfully beg to take this opportunity of suggesting that Government be moved to take steps in the Legislative Department to supply this desideratum.

3. With reference to the power of attorney executed by the Zemindar, I have assumed the charge of the estate, and I have now the honor to submit my proposals for its future management.

4. The estate consists of 104 Zerayati villages, 37 Inam, 24 Mokhasa and 9 Talab Divani villages.

5. The demand of the estate is Rs. 1,21,995, or Rs. 1,15,945 exclusive of the rents of certain lands, amounting to Rs. 6,050, allotted for the maintenance of the members of the Zemindari family, but nominally included in the beriz of the estate. Deducting again from the above figure a further sum of Rs. 4,173, being the rent of villages in the possession of the mortgagees, the net demand amounts to Rs. 1,11,772. Out of this Rs. 1,07,000 will probably be collected within the fasli. This is a rough estimate not based on any reliable data. The estate was under the Zemindar's

1879.
Board of Revenue,
MADRAS.

To
THE SECRETARY TO GOVT.,
REVENUE DEPARTMENT,
&c., &c., &c.

Dated March 7th.
Printed 18th.

Received

PROCEEDINGS, 7TH MARCH 1879, No. 618.

MARCH.
No. 618.

Ejectment of Tenants by their Landlords.—
Forwarding to Government reports from Collectors on the effect of the ruling of the High Court in Special Appeal No. 9 of 1870 regarding —.

management in Faslis 1289, 1290 and 1291, but there are no accounts which show what the actual collections were during each year. There appears to be a large balance, amounting to about Rs. 32,000, outstanding against the ryots, but from what villages or from what tenants it is due nobody can tell. It is thus clear how badly the estate has been managed during the last three years. I shall try my best to obtain the necessary particulars regarding the heavy balance as early as possible. Taking the probable collections to be Rs. 1,07,000 as stated above, I would allot this sum as follows:—

(1.) Allowance to the Zemindar at Rs. 1,000 per mensem ..	Rs. 12,000
(2.) Charges of establishment for the management of the estate ..	3,000
(3.) Repairs to irrigation works ..	5,000
(4.) Do. to buildings ..	1,000
(5.) Allowance to other members of the family ..	4,000
(6.) Peishcush ..	30,000
(7.) Quit-rent ..	2,650
(8.) Land-taxes ..	8,420
(9.) Law charges ..	2,000
(10.) Unforeseen charges ..	1,000
(11.) Annual interest on debts ..	19,000
(12.) Amount to be paid in liquidation of the principal ..	10,000
(13.) Balance ..	2,930

Total .. 1,07,000

6. The Zemindar asks for an allowance of Rs. 1,000 per mensem, or Rs. 12,000 per annum, besides the charges of his private establishment and of his live-stock. If the estate were managed by the Court of Wards he would not be entitled to more than 10 per cent. of the permanent Jamina, or Rs. 3,600 per annum = Rs. 300 per month. Until Fasli 1288 the estate was under the Court of Wards' management and the Zemindar was then paid Rs. 600 per mensem, or Rs. 7,200 per annum. This sum included the charges of his private establishment and of his live-stock. He had not then however such a large amount of live-stock or such large private establishment as he now has. His private establishment consists of over 200 men, costing Rs. 463½ per mensem, or Rs. 5,559 per annum. This is in my opinion an unnecessarily large establishment, especially in the present embarrassed state of the estate. I will see that it is reduced to the lowest possible amount consistent with the dignity of the Zemindar. The live-stock of the Zemindar consists of two elephants, twelve horses, ten cows, five she-buffaloes, two heifers, and six calves, and costs him Rs. 100 per mensem, or Rs. 1,200 per annum. I will try to persuade the Zemindar to dispose of the elephants and some of the horses, most of which are, I hear, useless animals. To cover however all the above three items, I would, for the present, give the Zemindar a monthly allowance of Rs. 1,000—100 for charges of live-stock—300 for salaries of private establishment and 600 for his own maintenance. The Zemindar will, I believe, agree to this proposal.

Item II.—Mr. G. H. A. Meppen was employed last year by the Zemindar as his Manager on a salary of Rs. 150 per mensem, with travelling allowance at Rs. 3 per diem, and free quarters and free conveyance. The Zemindar likes him, and has even written to me to raise his pay to Rs. 250 or Rs. 200 in the reorganization of his establishment by me. But I doubt whether the financial condition of the estate will admit of the employment of a separate manager on such a large pay as Rs. 150 per mensem. Mr. Meppen does not know Telugu, and if he is retained as a Manager, it is most essential that he should be provided with a well-paid Sheristadar or Head Clerk. To secure the services of a competent and trustworthy man a salary of at least Rs. 50 per mensem must be paid. If, on the other hand, the management of the estate is entrusted to the Deputy Tahsildar at Sálur as is now done in the case of the Merangl estate, which is administered by the Deputy Tahsildar of Párvatipur, a remuneration of Rs. 50 per mensem will be quite sufficient for him and the Sheristadar

on Rs. 50 is unnecessary. The Deputy Tahsildar is an officer of influence in the taluk. The people will have more regard for him than for a separate manager. Further the Deputy Tahsildar and his establishment will be more directly under the control of the Collector. The magisterial file of the Sálur Deputy Tahsildar is light, and he can discharge the duties of a manager without prejudice to his ordinary work. He will not have more work when the management of the estate is entrusted to him, than a last-class Tahsildar in a ryotwari district. When the estate was lately under the Court of Wards the management was entrusted to a separate manager on a salary of Rs. 150 per mensem; but the arrangement proved a failure. In the subjoined statement the cost of management (1) under a separate manager and (2) under the Deputy Tahsildar is compared with the cost of the Zemindar's present establishment as well as with the cost of management while the estate remained under the Court of Wards.

Zemindar's present Establishment.

Description of Office.	Monthly Pay.			Annual Cost.		
	RS.	A.	P.	RS.	A.	P.
1 Manager on Rs. 150 per mensem ..	150	0	0	1,800	0	0
1 Sheristadar " 37½ " ..	37	8	0	450	0	0
5 Gumastahs " 10 " ..	50	0	0	600	0	0
1 Gumastah " 12 " ..	12	0	0	144	0	0
2 Gumastahs " 6 " ..	12	0	0	144	0	0
7 Do. " 5 " ..	35	0	0	420	0	0
4 Do. " 4 " ..	16	0	0	192	0	0
1 Gumastah " 8 " ..	8	0	0	96	0	0
2 Gumastahs " 7½ " ..	15	0	0	180	0	0
1 Gumastah " 6½ " ..	6	8	0	78	0	0
2 Gumastahs " 3 " ..	6	0	0	72	0	0
16 Peons at 2 rupees each ..	32	0	0	384	0	0
3 Do. at 1½ do. ..	4	8	0	54	0	0
2 Do. at 2½ do. ..	5	0	0	60	0	0
Total ..	389	8	0	4,674	0	0

A. UNDER SEPARATE MANAGER.			B. UNDER DEPUTY TAHSILDAR.		
Description of Office	Monthly Cost.	Annual Cost	Description of Office	Monthly Cost.	Annual Cost.
Manager ..	RS. 150	RS. 1,800	Manager ..	RS. 50	RS. 600
Sheristadar ..	50	600	Head Clerk ..	20	240
Gumastah ..	15	180	Second do. ..	10	120
Do. ..	10	120	Accountant ..	15	180
Shroff ..	10	120	Shroff ..	10	120
Three Revenue Inspectors at 15 rupees each.	45	540	Three Revenue Inspectors at 15 rupees each.	45	540
Eight Peons at Rs. 4 each.	32	384	Eight Peons at Rs. 4 each.	32	384
One Head Peon ..	6	72	One Head Peon ..	6	72
One Sweeper ..	3	36	One Sweeper ..	3	36
Saderward ..	20	240	Saderward ..	20	240
Huzur Clerk ..	25	300	Huzur Clerk ..	25	300
Do. Contingencies ..	4	48	Do. Contingencies ..	4	48
Total ..	370	4,440	Total ..	240	2,880

Establishment under the Court of Wards.

Description of Office.	Monthly Cost.			Annual Cost.		
	RS.	A.	P.	RS.	A.	P.
Manager ..	150	0	0	1,800	0	0
Head Gumastah ..	20	0	0	240	0	0
Two Gumastahs ..	15	0	0	180	0	0
Assistant Gumastah ..	10	0	0	120	0	0
Three Revenue Inspectors at 10 rupees each ..	30	0	0	360	0	0
Shroff ..	6	0	0	72	0	0
Eight Peons at Rs. 4 each ..	32	0	0	384	0	0
Sweeper ..	2	8	0	30	0	0
Saderward ..	24	0	0	288	0	0
Huzur Clerk ..	10	0	0	120	0	0
Guardian ..	299	8	0	3,594	0	0
Pandit ..	30	0	0	360	0	0
	25	0	0	300	0	0
Total ..	354	8	0	4,254	0	0

7. I think the arrangement marked B is the best and the cheapest. If the Board are inclined to keep on Mr. Mcppen, and I think he is entitled to consideration from the Zemindar, who has been mainly guided by his advice in this step of surrendering his estate, I would suggest his being attached to the Zemindar as his personal adviser, receiving a salary from the estate of Rs. 150 per mensem for his services. This would raise the cost of management to that set forth in A, and would afford much comfort to the Zemindar, who should always have some one by him to give him counsel and to protect him from the machinations of the opposite party, which, of himself, he is entirely unable to withstand.

8. When the estate was under the Court of Wards, the Revenue Inspectors were paid at Rs. 10 each. Theirs is a responsible position. Each is entrusted with the supervision of the collections in a third part of the estate, as well as the execution of repairs to irrigation works. They will have to travel constantly and I think Rs. 15 per mensem is the lowest amount that can be paid to an officer of this grade.

9. The Shroff was paid before Rs. 6. There will be only one Shroff here, and I think he must be paid at least Rs. 10 which is the pay of an Assistant Shroff in a Government taluk.

10. The Huzur Clerk was paid before Rs. 10. No competent hand can be secured for this pay. I hear that the former Grmastah used to be paid Rs. 20 from the maintenance allowance of the Zemindar in addition to his pay of Rs. 10. He will have heavy work in the way of preparing papers for filing suits, checking the periodical accounts received from the Manager's office, preparing the Budget estimates and the accounts which should accompany the annual report, and carrying on the correspondence. A competent clerk is therefore required to do all this, and the services of such a hand cannot be secured except on a pay of Rs. 25.

11. *Item III.*—The irrigation works are in very bad repair. A sum of Rs. 5,000 per annum is provided for repairs. In this estate it is the custom for the Zemindar and the ryots to contribute equally to the repairs. If, for instance, a tank is to be repaired at a cost of Rs. 200, Rs. 100 are paid by the Zemindar and Rs. 100 are contributed by the ryots either in money or in the shape of work; the contribution generally taking the latter form. Thus a provision of Rs. 5,000 per annum is tantamount to a provision of Rs. 10,000, which would be sufficient for the present.

11. *Item IV.*—There are very few buildings which require repairs, and so a sum of Rs. 1,000 is considered enough for this purpose.

12. *Item V.*—This is a heavy charge on the estate, as it consumes nearly one-tenth of the gross income. Lands yielding a rent of Rs. 12,869 have been allotted to

the family members. Besides this, a sum of Rs. 5,909 is paid in cash per annum. A portion of this sum is paid to members who are already holding extensive lands for maintenance. Some of the members receiving maintenance are very distantly related to the family. The subjoined statement will show the names of persons who are in receipt of this allowance, and how they are related to the Zemindar.

A.

Names of Towjidars.	How related to the Zemindar.	MAINTENANCE		Remarks.
		In land.	In cash.	
1. Sri Ramabhadra Sanyasiraj. Sri Narayana Sitaramraj ..	Distant cousins of the Zemindar.	RS. A. P. 503 0 0 40 0 0	RS. A. P. 347 0 0	A maintenance of Rs. 850 is payable to these. The land was given during the minority of the Zemindar, about thirty years ago; the land itself now fetches more than Rs. 850. The money allowance may, therefore, be stopped.
2. (i) Sri Narayana Bhajaraju (ii) Sanyasiraj.	No. (i) is the late Zemindar's paternal uncle's grandson, (ii) is the late Zemindar's paternal uncle's son.	3,022 6 0 678 8 0	Nil	
3. Sri Peda Butchiraj and his brother.	Distant cousins of the present Zemindar.	490 0 0 87 0 0	50 0 0	This cash allowance has been already stopped.
4. Sri Peda Pakkiraj ..	Do. do.	474 0 0 68 0 0	..	..
5. Appala Kurmaraj ..	Do. do.	180 0 0	..	..
6. Narayanasiraj, Ramachendraraj, and Sanyasiraj.	Do. do.	301 0 0 37 0 0	..	..
7. Sri Sithayamma Garu ..	Zemindar's father's mother.	110 0 0 211 0 0	240 0 0	All the lands have been alienated by her. The money allowance should, therefore, be continued.
8. Sri Zammadevamma ..	Zemindar's father's step-mother.	63 0 0	120 0 0	She died. Land encroached upon by her son. Cash allowance already stopped.
9. Jagannadha Sanyasiraj ..	Zemindar's paternal uncle.	1,797 10 6	..	..
10. Ramabhadraraj ..	Zemindar's father's step-brother.	212 8 0 28 8 0	787 8 0	Will report further.
11. Sri Narayana Krishnamraj ..	Paternal uncle of the Zemindar.	225 0 0 17 8 0	775 0 0	..
12. Sitaramraj ..	Do. do.	1,830 0 0	..	Paid under Court's Decree.
13. Chikati Ramachendraraj ..	Zemindar's father's paternal uncle.	1 0 0	1,100 0 0	..
14. Mekkura, Jagannadharaj's grandson.	Distant cousin	..	1,050 0 0	The grandfather of the present claimant obtained a decree. The grandson moved the Court to enforce the decree, but the Court declined to accede to his request and referred him to a regular suit. This allowance has been already stopped.
15. Rempilli Sitharamraj ..	Do. do.	1,200 0 0 988 12 8	..	..
16. Lakshmi Narayya Krishnapatta Mahadevi.	Zemindar's mother	300 0 0	1,200 0 0	No claim to maintenance. The cash allowance should be stopped.
17. Prakasa Lakshmi Sarana Bhowju.	Zemindar's maternal uncle's son.	..	120 0 0	..
18. Sri Krishna Devamma ..	Zemindar's paternal aunt.	..	120 0 0	No claim to maintenance. Will report further.
19. Tarla Brundivana Harischandra Suri.	Zemindar's grand-mother's brother.	..	..	..
Total ..		12,869 3 2	5,909 8 0	

13. Considering the encumbered state of the estate, it is but reasonable that these allowances should be reduced to some extent; when, therefore, the same individual is in enjoyment of both land and money allowance, I should stop the latter.

14. *Items VI, VII, and VIII* call for no remark.

15. *Item IX.*—A sum of Rs. 2,000 is provided for law charges. There are many suits to be brought on behalf of the estate and many decrees to be enforced. It is, therefore, necessary that 2,000 rupees should be set apart annually for this purpose.

16. *Item X.*—A sum of Rs. 1,000 is provided for unforeseen charges.

17. *Items XI and XII.*—When the estate was made over to the Zemindar by the Court of Wards at the end of Fasli 1288, there was a debt of Rs. 59,227 against the estate. The present debts amount approximately to Rs. 2,60,368 as particularized below, besides the arrears due to Government, which amount to Rs. 11,069-12-3 :—

RS.	A.	P.	
28,600	0	0	Paying interest, at Rs. 18 per cent. per annum.
20,100	0	0	Do. at „ 15 do.
24,838	0	0	Do. at „ 12 do.
Of this, Rs. 6,200 were borrowed on pledge of jewels.			
40,000	0	0	Paying interest, at 10½ per cent. per annum.
6,500	0	0	Do. at 9 do.
30,000	0	0	Do. at 7½ do.
5,372	0	0	It is not known whether any interest is payable on this sum.
47,068	0	0	Debt which pays no interest, because, when the bond was executed, the future interest was calculated and incorporated with the principal.
Other items which pay no interest—			
557	0	0	Amount due to persons who executed repairs to Irrigation Works but have not been paid.
5,000	0	0	Amount due to a merchant who advanced articles of food on account to the Zemindar. This account will have to be settled. The figure is an estimated one.
7,464	0	0	Arrears of pay due to Zemindar's servants on the public and private establishment.
3,425	0	0	Arrears of allowances due to other members of the family.
31,444	0	0	Interest which accrued on debts which pay interest up to the end of November last.
2,60,368	0	0	
11,069	12	3	Arrears due to Government.
2,71,437	12	3	Grand Total of all Liabilities.

18. The aggregate amount of interest payable per annum on debts is Rs. 19,378 or Rs. 19,000 in round numbers. The number of creditors is more than twenty-five. All these debts are already overdue. The sum available for liquidation of debts, after paying the interest accruing during the year, is Rs. 10,000. Of this, Rs. 5,500, should be paid to the Bobbili Raja in liquidation of a debt for which no interest is payable, unless the date fixed for the payment of the instalment expires, in which case interest should be paid on this sum at 12 per cent. per annum. Thus, only Rs. 4,500 will be available for payment to other creditors. It is impossible to satisfy so many creditors with this small sum. They are all ready to file suits. Some arrangements will, therefore, have to be made to set free a larger amount for payment of the debts, or to consolidate the debt into one lump-sum. I would, therefore, strongly recommend, for the favorable consideration of the Board and Government, that the payment of Peishcush may be postponed for a term of four years. This arrangement will be beneficial both to the Government and to the estate. The Government will get interest at 6 per cent. per annum, and the estate will be a security for the liquidation of the debt. It will be advantageous to the estate, because a debt paying 6 per cent. will be substituted for one paying interest at rates varying from 7½ to 18 per cent. per annum. Further, if I understand aright, Government will take the principal first and the interest afterwards, whereas the private creditors will take the interest first and the principal afterwards. If this is approved, there will be a sum of Rs. 46,000 available for payment of the principal of the debt, besides Rs. 19,000 for payment of the annual interest. In the second, third, and fourth years the amount available for the payment of principal will be increased in proportion to the extent to which the annual interest is diminished. From the fifth year the current demand of peishcush and a portion of the arrears can be recovered, as by that time

almost the whole of the debt will have been cleared off. By this arrangement the estate will recover from its present embarrassed state earlier than under any other arrangement. At present the Zemindar can rescind the Power-of-Attorney at any moment and demand the restoration of the estate; but, under the arrangement above proposed, he cannot do so, unless he is able to pay off all the arrears due to Government. Thus, there will be the certainty of the estate remaining for some years under the management of Government for the good both of the Zemindar and of the ryots. If this arrangement is not approved of, the only alternative is to consolidate the debt by contracting a loan sufficient to pay off all the existing liabilities, at a more favorable rate of interest. The Raja of Bobbili and the Maharani of Vizianagrum are willing to advance the whole sum wanted at Rs. 7½ per cent. per annum on the security of the estate. They want the interest accruing during the year to be paid them at the end of the year and some amount towards the liquidation of the principal.

19. If Government do not approve of the proposal to postpone the peishcush, I request that I may be authorized to contract a loan sufficient to meet the above claims from either of the above two individuals. The Power-of-Attorney gives me power to contract this liability on the security of the estate.

20. The debts due to the estate, amount to Rs. 8,430, the whole of which is secured by bonds. Out of the demand under Ryotwar and Miscellaneous for Fasli 1292, there is still a balance of about Rs. 76,000 outstanding against the ryots, of which about Rs. 70,000 can, I think, be collected before the end of the current fasli.

ENCLOSURE No. 1.—Copy of Translation of Power-of-Attorney given by the Zemindar of Sálúr to the Collector of Vizagapatam.

Reference on the above, dated 2nd March 1883.

The Collector's letter will be referred to the Government Pleader, with the request that he will state whether the Power-of-Attorney executed by the Zemindar is legal, and whether possession of the estate can be retained under its provisions. If the Power-of-Attorney is found to be invalid, it is requested that a draft of a proper Power to be executed may be furnished. The Board presume that the Power-of-Attorney can be revoked by the Zemindar at any moment, and will be glad if any arrangement can be suggested by which the Zemindar will be bound to allow the estate to remain under the Collector's management till the debts are liquidated.

2. Mr. Shephard is requested also to state whether any rules have been passed by the High Court under Act VII of 1882, and whether the Power-of-Attorney can be deposited in the High Court under that Act.

(Signed) E GIBSON,
Acting Secretary.

To the Government Pleader, with the letter
and enclosure in original, to be returned.

From H. H. SHEPHARD, Esq., Government Pleader, Madras, to the Secretary
to the Board of Revenue, dated Madras, 15th March 1883, No. 82.

With reference to letter of the Board of Revenue noted in the margin, I have
2nd March 1883, G. R. No. 357.

I have the honor to say that I have made some slight alterations in the draft power, and would suggest in substitution for Clause II the clause accompanying this letter, which gives the holder in unequivocal terms all the powers that can be necessary; otherwise I think the draft power sufficiently meets the requirements of the case.

2. Although I have not thought it necessary to strike out the reference "to successors in office," I must point out that the power can only operate in favor of the individual donee. The Collector does not occupy the position of a corporation sole,

as does, for instance, the Official Trustee, and therefore if it is desired that the successor of the present Collector should exercise the powers conferred on the present one, a fresh document in his name will be necessary. Unless the Collector has some special reason for retaining this reference to successors in office, I should recommend the omission of it. The same observation applies to almost all the provisions subsequent to that which comes first in Clause V.

3. I think that a power of attorney in the proposed form may be revoked by the giver of it at any moment. Unless Government is ready to make an advance to the Zemindar and assume the position of mortgagee towards him, or unless occasion has arisen for the application of Section 28 of the Revenue Act, I do not see how the Zemindar can divest himself of his ordinary rights; and even if a mortgage were executed in favor of Government, or management of the Zemindari assumed under the Act, still it would be open to the Zemindar to redeem the Zemindari and assume the management of it himself.

ENCLOSURE NO. 1.

Draft Copy of Clause II in Power of Attorney.

I do hereby authorize you for me and in my name and on my behalf to enter into any arrangement with any persons to whom I am or shall be indebted touching the payment on liquidation of their debt and to execute and give to any such person any security or any part of my property moveable or immovable as you shall think proper and also to borrow at interest upon any such security any sums of money you shall think proper and for the purpose of securing any debt now due or hereafter to become due from me to any person or any such sum borrowed as aforesaid or for any other purpose which you shall think expedient for me and in my name to sign and execute any covenant bond or agreement and to mortgage or otherwise charge all or any part of my property moveable and immovable and also if and when you shall think expedient for me and on my behalf to sell the same and for all or any of the said purposes herein mentioned for me and in my name to execute and do all such matters as may be necessary and things as shall be required and for me and in my name to sign and give receipts for any sums of money which shall arise from any such sale as aforesaid and which shall be so borrowed as aforesaid by virtue of the powers hereby given which receipts shall be sufficient discharge to the persons paying the same and shall exempt them from all responsibility in respect of such to the application thereof.

RESOLUTION—dated 2nd April 1883, No. 914.
Submitted for the orders of Government with reference to G.O. dated 29th November 1882, No. 1237, Revenue.

2. On an application by the Zemindar of Sálúr, supported by the Collector of Vizagapatam, to the effect that his estate was being brought to the verge of ruin by the mismanagement of his mother, whose machinations he was unable to contend against, and that the Zemindari should be taken under the management of Government till the debts which have accumulated are liquidated, Government authorized the Collector to take charge of the estate, and directed him to submit, for approval, definite proposals regarding the arrangements to be made for its management, together with a draft of the power of attorney which the Zemindar was prepared to execute; and in the first letter above read the Collector replies to the requisition.

3. Mr. Turner reports that as soon as the Zemindar heard of the decision of Government, he came down to Vizagapatam, executed the power of attorney (copy of which has been forwarded), and had it registered. The power has been drawn up on the lines of the Scinde Encumbered Estates Act XX of 1881, except that the management of the ~~moveable~~, as well as the ~~immovable~~ property, is vested in the Collector; and it gives him full power to deal with the property, the Zemindar agreeing not to revoke the power till the debts are liquidated, and not to incur any fresh liabilities so long as the Government management lasts. The Board have consulted the Government Pleader as to how far the provisions contained in the power are legally binding, and he has replied in the second letter above read that (1) the power can be revoked

by the Zemindar at any moment notwithstanding the provisions contained in it to the contrary; (2) that a fresh power will be necessary whenever a new officer is appointed as Collector of Vizagapatam; and (3) that unless Government are ready to make an advance to the Zemindar and assume the position of mortgagee towards him, or unless occasion has arisen for the application of Section 38 of the Revenue Recovery Act II of 1864, Madras, he does not see how the Zemindar can divest himself of his ordinary rights; and even if a mortgage were executed in favor of Government, or management of the Zemindari assumed under the Act, still it would be open to the Zemindar to redeem the Zemindari and assume the management of it himself. Mr. Shephard has also furnished a revised form of power of attorney for adoption.

4. Under the power of attorney executed by the Zemindar, the Collector has already assumed the management of the property which consists of 104 Zerayati, 37 Inam, and 4 Mokhasa and Talabdevuni villages, the net annual demand of which, exclusive of the portions alienated for the maintenance of members of the Zemindar's family or in the possession of mortgagees, is roughly estimated at Rs. 1,11,772, out of which the probable annual collections may amount to Rs. 1,07,000. There appears to be a large balance, Rs. 32,000, outstanding against the ryots, but as no regular accounts have been kept, it is difficult to say by whom the amount is due. The Collector will doubtless make further inquiries on the point, but it is clear that a considerable portion of the outstandings will have to be finally written off as bad debts.

5. Taking the annual income of the estate at Rs. 1,07,000, the Collector proposes the following distribution of the amount—Rs. 12,000 allowance to the Zemindar including charges for his personal establishment and live-stock; Rs. 4,000 allowance to members of the Zemindar's family; Rs. 3,000 cost of establishment for managing the estate; Rs. 6,000 repairs to irrigation works and buildings; Rs. 47,070 pesheush, quit-rent, and land-cess; Rs. 3,000 law and other unforeseen charges; Rs. 30,000 for payment of debts; and Rs. 1,930 balance. The distribution appears judicious and is approved. Considering the embarrassed condition of the estate, the Zemindar should be persuaded to reduce the personal establishment and live-stock to the lowest limit consistent with his dignity. The allowance to the Zemindar's relations should likewise be curtailed wherever this can be done without injury to vested interests.

6. As regards the details of the establishment to be entertained for managing the estate, Mr. Turner proposes two alternative plans—one being to place the estate under Mr. Meppen, the Zemindar's present Agent, and the other under the Deputy Tahsildar of Sálúr, but considers that the latter would be the better plan, as the Deputy Tahsildar, being a man of position and influence in his taluk, would be able to manage the estate without much difficulty. As the duties of the Deputy Tahsildar are stated to be light, the Board do not see any objection to placing the estate under his charge, and they agree with the Collector in thinking that on account of his increased responsibilities the Deputy Tahsildar should be paid an allowance of Rs. 50 per mensem, which will raise his pay to that of a Tahsildar of the last class. In case of this arrangement being sanctioned, the Collector suggests that Mr. Meppen may be retained as a personal adviser of the Zemindar on a salary of Rs. 150 per mensem, to give him counsel and protect him from the machinations of the opposite party, which the Zemindar of himself is unable to withstand. It appears to the Board that the desirability of having Mr. Meppen as an adviser of the Zemindar with no definite duties is very questionable; he would be in a dubious position, and it would hardly be proper to subordinate the Deputy Tahsildar, a Government Officer, to him. The Board would accordingly disallow this portion of the scheme.

7. The debts due by the estate, which amounted to Rs. 59,227 when the Court of Wards handed it over to the present proprietor at the end of Fasli 1282 with a cash balance of Rs. 15,000, have now grown to Rs. 2,60,368, of which Rs. 4,60,038 bears interest at rates varying from 18 to 7½ per cent., and a further sum of Rs. 11,070 is due to Government on account of pesheush, &c. The interest payable on the debts alone amount to Rs. 19,000. In these circumstances the Collector recommends that the collection of pesheush, quit-rent, and land-cess, which amount annually to Rs. 46,000, be suspended for four years, the funds thus set free being applied towards

the liquidation of the debts, the effect of the arrangement being to consolidate all the debts into one due to Government, and bearing interest at 6 per cent. per annum. The collection of the land-cess cannot be suspended without the consent of the Local Fund Board.

8. In view, however, of the objection set forth by the Government Pleader, the Board consider that, if the intervention of Government is determined upon, it would be a better arrangement to grant at once a loan of two lakhs of rupees in view to the immediate payment of the debts, some of which bear interest at the rates of 18 and 15 per cent., and take a formal mortgage of the estate with possession as in the case of Ramnad; the Zemindar will not then be at liberty to oust the Collector from the management of the estate at his pleasure until the loan is liquidated; and he could not incur fresh debts, at all events, so as to affect the security of the Government loan, and the loan can be liquidated from the surplus income in about nine years. The Board doubt whether it would be legal to allow arrears of pesheush to accumulate, and retain the estate under the management under Section 38 of Act II of 1864, so as to prevent the creditors of the Zemindar from proceeding against the estate for the satisfaction of their claims, and moreover as, under the section above referred to, the surplus income of the estate, after meeting the expenses of management, has to be applied towards the liquidation of the arrears due to Government, difficulties might arise, as was the case when the Shevagunga Estate was recently under the management, in regard to the grant of a maintenance allowance to the Zemindar and his relations, and meeting charges which cannot be regarded as strictly falling within the category of expenses of management of the estate. The Collector states that if the Government are not prepared to suspend the collection of pesheush, land-cess, &c., a loan can be raised at $7\frac{1}{2}$ per cent., as the Raja of Bobbili, or the Maharaja of Vizianagram, would be glad to lend the amount required at that rate on the security of the estate; but the Board consider that before the Collector can enter upon the management, there should be some legal guarantee that the Collector is not ousted from it at the caprice of the Zemindar, surrounded as he is by hosts of designing men. As the Government Pleader points out, even if the Government make the loan and take a mortgage of the estate, the Zemindar can redeem the estate by repayment of the loan, but as there is little probability of his doing this, there would be a reasonable prospect of the estate continuing under the management for a sufficiently long period to admit of its affairs being put in order.

9. In paragraph 2 of his letter the Collector suggests that the Legislature may be moved to take steps to pass an Act for the protection of encumbered estates similar to the one passed for Scinde, but the Board do not find, in the circumstances of this case, any sufficient ground for advising Government to take legislative action in the matter. The Collector is, however, at liberty to address the Board on the subject again in a separate communication, explaining fully his reasons for the exceptional legislation advocated by him.

(True Extract.)

(Signed) E. GIBSON,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with one enclosure in original.
" Collector of Vizagapatam.
" Government Pleader.

Exd. W. H. French and others.

1883.
Board of Revenue
MADRAS.

Printed April 10th.

Proceedings, 2nd April 1883, No. 914.

Submitting for orders of Government, with
remarks, papers regarding the arrangements to
be made for the management of the Salar
Estate in Vizagapatam District.

2
Chandrasekhara

July 26/83

Item

x 20 of 1887.

The winding up of an estate under the provisions
of the Act now in force in South and Central Provinces
of India is a matter of the District. The District
Magistrate is the authority for the winding up of an
estate under the Act. The District Magistrate is the
authority for the winding up of an estate under the Act.
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of an estate under the Act. The District Magistrate is the
authority for the winding up of an estate under the Act.

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of an estate under the Act. The District Magistrate is the
authority for the winding up of an estate under the Act.

1. Madras
2. Salar
3. Madras
4. Madras
5. Madras

3. The District Magistrate is the authority for the winding up
of an estate under the Act. The District Magistrate is the
authority for the winding up of an estate under the Act.

4. The District Magistrate is the authority for the winding up
of an estate under the Act. The District Magistrate is the
authority for the winding up of an estate under the Act.

such Estates and gives power to Government
to settle the claims of the creditors.

6 The Chhindu Estate has been under
usufructuary mortgage for a heavy debt and
it is now in the hands of the mortgagee.

7 If it is the wish of Government that
the Permanently Settled Estates should be pre-
served intact, it is highly desirable that the
provisions of the Encumbered Estates Act in
force in other provinces of India, should be
extended to this Presidency. Such an enactment
will not only save the Estates already on the
verge of ruin but the mere fact of the exis-
tence of such an enactment will be enough
to save many an Estate from becoming
encumbered. The mere knowledge of the exis-
tence of the act will operate as a wholesome
check on money lenders and its provisions
need seldom be enforced.

8 It is true that when an Estate becomes
incumbered from the extravagance of its holder,
he ought to suffer the consequences of his
own imprudence. But two considerations
outweigh this, viz, 1st, The ancient Zamindars
are of the nature of Estates-in-tail. The
Zamindar

Zamindar has no more than a life-interest.
It is not right that the successor should
suffer the consequences of his predecessor's fall
and be rendered unable, on account of the
debts contracted by his predecessor, to perform
the proper function of a landlord, to the
detriment of the interests of himself and of
the people committed to his charge. 2ndly, It
is desirable that these Estates in a District
like this should, on political considerations,
be preserved in the hands of the descendants
of the ancient families. Many of these Estates
spread into the Hills and there is much
danger of an outbreak when the Hill men
are subjected to the exactions of some low
country miscreant. I have brought the neces-
sity of this measure to notice on one or two
occasions in letters to the Board of Revenue
and all that is wanted is discussion of the
measure by officials of experience to determine
whether or not the Legislature should take
action I propose.

W. J. Turner.
Ag. Collector

80/3621 28/6

Dear official Member
in the question of
extending the Income
-tax Exemption Act
to the other Districts.

~~W. H. H.~~

Forwarded under
instructions of H. S.
The Member the
Gov.?

H. S. H.

Nagasaki
9 March 1883

Captain. A. H. H. H.
Private Secretary to
H. S. H. H.
Camp

Memorandum by
Hq. Farmer by on the
Subject extending the
Encumbered Estates Act
to the Northern Districts
9th March 1881.

Transferred to the
Chief Secretary's Office
- sent for disposal.
(By order)

A. M. J. Capt. T. M. R.
Private Secretary

For the House
of Commons
7th April 1881.

Ind. (1883) Dept.

(Encumbered Estates Act)

From
The Private Secretary
to H. E. the Governor

Cotacumund
17th April 83

To The Chief Secretary
to Government

Report to the Board
of Revenue for the year

By order

M. M. M.
a. a. h. Secy.

4. 4. 83.

Dated 7th April 1883.

Resd. G. E.

137/4

137/4

Transfers a Durum.

Land from the

Collector of Vizagapa-

nam on the subject

Extending the Encum-

Estates Act to the

Portuguese Districts

BOARD OF REVENUE, 17TH SEPTEMBER 1883, No. 2789.

PROCEEDINGS OF THE BOARD OF REVENUE.

READ—the following Memorandum by H. G. TURNER, Esq., Acting Collector of Vizagapatam, dated 9th March 1883.

The want of an enactment like the Encumbered Estates Act now in force in Scinde (XX of 1881) and other provinces of India is much felt in this district. The district chiefly consists of Permanently-settled Zemindaris and Proprietary Estates. These Zemindars and Proprietors are generally very extravagant. As they are possessed of large estates, the money-lenders are always ready to advance them money with the ulterior object of getting into their hands the estates or portions of them.

2. Already the undermentioned estates are more or less heavily involved :—

- | | |
|---------------|-----------------|
| (1) Mádugula. | (4) Chemudu. |
| (2) Sálúr. | (5) Pachipenta. |
| (3) Uratla. | |

3. Of these, Mádugula, Uratla and Pachipenta are so heavily encumbered that it is utterly impossible for the hereditary owners thereof to recover them from their present embarrassed condition. Many of the villages of the two latter estates have been sold by the Civil Courts and transferred to the money-lenders. Even the portions that now remain in the hands of the hereditary owners are still heavily encumbered.

4. The Sálúr Zemindar being unable to redeem the estate from its present difficulties has requested the Government to manage the estate on his behalf. The debt on this estate when it was made over by the Court of Wards to the present young Zemindar in 1880 was Rs. 60,000. During these two years, from mismanagement consequent on the incompetency of the Zemindar, the debt has been enormously increased. It now amounts to over Rs. 2,70,000. The number of creditors is more than 25. All the debts are now overdue. The creditors are all clamouring for repayment. It is impossible for Government to satisfy, out of the surplus revenue of the estate, the claims of all these creditors at one and the same time. There is nothing to prevent these creditors from filing suits and taking out execution. The result will be the dismemberment of the estate, which is inexpedient on political and other grounds. Without an Act like the Encumbered Estates Act, it is hardly possible for Government to get matters right in regard to this estate.

5. Further, there is nothing to prevent the Zemindar from incurring fresh liabilities while the estate continues under Government management. What good can result to the estate by Government management if the Zemindar can incur fresh liabilities on one hand while the Government are clearing off the debts on the other? Now Government hold the estate under a power of attorney given by the Zemindar. They are thus only his agents and, so far as I can see, there is nothing to prevent him from collecting the rents of the estate on one hand, while Government are collecting on the other. The Zemindar no doubt promises to abstain from incurring fresh liabilities or from collecting rents from the ryots. But the Zemindar is so timid that he is unable to refuse to sign any paper that may be placed before him by his mother or by her hangers-on. Government cannot prevent him from signing fresh

bonds for real or imaginary debts, or from signing receipts for rents collected from ryots. The Encumbered Estates Act in force in other provinces provides for all these difficulties. It renders the Zemindar, while the estate continues under Government management, incompetent to incur fresh liabilities or to give receipts to the ryots for rents. It divests the Civil Courts of power to entertain suits against such estates and gives power to Government to settle the claims of the creditors.

6. The Chemudu Estate has been under usufructuary mortgage for a heavy debt, and it is now in the hands of the mortgagee.

7. If it is the wish of Government that the permanently-settled estates should be preserved intact, it is highly desirable that the provisions of the Encumbered Estates Act in force in other provinces of India should be extended to this Presidency. Such an enactment will not only save the estates already on the verge of ruin, but the very fact of the existence of such an enactment will be enough to save many an estate from becoming encumbered. The very knowledge of the existence of the Act will operate as a wholesome check on money-lenders and its provisions need seldom be enforced.

8. It is true that when an estate becomes encumbered from the extravagance of its holder, he ought to suffer the consequences of his own imprudence. But two considerations outweigh this—firstly, the ancient Zemindaris are of the nature of estates-in-tail. The Zemindar has no more than a life-interest. It is not right that the successor should suffer the consequences of his predecessor's folly and be rendered unable, on account of the debts contracted by his predecessor, to perform the proper function of a landlord, to the detriment of the interests of himself and of the people committed to his charge; secondly, it is desirable that these estates in a district like this should, on political considerations, be preserved in the hands of the descendants of the ancient families. Many of these estates spread into the Hills, and there is much danger of an outbreak when the Hillmen are subjected to the exactions of some low-country usurer. I have brought the necessity of this measure to notice on one or two occasions in letters to the Board of Revenue, and all that is wanted is discussion of the measure by officials of experience to determine whether or not the Legislature should take the action I propose.

Transferred to the Chief Secretary to Government for disposal.

(By Order.)

GOVERNMENT HOUSE,
OOTACAMUND,
7th April 1883.

(Signed) A. AWDRY, Captain, R.E.,
Private Secretary.

No. 773.

Referred to the Board of Revenue for remarks.

(By Order.)

OOTACAMUND,
17th April 1883.

(Signed) M. HAMMICK,
Acting Assistant Secretary.

RESOLUTION—dated 17th September 1883, No. 2789.

With the above communication, the Government forward for the remarks of the Board a memorandum submitted by Mr. Turner, Acting Collector of Vizagapatam, to His Excellency the Governor, during his late tour, advocating the enactment of a law, similar to the Encumbered Estates Act in force in Scinde and other provinces of India, for the protection of the Zemindars of his district. In connection with his proposals for extricating the Zemindar of Sálur from his pecuniary embarrassments, Mr. Turner had brought this subject to the Board's notice, but they did not consider that there were in the circumstances of the particular case sufficient grounds for advis-

ing Government to take legislative action in the matter. Mr. Turner, however, was informed that he was at liberty to address Board's Proceedings, dated 2nd April 1883, them again on the subject in a separate communication, explaining fully his reasons for the exceptional legislation advocated by him.

2. In his memorandum now before the Board, Mr. Turner states that the Vizagapatam District consists chiefly of Zemindaris and Proprietary estates; that the Zemindars and Proprietors of these estates are generally very extravagant and at the mercy of money-lenders who readily advance them money with the view eventually of getting possession of their estates or portions of them; that many of the estates are already very heavily encumbered and likely soon to fall to pieces; that it is impossible for the hereditary proprietors of the estates to rescue them from their embarrassed condition; and that if it is the wish of Government that permanently-settled estates should be preserved intact, it is highly desirable that the provisions of the Encumbered Estates Acts in force in other provinces of India should be extended to this Presidency.

3. The Board have given very careful consideration to this important question, but are unable to give their support to Mr. Turner's proposal. If, as he puts it, it is the wish of Government that permanently-settled estates should be maintained in the hands of Zemindars, in spite of their reckless extravagance, there can be no doubt that an Act like the Scinde Encumbered Estates Act (XX of 1881) would enable the object to be attained very effectually; for the moment the Act is applied to any estate the proprietor becomes legally incompetent to manage it; the operation of the Civil Courts in regard to all transactions connected with it is suspended; and the Collector acquires plenary powers to settle the debts in such manner as he may deem proper and to keep the estate under his management till the debts are liquidated. It is evident, however, that the very drastic character of the remedy would need an altogether exceptional state of circumstances to justify its application. The ruin of ancient families, as indeed of all families which have for any length of time occupied distinguished and influential positions, however brought about, is always a circumstance which for the moment naturally excites much sympathy and commiseration, but such special legislation as that proposed must have for its justification some paramount necessity and not merely a transient, and perhaps false, sentiment. Setting aside then the consideration due to ancient families as such, the question of legislation may be viewed in four aspects, viz., in its effect (1st) upon the Zemindars for whose protection it is intended; (2ndly) on persons who have lent, or may hereafter lend, them money; (3rdly) on the condition of the ryots on their estates; and (4thly) as a measure of political necessity for the safety of the State; and the Board consider that so far as this Presidency is concerned, in none of these respects is the proposed legislation called for.

4. As regards the first point, it must be observed that the Hindu law of equal division of inheritance among children applies to all Proprietary estates and Zemindaris excepting ancient estates of an impartible character, and eventually the dismemberment of all permanently-settled estates, with the above exceptions, cannot be arrested though it may be stayed off for a time by legislation of the kind proposed. Moreover, even in regard to ancient estates, it is difficult to say that the rule of primogeniture always applies. In the case of the large and ancient Zemindari of Nuzvid, which was supposed to be governed by the rule of primogeniture, the Privy Council recently decided that it was not so, and that the ordinary law of equal division of inheritance applied. Nothing, therefore, short of an enactment strictly entailing permanently-settled estates on the eldest branch of the family, or in tail male would prevent their being broken up, but such a law, besides revolutionizing the Hindu law of inheritance and depriving the junior members of the family of their just rights, would be in direct opposition to the terms of the sanads on which the estates are held and of Regulation XXV of 1802, the professed object of which was to confer on Zemindars rights of full proprietorship with liberty to alienate or transfer their estates or portions of them, provided the exercise of such rights was not inconsistent with the provisions

of Hindu or Muhammadan law. Sir Thomas Munro during his Governorship advocated the passing of an entail regulation for preserving ancient Zemindaris intact, but, probably in view of difficulties in determining to what estates the law should be made applicable, the project was abandoned. The law of entail, the Board believe, has elsewhere been found to be not altogether beneficial to the interests of the general public, and the tendency of modern legislation has been to confine it within the narrowest possible limits. Without a law of entail, however, a Zemindar cannot be restrained from selling portions of his property, and if he can sell them, it is difficult to see why he should be restrained from charging or encumbering them. The Board consider that where the sole cause of a Zemindar's difficulties is, as is almost always the case, his profligate extravagance, the Government only aid, abet, and encourage that extravagance by interposing to protect him from the natural consequences of his misconduct, for no other reason than that he is a Zemindar. Such interposition, when it takes place in pursuance of a settled policy, must, in the long run, have the effect of weakening the sense of responsibility in Zemindars to manage their estates efficiently, give rise to constant appeals from them to Government to extricate them from their difficulties by relieving them of the management of the estates which they have brought to the verge of ruin, and necessitate their being continually maintained in a state of tutelage. Of the five estates mentioned in Mr. Turner's memorandum as being heavily encumbered, Mádugula is under the management of the Court of Wards, who are doing their best to put its affairs in order, and Chemudu was, until lately, also in their charge. Sálúr was, for a long time, under the management of the Court of Wards and was handed over to the Proprietor only in 1879 with a cash balance of Rs. 15,000, after paying all debts except a sum of Rs. 60,000 repayable by instalments, and the Zemindar, in the course of three years, has not only managed to spend the whole of the cash balance in addition to the annual income of the estate, but to run into debt to an amount exceeding two lakhs of rupees. The Uratla estate was, with the consent of the Proprietor, managed by the Collector with a view to extricate him from his difficulties, with the result that a considerable portion of the Zemindar's debt was paid off and the estate was handed back to him on his giving an assurance that he would manage it properly henceforward, yet, since it was given over to him his debts have again accumulated. These examples show that when Government, after years of assiduous nursing, succeed in putting the affairs of an estate into order and hand it back to the owner tolerably free from liabilities, there is no guarantee that he will not relapse into his former habits of extravagance and plunge the estate once more into difficulties. There is now, at least, the wholesome fear among Zemindars that they will in the end have to suffer the consequences of their inefficient management, however insufficiently that fear may operate in most cases, but when once it is declared, as a matter of settled policy, that however reckless their conduct may be, the Government always hold themselves in readiness to shield them from the consequences of their folly, there will not be any incentive whatever to future amendment. Mr. Turner admits that when an estate becomes encumbered from the extravagance of a Zemindar, he ought to suffer the consequences of his own imprudence, but remarks that an ancient Zemindari is of the nature of an estate-in-tail; that the Zemindar has no more than a life-interest in it, and that it is not right that the successor should suffer the consequences of his predecessor's folly, and be rendered unable, on account of the debts contracted by him, to perform the proper functions of a landlord, to the detriment of the interests of himself and of the people committed to his charge. The law in regard to impartible Zemindaris, as laid down in recent decisions, appears to be that a Zemindar has only a life-interest in his Zemindari, and that his debts are not binding on the reversioner unless contracted for the benefit of the estate, excepting when the reversioner is a son, in which case the debt is binding if it was not contracted for immoral or illegal purposes. Doubtless, when the son succeeds to the property of his father burdened with debts, he is at a disadvantage, but of this he can hardly complain, as it is the operation of the same Hindu Law which gives him the reversionary interest in the estate, while at the same time it imposes restrictions upon the reversion which greatly neutralize its value by

making it subject to payment of debts. The question whether, when, irrespective of the rights of the reversioners, a Zemindar so grossly neglects the duties of a landlord as to impoverish his tenantry, he should not be compelled to perform his duties, is a separate one and not connected with the proposed legislation.

5. As regards the effect of the proposed legislation on persons who have lent money to Zemindars, their interests are in a great measure sacrificed to those of the latter, as the payment of their claims may be indefinitely postponed under the settlement made by the Collector. The persons who lend money are not always professional money-lenders, for in some of the very cases above referred to, large sums have been lent by other Zemindars; nor is it the case that all money-lenders are usurers and profit by driving unconscionable bargains with confiding Zemindars. Mr. Turner considers that the very existence of an Encumbered Estates Act, by diminishing the credit of the Zemindars and their facilities for borrowing, will render its frequent application in practice unnecessary. So long, however, as Zemindars are not actually prohibited from borrowing, a more probable result of putting the Act in force occasionally would probably be to drive the more respectable money-lenders out of the field and place the Zemindars at the mercy of the lowest class of usurers, who would take to money-lending as a gambling speculation, and, in view of the uncertain character of the security offered, would impose harder conditions on their debtors than ever.

6. Adverting to the question whether the proposed legislation is necessary in the interests of the ryots of the Zemindaris, the Board do not find that the Zemindari system is possessed of such intrinsic merits as to deserve to be perpetuated at all hazards. The evidence available is entirely the other way. The inquiries instituted into the working of the Zemindari system in Rajahmundry District by Sir H. Montgomery in 1845,* and again by Mr. Walter Elliot in Guntúr in 1847,† disclosed flagrant abuses, and though with the general improvement of the country, this state of the condition of the ryots in the Zemindari tracts has also improved, the Zemindari system has been brought about, not in consequence of the good management by Zemindars of their estates, but in spite of their oppressive and inefficient administration. The Zemindars have done little or nothing to improve the condition of the large tracts of country committed to their care; in most cases, the irrigation works in these tracts have been neglected and are in a disgraceful state of disrepair, while the village servants who have been placed under their control have not been squandered away in incessant litigation or dissipation or wild extravagance, and when the tenantry state of efficiency. The large incomes derived from the estates are neither used to suffer the effects of adverse seasons, their landlords, the Zemindars, are neither able nor willing to assist them. In passing orders on Sir H. Montgomery's report, the Government remarked in connection with the estates sequestrated for arrears of peishcush: "Upon a careful consideration of the Commissioner's report, the Most Honorable the Governor in Council can see no ground to believe that if these estates are restored to the possession of the Zemindars, such an alteration in their character and habits, and such an improved system of management, will take place, as will secure justice to the ryot and prosperity to the district. On the contrary, he has the strongest reason to conclude that, even should the peishcush be greatly reduced, the same results now brought to notice would again be manifested on the occurrence of adverse seasons, droughts and other difficulties. With these views, His Lordship in Council concurs generally in the opinion expressed both by the Commissioner and the Board, that it is not advisable to perpetuate the Zemindari system in the Rajahmundry District, and that attention should be immediately and steadily directed to the introduction of a system which shall foster and protect the interests of the ryots themselves, and consequently that when such estates fall into arrears, they should be brought to sale under the provisions of the law and purchased on account of Government." The Court of

* G.O., 14th April 1846, No. 432.

† G.O., 29th March 1849, No. 310.

the condition of the ryots in the Zemindari tracts has also improved, this state of things has been brought about, not in consequence of the good management by Zemindars of their estates, but in spite of their oppressive and inefficient administration. The Zemindars have done little or nothing to improve the condition of the large tracts of country committed to their care; in most cases, the irrigation works in these tracts have been neglected and are in a disgraceful state of disrepair, while the village servants who have been placed under their control have not been squandered away in incessant litigation or dissipation or wild extravagance, and when the tenantry state of efficiency. The large incomes derived from the estates are neither used to suffer the effects of adverse seasons, their landlords, the Zemindars, are neither able nor willing to assist them. In passing orders on Sir H. Montgomery's report, the Government remarked in connection with the estates sequestrated for arrears of peishcush: "Upon a careful consideration of the Commissioner's report, the Most Honorable the Governor in Council can see no ground to believe that if these estates are restored to the possession of the Zemindars, such an alteration in their character and habits, and such an improved system of management, will take place, as will secure justice to the ryot and prosperity to the district. On the contrary, he has the strongest reason to conclude that, even should the peishcush be greatly reduced, the same results now brought to notice would again be manifested on the occurrence of adverse seasons, droughts and other difficulties. With these views, His Lordship in Council concurs generally in the opinion expressed both by the Commissioner and the Board, that it is not advisable to perpetuate the Zemindari system in the Rajahmundry District, and that attention should be immediately and steadily directed to the introduction of a system which shall foster and protect the interests of the ryots themselves, and consequently that when such estates fall into arrears, they should be brought to sale under the provisions of the law and purchased on account of Government." The Court of

G.O., dated 14th April 1846, No. 432.

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Directors also, with reference to Mr. Walter Elliot's report on the Guntūr Zemindaris in 1847, observed that it "places it beyond doubt that the Zemindars of Guntūr

G.O., 29th March 1849, No. 310.

wasted, in a long continued course of extravagance, litigation and excess, not only those legitimate resources of their estates which formed the basis of the permanent settlement, and which, as we have stated, were amply sufficient to meet the occasional occurrence of calamitous seasons, but the large additional sums which they are proved to have extorted under various pretences from the ryots." Further on they wrote thus: "In your future arrangements connected with these districts, we would impress on you the expediency of a stricter application of the sale law for the recovery of arrears of revenue. The leniency which has hitherto been practised in this respect has subjected the Government to great losses, without, as we believe, any real benefit to the Zemindars who have been thus favored. Its usual effect has been merely to avert for a time the dispossession of the Zemindars, whose estates it has ultimately been found necessary to bring to sale, burdened with increased balances. In all ordinary cases where estates known to be moderately assessed fall into arrears, except perhaps in the instance of some of the Hill Zemindaris, which could not be conveniently managed by our officers, the provisions of the law should be enforced. The practice of pensioning dispossessed Zemindars—a practice almost if not altogether unknown under the Bengal Presidency—must be discontinued, and you should prohibit all interference in arranging the private debts of Zemindars on the part of the officers of Government, whose whole time and attention should be devoted to their proper duties connected with the revenue administration of the country." The Board do not consider that anything has occurred in later years which necessitates a departure from the policy thus laid down by the Court of Directors. There is no reason to suppose that if money-lenders should get possession of portions of Zemindaris, the ryots would fare worse under them than under the present Zemindars. Money-lenders are generally shrewd men of business and quite alive to their interests, and if perhaps less indulgent in the exaction of their dues are likely in their own interest not to allow the affairs of their estates to get into inextricable confusion.

7. Lastly, it is stated that the proposed legislation is necessitated by political considerations. The Board question the existence of any such political necessity. They fail to see what service Zemindars have rendered to Government or to the people that they should be maintained in spite of themselves and their follies, or what danger they can threaten that would make it politic to maintain or to conciliate them. Estates as old, if not older and as great as those of Vizagapatam have disappeared from the Zemindari rolls of other districts in the Northern Circars, but their disappearance caused no convulsion, and scarcely a regret among the people with whom their proprietors had lived. Mr. Walter Elliot, in connection with the resumption of Zemindaris in Guntūr in 1847, wrote as follows: "My own experience of the sentiments of the people of the district does not confirm the opinion expressed by the Board of Revenue that the assumption of the estates by Government would be generally unpopular. On the contrary, the best and most respectable individuals whom I met with declared their anxiety to be placed under a permanent system of administration that would protect them from the vexatious interference of the renting system, and from the exactions and oppression under which they had so long suffered. As for feelings of attachment to the persons or families of the Zemindars, I could not discover that any such existed beyond the range of their immediate followers." This was written more than thirty-five years ago, and since that time the change that has taken place in the circumstances of the country has had the tendency of weakening rather than strengthening any remnant of feudal feeling which might then have existed. The circumstances of this Presidency, in which the Zemindars have for upwards of a century been deprived of military power and civil and criminal jurisdiction, are entirely different in this respect from those of Scinde, Oude, and other provinces of India, which within the memory of the existing generation were governed by petty independent chiefs.

8. The Board are aware that exceptional arrangements may occasionally be found necessary in reference to Hill Zemindaris in the Agency Tracts, but such cases must be dealt with specially as they arise and not form the basis for general legislation. When

it is expedient to interfere in the affairs of such Zemindaris, Government can always do so by granting a loan to the Zemindar for the liquidation of his debts and taking a mortgage of the estate, as has been done in the case of the Ramnad Zemindari. In regard to other estates also the Collector can, in exceptional cases, interfere under the provisions of the Code of Civil Procedure relating to the execution of decrees. The Code recognizes a distinction between cases in which the debts sought to be enforced against an estate are specially charged against it and cases where they are not, and in the latter event enables the Collector to intervene to save, if possible, landed property from being inconsiderately sold for the satisfaction of simple debts. This seems to be the utmost limit to which protective legislation can be carried. Government already do a great deal in an indirect way to enable Zemindars to manage their estates efficiently. In calamitous seasons they suspend the collection of the peisheush, and when estates come under the management of the Court of Wards they endeavour to put their affairs in order and to educate the Zemindars in their duties. If, notwithstanding these advantages, the Zemindars are unable to hold their ground, the Board consider that so far as policy is concerned it is the highest political wisdom to oppose no artificial obstacles to their decay. If special protective legislation is to be undertaken it must rather be in the interests of neglected tenants than in those of wasteful landlords who have abused their position and influence.

9. In conclusion the Board would draw the attention of Government to the suggestion contained in their Proceedings, dated 7th March 1879, No. 618, in regard to the appointment of a Commission to inquire into the neglected condition of irrigation works in Zemindaris, the state of village establishments, &c., and to devise measures to compel Zemindars to perform the duties they owe to their tenantry.

(A true Copy and Extract.)

Acting Secretary.

To the Chief Secretary to Government, Judicial Department,
with Government Reference returned with copies of
Board's Proceedings, 7th March 1879, No. 618, and
2nd April 1883, No. 914.

Copy to the Collector of Vizagapatam.

Ed. C. Howarth.

1883.
Board of Revenue,
MADRAS.

CURRENT No.

Printed September th.

Proceedings, 17th Sept. 1883, No. 2789.

Cons. J. 2 &
(C. 10/11/83)
and 209

Printed without the
enclosures
8/1/84-

Submitting Board's remarks regarding the
enactment of an encumbered estates law for the
Madras Presidency.

Sr/

With reference to H.E.

note, the paper was taken to

Council on the 10th inst.

The instruction was that

the paper shd be circulated

to the Hon Mr Sullivan.

I do not know what

passed in Council.

Council
Mr
17/12

all other cases decided
of 1871/83

C. 11/11/83
R. 10/12/83
R. 11/12/83
R. 12/12/83

There does not appear
any necessity for
notice in these
cases.

The draft
origin of Council
and reference to
the Governor's note.

In the case of
the Illinois
Historical Commission
be mentioned in
all the cases
of 1872/73

Proceedings Bd. Prof. of
17-9-83

258

Forwarded to the
Hon. W. Carmichael
with reference to his
note of yesterday
E. F. to
30/10/83

Proceedings Bd. Rev. of
17-9-83
No 2789.

Justices

The Court agree with the Bd. of Rev. that there is no necessity in the circumstances of this Presidency for an enactment similar to the Second Incumbered Estates Act.

2. In the first place, in regard to the remarks made by the Colon of Virginia that "many estates spread into the hills, & there is much danger of an outbreak where the hillmen are subjected to the exaction of some low country usurers" it is obvious that the law gives the Court abundant authority to interfere, in order to preclude the possibility of disturbance - A low country usurer might come into the possession of a circle of hill villages, either as a purchaser under a Civil Court decision, or as a mortgagee - It would almost always be proper to shut out a stranger from coming in by the mode first mentioned, and Sect 326 of the Code Civil Pro. presents an easy method of doing so. But whether he has in possession as a Court purchaser or as a mortgagee, the villages are circles, if

Reg II, 1819
S. 9/10.11.

his remaining in possession
is a matter of "public hazard or
"inconvenience" - to be immu-
nized by the Collector, under
the orders of Govt: ~~which~~ the Collector
manages them as upstanding lands,
and they are not liable to the
jurisdiction of the Courts as long
as his management continues.

The Regs quoted is applicable of course
only where important considerations
of public policy arise: but Sect 326
of the Code of Civil Pro is not so limited,
and His Exy the E. Inf. will always be
ready to consider favorably the reports
of Collectors desiring to take any gamin-
dari or part of a gaminadari under
management, to prevent sale following
upon attachment by a Court; the authori-
ty of the Collr as manager is so exten-
sive (S. 320) that there are few cases
where, with care & attention ~~at the~~
part at least of the property attached
might not be saved to the Zamindar.

Judge High Ct. 11.12.18

Secondly, it must be remembered
that a Zamindar has really an
estate analogous to an estate tail,
as it stood originally upon the
Statute de Donis. He is the owner,
but he can neither in common or
alienate it beyond the period of his
"own life". The son's right is to receive
the gaminadari intact at his father's
death, and all alienations by the father
for ~~the purpose of~~ the purpose
which can be shown to have been
made for immoral or illegal purposes
can be set aside.

3. Lastly, if the son finds that
certain alienations which his father
on his succession might have success-
fully contested were allowed by the
father to stand beyond the period of
limitation, he can at least free
himself from the onerous obligation of
paying the perchance on the alienated
lands. Formerly he could not do so
unless the alienation comprised an
entire village, but since the passing
of Madrass Act I of 1876, he can
do so in respect of any alienation,
however small.

4/12/83.

4- Sp. into all these
privileges & facilities,
a Zamindar continues to involve
himself in debt & difficulty, ~~and~~
he is not a subject for further special relief. His Exy
bel. in C. is however confident that with the present
progress of education, coupled with sympathetic action
on the part of District Officers, Zamindars will as at a
clap ~~will~~ will ~~be~~ be ~~thoroughly~~ thoroughly ~~begin~~ begin to show the
same improvement as has been exhibited by many
leading Zamindars, individually; and that there will
be no occasion to devise any special measures of the
nature suggested in the concluding para. of the Bds
Progs - B.K.

REVENUE DEPARTMENT.

No. 6471

From 13

From Board of Revenue,

Dated 17th September 1883. No 2, 8a

FOR ORDERS.

Mr. Turner, the late AS collector
of Nagasalem presented to H.E.
the Governor, during his late tour
a Memorandum advocating the
enactment of a law, similar to
the unenforced Estates Act in

not necessary to bring this
 forward. The Board of Revenue in Benidole and elsewhere
 will be able to do so.
 That can be argued against Mr. in India, for the protection of
 Revenue's interest & taking his
 arguments one by one. ¹⁸⁷⁰ Those Landholders in his decision
 are reported to be in the wrong. who are hopelessly involved in
 at least of the reported
 losses in 800,000 to have pecuniary embarrassments.
 as before. Mr. Turner that a
 is a good in one sense in the Judicial Dept. to the Board
 of the Revenue is not necessarily
 equally good in all parts of the Revenue for revenue Rs. 100
 when interfering the
 current paper is then replied
 transferred by the Judge to the Revenue.

[illegible]

The following is a list of
 names of persons who have
 been connected with
 and who are in the
 vicinity of the

Dated 21st April
 I have the honor to acknowledge the receipt of your letter of the 19th inst. in relation to the above mentioned subject.
 I have the honor to inform you that the same has been forwarded to the proper authorities for their consideration.
 Very respectfully,
 J. H. [Signature]

locus to Lumbermen not only
 for agricultural improvement but
 but also to enable them to clear
 their debts, so that they may be
 able to improve their properties
 and better the condition of their
 negroes, engaged very recently to
 attention of H. E. the Gov. in Council.
 The decision came to was that
 no special legislation in the
 direction indicated was either
 called for or practicable.

According to the concluding
 para of the current paper, submitted
 that the Board's Res. of 7th March
 1879 no. 618 was disposed of by
 S. C. 29th April 1882. nos 37-438
 but that the question of appointing
 a special commission to inquire
 into the suggested condition of
 irrigation works in Louisiana
 and the state of village establishments
 merits or, did not require?

Adverting to the concluding
 part of the current paper, submitted
 to the Board's Pass of 7th March
 1879 no 818 was disposed of by
 S. C. 29th April 1882. nos 37-438,
 but that the question of appointing
 a special Commission to inquire
 into the neglected condition of
 irrigation works in Tamil Nadu,
 and the state of village establish-
 ments, did not receive

Ch. 647.

Encumbered Estates Law.
for the relief of the Poor.