Recensus Departement

E. M.e dulot 27e Januarius 1857

Book 29-30

பாதுகாப்பு முறை - 1
செய்பணிருபவரின் பெயர்
செய்பணிருவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 6/06
செய்பணிட்டு முடித்த நாள் 8/06
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Fort Saint George, Revenue Consultation of 27th January 1857.

No. 29. Read the following *Extract from the Proceedings of the Board of Revenue; dated 14th May 1856, No. 1458.*

In para. 9 of their Proceedings of the 29th ultimo, No. 1271, the Board expressed their intention of taking separate notice of the question of Meerassy right. The subject has lately come before them on several occasions* and its importance calls for careful consideration.

2. The state of the question appears at present to stand as follows, and is consequently much perplexed. Mr. Ellis' paper on Meerass has been acknowledged† by Government to give an accurate description of Meerassy tenures, and acting upon this view, Government‡ gave up a claim to the free control of waste lands, and set aside a decree which the Civil Court of Combaconum in Tanjore had passed in its favour.

† *Ex. Mins. of Cons. 11th Feb. 1856, No. 156, para. 2.*

‡ *Ex. Mins. of Cons. 5th Sept. 1855, No. 1020.*

Ex. Mins. of Cons. 11th Feb. 1856, No. 156, para. 5.

In the same spirit Government have declared that immemorial waste and unassessed land cannot be taken by it for public works or other purposes without obtaining it from the Meerassidars.

Ex. Mins. of Cons. 11th Feb. 1856, No. 149.

Yet at the same time Government have ordered Chunam Quarries to be rented out on its account in Districts where Meerass exists and have upheld the sale of waste lands in Madras on its behalf, on the ground that an order passed by it in 1800 set aside the rights of the Meerassidars in that District.

Ex. Mins. of Cons. 11th Feb. 1856, No. 156, para. 4.

3. The effects of the above orders on the public interests are to be viewed, the Board consider, under the following two aspects.

1st. The acts of Government in disposing of waste land and the various items of revenue hitherto derived from it in its uncultivated state are brought into question, and

2dly, the spread of cultivation, and the increase of the land revenue which depend on the waste land being available for prompt occupancy are endangered if Government loses that controul over the waste which it has hitherto exercised.

4. To illustrate the importance of the subject, the Board will notice briefly the rights claimed by Mr. Ellis for the Meerassidars, first observing that the word "Meerass" is Arabic not Indian, and signifies simply hereditary property. The leading features ascribed by Mr. Ellis to Meerassy tenures are as follows.

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* 1. Extract Minutes of Consultation 5th September 1855, No. 1020 ordering a piece of ground to be made over to the Meerassy Claimant Ringapah Naick, contrary to the Decree of the Civil Court of Combaconum in Appeal Suit No. 41 of 1847, and the opinion of the Board expressed in letter to Government dated 8th August 1855, No. 2021.

2. Extract Minutes of Consultation 11th February 1856, No. 156 expressing the remarks of Government on Meerassy right, in reply to a letter from the Collector of Madras explaining that in his District immemorial waste had been sold on behalf of Government and asking instructions for future guidance.

3. Board's Proceedings of 29th April 1856, No. 1271 submitting opinion of Advocate General on the question of filing a suit to oust one Cadendaramu Moodely from some land in Madras.

4. Extract Minutes of Consultation 11th February 1856, No. 149 directing Chunam Quarries in Districts round Madras to be rented out on behalf of Government.

5. Extract Minutes of Consultation 8th March 1855, No. 374 directing waste lands in South Arcot to be left to the Meerassidars instead of being given out by Government for cultivation.

7. As Meerassidars are stated to be entitled to a portion of the produce from all land cultivated by Pyacarees or persons not Meerassidars.

Ans. 2. Meerassy right extends to waste land. Besides holding the cultivable lands Meerassidars are stated to possess "the exclusive right of cutting firewood, working Quarries &c." in the Arcadi Cherambo or farmers field waste, though they cannot alter its state and appropriate it without the consent of the state.

Ans. 4. Meerassy right is declared not to be forfeited by a Meerassidar ceasing to cultivate and pay the revenue for any period during his life, or that of his son or Grandson. It would only become forfeitable (that is the claimant would not regain it, if it had passed into the possession of another) after the 4th generation or after the lapse of the period of memory declared to be 100 years. Government it is added can only give lands temporarily to another the cultivation in the absence of the Meerassidar.

Answer 16. Ordinarily proprietors on whose lands have descended by inheritance, and who hold them in their own right and transmit them in regular decent to their children, are declared unable to mortgage or sell them on account of the reversionary right which is said to be vested in the Meerassidars.

3. If the above description is admitted to be accurate, the Board are unaware on what grounds Government can defend the revenues they have hitherto derived from the natural products of the country, as "the exclusive right of cutting firewood, working Quarries &c." is stated to belong to the Meerassidars. But the public interests are affected on two still more important points. The rightful possession of those lands which have been given away by Government for various purposes during the last 30 years is called in question, and a serious impediment will, in the Board's opinion, be raised to the future spread of cultivation. Such a result is greatly to be deprecated, as the increase of population and wealth is quickening the demand for land, and the progress of the proposed Revenue Survey and modification of the Assessment will not be arrested unless the waste lands are available for early occupancy. The Board will therefore offer a few remarks on this point.

6. It has been argued* that it would be the interest of the Meerassidars, if the waste was left to them, to find tenants and get it all cultivated but there are other considerations to be taken into account. Experience has shewn that when many proprietors share a Village, a sense of interest alone does not always guide their conduct. The effects of indifference, jealousies, absence, or engagement in other pursuits have been found to counteract the sense of self interest, and it is not therefore safe to make the interests of Government depend on that one feeling. The Board alluded to this subject when reviewing the state of Chingleput and its neglected cultivation in their Proceedings of 14th April 1825, para 15. The remarks which they then made on the effects of Meerassidars' absence and neglect are corroborated at a subsequent date by the observations of the Collector in his report of 31st July 1833, paras. 130 to 132 where it is shown that the Meerassidars not only neglected their lands, but impeded their cultivation by others.

7. Again, parties who take waste land from Government receive it speedily and on a safe and easy title. If they have to obtain it from the Meerassidars, they have to pay rent to them in addition to the Government Assessment and have to discover who all the Meerassidars of the village are. This is no easy task for as the Hindoo law of inheritance divides property among the members of a family, and as some would generally be absent, while, according to Mr. Ellis' absence does not destroy Meerassy right unless continued for three generations, the party taking up waste land could hardly ever be certain that he occupied it with the consent of all the parties interested and was not liable to be disturbed in his possession. The Board cannot conceive that under such circumstances, cultivation and improvement would advance as readily as at present, and the whole question is yearly becoming more important as the value of land as raised by the increase of population, and wealth and the more active demand for agricultural produce and all descriptions of building materials.

* *See Ex. Mins. of Cons. 22d April 1825, para. 11 appearing remarks of Collector of North Arcot in his Original Report of 23d October* 1851, *page* 67.

In Cons. 22d August 1839.

8. As the claims of the Meerassidars interfere thus seriously with the public interests, and with the right of numerous parties now in possession of lands received from Government in Enam or on payment of assessment, it appears to the Board that the validity and extent of these claims should be clearly established before their rightfulness is "acknowledged" and on this point the Board cannot feel satisfied. Strong and positive evidence should be produced to outweigh that claim which Government has on lands which remain in a state of nature and yield no revenue to the state. Such evidence appears to the Board wanting, and they observe that Mr. Ellis leaves the supposed right of the Meerassidars in the waste vague and undefined. If they have really an ownership such as would interfere with the right of the state to turn the waste at its pleasure to useful purposes, the Board consider that Government is bound to pay the real value of the land which they take for public works. By the real value is meant that price which the land from its situation and capability of improvement would command from private purchasers. If, therefore, the right of the Meerassidars to the waste is admitted, the Board consider that, that right ought not to be held valueless, because the land happens at the time to be unproductive, and they are constrained with all deference to express dissent from the passage in which Government observe "the interest of the Meerassidars in such land is measured not by its possible value in the event of its being brought into a cultivable state and supplied with irrigation, but simply by its actual value in its existing state and by the real loss to the Meerassidars by its being appropriated. Thus extended, the real exchangeable value of a very large part of the land to which Mr. Cunliffe probably refers, will be found so very small that the Meerassidars may be willing to give it up for nothing." Instead of land being thus valueless, the letter of the Collector of Madras (dated 28th March 1856, p. 6) forwarded with the Board's Proceedings of the 7th Instant, shows that land for the Railway and other purposes will involve considerable expense, and though this consideration does not affect the validity of the rights claimed by the Meerassidars, the Board advert to it to make Government aware of the importance of the question under discussion.

9. The magnitude of the interests which are thus attached to the question of Meerassy right leads the Board to bring it again before the Government, and they will first advert to the passage in which Government remark that "Mr. Ellis has been usually regarded as the very best authority on points connected with the Meerass tenure." On this part of the subject the Board would observe that the Honorable the Court of Directors disapproved the publication of that gentleman's paper, and mistrusting his opinions called for a more deliberate enquiry and fuller information. The question was therefore further reported on by the Board in their Proceedings of 11th December 1823, and to these as containing a very full statement of the subject the present Board request especial reference. They commence by stating that Mr. Ellis' paper had not been circulated for the guidance of public Officers as the acknowledged law on the subject and then express views materially different.

Ex. M. C. 11th Feb. 1856, *No.* 156 *para.* 2.

Rev. letter 2d June 1842, *Vol. 3 of Rev. Selections.*

10. On this occasion the Board laid before Government their Proceedings of 2 anterior dates,* regarding the Districts of South Arcot and Chingleput, to show their opinions regarding Meerass, and observe preliminarily, "much has been said about Meerassy rights in the southern Provinces, much ingenuity, theory and indeed enthusiasm are to be found in the papers written on this subject; but it is still doubtful, when and how these rights originated, what they exactly were, and whether any Native Government admitted them to the extent claimed."

* *Ed'n. Pro. of 4th Dec.* 1820, *on S. Arcot.*
Do. 14th April 1823, *on Chingleput.*

11. The Board then point out that the so called Meerassidars were originally heads of villages, and received their fees for services performed in that capacity, though they afterwards attempted to make out that they were the universal landlords of the village and received their fees in that character, a claim which, in justice to the actual holders of the village lands, was disallowed. The Board next remark that the just rights of Meerassidars have always been and ought to be supported; but these rights imply a compact between Government and

Paras. 3, 4 *and* 18.

Paras. 7 *and* 8.

the Meerassidars. When the latter fail to perform the service and pay the Revenue for which those rights were originally granted, the compact is broken, and Government must look to some other person for the discharge of those obligations so necessary to its own existence. When therefore a Meerassidar neglects his land, Government must provide for its cultivation; and as this cannot effectually be done if the Meerassidar had the power, stated by Mr. Ellis, of returning and outing the new occupant, and as no trace could be found to show that the preceding Government had even acknowledged such a right; the Board denied its existence and rejected it as "contrary to every principle of good Government."

Para. 16.

12. The Board then applied the same reasoning to waste lands, observing "the Meerassidar has also *an interest in the waste land and a right* to a Meerah or fee, when being unable to cultivate it himself he gets a tenant who shall cultivate it and pay the usual rent to Government, though in fact he has his fee for the service he performs; but if the Meerassidar neglects or refuses to get a tenant for the waste, and the circar is obliged to find one itself to keep up or increase the revenue of the village, the Meerassidar has no right to the fee; it may either be added to the rent payable (to Government) by the tenant, or may be given up to him as an encouragement to extend the cultivation." In support of these views the Board appealed to "common sense and those common principles upon which any Government and society is founded." "Any other conclusion" they observed "would be contrary to the principle of mutual and general expediency which alone generally gave birth to the rights of Meerassidars." "The rights of the Meerassidars are sacred, but so are those of the Government," and the latter includes the manifest right of providing for the exigencies of the state by the collection of a public revenue. This could not be accomplished if Government had not the power to dispose of waste land, and the Board represented that no proof was adduced of former Governments having ever admitted the extensive claims advanced by the Meerassidars. They also used the very important argument that those claims were inconsistent with justice and the improvement of the country, it being inequitable that after the Meerassidars had neglected tracts of land, they should be entitled to a profit when Government by the out lay of Capital* constructed works of irrigation and brought them into value.

* *See also on this point para.* 6 *of Sir Thomas Munro's Minute.*

13. After thus stating their views the Board remarked that besides Mr. Ellis, the Collectors of two other Districts (Madura and Tinnevelly) had mentioned in reply to the Circular questions on Meerassy; that the Meerassidars had a right in the waste, though the nature and extent of this right were not defined. The Board therefore proposed to circulate some further questions to ascertain, whether Government when requiring waste land had ever purchased it from the Meerassidars, and whether any compensation might be considered due when Government took land which the Villagers had been accustomed to use for pasturage &c. But as the* Honorable Court of Directors, before whom the Board's Proceedings were laid, considered their views on Meeras to be highly satisfactory, the subject was not further pursued.

See Despatch from the Honorable Court communicated with Ex. Mins. Con. 22d May of 1829, *No.*

In Con. 1st June 1830.

14. Sir Thomas Munro in writing on the subject expressed an opinion that the Board of Revenue as well as Mr. Ellis had failed to show on sufficient proof the origin of Meeras, but he entirely differed from that gentleman on two most important points. Instead of considering Meerassidars entitled to Swamybogham or a portion of the produce of all lands cultivated by persons not Meerassidars, Sir Thomas Munro observes. "The right of the Meerassidar to derive a rent from land for which he neither pays the public revenue nor finds a tenant is certainly not acknowledged now and probably never was so at any former time." Again, with respect to the waste, he writes as follows.

Minute, "on the state of the country and condition of the people" dated 31st Dec. 1824, *Paras.* 8 *to* 11.

Para. 6.

"The waste in Meeras Villages in Arcot is supposed by Mr. Ellis to belong to the Meerassidars jointly, and he supports his opinion by documents shewing, that when a Meerassidar sells his cultivated lands, he transfers by the same deed to the purchaser his right in the produce of the waste, the quarries, mines, fisheries &c. within the limits of the village. But this appears to be a more technical form, which can give no actual proprietary right in the waste. It is used in villages where there is no waste as well as where there is, and may be used where there is no Meerass. It confers a right, but not the right of ownership to the pasture of the waste lands, and the fishery of the tanks and nullahs in common with the other Meerassidars of the village. The same right exists every where. In those parts of the Deccan where Meerass is unknown, the Ryots of every village reserve the fishery and pasture to themselves, and drive away the cattle of strangers, and derive just as much benefit from the waste as those of Meerass villages. Such a right seems to be a natural one every where, and it is accordingly assumed by *the Ryots of every village, without its being supposed that any formal grant is necessary* for the purpose. Mr. Ellis does not seem to be very decided as to the nature of the property enjoyed by the Meerassidar in waste. He admits that he cannot break it up without the permission of the Circar. He does not say that he has any specific share of it, or that he can sell it alone without the cultivated land, or that he can do more than sell with his arable, his right of common in the waste. The Circar from ancient times has every where, even in Arcot, as well as in other Provinces granted waste in Enam free of every rent or claim, public or private, and appears in all such grants to have considered the waste as being exclusively its own property. It may be objected, that if this were the case, it might give away the whole waste lands of a village, and injure the inhabitants by depriving them of their pastures. It certainly might give away the whole; but whether the exercise of this right would be injurious to the inhabitants would depend on circumstances. If the lands according to the general custom of the country were left unineloscd, there would be no injury, as the cattle of the village would graze on them whenever the crops were off the ground. If the lands were enclosed, the inhabitants would be *no worse off than those of many other villages whose lands are entirely cultivated* and enclosed, and who are in consequence often obliged to send their cattle during the dry season to graze in distant jungles and to incur a trifling expense for the wages of the herdsmen and the tax on pasturage. This expense even where greatest could never have affected the right of the circar to dispose of the waste, though it might probably have induced it to compensate the Meerassidar inhabitants for their loss, by some reduction in the assessment of their arable lands. It has been supposed that in Meeras villages in Arcot, in the original compact between the circar and the first settlers, the exclusive use of the waste was secured to those Settlers, but it has already been shewn that in all villages, whether merass or not, the inhabitants reserve to themselves the exclusive use of the waste. But this right is good only against strangers not against the circar, which possesses, I think, by the usage of the country, the absolute right of disposing of the waste as it pleases in villages which are Meeras as well as in those which are not.* In the Deccan in Meeras villages, the corporation has not the right of disposing of unoccupied land, *but the circar has.*"

* *Mr. Chaplin's Report, Paragraph* 114.

15. These opinions have the full concurrence of the present Board of Revenue, and are supported by the tenor of our legislation and the practice of our administration. In the Preamble of Regulation XXV. of 1802 which declares the proprietary right of the soil to be vested in the Zemindars then created, it is remarkable that Meerassidars are alluded to, and though their existance was thus known, Zemindars continue to be described as the proprietors of the land (see Section 2, Regulation 27 of 1802) and by Section 15, Regulation XXX. of 1802, they are expressly allowed to alienate immemorial waste lands at their pleasure. A right which Government has reserved to itself in Ryotwary Districts. Afterwards Government declared by Regulation IV. of 1822 that the Regulations of 1802 "were not meant to infringe the actual rights of any description of land holders or tenants" but the evident object of this Regulation was to secure occupancy and to prevent parties being summarily ousted from land in their possession. The state has since shown distinctly by its Acts that it did not thereby give up its right of disposing of waste lands. Thus in North Arcot the Collector Mr. Bourdillon writing in 1854 observes, "land waste for a few years has been freely given to all applicants as if it were the unconditional property of Government." In Chingleput the Hookoomnamahs authorize waste land to be granted to any applicant and a Puttah to be prepared in his name if the resident ryots decline to cultivate

Printed Report, para. 68.

it. And in South Arcot the Collector* reports that the land owners prefer no claim to the waste. In Tanjore also the decree of the Civil Judge in Appeal suit No. 41 of 1847, to which the Board advert in their Proceedings of 8th August 1855 and 17th December idem, para. 3, supports the principle that the disposal of *unoccupied and unassessed land* rests with the Revenue authorities. The Board have already alluded to the additional proof of the right of Government which is to be found in the manner in which they have appropriated waste land for public purposes, assigned it in Enam, and derived revenue from its natural products.

* *Letter from Collector dated 16th April 1856.*

In Con. 6th May 1856 sent to Government on the 6th idem.

16. The rights of the state having been thus extensively exercised, and being founded on the common principles of society, Meerassidars ought to produce clear evidence in support of their claims before their title to the immemorial waste lands can be admitted to supercede that of the Government, and this it appears to the Board they have failed to do. The Board concur in opinion with Sir Thomas Munro that the form in which Meerassidars sell their cultivated land, is no proof that they have a proprietary right in the waste, and that such deeds passing between two private parties, and effecting property in which the state has admittedly an interest cannot have force against the Government, who are no party to the deeds, and deny their validity. With respect also to the wording of the deeds, the Board entirely concur with Sir Thomas Munro that it is a mere technical form, and confers no right of ownership, but only a title to participate in those rights of pasturage and common which villagers every where claim within their limits to the exclusion of strangers, and which Government allows to them as long as the waste is not wanted for cultivation or public purposes.

17. These claims to the waste are not confined to Meerassy District as Sir Thomas Munro correctly observes. They exist every where, and every where is there an attempt to convert this right of common into a right of ownership. As remarked by the Board on a former occasion, "there is a constant struggle between the "officers of the Government and the people, the Government to maintain the prerogative and the "revenue the people to lower the revenue and set up its own privileges." For instance in Canara, similar deeds are produced to support proprietary claims to the waste, and if these deeds were allowed, all those extensive and valuable forests, which now yield a considerable revenue would be lost to the state. If the rights claimed by the Meerassidars existed any where, they ought, Sir Thomas Munro remarked, to have been found in Canara, where private property has been known for centuries in its most perfect form; but the immemorial waste has always there been claimed as the property of the state, except when alienated by Government under special grants.

Board's Proceedings 11th December 1823, para. 6.

18. In illustration of the deeds which are executed by landholders when selling their lands the Board would point out that the formula is to include rivers, streams, roads, and birds of the air, as well as lands both cultivated and waste with all their products. It is unnecessary therefore to dwell on the consequences which would arise if these deeds are admitted to convey any further right, than an absolute title to the assessed and occupied lands, and a share as respects the waste in those privileges of pasturage, cutting fuel &c., which the landholders of a village are every where permitted to enjoy.

19. The Board would now wish to call attention to the magnitude and extent of the interests at stake. Mr. Ellis states that the hereditary possession termed Meerass, which forms the subject of his replies, exists in "all the Provinces under this Presidency, the Northern Circars and the Ceded Districts excepted." If, therefore, Mr. Ellis is correct, and the late Extract Minutes of Consultation refers to him as "the very best authority," the land holders have a claim to the immemorial waste in all the Districts from Nellore to Cape Comorin, and Government for 50 years past have been unjustly interfering with their exclusive right of cutting firewood, working quarries &c., and has appropriated lands and products to which they were entitled.

* The letter of Mr. Stokes, being Collector of Madras, dated 16th May 1855, shows that some land taken for the Powder Mills by Government in 1803, was paid for; but that it is doubtful whether that ground was immemorial waste. Mr. Stokes gives other instances where the Meerassidar's claim on unoccupied waste land was altogether rejected.

In Con. 6th May 1856.

In Con. 4th October 1826. In Con. 21st April 1835.

On 26th September 1826 Government sanctioned the purchase of some lands for the Palavaram Cantonment and Guindy Park; and in the list a few Chowries of "immemorial waste" are entered. Respecting this, it is first to be observed that being in a Zemindary, Government had no right to it, and 2dly that doubts appear whether it was in reality "immemorial waste". The Zemindar received remission of Peish cash for it at the same rate as for the cultivated land, and the Meerassidars apparently received payment for it as being land which "could not be alienated from them by the Zemindar." (See letter of Collector of Chingleput regarding some other lands obtained by Government for the same purpose, dated 14th April 1825, para. 2.) Now if this land was immemorial waste, the Zemindar could have alienated it under Section 15, Regulation XXX. of 1802.

20. The Board of Revenue need not observe that in this view they cannot concur, and they consider that the just claims of Meerassidars are satisfied by allowing them the rights of pasturage and cutting fuel on the waste within their villages and allowing them to occupy it for cultivation in preference to other applicants. The Board are aware that the claims of the Meerassidars may seem supported by the fact that Government has occasionally* purchased pieces of unoccupied land from them; but the Board look on these cases as exceptional. They occurred in or near the Presidency where land is of high value and where Government had an object in preventing opposition and delay when it wanted ground promptly for particular purposes. Such instances the Board conceive cannot weigh against the right to dispose of the waste and derive a revenue from it which Government has otherwise exercised for a long series of years in all the Meerassy Districts.

21. It may be occasionally expedient for Government to adopt a similar course hereafter, at least so far as to grant some† compensation to the land holders of a village when the waste land available for pasturage is small, and they are put to inconvenience by Government occupying that land for public purposes. But when Government waives the strict exercise of its prerogative and acts in this manner, the Board consider that it should declaredly be from motives of grace and indulgence. The compensation granted to the Villagers for the loss of former privileges of pasturage and common should be carefully ascribed to the voluntary liberality of Government and be distinguished from any admission that the villagers have an ownership or proprietary right in the waste, as represented by Mr. Ellis. To preserve the revenues hitherto derived from the natural products of waste lands and uphold the former acts of Government in disposing of the waste, it seems to the Board essential that the right of the state to lands which remain uncultivated and unassessed should be vigorously maintained.

† *On this subject see the remark of Sir T. Munro in para. 8 of his Minute quoted above.*

22. In the Provinces, therefore, the Board are of opinion that the claim of the state to the waste, where it has not been alienated by grants, should be invariably defended, care being taken at the same time to follow the rule of offering waste lands to the resident cultivators before they are granted to a stranger applicant.

C. O. Book, Vol. 1 page 321.

23. Within Madras itself the Board have recommended‡ a modified course, because litigation in the Supreme Court is in their opinion to be avoided, now that it appears from the Advocate General's opinion that great stress would there be laid on Mr. Ellis' description of Meerassy tenures. The importance attached to that work by English lawyers on account of its having been written by a public servant and printed and circulated by Government, would of course be increased by the knowledge that Government have recently cited it as "the very best authority," and acting upon this opinion have set aside a Decree which had been given in its own favor.

‡ *Boards' Proceeding of 29th April 1856.*

Do. 7th May 1856.

24. Any decision passed by the Supreme Court regarding Meerassy tenures would not be without influence in the Provinces, and it is undesirable that Government should enter into litigation on the subject in a Court where it would be under a great disadvantage. According to Mr. Ellis the interest of Government in unoccupied land depends on that land being immemorial waste, and the Board have observed in their Proceedings of the 7th Instant that the want of Village accounts in Madras leaves Government without any evidence on this point, except that

of the Meerassidars themselves, who would have a direct interest in asserting that the land had been previously under occasional cultivation. Besides therefore the risk that the Court might pass a decision which contained embarrassing remarks on Meerassy rights in general, the spectacle of private parties contending successfully with Government for waste land might bring forth numerous other claims of a similar nature.

25. The magnitude and importance of the subject leads the Board to lay these remarks before the Government and solicit its reconsideration of the question. It is not only the past and future revenues derivable from forests and waste lands that are at stake, but also the rights of those numerous parties who, relying on the faith and good title of Government, have accepted waste lands from it and laid out sums on their improvement. The future advancement of the country, which depends on waste lands being obtainable for cultivation promptly and on a good and clear title, forms another important consideration. All these interests the Board are anxious to preserve; but they feel that their endeavours cannot be successful, while the public are able to state without power of contradiction, that the records of Government uphold Mr. Ellis' opinion against that of Sir T. Munro and of the Board of Revenue of 1823 when composed of members who appear to have had a very full knowledge of the subject and while Government acts on Mr. Ellis' opinion and waives rights which it formerly exercised. Those rights of the Meerassidars which are just in themselves, and are clearly proved and consistent with the welfare of the country the Board are most desirous to uphold. They would carefully maintain the Meerassidars in their actual holdings and would also allow them the option of cultivating the waste lands of their villages, before strangers are admitted, though this indulgence often leads to difficulties. But then the Meerassidars should take the waste land in their own names and become responsible for its assessment whether they cultivate it themselves or by means of tenants. If they refuse to do so the Board cannot admit that they have a right to receive fees or rent from other parties who accept the land from Government, bring it under tillage by their labour and capital, and pay the assessment due upon it to the state.

26. The interests of the public as well as of Government require, that the state should have the power of giving away waste lands on a clear and good title, and the necessity of this principle will become, in the Board's opinion, more and more apparent, as the land assessment is placed on a moderate footing and the proposed Revenue survey classifies and assesses it. The Board can now point to the effect in South Arcot of the operation of clear and distinct rules by which the land is made available to those who are prepared to cultivate it and pay the assessment, and they trust that the Government will carefully weigh the very strong reasoning of Sir T. Munro and the Board of Revenue of 1823 before reviving a system which is said to have had so repressive an effect in Chingleput. That the waste should be given to a single person, such as a Zemindar who would have a strong individual interest in its improvement and a power of independent action might not be very injurious, but that a large number of persons should have the power to prevent the occupancy by others while they have only an infinitesimal interest in its improvement appears to the Board to be a system which must seriously retard the improvement of the country and which nothing but the strongest evidence could prove to have existed.

27. The Board have abstained from enlarging upon the general subject of Meerassy tenures, because it has been so fully treated by their predecessors in the paper to which they have referred. Their principal object has been to remind the Government that Mr. Ellis' views have not been generally accepted, but on the contrary have been opposed by men of distinguished knowledge and experience in Indian affairs. On the importance of the subject to the public interests the Board need not further dilate, as the recently printed papers relating to the proposed general Revenue survey show the weight which was* attached in the discussion of that measure to the principles that Government looks to the land for the funds required for state purposes, and has the right to dispose of unoccupied and unassessed lands.

**See paras. 70, 74, 78 and 79 of Minute at Pages 111 and 112.*

(A true Extract.)

(Signed) G. S. FORBES, *Secretary.*

No. 30. ORDER THEREON, *No. 93; dated 23d January 1857.*

In the foregoing paper the Board of Revenue recorded observations at considerable length on the subject of the rights of Merasdars, with reference to some orders then recently passed by Government. They alluded more particularly to Extracts Minutes Consultation 5th September 1855, No. 1020, and 11th February 1856, No. 156. It does not appear necessary however that in considering the foregoing paper, the Government should enter so minutely into the subject as the Board have done, because there does not appear to be so much difference between their views and those of the Board as the latter suppose. It seems to the Government that the Board have unnecessarily taken alarm at their own forced construction of the observations recorded in the papers referred to; and that there is no material opposition between those observations, and the views to which the Board allude in para. 13. of their Proceedings, as having been approved by the Honorable Court of Directors.

2. With the exception of those passages in which the Board discuss the origin of the Meerasa tenure and its general incidents and effect, nearly the whole of their arguments are directed against any right in Merasdars to an exclusive interest in unoccupied and unreclaimed waste. But it is doubtful whether this exclusive right, in the sense intended by the Board, is upheld by any one at the present day; and it may perhaps even be doubted whether the late Mr. F. W. Ellis himself intended it. The mention by him of productive trees in speaking of "immemorial waste," refers evidently to certain interests of Government in such land; and if they have a claim to a tax on trees standing in such waste, it does not appear why they should not have a right to tax quarries there also. But whatever may have been Mr. Ellis' opinion on this point, the Government do not apprehend that the doctrine combatted by the Board is now held by any authorities. The Government here refer specially to the doctrine that Merasdars have a right to payment on unoccupied and unreclaimed waste, taken and held by others not through their agency.

Vide Board's Pro. para. 14.

They apprehend that the views on this subject recorded by Sir Thomas Munro would be generally acceded to; viz. that Merasdars have no rights over lands reclaimed by others without their agency, and that their rights in regard to immemorial waste are good against strange ryots but not against the Government; and it is the established rule prescribed by the Honorable Court that waste land in a village is not to be given to a stranger, until it has been first offered to and refused by the resident ryots or Merasdars.

3. It does not appear that in the orders quoted by the Board, Government used language at variance with the foregoing views. The case of Rungapah Naick Merasdar of the village of Maunellore in the Tanjore district, treated of in Extract Mins. Cons. 5th Sept. 1855, was one of a totally different character; the land in dispute not having been unoccupied waste. On a formal and equal division of the village into four parts, a certain extent of land had been apportioned to each section of the Meras proprietors for a threshing floor, and had been so used from that time forward. At a subsequent period a Merasdar of one of these sections contrived to obtain possession of portions of the threshing floor attached to a different section; and the claims of the rightful owners under the aforesaid division, were resisted on the ground that the land was Porumboke, and therefore the property of Government and not of any ryot. This plea was upheld by the Revenue authorities then in the district; but on the Plaintiff coming up with a Memorial to the Honorable Court, the Government looked into the merits of the case and gave redress. To have refused it on the plea urged by the temporary holder of the land, and maintained by the Board of Revenue in their Proceedings under notice, would have been a clear invasion of private property. The land was not unoccupied waste, or waste at all, except in the sense in which a house and backyard can be called so; it had been held for years as private property, just as houses and backyards are so held though paying no assessment; and land is similarly held for the same purpose in almost every village throughout the country.

Para. 2 Board's Pro.

4. It is incorrect too to say, as the Board have done, that this order set aside a decree passed by the Court of Combaconum in favor of Government. The Court passed no decree at all on the merits of the case; it merely declared that the case was one for the decision of the Revenue Department only. The correctness of this doctrine may be doubted; but as it was thus declared, and as it left

no other means of redress open to the Plaintiff, the Government as head of the Revenue Department, interfered and over-ruled the order of the local Revenue Authorities.

5. So also, Government have not declared, as the Board allege, that immemorial waste and unassessed land cannot be taken by them for public purposes, without obtaining it from the Merasdars. On the occasion referred to, Mr. Conliffe, the Collector of Madras, argued that on the analogy of the order above noticed in the case in Tanjore, Merasdars could claim payment for such land so taken; and he represented the large sums which would be so payable for the land in the Madras Collectorate needed for the Railway. Government in reply pointed out that even if there were such a right on the part of Merasdars, its value would be scarcely appreciable in the case of such waste generally. The argument, or rather the assertion, with which the Board meet this remark of the Government, viz. that waste land so taken must be priced not at its actual value, but at its possible future value in the event of improvement, appears to the Governor in Council wholly unsustainable, and opposed alike to reason and to universal practice.

Para. 3 Board's Proceedings.

6. The Board object strongly to Mr. Ellis being regarded as an authority on the subject of Meras, and quote at much length previous papers from their records, as well as a Minute by Sir Thomas Munro. There is no doubt that there has been much difference of opinion on the subject of Meras; some writers have upheld it strenuously and beyond what ascertained facts would warrant, while others have denied its existence altogether. These opinions have depended partly on the tendency of individual minds, but they have also varied in a great degree according to the parts of the country in which officers have chiefly been employed, and with the usages of which they have been conversant. In some districts Meras certainly existing at the commencement of British rule, was almost wholly ignored and set aside in the early settlement of the Revenue, and has in a great degree ceased practically to exist; in others, especially Tanjore and Chingleput, it was recognized as a distinct institution; while in others again, the treatment has been intermediate. In some districts, on the other hand, especially Bellary and Cuddapah, it cannot be said that Meras existed at the time of the assumption.

Para. 9 &c.

7. Mr. Ellis had given more careful consideration to the subject of Meras, and had more minutely and exactly investigated its incidents, than any other officer; he wrote also in and of the Madras Collectorate, where the institution existed with as much vigor perhaps as in any other part of the country. It is not strange therefore that he should have formed very decided opinions on the subject. It may be that his views on some points are extreme; or that some parts of the system, belonging to it originally, may have become obsolete in the lapse of time, as happens with unwritten laws in all countries. But however this may be, the Government cannot but think that Mr. Ellis' careful research gave him a title to be regarded as an authority on the subject, though not as an infallible guide. The antiquarian turn of Mr. Ellis' mind may have led him to allow more weight than they merited to traditions of ancient usages, and, as the Board surmise, to accept assertions respecting such old customs, without sufficient proof. With much respect for Mr. Ellis' judgment on the subject, the Government are aware that his opinions upon it are not to be received implicitly on all points. They must admit also that in their former order, the necessity of such reservation was not expressed with sufficient clearness; an omission which no doubt tended to produce in the Board of Revenue that mistaken impression as to the views of Government, which has been adverted to above.

8. The Governor in Council has thought it expedient to record the foregoing remarks, in order that the views of Government on the subject of the rights of Merasdars in immemorial waste might be clearly understood by the Board of Revenue, and in order to correct the misapprehension of the Board on the subject. He trusts that the Board will now have no further difficulty in dealing with questions of that nature; they will distinctly understand that in no part of the orders brought into question was there any intention to abandon the rights in the soil, vested in Government as the paramount authority.

(Signed) J. D. BOURDILLON,
Secretary to Government.

[illegible] deed and the [illegible] the
[illegible] Plaintiff [illegible] the [illegible]
[illegible] of [illegible] deeds [illegible] [illegible]
a Power [illegible] the [illegible] of
[illegible] and [illegible] [illegible]
[illegible] the [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible]

93
93

93
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[illegible] effect 1823 Page 15. The remarks which they often made on the effects of Excavations
collected and registered are corroborated by a further
proof made by the excavations of the Collection
on the north side of 31st July 1839 Pages 130 to 132 when
at the Depth of the Excavations were only
met by Clean Gravel, dark mingled Green
Sand and Green Gravel, Shells mingled Green
Sand and Gravel.

Lt Col. 8 Aug 1839

Upon proceeding into the Excavations
found from Observations & Inquiries
that one of the Men Excavators was employed
to obtain the Gravel for the Excavations
for the Foundations of the Colonnade, by
digging out the Gravel from under the Floor
of the Excavations which he was then filling
up with Earth, and that this was done
secretly during the absence of the Men
from their Work, and that the Gravel
so obtained was sold to Persons employed
in making Roads &c. &c.

Upon proceeding into the Excavations
found from Observations & Inquiries
that one of the Men Excavators was employed
to obtain the Gravel for the Excavations
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from their Work, and that the Gravel
so obtained was sold to Persons employed
in making Roads &c. &c.

executive Power, and Judges dependent
upon the Legislature, may be the Source of
Legislative Usurpation and Oppression, not only
prospective, but retrospective, by Declaring
Acts of Assembly, in Violation of the Rights
of the Subject, and destructive of Liberty,
(tho' made with the Concurrence of the Executive
Power, and Sanctioned by the Representatives
of the People in Assembly) to be Void.

8. In the Choice of the Representatives
of the People in Assembly, every Freeholder
ought to have a Right of Suffrage, and no
Qualification of Property should be required
of Electors or Elected, other than what is
necessary to exclude Persons of Insufficient
Understandings, and such as have not a sufficient
Evidence of Attachment to the Community.

9. In the Choice of the Representatives
of the People in Assembly, Every Man, having
sufficient Evidence of Attachment to the Community,
ought to have Equal Right with any other Man,
to Elect Officers, or be Elected into Office.

10. If any Town, Hundred, or County, shall
neglect or refuse to Depute their Representatives
to Assembly, for the Space of one Month after
the Same ought to be Elected, the Representation
of such Town, Hundred, or County, in Assembly,
ought to be suspended, during such Neglect or Refusal.

11. That Government is Instituted for the
Common Benefit, Protection and Security of the
People, Nation or Community, and not for the
particular Emolument or Advantage of any Single
Man, Family or Set of Men, who are a Part only
of that Community; and that the Doctrine of
Non-resistance against arbitrary Power and
Oppression is absurd, slavish, and destructive
of the good and happiness of Mankind.

12. That all Power of Suspending Laws, or the
Execution of Laws, by any Authority without the
Consent of the Representatives of the People in
Assembly, is injurious to their Rights, and ought
not to be exercised.

13. That the Levying Taxes by the Head is
grievous and oppressive, and ought to be avoided
in future; and that Assessments ought to be made
for the Purpose of Government, according to the
Estates and Abilities of the Persons to be taxed,
as nearly as may be, by Persons Chosen by the
People for that Service.

14. That Government is or ought to be
instituted for the common Benefit, Protection and
Security of the People, Nation or Community;
of all the various Modes and Forms of Government
that is best which is capable of producing the
greatest Degree of Happiness and Safety, and is
most effectually secured against the Danger of
Mal-administration; and that whenever any other
Mode or Form of Government shall be found more
conducive to the Happiness of Mankind, a Majority
of the Community hath an indubitable, unalienable
and indefeasible Right to reform or abolish the
Government in such Manner as shall be judged most
conducive to the public Weal.

13

Concerning that Government to be bound by
Laws to which the real Interest of the Land is not
duly Taxed for Public Uses. By this Rule
neither the Proprietary Estate, which has
from its Situation and Capability of Improvement
Advantages from Government, would be exempted from
Taxation. If therefore the Weight of the
Proprietary Estate to which it is entitled
the Power could not be laid upon it
ought not to be held inviolable, because
the Power has given at the Time it was
exempted, and they are constituted
with the Reliance to enjoy different
from, & for longer than other Governments
Power. The interest of the Proprietary
alone can never be increased into the
public Burden in the event of his
being brought into an unfavourable situation
and subjected to Injustice, but
simply by its actual Produce in the
existing State and by the real Use
to the Province by its Power of
Improvement. Thus entitled, they have
unchangeable Value of Power Large
Power

Recd 21 Jan 1822.
Read Sept. Elections, Directors of that Genl Company for year
ensuing, the question called for on
more deliberate enquiry and further
information. The question was there-
fore further reserved on by the Board
for further Proceedings at a Court December
1823, and it does not appear by any
full statement of the subject to present
Board regard or proper reference. They
commence by stating, that the Bills
paper had not been circulated for the
accustomed Dividends on the subject and
then express their opinion that
Said before Government their Proceedings
of 2 instant, regarding the
Statute of Caute & Brot. and Shingle
fact, to know their opinions regarding
Steeps, and whether practicable
Answer

Copied Directors
Letter
25th Dec. 1823
Copied

"proceeds have been used to balance the
regular ~~[illegible]~~ Expenses - Annual
Emergencies, they are indeed entitled
more to the favourable opinion
of the Legislature, but it is still doubtful,
whether and how they ought originally
what they exactly were, and whether
every Native Government admitted them
to the extent claimed."

The Board then proceeded
to state that the so called Fifteen Pattams were
originally Heads of Villages, and were
created then for services performed on
that occasion, though they afterwards
descended to mere hereditary Titles
still connected with Lands of the Village
which enabled them to claim certain
Fees on that account, but the Lands
were always subject to the
resumption of the Village Lands,
and therefore the Board consider that
the Fifteen Pattams are not entitled
to the Fees in question, but that
they ought originally
to have been Government servants

for which see Fort St. George Consultations Vol. 6th
Sir Thomas Munro's Minute

were adduced of former Governments
having ever admitted the existence
claims advanced by the Heerafidars
They also used the very expression
agreement that those claims were inc
consistent with justice and the ener
prosperity of the country, it being inc
equitable that after the Heerafidars
had neglected tracts of land they shoul
be entitled to a profit when Govern
can only by the outlay of Capital & care
brought them into readiness.

After this reading they
received the Board presented that Letter
Mr Ellis, the Collectors of two other Distric
Chadura and Trinomaly had inform
received in reply to the Circular queries
on Heerafidars, that the Heerafidars had
no right in the waste, being for the mainte
and extent of this right were not
defined. The Board therefore proposed
to consult some further questions to
ascertain, whether Government where
requiring waste land had ever purchased

it

of from the Messuagedness, and reputation
conveyance mingled to commodiously also
enter thereinwards tooth hand which the
Villagers had done exercised to and
for pasturage per Beck and the Moorsmill
Lease of Breadths, before entrance the
Boards Proceedings every deed, con-
sidered their access on Messuage to the
legally Watersfeedings, that subject was not
further pursued.

The Thomas Meerhe
dis-wardens on the Select Enfranchised
Freeware that the Board of Messuage
and enrolled on the Called to plead to show
why despised proof the reign of Manorfee
Lots be entirely cleared from that guilds
Messuage or two most enfranchised pasture-
stalled of considering Messuagedens
entitled to Examinations or on portion
of the Freeholds of all lands cultivated
by Messuage not Messuagedens, Mr Thomas
Thomas observed. The right of the
Thomas Water to derive or prevent from
Land pasturehold the matter pays the
Freeholds Messuages not fields or Messuage
to

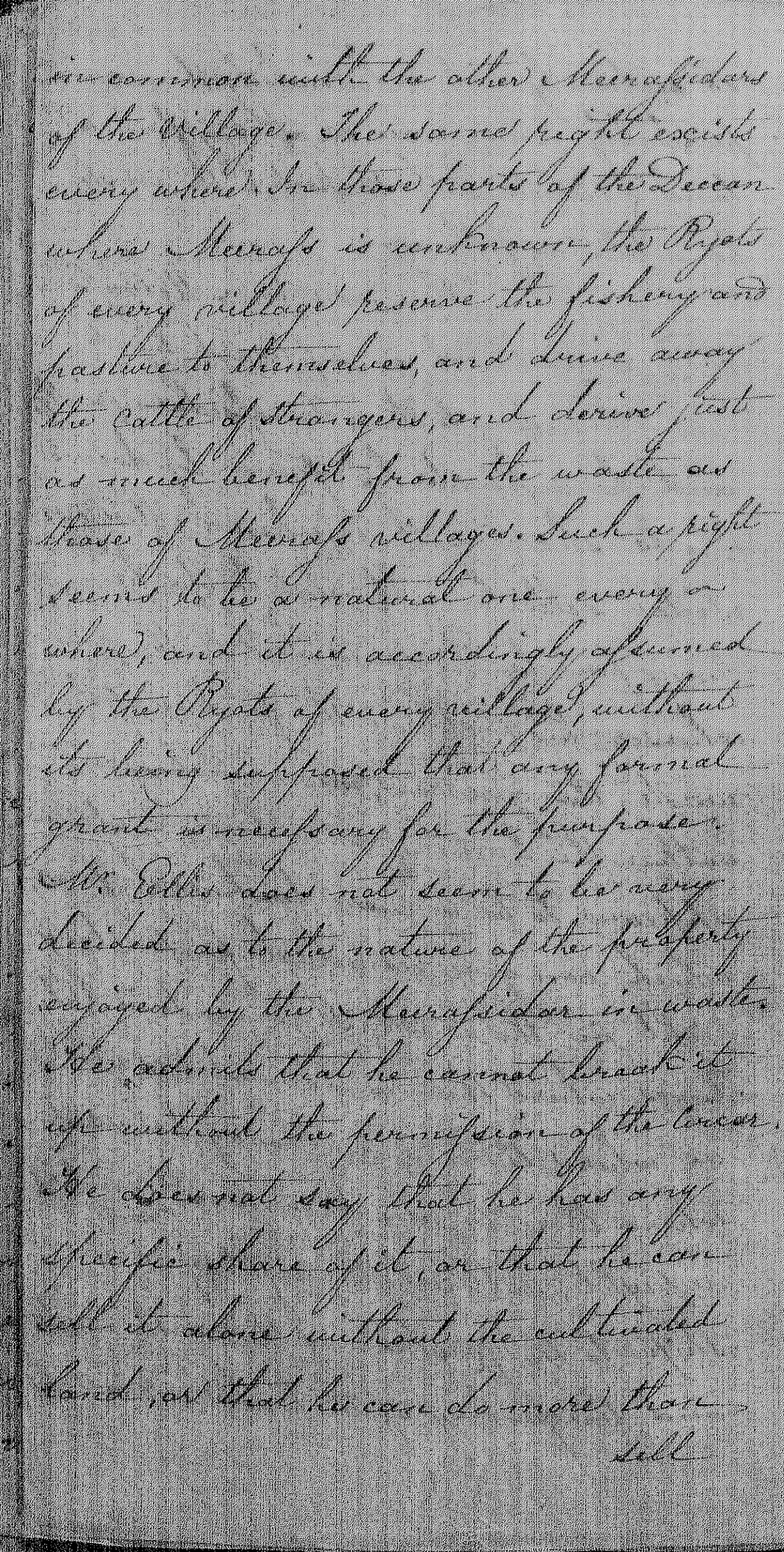
Sea Defrated
Court of the Manorial
Court Common
Principals Entitled Copy
Heirdes Consultation
22nd day of 1829 N

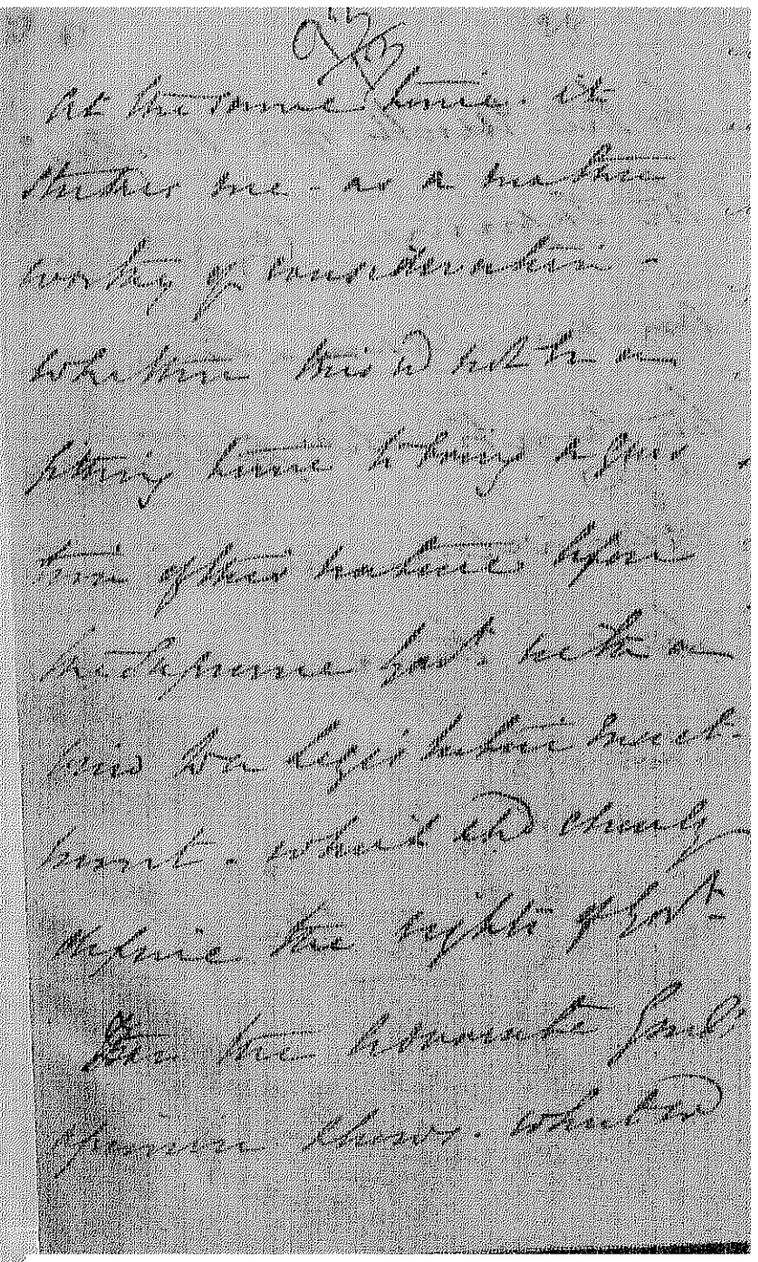
Sheets of the Court
and Messuagedens
of the Enfranchised
Messuage dated
31st December 1834
Examination

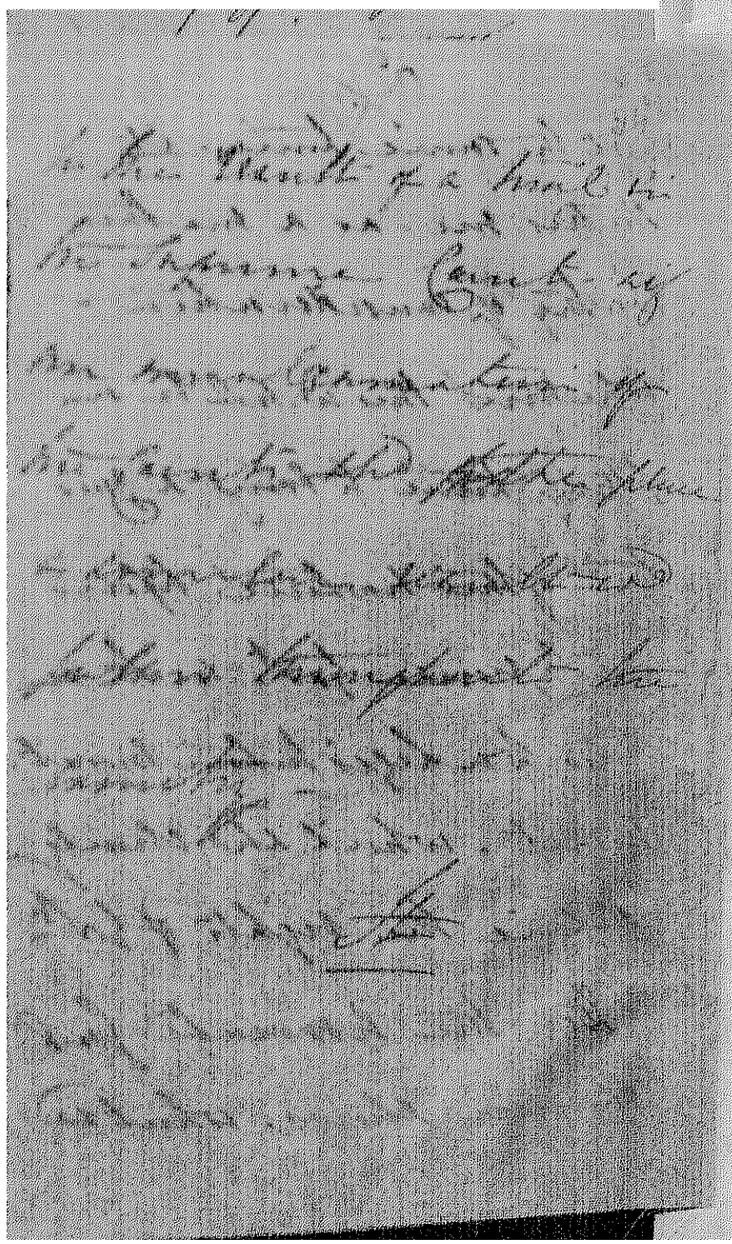
Para 6

Being certainly not ascertainable reason
specially recited were to do any further
terms Again with respect to the waste
lies entitled as follows.

The waste in Messuage
Villages in Act is supposed by the
Edits to belong to the Messuagedens Copyhold
and the Enfranchised in Copyhold
manors Messuages that where Messuages
Edits Enfranchised Lands be
Freeware part by the service deed to the Free-
holder pays the produce of the
waste, the quarries, mines, fisheries free
either the limits of the Villages. But there
appeared to be no recent technical forms,
which case gives no actual proprietary
right in the waste. It is stated in the
Villages where there is no waste and well
as where there is, and may be stated
where there is no Messuage. It confers
no right, but real the rights of owners
ship to the produce of the waste lands
and the fishery of the lands and multiple
in







Bill with his double right of
common in the waste. The Lincoln from
circuit times has every where, even in
Great, as well as other Provinces,
granted waste in Fee, free of every
part of claim public or private, and
affirmed in all such grants to have
considered the waste as being vested
solely in our property. It may be
objected that if this were the case, it
might give away the whole waste land
of all villages, and injure the inhabitants
by depriving them of their pasture.
It certainly might give away the
whole, but without the exercise of this
right would be injurious to the subject.
Richard Kendall Esqr and other Commissioners
of the Land, according to the general
custom of the country, were left unre-
strained, then would be no injury, and
the cattle of the villages would graze as
their ancestors the crafts were of the
present day. If lands were enclosed the
inhabitants would be no worse off than
now of having other villages whose lands
were

and entirely excluded and excluded and
such and all consequences other obliged to send
their bills during the day thereby to prejudice
declared principles and to direct in suffering expenses
for the receipts of the boundaries and the law
are proceedings this expenses where where
practical bailed reserve hereof affected the
height of the Corners to disposed of the roads
though it might possibly have existed
it to constituted the Clerks of Peace existing
declared for their loss, by some perfection
in the appointment of their proper Lands.
It does appear disposed that in pursuance
proceedings in Circuit in the assigned cases
peace between the Corners and the parish
declared the occasions rate of the roads
record directed to the Peace Petitioners Parish
their actually bare diverse that small
proceedings this expenses where where
practical bailed reserve and Plaintiff and in
Peace Parish proper of the Deceased in
Plaintiff obliged the confirmation not the
height of disposition of certificated
Corners Parish the Corners Act. Hale

* Ellis Cheshire
Richard Pearce
Joseph Ellis

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Place of pleasure dance the price
of occasions of the Present Parish of
Penrose, and as constituted by the Trustees
of our Inspection and the Practice of our
Commissioners. In the Preamble of Regu-
lation XXV of 1802 which declares the Pro-
priety right of the said to be vested in
the Parishioners thereof, this provision
the Said Electors are excluded re-
cord through their residence and there
Penrose, Parishioners Parishioners to Parish
united and the Proprietors of Peace Parish
by Section 2. Regulations 27 of 1803 and
by Section 15. Regulations XXX of 1802,
they are respectively allowed to assess
Parishioners and the Lands at their pleas-
sure. In Right which Parishioners confer
Parish to Proprietors Districts.
Referred to the Act of Regulations
Offences against Government declared by
Regulations IV of 1822 that the Regulations
of 1802 were not sufficient to inquire the
actual rights of some descriptions of
Land holders or tenants but the Parishes
object

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Government had otherwise exercised for a long
series of years and still the Attorney Obtects.

21. If may be accommodably explained
for Government to adopt a similar course
- hereafter, at least so far as to grant commissions
- from time to time to such Counsel as they may
the most Convenient to plead for prisoners in
- particular Cases, as they shall from time to time
- see fit; the fees regulated and ascertained by the
- Board of Trade, that it should discourage
- by the Court proceedings upon such indictments
- by the poor prosecutors, and enable the
commissioners to grant orders to the Sheriffs for the
- Expences of Witnesses for the Prosecution
- duly proved upon oath before the Judge who tried
the Cause, and certified by him to the Secretary
of State, to be reasonable, which Certificate

On this receipt the
Ld Attorney offer
to move upon
Friday next in Paris
for his opinion upon it

cannot

Bond assigned shall be regularly prosecuted.

22. If the Executors Legatees and Next of kin or any of them shall be minors and under the age of twenty one years the Court shall appoint Guardians to such minors to defend their interests in the Suit or Suits depending or to be brought for or against the Estate of the Deceased.

23. The Executors Administrators and Next of kin respectively shall be allowed Commissions upon the Estate of the Deceased not exceeding five pounds per centum upon the first thousand pounds and upon all above that sum at the discretion of the Court having regard to the trouble and care of the Executors Administrators and Next of kin in the Execution of the Trust reposed in them and to the Estate left by the Deceased.

C.C. Book 1666-8 Page 301.

Private Property of the Deceased not to be sold

Except

24. And it is ordered and decreed by the Court that no Executor Administrator or Next of kin of any Deceased person shall sell any of the Real Estate of the Deceased without the consent of the Court first had and obtained and that no Executor Administrator or Next of kin shall sell any of the Personal Estate of the Deceased without the consent of the Court first had and obtained except such as shall be necessary for the payment of Debts and Legacies and for the Maintenance of the Family of the Deceased and Education of the Children of the Deceased and except such as shall be bequeathed to be sold.

25. And it is ordered and decreed by the Court that no Executor Administrator or Next of kin of any Deceased person shall pay any Debt or Legacy out of the Estate of the Deceased without the consent of the Court first had and obtained except such Debts and Legacies as shall be due by Bond Bill or Judgment or by Account for Wares had and received by the Deceased in his Trade or Dealing or for Servants Wages due from the Deceased to any of his Servants

Except

To The Revd Henry Caldecott from
Sir Gregory Page on the general subject of Charity
Corsham Berkshire 1st Feb. 1800
Sir Gregory Page Bart. presents his Compliments to the Revd Henry Caldecott, and begs leave to inform him, that he has received a Letter from the Governors of the Charity School at Corsham, requesting his Subscription towards the support of that Institution. Sir Gregory Page Bart. is willing to contribute his mite towards the Establishment of Schools for the Education of the Poor, and has accordingly directed his Steward to pay to the Treasurer of the Corsham School, the Sum of Ten Pounds, for the use of the said Charity.
Sir Gregory Page Bart. presents his Compliments to the Revd Henry Caldecott, and begs leave to inform him, that he has received a Letter from the Governors of the Charity School at Corsham, requesting his Subscription towards the support of that Institution. Sir Gregory Page Bart. is willing to contribute his mite towards the Establishment of Schools for the Education of the Poor, and has accordingly directed his Steward to pay to the Treasurer of the Corsham School, the Sum of Ten Pounds, for the use of the said Charity.

Corsham School

Steward

To
The Revd Henry Caldecott
Corsham
Wiltshire

93/25

the Abercrombians, When the latter fail
to perform the service and pay the re-
-venue for which those rights were ori-
-ginally granted, the compact is broken,
and Government must look to some
other provision for the discharge of those
obligations. It is therefore Abercrombian
argued that the Land Government must
have sole power to effect cultivation, and as this
cannot effectually be done if the Abe-
-rcrombians had the power, stated by the
Act, of retaining and vesting the
Land, of returning and vesting the
same accordingly, and as those Grants could
be forfeited for non-performance of the
Grantees and re-granted it on Contrary
to every principle of good Government
12. The Board then applied
the same reasoning to waste lands above
3 miles. The Abercrombians had also an in-
-herent in the waste lands and a right
to a Abercrombian fee to them whenever
to cultivate it themselves the yet a tenant

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