Revenue Department

Minutes & Consultation

13th July 1858

Bach nos 35 + 36

Order no 951 712 12th July 1858

(Original)

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பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர் : பெ. கோபிநாதன்

செப்பனிடுவதற்காக எடுத்தக்- 08/08 11/08
கொடுக்கப்பட்ட நாள்.

சரிபார்க்கும்
முதல் முதியாள
கையொப்பம்

சரிபார்க்கும்
2ம் முதியாள
கையொப்பம்

ஆராய்ச்சி
உதவியாளர்
கையொப்பம்

Fort Saint George, Revenue Consultation of 13*th July* 1858.

No. 35. Read the following Extract from the Proceedings of the Board of Revenue, dated 24th June 1858, No. 2188.

Read the following replies to the Board's Proceedings, dated 17th March 1858, circulating order of Government in the R. D. No. 225, dated 4th March 1857, directing that a report be made by the several Collectors in the Presidency, after the expiration of two years, on the operations of Act XXVIII. of 1855.

Vizagapatam, dated 22d April,	in Cons.	1st May	1858.
Rajahmundry, dated 2nd	,,	9th Feb.	,,
Masulipatam, dated 14th	,,	20th Jan.	,,
Guntoor, dated 29th April,	,,	5th May	,,
Nellore, dated 13th	,,	19th Feb.	,,
Cuddapah, dated 13th	,,	19th ,,	,,
Bellary, dated 26th Dec. 1857,	,,	7th Jan.	,,
Kurnool, dated 7th	,,	15th May	,,
Chingleput, dated 3rd	,,	7th Dec.	1857.
N. Arcot, dated 18th Dec. 1857,	,,	16th Jan.	1858.
S. Arcot, dated 11th	,,	16th Feb.	,,
Tanjore, dated 5th	,,	11th Jan.	,,
Trichinopoly, dated 5th	,,	15th Jan.	,,
Madura, dated 16th Dec. 1857,	,,	,, ,,	,,
Tinnevelly, dated 23d	,,	28th ,,	,,
Coimbatore, dated 24th	,,	31st March	,,
Salem, dated 2nd	,,	7th Jan.	,,
Canara, dated 11th	,,	22d Feb.	,,
Malabar, dated 30th Oct.	,,	24th Dec.	1857.
Do. dated 17th Feb.	,,	23d Feb.	1858.
Madras, 28th Jan.	,,	2d ,,	,,
Sea Customs, dated 13th	,,	15th Jan.	1858.

Resolved that the above recorded replies be forwarded for the information of the Right Honorable the Governor in Council, with reference to the Extracts from the Minutes of Consultation specified in the margin.*

* *No.* 225, *R. D. dated* 4*th in Cons.* 17*th March* 1857.
,, 445, *dated* 8*th* ,, 30*th April* 1858.
,, 641, *dated* 18*th May* ,, 24*th June* 1858, *No.* 2079.
,, 817, *dated* 14*th* ,, 24*th June* ,, ,, 2539.

2. Act XXVIII. of 1855 repealing the provisions of Regulation XXXIV. of 1802 which fixed the maximum legal interest at 12 per cent., came into operation on the 1st January 1856, and in the orders quoted above, Government directed that, at the expiration of two years the Collectors should report on its results in their several Districts, the Board accordingly called for such Reports: and now submit them for the information of Government.

3. Out of the 21 Officers including the Collector of Sea Customs at Madras, who have addressed the Board, three† have expressed their inability to give an opinion on the subject as the operation of the Act do not come under their notice; the Acting Collector of Masulipatam, however, adds that for the reason above stated his opinion would be of little value, but that he has always considered the Act defective, inasmuch as it does not provide against interest being charged on a Bond or Contract from the day the Deed could be made the subject of an action at law, until the day the action is filed. This opinion is contained in the letter‡ addressed by him to the Civil Judge at the station.

† *Masulipatam, Kurnool and Salem.*

‡ *Copy enclosed in the letter to the Board.*

4. Of the remaining eighteen Officers the Collectors of Rajahmundry, Vizagapatam, Cuddapah, Chingleput, Tanjore, Trichinopoly, Canara, South Arcot and Madras together with the Collector of Sea Customs, have given their opinion in favor of the Act, and the rest are opposed to it. The following is a summary of the Collectors' remarks.

Rajahmundry. 5. The Collector of Rajahmundry thinks the Act will prove ultimately beneficial, but that sufficient time has not elapsed to allow of its effects being generally felt.

Vizagapatam. 6. Mr. Reade states that a few cases under the Act have come before the District Moonsiff and been disposed of in accordance with its provisions. He (Collector) thinks that there can be no question that the measure is popular in his District.

Chingleput, and Cuddapah. 7. The Collector of Chingleput believes the repeal to be popular "as it is in accordance with the principles of free trade;" for the same reason the Collector of Cuddapah thinks it unobjectionable, but is not able to give a decided opinion as no cases under this Act have come before him

Tanjore. 8. Mr. Phillips, the Acting Collector of this District, states that the mercantile community and others interested in the change, are against the repeal on the ground that, it enables the lender to take undue advantage of the borrower. But in this opinion Mr. Phillips does not concur. He thinks that a capitalist ought not to be restricted to any rate of interest in his dealings, and that the Act only legalizes a long existing practice by which the provision of the repealed regulation has been generally evaded.

Trichinopoly. 9. Mr. Bird has caused enquiries to be made by his native officers throughout all the divisions of this District, and learns that all classes are satisfied with the enactment which appears to work well.

Canara. 10. Mr. Fisher is for the repeal as it does away with the underhand practice resorted to by lenders, to charge whatever interest they pleased without shewing it in the bond. He observes that, on landed security money can be borrowed on interest below the limit allowed by the usury law, and that where this security is unexceptionable, the interest is as low as 4 or 5 per cent. Probably these rates are only to be met with in such Districts as Canara, Malabar, and a few others.

South Arcot. 11. The Acting Collector of this District states that, 164 cases of the nature contemplated by the Act have been filed in the Sub Court of the District since the report, which shews that money transactions have proceeded in their natural channel; and that if this has also been the result in other Districts it may be safely concluded that, the enactment has had a beneficial effect. He believes that rates of interest on simple bonds have actually been lower, than they were under the old rule; while loans on good security, as landed property, jewels, &c., rarely command a higher rate than 6 to 8 per cent., the amount depending on the state of the money market and not on any legislative enactment.

Madras. 12. Mr. Cunliffe is in favor of the measure, on the principle that, money should be treated as any other commodity, and the lender and borrower be allowed to regulate their terms with reference to the money market. He thinks that the former restriction was not conducive to morality, as under it, parties who had willingly engaged to pay an illegal rate of interest when effecting the loan, were tempted to evade payment under shelter of the law. He is informed that the repeal is generally popular.

Collr. of Sea Customs, Madras. 13. Mr. Underwood is of opinion that the old law was practically useless as it was evaded at option. In his experience the advantage of the repeal seems to be in the liberty it gives Banks and large Capitalists, under severe pressure from monetary panic and commercial distress, to raise the interest on loan to an almost prohibitory rate.

14. In the Districts remaining to be noticed, the Collectors anticipate unfavorable results to the community generally, and especially to the Agricultural classes, from the operations of the Act.

Guntoor. 15. The Collector of Guntoor has had no opportunity of judging of its effects owing to his absence from the country, but he thinks that it cannot operate beneficially in the case of ryots who have often to borrow money to meet the revenue demands.

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Bellary. 16. In Bellary, Capitalists are stated to be few and borrowers needy and many; Mr. Pelly therefore thinks that the repeal is detrimental to the interest of the community and especially to the Agricultural classes. This appears, he says, to be the universal opinion of persons competent to judge in his District.

Coimbatore. 17. The Collector of Coimbatore and Acting Collector of Madura are opposed to the Act, as it removes a just and equitable barrier against oppression by the monied classes. The Acting Collector of Madura adds that the majority of the people in his District are not wealthy, and from improvidence will be inclined to contract loans at exorbitant rates of interest which lenders are not now prevented from suing for, in Courts.

Tinnevelly. 18. Mr. Silver states that, the rate of interest, before the repeal of the law, virtually ranged from 6 to 24 per cent; but that when lenders resorted to the Court, they confined themselves to demanding only 12 per cent; the removal of this limit is, therefore, felt as as a hardship by the poor who are constrained to borrow. The Collector thinks, the ultimate result will be, that the affluent will grow richer, and the poor more indigent.

Nellore. 19. The Collector of this District states that, the Act has not been long enough in operation to enable him to trace from the Reports of the Tahsildars, which he has received on the subject, whether the current rates of interest are owing to the repeal. He however concurs with Mr. Minchin, the Sub Collector, (from whose Report, he largely quotes,) that, the new measure has an injurious tendency as regards the Agricultural classes, and that the removal of all restriction will be abused.

North Arcot. 20. The Collector of this District finds it difficult to report on the subject, as the repealed Regulation does not state the grounds on which it was considered necessary to enact it, and he is also ignorant of the circumstances which led to its repeal. He is, however, of opinion with all the native officers who have reported to him on the subject, that, the Act will not improve the condition of the Ryots, who are an improvident class. There are in North Arcot no less than 75,222 Ryots who, even under the old high rates of assessment (recently reduced), held puttahs not exceeding 10 Rupees. The total number of ploughs is 78,396 and of cultivating Ryots 1,36,934, showing a rate of four ploughs to about seven men; so that it is not surprising to find so needy a class, habitual borrowers.

Malabar.

NOTE.—*Two letters have been received from this District, the second being a reply to a further call from the Board.*

21. The Acting Collector Mr. Robinson states that, all the subordinates in his Department are unanimous in declaring against the Act, and that at a meeting called by him of people not in the public service, the wealthy money lenders were in favor of it, but, almost universally, all those who take an impartial view of the question disapprove of it. He observes that, up-country Capitalists being few and the money market ill-supplied, the Hindoo and Moplah lenders acquire vast influence; being moreover pitiless creditors, they are highly usurious and require to be kept within bounds by the Law. The needy will not obtain money cheaper or want it less because the Act is passed; but the authorities may be called upon and it will be so in Malabar, to enforce many ruinous engagements; and as the decree of a Civil Court, appears to the poor and ignorant identical with a direct order from Government, the latter authority will be exposed to much unnecessary obloquy. He is of opinion that the poorer and more excitable the masses, the more necessary it is to restrict usury, and doubts that India is in such a state as to favor the removal of all restriction. He fears that much political discontent will be occasioned, by Government lending itself to enforce the usurious transactions of the money lenders, against the large and powerful masses who are the borrowers.

22. From the foregoing precis it will be seen that, with the exception of the Collectors of Kurnool and Salem who have offered no opinion, the Collector of Ganjam from whom no communication has yet been received, and the Collectors of Madras and Sea Customs whose situations do not afford them any opportunities of learning the effects of the Act on the agricultural classes, the other seventeen authorities are about equally divided in their sentiments, nine being for and eight against the Act.

23. The Board incline to the opinion of those Officers who deprecate the repeal of the money laws as likely to have an injurious effect, not in large towns or among the educated part of the community, but in rural districts where an ignorant agricultural population have frequently to resort to the local money lenders.

24. In the abstract principles on which the Act is founded, the Board entirely concur, but it is an important question to consider whether we are not thus legislating in advance of the people. Money transactions are seldom conducted here as in Europe, combination rather than competition being the principle by which they are regulated, as observed by the Collector and Sub Collector of Nellore. No consequences have, however, yet followed from the act which would justify the Board in recommending its modification without a longer trial, especially since its effects will depend much on the course taken by the Civil tribunals when suits are brought before them, disclosing undue attempts at usurious extortions. If Section II. of the Act repealing the usury laws, does not prevent equity being brought into operation on these occasions, for the purpose of modifying strict law, the injurious consequences apprehended from the Act, would be in a great measure obviated.

(A true Extract.)

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

Ordered in consequence that the following letter be despatched.

No. 36. From T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George; to R. B. CHAPMAN, Esq., Under Secretary to the Government of India; dated 12th July 1858, No. 951.

SIR,

From Govt. of India 2d Feb. 1857, *No.* 152.
" " *16th April* 1858 " " 616.
" " *28th May* " " 840.

With reference to the letters noted in the margin, I am directed by the Governor in Council to forward for submission to the Government of India an Extract from the Minutes of Consultation in the Judicial Department, dated 11th March 1858, No. 334, and an Extract from the Proceedings of the Board of Revenue dated 24th June 1858, No. 2188, containing the views of the several Judicial and Revenue Officers in the Provinces and at the Presidency on the operation of Act XXVIII. of 1855 for the repeal of the Usury Laws, as well as the opinions expressed by the Court of Sudr Udalut and Board of Revenue on the same subject.

Judl Consl 13 July
No 36

Pycroft No 951.

R. B. Chapman Esqr
Under Secretary to the Govt of
India.

Sir,

With reference to the
From Govt of India 2d Feby 57 No 152 letters noted in the Margin
" do 16 April 58 No 616
" " 28 May " No 840. I am directed by the Governor
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submission to the Govt of India
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WHB

First Pr Geo 12 June 1858

Cons 10th March/57 — Nos 1–2
—— 9th April/58 —— 41–42
—— 18th May —— 33–34
—— 15th June —— 72–73.

Revenue 1855 Dep.t No.

2d Ju. to Cons: 13th July

No. 957

To the Under Secry to the
Govt. of India
Dep.t 12th July 58

~~Forwd 2d Dep.t 7~~ 17th Jany/59 Cons 179
in Cons: 15th

~~Forwarding an Extract~~
~~from the Minutes Consultation~~
~~in the Judicial Department~~
~~dated 11th March and an Extract~~
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No. 35 & 36.

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