

[R.O.]
10,000-19-5-11.

MADRAS RECORD OFFICE.

Block No. 2

Paper taken out of the Records from the charge of the Referencer,
Dept. *RD* Press No. 1954, dated 12-4-1917, Rack No. 191, Range.

Date taken out.	FOR WHAT PURPOSE.			Initials of Referencer.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			
7/3/12	<i>RD</i>	<i>627</i>	<i>12</i>	<i>El</i>	<i>4.5.12</i>	<i>MMS</i>
10/10/12	<i>MMS</i>	<i>378</i>	<i>12</i>	<i>MMS</i>	<i>17-1-15</i>	
					<i>19-5-15</i>	<i>GA</i>

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 1954

DATED 10th April 97

[Despatch Abstract.]

Recording questions put at the meeting of the Legislative Council held on 9th April 1897 with answers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

G.O.	No.	Department.	Date.	G O	No.	Department.	Date.

CURRENT No.

No. 793

Dated 2-4-97..

Received 2-4-97.

Registered 2-4-97.

Enclosures -

Spare copies -

SUBJECT.

noti per chi Despre.

Please ~~an~~ stitch the
several questions and answers
~~with~~ as well as the notes
with the present p.o.

9.50.97

SUBJECT.

Forwarding for information
extract from the office note
and the notes of H. E. the Governor
in regard to the questions
proposed to be asked at the
ensuing meeting of the
Legislative Council.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

The Honble Mahammad Sharif Khan Bheedi &
the Honble C Vijayaraghavachariar's questions

* Honble Vijayaraghavachariar's

If questions $\frac{IX}{X} + \frac{X}{X}$ are left on the paper they might be shortly answered together that a scheme was submitted to but as the matter is under correspondence with the no further information can be given to.

(Intd), G. S. F.

Note of His Excellency the Governor there

All the questions may be admitted. No IX + X should be answered as suggested by Mr Forbes.

(Intd), A. E. H.

Honble C Jambulingam Mudaliyar's questions

Note by His Excellency the Governor

Full information should be given

(Intd), A. E. H.

2 A

OFFICE NOTE No. 793

Dated 2nd April 1897.



From

THE CHIEF SECRETARY,
Legislative Department.

To

THE SECRETARY, Revenue DEPARTMENT.

The undersigned has the honour to forward for information the attached extract from the office note, & the note of His Excellency the Governor, in regard to the questions proposed to be asked at the ensuing meeting of the Legislative Council.

[Signature]

See & accept answer accordingly.
[Signature]

Revised &
Sent to
N.M.
& 2 A.
13/4/97

Revenue (1897) Department.

CURRENT No. 800

From
The Legislative Department

Order

Memo. No. 800

Dated 3rd

Received 3rd

Registered 3rd

Enclosures

Spare copies

} April 1897

SUBJECT.

*Forwarding Copy of
questions which will
probably be put at the
meeting of the Legislative
Council to be held on the
9th inst.*

BACK PAPER

G.O.	No.	Department.	Date.

FURTHER PAPERS

G.O.	No.	Department.	Date

Mr. Vijayamahalingam

XIV. Is the Government aware of the extreme hardship to which agricultural ryots and others are frequently subjected in prosecutions under the Madras Forest Act for being in possession of "forest produce", in consequence of the vast majority of the magistracy feeling themselves bound under, what they consider, authoritative interpretations of section 56 of the Act as to presumptions, calling upon the accused persons at the very outset of the case to prove their innocence when absolutely no proof has been adduced that the "forest produce" they are in possession of has been "found in or brought from a forest" within the meaning of the Act?

In view of this hardship, and in view of the fact that such a use of the section exposes the rural population to frequent extortions, will the Government be pleased to have the section repealed?

If, for purposes of revenue, the Government deems the retention in the Act of some such provision necessary, will the Government be pleased to have the Act amended so that proceedings may be taken under it solely with a view to recover "forest produce" when such a presumption might be applied, while criminal prosecutions for forest offences might be conducted upon principles applicable to criminal trials generally.

In view of the fact that the provisions of the section are merely enabling, will the Government point out to the magistracy, in the meanwhile, the undesirability of acting on it at least in cases punishable with imprisonment?

XV. Will the Government be pleased to state—

(a) How many hours Mr. R. A. Nelson, Principal of the Law College, Madras, is, according to his contract, bound to devote for delivering lectures in the college—(1) in the week, (2) during the spring term, (3) during the autumn term, respectively?

(b) Whether during the years 1895 and 1896 he delivered lectures in the classes for the full contract time, and if not, what are the reasons?

(c) Whether, if the Government has no information on the subject, it will call for it and place the papers on the table?

XVI. (a) Whether it is a fact that natives of India are not allowed to compete for appointments in the Military Assistant Surgeons branch of the Indian Sub-ordinate Medical Department, Madras Command, and if so, on what grounds are they excluded?

Is it a fact that the higher commissioned ranks are open to them?

(b) What educational qualifications are required of candidates for the above appointments?

(c) Is it a fact that the regulations made by the Government require the Hospital Assistant (Military) pupils to pass the compulsory subjects of the Upper Secondary examination or the Matriculation examination and that the candidates for the higher branch of the service, namely, the Military Assistant Surgeons, who should be Europeans or Eurasians, need not be passed men? If so, what is the reason of this distinction? Will it abolish this distinction? Will the Government be pleased to consider the desirability of admitting Indians to the latter appointments?

XVII. Will the Government be pleased to consider the desirability of placing the Indian Assistants to the Professors of the Madras Medical College on a better footing with regard to pay and status?

XVIII. How many Civil Surgeons' places are there in this Presidency? Has any such ever been permanently held by an uncovenanted civil officer?

Will the Government be pleased to consider the desirability of permanently reserving the Civil Surgeons' places to the officers of the Uncovenanted Medical Service?

XIX. (a) Is it a fact that in 1894 the Government impressed upon the Surgeon-General with the Government of Madras that the improvement and increase of "indigenous medical men" called for immediate attention?

(b) Did the Surgeon-General accordingly address the Government on the subject by his letter, dated 13th October 1894, No. 541?

(c) Has the Government considered his letter, and if so, what steps has it taken to give effect to the recommendations of the Surgeon-General made in the letter? Will it please place on the table the Government Order passed on this letter?

P

nt

VERY URGENT.

LEGISLATIVE DEPARTMENT.

MEMORANDUM 800

The accompanying copy of a question which will probably be put at the meeting of the Legislative Council to be held on the 9th instant is forwarded to the Revenue Department for favour of the preparation of a note containing a draft answer and such other information as may be required.

It is requested that the note may be forwarded so as to reach the undersigned before 5 pm on Monday the 5th instant if possible

On no. XIV of the Honble Vijayaraghavachariar with reference to the additional paragraph now proposed by the Honble member.

The Revenue Dept
with 2 spare copies

FORT ST. GEORGE,

3 April 1897.

Secretary to the Council.

Revenue (1897) Department.

CURRENT No. 2700

Order

From
*The Govt. Solicitor
Madras.*

No. 221.

Dated 3rd April 1897.

Received 3rd . . .

Registered 5th . . .

Enclosures

Spare copies

SUBJECT.

*Forw^g the opinion of the Advocate
General, on the provisions of 56
of the Madras Forest Act.*

BACK PAPERS.

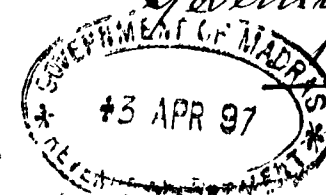
G.O.	No.	Department.	Date.

FURTHER PAPERS:

G.O.	No.	Department.	Date

(1897) Department

From Ernest Barclay
Government Solicitor



Madras

To The Secretary to Government
Revenue Department
Madras

N^o 221.

Dated 3rd April 1897
Recd

Forwarded with reference
to the Official Memorandum
of Government N^o 79
dated 2nd April 1897 Revenue
Ernest Barclay
Government Solicitor

OPINION.

Section 56 of the Madras Forest Act V of 1882 is certainly not an enabling provision. In the interests of public revenue, the Magistrate is bound to presume that any forest produce therein referred to is the property of Government, unless the contrary is established by the accused. The phrase "Shall be presumed" in this section is expressly used in the sense in which the phrase "Shall ~~be~~ presume a fact" is defined in Section 4 of the Indian Evidence Act.

I am clearly of opinion that the Government cannot legally issue an order to the magistracy as suggested in the interpellation.

V. Phashyam Iyenger

Acting Advocate General

2nd April 1897.

True Copy

Ernest Barclay

Government Solicitor.

Lec 4

This is much to
make quite calm
~~that the staff~~
assure is legally
correct

It is requested that a reply to the reference may be despatched so as to reach the Cal. Office not later than noon on Monday the 2nd inst.

To the Genl. Solicitor
Dec. 2. 4. 97

2.4.97

In forwarding an extract from a question proposed to be asked ^{which will be put} at the ensuing meeting of the Legislative Council regarding the interpretation to be put upon ~~the provisions of the Sec 56~~ of the Madras Forest Act of 1882, the undersigned is directed to request that the Hon the As. Advocate General will ~~furnish~~ be good enough to furnish an opinion as to whether the provisions of the said Section in regard to ~~the compulsory direction~~ presumptions are "merely enabling" and whether the ^{legally} ~~fact is competent~~ ^{to the magistrates} ~~to issue~~ an order ^{in the direction} ~~in the direction~~ indicated in the proposed ~~same~~ ^{it would} could legally be issued

Tent 8.5 George
 2nd April 1897 }
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 (H.S. part of the
 C. Wainwright house and

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4 1,000-11-6-28.

Legislative Questions

REVENUE DEPARTMENT.

No

From the Legislative Dept. de

Dated

189

The Hon: Mr. G. S. S.

FOR ORDERS.

Draft answers to five of the questions proposed to be asked by the Hon: C. V. Vayalarava Chari at the next meeting of the Legislative Council and to a part of a question proposed to be put by the Hon: Muhammad Sharif Khan are herewith submitted for approval

The answers to Vayalarava Chari's questions XI to XIV were in the first instance prepared in the Board's Office. The Board's wording has however been slightly altered now. With reference to the last para of Question XIV, a memo. has been sent to the Advocate General for his opinion. The provisions of Sec 50 of the Forest-

23/4/17
25/4/17

Forest Act are however so clear
that it is not likely that the
draft answer now suggested will
have to be altered.

The Answer to Question

FOR ORDERS.

IX and X had been prepared
before the receipt of H.E.'s in-
structions in Cus. 2908 of 97,
but it will be seen that the
answer suggested follows closely
the wording proposed by Mr.
Forbes.

3/4/97

$\frac{D}{4}$ 1,000-20-2-96.

REVENUE DEPARTMENT.

C No. 2913 of 97

From the Legis. Dept

Dated 3rd April 1897.

The Hon Mr. G. V. C. L. E.

FOR ORDERS.

The Hon C. Vijaya raghava chari
proposes to make the
following addition to his
Question No XIV. between para
2 and 3 of the Question

If, for purposes of revenue, the Government deems the retention in the
Act of some such provision necessary, will the Government be pleased to have the Act
amended so that proceedings may be taken under it solely with a view to recover
"forest produce" when such a presumption might be applied, while criminal prose-
cutions for forest offences might be conducted upon principles applicable to criminal
trials generally.

The addition is it is submitted
obscurely worded. The H. M.
perhaps means that the
presumption in question
should be restricted to
proceedings taken to recover
forest produce & not as
other and should not be
employed in proceedings
taken to punish the party
concerned. It appears this
would lead to the following
result viz that in the vast majority
of cases there could be no
punishment of the breaker of the

25/4/97
15/5/97

FOR ORDERS.

for & therefore no safe example
 ch. others; for in the vast majority
 of cases there exists no prima
 facie proof & hypothesis no
 presumption to take its place.

Is the above addition moreover
 intimates that criminal
 prosecutions for forest offences
 are not
 ought to be conducted upon
 principles applicable to
 criminal trials generally?

This appears to be unwarranted
 for the presumption in
 Dec 26 is merely a subject
 the declaration in a
 particular case by express
 enactment of the general
 doctrine of evidence that
 it is incumbent on a party
 to prove those facts which
 are specially within his
 knowledge (Indian Evd Act 1907)

§ 106)

The proposed rule may
 it is submitted be amended
 as shown on the accompanying
 slip

W.R.
 3/14/97

3/14/97

The Hon. C. Vijayaraghavachari

IX. (a) Whether it is a fact that the Madras Government had recently sub-
 mitted to the Government of India a scheme for the reorganisation of the Revenue
 Survey Department.

(b) Whether the Government of India sent the scheme back to the Madras
 Government in view to its submitting a revised scheme?

(c) What was the scheme submitted by this Government? Is it a fact that
 the Government proposed to place each district in charge of a graded European
 Officer?

(d) Whether the Government of India in sending it back suggested that the
 object of the Government might be attained by increasing the staff of Deputy
 Collectors and placing one Survey Deputy Collector in charge of each district? And
 on what grounds did the Government of India base its recommendation?

(e) Has the Government accepted the recommendation of the Government
 of India? If not, what were the grounds for refusing to accept it?

(f) Will the Government be pleased to place on the table the correspondence
 relating to the subject?

X. Has the Government submitted a revised scheme for such reorganisation,
 and if the matter has been disposed of, will it place the papers on the table?

Will the Government be pleased to state—

(a) the necessity for any reorganisation of the Madras Revenue Survey
 Department?

(b) whether the reorganisation would increase the cost of the administration
 of the department, and if so, by how much a year?

(c) what would be the difference in the cost between the schemes recom-
 mended by the Government of India and proposed by this Government?

The Hon. Mr.

IX & X The subject being
 still under correspondence
 with the Govt of India the
 information asked for by
 the Hon. Member cannot
 be furnished.

The reorganisation of the Survey
 Dept. has formed the subject
 of recent correspondence with
 the Govt. of India & is ^{still} ~~now~~
 under ~~the~~ consideration. ~~for~~
~~the Madras Govt.~~ The Govt. is
 not prepared (at this stage)
 to place the papers on the table.

In the present

2/4/97

any further information on the subject.

10/11

not with all

21 to 24
25 to 28
29 to 32
33 to 36
37 to 40
41 to 44
45 to 48
49 to 52
53 to 56
57 to 60
61 to 64
65 to 68
69 to 72
73 to 76
77 to 80
81 to 84
85 to 88
89 to 92
93 to 96
97 to 100

The Hon'ble C. VIJAYARACHAVACHARI :—
IX. (a) Whether it is a fact that the Madras Government had recently submitted to the Government of India a scheme for the reorganisation of the Revenue Survey Department?
(b) Whether the Government of India sent the scheme back to the Madras Government in view to its submitting a revised scheme?
(c) What was the scheme submitted by this Government? Is it a fact that the Government proposed to place each district in charge of a graded European officer?
(d) Whether the Government of India in sending it back suggested that the object of the Government might be attained by increasing the staff of Deputy Collectors and placing one Survey Deputy Collector in charge of each district? And on what grounds did the Government of India base its recommendation?
(e) Has the Government accepted the recommendation of the Government of India? If not, what were the grounds for refusing to accept it?
(f) Will the Government be pleased to place on the table the correspondence relating to the subject?
X. Has the Government submitted a revised scheme for such reorganisation, and, if the matter has been disposed of, will it place the papers on the table?
Will the Government be pleased to state—
(a) the necessity for any reorganisation of the Madras Revenue Survey Department?
(b) whether the reorganisation would increase the cost of the administration of the department, and, if so, by how much a year?
(c) what would be the difference in the cost between the schemes recommended by the Government of India and proposed by this Government?

Approved
3.4.97

The Hon'ble Mr.
IX and X. The reorganisation of the Survey Department has formed the subject of recent correspondence with the Government of India and is still under consideration. The Government is not prepared at this stage to lay the papers on the table and regrets that, for the present, it cannot furnish the Hon'ble Member with any further information on the subject.

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The Hon C. Vijayaragava Chariar,

14.3.37

The Hon: Mr. Answer

XI. No policy has been adopted by Government which involves an excessive proportion of the Forest reserves near railways ~~being closed to~~ grazing, and if the position is as stated in the question, it is due to the operation of the ordinary rule

the prohibition of grazing in

~~that~~ ~~under which~~ blocks ~~are~~ closed ~~for~~ grazing for a few years ~~after~~ ~~they~~ ^{which} have ^{just} been felled over. ~~closed by~~

The Government sees no reason to call for a statement ^{in the form} ~~of the kind~~ suggested. It would obviously be against public interests to throw open blocks ~~of the kind~~ to grazing before the re-growth was old enough to hold its own against cattle, and

It might be the better case

Such

R.
1.1.1937

The Hon'ble C. VIJAYARAGHAVACHARIAR :—

XI. Is it a fact that areas closed to grazing in reserved forest lands by the side of railways are excessive in comparison with such closed areas in other reserved forest lands, and are very inadequate to meet the requirements of the ryots? If so, what are the special reasons for adopting this policy near a railway?

Will the Government be pleased to call for a statement showing in each district the total extent of the reserved forest lands on either side of the Madras Railway, the extent in such lands closed to grazing, and the number of cattle, sheep and goats at the end of the last official year, of the villages depending for grazing purposes on such reserved forest lands?

The Hon'ble Mr.

XI. No policy has been adopted by Government which involves the prohibition of grazing in an excessive proportion of the Forest reserves near railways, and if the position is as stated in the question, it is no doubt due chiefly to the operation of the ordinary rule that blocks which have just been felled over should be closed to grazing for a few years.

It would obviously be against public interests to throw open such blocks to grazing before the re-growth was old enough to hold its own against cattle, and the Government sees no reason to call for a statement in the form suggested.

Approved
Jg
3.4.97

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The Hon C. V. Narayanaiah

XII. Is it a fact that the Government order of 1890, directing in the case of agricultural cattle, the levy of grazing fees at half the rates sanctioned for cattle of other kind, has been recently modified and that a uniform rate, amounting to three-fourths of the full rate originally sanctioned, has been substituted? If so, under what circumstances? Will the Government be pleased to consider the desirability of restoring the old order relating to agricultural cattle?

Is it a fact that notwithstanding this recent order of Government, grazing fees are still charged in some districts at the old full rates for all cattle and not at three-fourths, and if so, in what districts, and under what circumstances?

grazing-fees issued in 1890 and which had been given effect to in a few districts only, and to adopt instead one uniform rate. This rate is ordinarily three-fourths of the maximum rate prescribed in 1890, with regard to which it may be mentioned that when a similar rate was proposed for the Central provinces, the Government of India described it as being almost nominal.

The decision of Government was arrived at after prolonged consideration and reference to all Collectors, and the reason for it will be found in G.O. NO. 553, dated 14th August 1895, which was laid on the Editor's table (and copy of which will now be communicated to the Honourable Member). Government sees no reason to reconsider this order and restore the old rates. When the order prescribing uniform rates was passed, it was stated that the new scale need not be introduced into districts such as Kistna and Cuddapah, where the maximum fee was already being charged and collected without difficulty. It appears that full rates had also been charged in Trichinopoly and Tanjore, and with respect to foreign cattle only full rates are charged in South Arcot, and double rates in the Nilgiris. The rate in Cuddapah was reduced to the three-fourth rate

Separa 6 of P.P. 123

G.O. 553
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28-1-96

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off Director at
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12/12/95

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last year on the recommendation
the Conservator supported by the
Collector and the Board of Revenue.

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The Hon'ble C. VIJAYARAGHAVACHARIAR :—

XII. Is it a fact that the Government order of 1890, directing, in the case of agricultural cattle, the levy of grazing fees at half the rates sanctioned for cattle of other kind, has been recently modified and that a uniform rate, amounting to three-fourths of the full rate originally sanctioned, has been substituted? If so, under what circumstances? Will the Government be pleased to consider the desirability of restoring the old order relating to agricultural cattle?

Is it a fact that, notwithstanding this recent order of Government, grazing fees are still charged in some districts at the old full rates for all cattle and not at three-fourths, and, if so, in what districts and under what circumstances?

The Hon'ble Mr.

XII. It is a fact that in 1895 the Government resolved to adopt uniform rates of grazing fees in modification of the orders issued in 1890 directing the levy of differential rates which had been given effect to in a few districts only. The rates adopted are ordinarily three-fourths of the maxima prescribed in 1890, which it may be mentioned were practically identical with fees which in another province the Government of India described as "almost nominal."

The decision of Government was arrived at after prolonged consideration and reference to all Collectors, and the reasons for it will be found in G.O., No. 553, dated 14th August 1895, which was laid on the Editors' table and can be procured on application at the Government Press. Having regard to the results of past experience, the Government is not prepared to revive the distinction which it was previously attempted to draw between privileged and unprivileged cattle. When the order prescribing uniform rates was passed, it was stated that the new scale need not be introduced into districts such as Kistna and Cuddapah, where the maximum fee was already being charged and collected without difficulty. The Board reports that full rates had also been charged in Trichinopoly and Tanjore, and that with respect to foreign cattle only full rates are now charged in South Arcot and double rates in Nilgiris. The rate in Cuddapah was reduced to the three-fourth rate last year on the recommendation of the Conservator supported by the Collector and the Board of Revenue.

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XIII. In regard to the concession, allowed to the ryots, of cutting wood for agricultural implements free of charge from the "unclassified" trees in unreserved forest lands, will the Government be pleased to abolish the distinction between "classified" and "unclassified" trees, in so far as unreserved lands are concerned, in view of the fact that the ryot is hardly able to distinguish the one kind from the other, that the distinction varies from time to time, and wood sufficient in quantity and suitable for agricultural implements are not always and everywhere to be had from the "unclassified" trees in unreserved lands?

people, it is necessary to place some restriction on the felling of valuable trees on unreserved land. The list of classified trees in a district is necessarily a somewhat long one, but the number to be found in any one village is rarely large, and as they are valuable trees they are ordinarily well known to the ryots. Though the distinction does vary from time to time as stated in the question, changes are very rarely made. A revision of the lists necessitated by the concession alluded to in the question is now under the consideration of Government and when the revised lists have been published, it is improbable that any material change will be made for many years to come.

It is pointed out in the question that wood sufficient in quantity and suitable for agricultural implements is not always and everywhere to be had from the unclassified trees in unreserved land. This is true, but if the policy suggested were adopted, there would soon be no wood of the kind in any but the most sparsely populated tracts. On a recent occasion the Board of Revenue, in its anxiety to make things easy for the people, declined without further experience to place the Bahul tree on the classified list.

and the result was that, within
fifteen days after the Board's deci-
sion was made known, 55,000 Babul
trees had been removed by the villa-
gers of one Taluk ^{alone} ~~above~~.

R. 1107

The Hon'ble C. VIJAYARAGHAVACHARIAR:—

XIII. In regard to the concession, allowed to the ryots, of cutting wood for agricultural implements free of charge from the "unclassified" trees in unreserved forest lands, will the Government be pleased to abolish the distinction between "classified" and "unclassified" trees, in so far as unreserved lands are concerned, in view of the fact that the ryot is hardly able to distinguish the one kind from the other, that the distinction varies from time to time, and wood sufficient in quantity and suitable for agricultural implements are not always and everywhere to be had from the "unclassified" trees in unreserved lands?

The Hon'ble Mr.

XIII. The Government considers that, in the true interests of the people, it is necessary to place some restriction on the felling of valuable trees on unreserved lands. The list of classified trees in a district is necessarily a somewhat long one, but the number to be found in any one village is rarely large, and as they are valuable trees they are ordinarily well known to the ryots. Though the distinction does vary from time to time as stated in the question, changes are very rarely made. A revision of the lists necessitated by the concession alluded to in the question is now under the consideration of Government, and when the revised lists have been published it is improbable that any material change will be made for many years to come.

It is no doubt the case that a sufficient quantity of wood suitable for agricultural implements cannot invariably be procured from the unclassified trees in unreserved land, but if the policy suggested were adopted, there would soon be no wood of the kind in any but the most sparsely populated tracts. On a recent occasion the Board of Revenue, in the desire to promote the public convenience, declined ~~without further experience~~ to place the Babul tree on the classified list in one district and the result was that, within fifteen days after the Board's decision was made known, 55,000 Babul trees had been removed by the villagers of one taluk alone.

The Hon'ble C. VIJAYARAGHAVACHARIAR :—

XIV. Is the Government aware of the extreme hardship to which agricultural ryots and others are frequently subjected in prosecutions under the Madras Forest Act for being in possession of "forest produce", in consequence of the vast majority of the magistracy feeling themselves bound under, what they consider, authoritative interpretations of section 56 of the Act as to presumptions, calling upon the accused persons at the very outset of the case to prove their innocence when absolutely no proof has been adduced that the "forest produce" they are in possession of has been "found in or brought from a forest" within the meaning of the Act?

In view of this hardship, and in view of the fact that such a use of the section exposes the rural population to frequent extortions, will the Government be pleased to have the section repealed?

In view of the fact that the provisions of section ~~56~~ are merely enabling, will the Government point out to the magistracy, in the meanwhile, the undesirability of acting on it at least in cases punishable with imprisonment? *yes*

The Hon'ble Mr.

XIV. The Government is not in possession of any information tending to show that agricultural ryots and others are subjected to extreme hardship in consequence of the use of section 56 of the Forest Act. In its Proceedings, No. 167, dated 28th March 1895, which were communicated to all Collectors, the Board of Revenue directed, with reference to the institution of prosecutions in Forest cases, that the presumption against the accused raised by the provisions of section 56 of the Forest Act should not be taken advantage of in any case in which there was room for reasonable doubt, and Government has no reason to believe that these instructions are not generally attended to.

The provisions of the section do not appear to be "merely enabling" and Government is not prepared to take steps towards its repeal or to issue instructions to the magistracy in the sense suggested in the question. Such instructions would be illegal. *subsequent to this - Govt. Adv. Sec. J.*

*approved
Jg
3.4.97*

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Handwritten word, possibly "and".

Main body of handwritten text on the left page, enclosed in a large bracket on the right side.

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Handwritten notes at the bottom left of the left page.

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The Hon'ble C. VIJAYARAGHAVACHARIAR:—

XIV. Is the Government aware of the extreme hardship to which agricultural ryots and others are frequently subjected in prosecutions under the Madras Forest Act for being in possession of "forest produce", in consequence of the vast majority of the magistracy feeling themselves bound under, what they consider, authoritative interpretations of section 56 of the Act as to presumptions, calling upon the accused persons at the very outset of the case to prove their innocence when absolutely no proof has been adduced that the "forest produce" they are in possession of has been "found in or brought from a forest" within the meaning of the Act?

In view of this hardship, and in view of the fact that such a use of the section exposes the rural population to frequent extortions, will the Government be pleased to have the section repealed?

In view of the fact that the provisions of section 56 are merely enabling, will the Government point out to the magistracy, in the meanwhile, the undesirability of acting on it at least in cases punishable with imprisonment?

The Hon'ble Mr.

XIV. The Government is not in possession of any information tending to show that agricultural ryots and others are subjected to extreme hardship in consequence of the use of section 56 of the Forest Act. In its Proceedings, No. 167, dated 28th March 1895, which were communicated to all Collectors, the Board of Revenue directed, with reference to the institution of prosecutions in Forest cases, that the presumption against the accused raised by the provisions of section 56 of the Forest Act should not be taken advantage of in any case in which there was room for reasonable doubt, and Government has no reason to believe that these instructions are not generally attended to.

The provisions of the section do not appear to be "merely enabling" and the Government is not prepared to take steps towards its repeal or to issue instructions to the magistracy in the sense suggested in the question. Such instructions would be illegal.

Insert between paras 1 & 2 of the draft reply

"The Govt thinks that there is no good ground to alter section 56 of the Forest Act. The section declares in this particular case by express enactment the general doctrine of law that it is incumbent on a man to prove those facts which are especially within his knowledge. It is necessary, obvious for the protection of Forest Revenue and produce."

Revised question no. 1 with an addition

The Hon'ble Mr. makes his addition

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Effect of section

approving
3-4-97

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The Hon'ble C. VIJAYARAGHAYACHARIAR :—

XIV. Is the Government aware of the extreme hardship to which agricultural ryots and others are frequently subjected in prosecutions under the Madras Forest Act for being in possession of "forest produce", in consequence of the vast majority of the magistracy feeling themselves bound under, what they consider, authoritative interpretations of section 56 of the Act as to presumptions, calling upon the accused persons at the very outset of the case to prove their innocence when absolutely no proof has been adduced that the "forest produce" they are in possession of has been "found in or brought from a forest" within the meaning of the Act?

In view of this hardship, and in view of the fact that such a use of the section exposes the rural population to frequent extortions, will the Government be pleased to have the section repealed?

If, for purposes of revenue, the Government deems the retention in the Act of some such provision necessary, will the Government be pleased to have the Act amended so that proceedings may be taken under it solely with a view to recover "forest produce" when such a presumption might be applied, while criminal prosecutions for forest offences might be conducted upon principles applicable to criminal trials generally?

In view of the fact that the provisions of section 56 are merely enabling, will the Government point out to the magistracy, in the meanwhile, the undesirability of acting on it at least in cases punishable with imprisonment?

The Hon'ble Mr.

XIV. The Government is not in possession of any information tending to show that agricultural ryots and others are subjected to extreme hardship in consequence of the use of section 56 of the Forest Act. In its Proceedings, No. 167, dated 28th March 1895, which were communicated to all Collectors, the Board of Revenue directed, with reference to the institution of prosecutions in Forest cases, that the presumption against the accused raised by the provisions of section 56 of the Forest Act should not be taken advantage of in any case in which there was room for reasonable doubt, and Government has no reason to believe that these instructions are not generally attended to.

The Government thinks that there is no good ground to alter section 56 of the Forest Act. The section declares in this particular case by express enactment the general doctrine of law that it is incumbent on a man to prove those facts which are especially within his knowledge. It is necessary obviously for the protection of Forest revenue and produce.

The provisions of the section do not appear to be "merely enabling" and Government is not prepared to issue instructions to the magistracy in the sense suggested in the question. Such instructions would be illegal.

It can not be held that the presumption is based on the fact that the produce is in respect of which the charge is laid was actually being brought from a forest?

When any person is found in possession of forest produce and his possession is questioned the effect of the section is to apply by

The Hon'ble C. VIJAYARAGHAVACHARIAR :—

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In view of this hardship, and in view of the fact that such a use of the section exposes the rural population to frequent extortions, will the Government be pleased to have the section repealed?

If, for purposes of revenue, the Government deems the retention in the Act of some such provision necessary, will the Government be pleased to have the Act amended so that proceedings may be taken under it solely with a view to recover "forest produce" when such a presumption might be applied, while criminal prosecutions for forest offences might be conducted upon principles applicable to criminal trials generally?

In view of the fact that the provisions of section 56 are merely enabling, will the Government point out to the magistracy, in the meanwhile, the undesirability of acting on it—at least in cases punishable with imprisonment?

The Hon'ble Mr.

XIV. The Government is not in possession of any information tending to show that agricultural ryots and others are subjected to extreme hardship in consequence of the use of section 56 of the Forest Act. It cannot be held that the prosecution is bound to prove that the produce, in respect of which the charge is laid, was actually being brought from a forest. In its Proceedings, No. 167, dated 28th March 1895, which were communicated to all Collectors, the Board of Revenue directed, with reference to the institution of prosecutions in Forest cases, that the presumption against the accused raised by the provisions of section 56 of the Forest Act should not be taken advantage of in any case in which there was room for reasonable doubt, and Government has no reason to believe that these instructions are not generally attended to.

The Government thinks that there is no good ground to alter section 56 of the Forest Act. When any person is found in possession of forest produce and his possession is questioned, the effect of the section is to apply by express enactment the general doctrine of law that it is incumbent on a man to prove those facts which are especially within his knowledge. The section is necessary obviously for the protection of Forest revenue and produce.

The provisions of the section do not appear to be "merely enabling" and the Government is not prepared to issue instructions to the magistracy in the sense suggested in the question. Such instructions would be illegal.

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 of A. Mr Vijayaraghava charis question
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FOR ORDERS.

The Madras High Court in their judgment in CA. 452 of 1881 also herewith submitted ^{as correct} seem to confirm the interpretation of Section 56 of the Contract Act which A. Mr Vijayaraghava charis appears to misinterpret in the 1st part of his question. For order as whether any allusion to the judgment may be made in the ~~question~~ answer I think the answer may stand as it is. For the H. C. does not distinctly say the interpretation in question is wrong.

W. S.
 5th 97

Demanded by inserting the words as I have shown.

1874/17.

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