

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1309	Press ~~Mis.~~
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Dated	24-9-1948

Not to be folded or roughly handled

No. 1251.

Extract from the Minutes of Consultation under date the 14th September 1858.

Read the following Extract from the Proceedings of the Board of Revenue.

Submitting with the Board's remarks and recommendations thereon letters from the Collectors of Vizagapatam, Masulipatam, Nellore, North Arcot, reporting with reference to Extract Minutes Consultation of the 8th July 1857 as to the proprietors Estates in their respective Districts which should be exempted from the operation of Act III. of 1857 for the levy of fines for trespasses by cattle.

(Here enter 5th August 1858, No. 2952.)

1. On the Acting Magistrate of Masulipatam requesting the instructions of Government, as to whether Zemindaries and proprietary estates in his District were excluded from the operation of Act III. of 1857, it being the practice there for proprietors to levy fines for their own benefit on trespassing cattle, the Government in Extract Minutes Consultation in the Judicial Department, dated 22d June 1857, No. 706, declared the practice to be objectionable in principle, and directed that orders should be at once issued through the Revenue Department, to put a stop to it, wherever these fines were not entered among the assets on which the peishcush was fixed. In those instances where they had been included, Collectors were to report the compensation to be allowed to proprietors; and they were to state also whether from local peculiarities, it was advisable to exempt any estate from the operation of the Act, under the provisions of Section XX.

2. The Board of Revenue in the Proceedings recorded above, accordingly report certain cases in Vizagapatam, Masulipatam, Nellore and North Arcot. In the first named District, the Hill Zemindaries are recommended by the Agent for exemption from the operation of Act III. 1857. In Masulipatam, it is reported that the item of "fines" appears in the assets which the permanent settlement of 15 estates was fixed, the total amount so entered being Rupees 605-8-4, including however two descriptions of fines besides that on cattle, viz. on thefts of corn and fines on village servants. The Board properly object to all three kinds of fines, and recommend the withdrawal of the power to levy them from the proprietors, giving them compensation to the full extent to which these sources of income were included in their assets Rupees 605-8-4. In Nellore, the Collector recommends that the proprietors of Ncatagherry, Mootialpau and Choondy should be exempted from the operation of Act III. 1857, under the provisions of Section XX. In North Arcot it is suggested by the Collector whether the Zemindars of Calastry and Cavetnugger might not be similarly exempted. The Board of Revenue observe that if Government should be of opinion that the Act should be only partially extended to all places, and see fit to exempt these Estates from its operation, they would recommend that the exception be allowed as a present arrangement only.

3. In their order in the Judicial Department dated 23d July last the Government have already decided that no part of the Madras Presidency should be exempted from the operation of Act, and from that resolution they see no reason to depart. It will however be open to the Agent at Vizagapatam to establish Pounds gradually in the Hill Zemindaries of his District, beginning up at first a few only and at the most considerable places that the Zemindars and people may by degrees become acquainted with the working of the enactment.

4. The Government approve the grant of compensation Rupees 605-8-4 recommended by the Board para. 8 in lieu of the fines levied in the 15 Estates of the Masulipatam District, and the necessary adjustments will be made in the Peishcush payable on those several Estates. The Board will submit for sanction the revised rates of Peishcush. The Board will pursue their enquiries whether the powers of collecting these fines (which include those on trespassing cattle) or powers of alike character are exercised in other Zemindaries, Polliums and Shotriums; and whether they are their further exercise must be absolutely prohibited and compensation given, calculated on the principle adopted for the Masulipatam Estates, where such sources of income were included among those on which the demand of Government was fixed. In the case of Zemindaries settled without specification of assets but where the power of collecting such fines has been exercised by prescription the compensation may be computed on the average collections of the last five years. The Government quite agree in the Board's remarks in

para. 18 of the Proceedings except that they consider that the withdrawal of those powers should be immediate, that is as soon as the amount of compensation has been ascertained and tendered, which should be done without delay.

5. It is however to be clearly understood with reference to Mr. Secretary Hill's letter dated 21st May 1822, No. 378, on the Moturpha remission, that the compensation now authorized is granted not as a matter of right but as being fair and equitable under the circumstances. The Board point out that the levy of these fines was not like the collection of Moturpha specially interdicted by law, and the Government have consequently allowed the compensation to be calculated on a different principle and to be given to the holders of all Estates in the assets of which these items were included, or when, when there were no assets, the collection has been sanctioned by long usage. It may nevertheless be observed that if the levy of these fines be not specially forbidden by the terms of the permanent Sunnud it is at least not authorized by it, and that they form no part of the powers and privileges attaching to the possession of landed

Fines on thefts of corn.

property, or of the rights which it was intended by the permanent settlement to convey. Some of the fines are indeed of the nature of judicial fines and it was evidently no part of the scheme of the permanent settlement to invest Zemindars with judicial powers.

(A true Extract.)

[Signature]
Chief Secretary.

To the Board of Revenue.

„ Accountant General.

„ Civil Auditor.

„ Judicial Department.

Recd 16th

*C2B June 1757. At 33034.
C2B July 1858 At 21023.*

*In D.L. 1/10/1858. 28 Sept.
Judicial. 1858. 28 Sept.*

*Extract Minutes Consultation in the Revenue
Sept. 1251.*

*2/14
2/16 Sep 1858.*

*1857.
2 spare copies
Communicating the
orders passed by Govt on
the subject of the remission
from the operation
of Sec III of 1857 for the
levy of fines for trees
passes by cattle of
certain zemindars
and proprietary
estates.*

*C. 14 Sep 2
1858.*

*1858.
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Jp*