M.R.O. 1—30,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1258	Press Mis.
199-200		
Dated	29-5-	19 87

5/6

Not to be folded or roughly handled

(10)

Proceedings of the Madras Government, Judicial Department, 29th September 1860.

No. 199. Read the following Proceedings of Government, in the Revenue Department, dated 24th September 1860, No. 1,696.

Communicating for information, copy of a letter from the Secretary to the Government of India, transmitting copy of a Despatch from the Secretary of State, declining to sanction any relaxation of the rule prohibiting Officers in the Public Service from holding lands for agricultural purposes in India.

(Vide Proceedings, Revenue Department, dated 24th September 1860, Nos. 427 and 428.)

No. 200. ORDER THEREON, 29th September 1860, No. 1,258.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Ex. S. T. Augustine.

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from W. GREY, Esq., Secretary to the Government of India, to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, dated Fort William, 31st August 1860, No. 1,810 :—

SIR,

1. In continuation of my letter No. 1,136, dated 28th May, I am directed to transmit for the information and guidance of the Government of Fort Saint George the accompanying copy of a Despatch No. 36 of 1860, dated the 24th ultimo, from the Secretary of State, declining to sanction any relaxation of the rule which prohibits Officers in the Public Service from holding land for Agricultural purposes in India.

2. I am to draw attention to the modification of the existing rules which is allowed in favor of Grantees generally, expressed in the concluding part of the Despatch.

From the Right Honorable Sir C. WOOD, Bart., Secretary of State for India, to His Excellency the Right Honorable the Governor General of India in Council, dated India Office, London, 24th July 1860, No. 36.

MY LORD,

1. In your letter of the 2nd April last, (No. 6), you have referred for the consideration and orders of Her Majesty's Government "the general question of Government servants holding "lands in India."

2. In the opinion of the Governor General, in which all the other Members of your Government concur, "it would be quite sufficient to rule, as regards Military Officers, that "they might acquire and hold lands anywhere, unless, as in the case of Government grants, "residence be made a condition of ownership; but that they should not be employed in any Civil "situation in which their influence could, on any reasonable supposition, be brought to bear "unduly on their own personal interests as land holders. His Excellency is further of opinion "that Officers of the Civil Service might be permitted to hold lands anywhere out of their "own Presidency."

3. I am very desirous that all due encouragement should be given to the settlement of Europeans as landed proprietors in India, but, as regards Officers in the Public Service, whether Civil or Military, I am of opinion that it is inexpedient that they should be permitted to engage in pursuits by which their time and attention would be diverted from their proper duties, to which their entire energies should be devoted. I am, therefore, unable to sanction the relaxation of the rules recommended by your Government; and I desire that it may be clearly understood that no Officer, so long as he remains in the actual service of the Government, can be permitted to acquire and hold lands for agricultural purposes in any part of India. I think it, however, desirable to take this opportunity of withdrawing the prohibition in the Despatch of the 9th May 1838, against the grant of land to any European, unless he shall undertake to reside on it, and cultivate it himself within a specified period, and that it will be sufficient if in all cases the Governor in Council or the Lieutenant Governor should be satisfied, previously to making the grant, that the applicant has the means and intention of bringing into cultivation the land applied for, without insisting on the condition of actual residence.

(True Copy.)

(Signed) W. GREY,

Secretary to the Government of India.

ORDER THEREON, 24th September 1860, No. 1,696.

Ordered that this letter and the previous one of the 28th May last, No. 1,136, together with their enclosures be communicated to the Board of Revenue, Military Department and Director of Revenue Settlement.

(True Extract.)

J. D. Bourdillon

Secretary to Government.

To the Board of Revenue.
" Director of Revenue Settlement.
" Military Department.
" Chief Engineer.
" Judicial Department. with an Index
" Public Department.
" Conservator of Forests.

Exd. T. O'Connor.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from Lord H. ULICK BROWNE, Under Secretary to the Government of India, to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, dated Fort William, 28th May 1860, No. 1,136:—

With reference to entries Nos. 99 and 100, in the Abstract of Proceedings of the Madras Government in the Revenue Department, for the month of March last, I am directed to transmit for information the accompanying copy of a Despatch No. 6, dated the 2nd ultimo, addressed to the Secretary of State, submitting for the consideration and orders of Her Majesty's Government the general question of Government servants holding lands in India.

HOME DEPARTMENT.

REVENUE.

No. 6 *of* 1860, *April the 2nd.*

To the Right Honorable Sir CHARLES WOOD, Bart, C. G. B., Secretary of State for India.

1. Lieutenant A. Ellis, of the 31st L. I., having recently applied to the Governor General, through His Excellency's Military Secretary, to know whether a Military Officer in the active branch of the profession might hold land in Kumaon and Gurhwal for purposes of Tea cultivation, the question was referred to the Home Department at the Presidency for disposal.

2. A note (copy of which is herewith sent) was prepared in this Department, showing exactly how the past orders of the Home Authorities bore upon the question of the holding of land by Government servants; and having carefully considered the subject in connection with these orders, we informed the Governor General that we saw no objection to land being held by Military Officers, if, on Military considerations, the measure was not deemed objectionable by the Commander-in-Chief of the Army. And, adverting to what seemed to be the present state of the case as regards Officers holding Civil employment, we further expressed our opinion that there was no valid ground of objection to such Officers holding land, provided it were not situated within their own Presidency, or within the Presidency in which they might be holding Civil Office.

3. The Governor General, after communicating with the Commander-in-Chief, has caused Lieutenant Ellis' enquiry to be answered in the affirmative; and with regard to our proposal to relax the prohibition against the holding of land by Officers in Civil employ, His Excellency has communicated to us the following observations.

4. His Excellency observes that Lord Stanley's Despatch No. 1, dated 16th March 1859, in the case of Mr. Atherton, seems to contemplate a much greater degree of encouragement to European settlers than has hitherto been afforded; and that if lands in India are to be largely held by Europeans, there is no class whom it ought to be so much the object of Government to attach by ties of personal interest to the country as its own Civil employés.

5. His Excellency is aware of only two reasons that have been given for preventing Officers in Civil employ from holding lands in India:

1st.—That their attention would be diverted from their duties, and their time occupied in looking after their private concerns, instead of being exclusively devoted to the public service.

2nd.—That Officers in Civil employ might use their official influence unduly for their own benefit, and to the disadvantage of others in the management of their estates.

6. The first of these reasons, His Excellency observes, loses much of its force, when it is remembered that there is nothing to prevent Officers from holding lands in England, or in Ceylon, or in any of the Colonies, or from occupying themselves in a thousand ways besides the management of an estate in India, and that, in fact, such is the case without any apparent detriment to the public service. In India, landed property belonging to a servant of Government would be managed by an Agent, generally by a relative of the proprietor.

7. In the second reason, His Excellency states, there is no doubt a great deal of truth. At any rate, if official influence were not so used, the suspicion that it was would not be wanting. Referring to our proposal to meet this objection by prohibiting the possession of land by Officers in the Presidency to which they belong, or to which they are attached, His Excellency remarks

that it certainly does not appear that there can be more reason why a Civil Officer in Bengal should not own a Coffee estate in Malabar, than why he should not own one in Ceylon.

8. In the opinion of the Governor General it would be quite sufficient to rule as regards Military Officers, that they might acquire and hold lands any where, unless, as in the case of Government grants, residence be made a condition of ownership; but that they should not be employed in any Civil situation in which their influence could, on any reasonable supposition, be brought to bear unduly on their own personal interests as landholders. His Excellency is further of opinion, that Officers of the Civil Service might be permitted to hold lands any where out of their own Presidency or Lieutenant Governorship,* but that they should not be eligible for employment in any Office in which their influence could in like manner be improperly used for their own benefit.

* *For instance, a Civil Servant attached to Bengal might hold lands in the Punjab.*

9. The Governor General remarks, that a difference is necessary in the two cases of Civil and Military Officers, because it would be inconvenient to tie the hands of Government in regard to the employment of its Civil Officers any where in the Presidency or Lieutenant Governorship to which they may be attached, whereas no practical difficulty would probably arise from limiting the employment of Military men, and of Civilians out of their own Presidency or Lieutenant Governorship, to offices in which their interests as landholders would not clash with their duty as public servants, and where abuse of their official influence would be impossible.

10. We beg to signify our entire concurrence in the views thus expressed by the Governor General, and in accordance with His Excellency's suggestion, we submit the general question of Government servants holding lands in India for the consideration and orders of Her Majesty's Government.

We have the honor to be,
Sir,
Your most obedient humble Servants,

(Signed) J. OUTRAM.
,, H. B. E. FRERE.
,, J. WILSON.

FORT WILLIAM,
The 2nd April 1860,

ORDER THEREON, 22nd June 1860, No. 1,031.

The Government will await the orders of the Home Government on the general question of Government servants holding lands in India, referred to them by the Government of India; in the meantime, this letter will be recorded.

(True Extract.)

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

Exd. T. O'Connor.

Judicial 1860 Sept.
Nos 9 to 11

From Govt in the
Rev. Dept dated 18th

Sept 24th & Oct 2nd 60

Encl 1 to 3
Copies of Circ.

Dated 1872.

Copy for information
Copy of a letter from the
Secy to the Govt of India
forwarding copy of a des-
patch from the Secy of State
declining to sanction any
relaxation of the rule prohibi-
ting Officers in the Public
Service from holding Lands
for Agricultural purposes
in India. No 135 dated

Recorded
~~Letters Received~~

1991 203

Sudder Court
Dated 1872

No 4

Communicated to the
Sudder Court for circu-
lation among the Cove-
nanted Officers in the
Judicial Branch of the ser-
vice — & Licenses to the
Inspectors General of Jails
& Police.

The Sudder Court.
" Inspector Genl. of Jails.
" Inspector Genl. of Police.