

CONFIDENTIAL.

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II]
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Judicial (1896) Department.

ORDINARY Press

G.O., No. 593.

Confidential No. 46

DATED 21-3-96

[Despatch Abstract.]

Transfers of Land

Comm^d to all Dist judges & the I. G.
of Registration Rev. dept. pros. directing
collectors to furnish as accurate statis-
tics as they can gather of mortgages
sales & other — which have taken
place during each of the last 5 years

Subject
593
213-1896

25th Nov 6406
Restored on 21-2-27 LG

BACK PAPERS.

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

FURTHER PAPERS.

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

[Confidential.]

1895.

File No. 75 of
1895.

SERIAL No. 1.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

LAND REVENUE.

To

ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS.

Circular No. $\frac{24}{75-1}$.

Dated Simla, the 26th October 1895.

SUBJECT.

Forwarding for consideration and report certain papers on the subject of land transfer in India from the agricultural to the non-agricultural classes.

[Confidential.]

Circular No. $\frac{24}{75-1}$

File No. 75 of
1895.

Serial No. 1.

FROM

DENZIL IBBETSON, Esq., C.S.,
Offg. Secretary to the Government of India,

To

Dept. of Rev. & Agri.
Land Revenue.

Simla, the 26th October 1895.

SIR,

I am directed to address you on the subject of the transfer of land in India from the agricultural to the non-agricultural classes; a subject which has occupied the attention of the Government of India at various times during the past thirty-five years. Recently the pressing importance of the matter has been urged, and more or less definite proposals for meeting the evil framed by the Governments of the Punjab and the Central Provinces, while the subject has been discussed in connection with proposed legislation in Burma, Madras, Assam and Berar, and in connection with the working of the Tenancy Act in Bengal. The Government of India were, however, unwilling to take any decisive step until they were in possession of the report of a Commission which had been appointed to enquire into the working of the Deccan Agriculturists' Relief Act.

2. On receipt of that report they addressed the Secretary of State to the following effect (Despatch No. 21, dated 2nd May 1894):—

The question of undertaking legislation on the main lines of the Deccan Agriculturists' Relief Act for the protection of agriculturists in other parts of British India will be separately considered by us. * * * Such legislation, however, will in our opinion only partially meet the difficulties connected with the general problem of agricultural indebtedness, for which remedies of an entirely different kind seem to be indispensable. Among these we are disposed to include measures for further restricting the right of land transfer. But this part of the subject will be carefully considered in our Department of Revenue and Agriculture, and we will address you separately concerning it when we have further information before us.

In a later despatch, dated 27th March 1895, they wrote as follows:—

The whole question, than which none more difficult or more important has of late years arisen in connection with our internal administration, is now engaging our serious attention. Meanwhile public opinion is ripening on the subject; the conviction that something more than mere palliative measures is required is no longer confined to officials, but is shared by some of the most advanced representatives of educated native opinion, and it is advisable that action should not be unnecessarily delayed.

The action which we propose to take will, as already indicated, follow four broad lines. *Firstly*, improvement of the law concerning Courts of Wards, and the relief of encumbered estates, so as to render more effectual assistance available to the great landlords. *Secondly*, an equitable Relief Act, on the general model of the Deccan Act, to be applied where needed for the protection of the small agriculturist, whether owner, occupant, or tenant. *Thirdly*, restriction upon the power of transferring their interests which is now enjoyed by the protected classes of tenants. *Fourthly* (in all probability), some measure of similar restriction in the case of yeoman owners and ryotwari occupants, of which neither the nature nor the degree is yet decided upon.

Local Governments have already been consulted on the proposed enlargement of the power of Courts of Wards; and an Agriculturists' Relief Act is now being drafted and will shortly be circulated for their opinion. But these measures can at the best be nothing more than palliative; and the infinitely difficult and important problem of prevention, of restriction upon the power of transfer, remains to be considered.

3. The correspondence that already exists upon the subject is exceedingly voluminous, the opinions that have been expressed upon it conflicting, and the proposals for action multifarious. An abstract has therefore been prepared in the Secretariat of the Department of Revenue and Agriculture entitled, "NOTE on Land Transfer and Agricultural Indebtedness in India," and is accompanied by a SELECTION of some of the most important papers on the subject. But even this forms a substantial volume. Accordingly, a "MEMORANDUM on the restriction of the power to alienate interests in Land" has been drawn up, in which the facts are briefly summarised and the issues stated in a manner which will, it is hoped, form a convenient basis for discussion. This Memorandum in its argumentative paragraphs merely expresses views which have been urged from time to time, and which may not command universal assent, but which will be useful in drawing attention to the nature of the issues and considerations involved in the discussion of the different points and features of the case. The Governor General in Council wishes it therefore to be understood that he in no way commits himself to the particular proposals made or views set forth in the Memorandum. It is indeed inadvisable that he should express any opinion upon details which must depend largely upon the circumstances of individual Provinces, until he is in possession of the final views of Local Governments.

4. On the general principle which underlies these proposals, however, it is not desirable that he should be silent. He is, as at present advised, distinctly of opinion that some action in the direction of restriction upon the alienability of land is generally advisable, and even necessary, though the manner and degree of the restriction must vary from Province to Province. The evils which have sprung from the gift of the free power of transfer are patent and notorious; they are increasing year by year; and while in some parts of the country they already amount to a positive political danger, in others they must, if left unchecked, amount to danger in process of time. As has been well said by a former Chief Commissioner of the Central Provinces, "on the face of the question, the class which our rule destroys must be more sinned against than sinning." We cannot draw an indictment against half the people of India; and we may be quite sure, whether we can see it or not, that we and our institutions are in the wrong, and not they." Meanwhile every day that we delay increases the difficulty of action.

5. Till lately those who have urged the necessity of restriction have been met by a *non possumus*: they have been told that the measures they proposed were retrograde; that it was impossible to retrace our steps; that free trade in land was good in the long run; and that the gift of transferability once given could

never be recalled, however injurious it might have proved to its recipients. These, however, are abstract arguments; while Governments have to deal with concrete facts. His Excellency in Council is of opinion that the question is too large and too serious to be thus disposed of on *a priori* grounds, that it calls for the most deliberate and weighty consideration, and that it will be found that some degree of restriction will have to be imposed in the best interests of those concerned.

6. I am therefore to request that each Local Government and Administration will take the subject into its most careful consideration, and will communicate, as soon as it has matured them, its final views and definite proposals for action in the direction indicated. I am to express a hope that the whole question may be dealt with in a practical way, avoiding as much as possible abstract and general discussion. It is not of course intended by this to debar free expression of opinion on matters of principle; but merely to indicate the wish of the Government of India that each Local Government should consider the question with direct reference to the circumstances of its own Province, and should endeavour to suggest practical remedies for such evils, actual or potential, as it finds existing there.

7. The present communication is marked confidential for the following reason. As already remarked, Local Governments will shortly be separately consulted upon an Agriculturists' Relief Bill, on the general lines of the Deccan Act, which contains a provision exempting all land the property of an agriculturist from attachment or sale by a judgment-creditor in execution of a decree or order. It may be that if it should become generally known that proposals to materially restrict the power of alienating land were under discussion, creditors might endeavour to forestall any such restriction by putting pressure upon their debtors, either by threat of civil proceedings or, in the last resort, by an actual appeal to the Courts. To avoid all danger of this result, it will be well to avoid any prominent or public discussion of the question now under consideration until the future liability of agricultural land to attachment or sale is settled. Meanwhile this consideration need not hinder any local inquiries into the facts and statistics of transfer which Local Governments may think it necessary to make, nor need it hamper them in freely consulting any of their own Courts and officers whose opinion they may wish to ascertain. Enquiries into facts can be easily instituted without making generally known the object for which the information is desired.

8. With these remarks the Governor General in Council commends the matter to Local Governments and Administrations for their gravest consideration. He is fully sensible of the responsibility that must attend the taking or advising a measure which is in its nature momentous, and which in some cases is probably not wholly free from danger. But he believes that a still heavier responsibility may be incurred by leaving unremedied a great and growing evil which contains the germs of danger to the commonwealth.

I have the honour to be,

SIR,

Your most obedient servant,

DENZIL IBBETSON,

Offg. Secretary to the Government of India.

No. 97, REVENUE, 3RD MARCH 1896.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—circular from the Officiating Secretary to the Government of India, Department of Revenue and Agriculture (Land Revenue), dated Simla, 26th October 1895, No. 24/75—1.

ABSTRACT.—Forwarding for consideration and report certain papers on the subject of land transfer in India from the agricultural to the non-agricultural classes.

ORDER—No. 97, Revenue, dated 3rd March 1896.

Miscellaneous.

In the circular read above, the Government of India addresses Local Governments and Administrations on the subject

of the transfer of land from the agricultural to the non-agricultural classes.

2. The subject is intimately connected with the general problem of agricultural indebtedness; and, as a discussion of this problem has shown that, of the evils resulting from such indebtedness, the most important both economically and politically is the gradual transfer of land to the non-agricultural classes, brought about by the removal of all restrictions on the alienability of lands, the Government of India has deemed it necessary to take into serious consideration the question of arresting the further growth of this great evil.

3. The "Note" and the "Memorandum" forwarded with the circular show how the right of free transfer of land, which did not exist in India previous to the British rule and which even now exists only in a qualified form in Native States, gradually arose and developed within British territory. The evil results of the transfer of land from the agricultural classes are described at pages 81—94 of the "Note" and the several remedial measures proposed are discussed in the pages following. Of the measures discussed therein that to which the Government of India invites special attention in its present circular is the proposal to impose some restrictions on the right of free transfer of land which is now enjoyed by land-owners. The Government of India observes that the evils which have sprung from the gift of the free power of transfer are patent and notorious; that they are increasing year by year; and that while in some parts of the country they already amount to a positive political danger, in others they must, if left unchecked, cause danger to exist in process of time, and it is accordingly of opinion that some degree of restriction on land transfer is absolutely necessary. It admits that the manner and degree of the restriction must vary from province to province; but what it impresses upon all Local Governments is that the question to be answered in each province is not whether there is actual or present danger, but whether it is not inevitable that danger will result if nothing is done to prevent it. And, as it is of opinion that any delay in the adoption of suitable remedial measures will increase the difficulty of action, it requests that each Local Government and Administration

will take the subject into its most careful consideration and communicate, as soon as it has matured them, its final views and definite proposals for action in the direction indicated.

4. So far as this Presidency is concerned it may no doubt be urged that the danger now brought to notice is not in existence and is not likely to arise in the near future. It may be said that the political discontent and danger does not affect the small land-holders who form the bulk of the ryots here; but, as pointed out in paragraph 128 of the memorandum, these small ryots, though silent, are numerous and the risings of the Moplahs of Malabar show what agrarian discontent may lead to. Again, it may be urged that Mr. Nicholson, who has made a careful study of the question of agricultural indebtedness in this Presidency, has arrived at the conclusion that the Madras cultivator is not so much in the hands of the professional money lender as the ryot in other provinces, and that, according to his estimate, two-thirds of the mortgages in land in Madras are held by ryot mortgagees and the proportion of ryot creditors on simple bonds is likely to be even larger. But it is pointed out in paragraphs 49 and 96 of the memorandum that alienation of land is productive of harm not only when it is to the non-agriculturist, though it assumes its most objectionable form when it takes place in his favour, but also, though in a less degree, when it is in favour of an agriculturist who is also a money lender, as in such cases the commercial tends to overcome the agricultural instinct and when this happens there is not very much to choose between him and an ordinary money lender. It is also pointed out in the memorandum (paragraph 40) that although it is now reported that in Madras the ryots are less dependent than formerly upon professional money lenders and that the ownership of land is not passing from the agricultural to the non-agricultural classes to any injurious extent, it was reported in 1879, for the information of the Famine Commission, that in Madura and Tanjore 10 per cent., in Chingleput at least 40 and in South Canara and 75 per cent. of the irrigated lands had been alienated to non-resident and non-agricultural landlords. The Government has also reason to believe that since Nattukottai Chetties in Tinnevely, Madura and Tanjore; that in the last-named district there have been extensive purchases of land by vakils and other professional men who have made money and reside elsewhere, and that in Chingleput the rich men of Madras have bought up much land and assumed the status of mirasidars. But these are only general impressions, and, until they are confirmed by carefully prepared statistics, no great reliance can be placed on them. It is also doubtful whether the figures quoted above are entitled to any great weight. For example, as regards the South Canara district, the information furnished to the Famine Manual, and Mr. Sturrock, who wrote the manual and who has an intimate knowledge of the district, denies that any extensive alienation has taken place.

5. In these circumstances it is not possible to arrive at any definite conclusion on the subject under consideration without further information as to the extent to which transfers of land have taken place throughout the Presidency and the character of those transfers. His Excellency the Governor in Council accordingly desires the Board of Revenue to call upon Collectors to furnish as accurate statistics as they can gather of mortgages, sales and other transfers of land which have taken place during each of the last five years, tabulating the statistics in the forms appended hereto. If there are any tracts of considerable extent, zamindari or other, where land transfers are rare or do not take place, these should be indicated.

6. The District Judges and the Inspector-General of Registration will be instructed in the Judicial department to render the necessary assistance to Collectors in the compilation of the statistics called for above.

7. In the meantime a copy of the circular, together with its enclosures, will be forwarded to Mr. Nicholson with the request that he will favour the Government with his views on the subject.

8. As the collection of the necessary statistics and the consideration of the question thereafter will involve some delay in the formulation of this Government's views and proposals, the Government of India will be requested to state when it desires to receive this Government's reply to its circular.

9. Ordered that the following letter be despatched to the Government of India.

(True Extract.)

A. C. Rundel
ag. Secretary to Government.

To the Board of Revenue (Land Revenue).
" the (Revenue Settlement, Land Records and Agriculture).
" the Judicial Department.
" F. A. Nicholson, Esq.

STATEMENT A.—Mortgages (one for each of the five years ending 1895).

<i>Class of lenders</i>	..
Agriculturists	..
Field labourers	..
Traders	..
Ordinary money lenders.	..
Vakils	..
Officials	..
Other professional men.	..
Banks and nidhis	..
<i>Purpose for which loan was</i>	..
<i>taken—</i>	..
Marriage and domestic	..
expenses	..
Discharge of other debts	..
Payment of Govern-	..
ment assessment	..
Purchase of land	..
Improvement to land	..
and houses	..
Trade	..
Other purposes	..

* NOTE.—The class should be determined by the chief means of livelihood.

STATEMENT B.—Sales of land (ryotwari and inam).

Class of persons whose lands were sold +—	
Agriculturists	.. ..
Traders	.. ..
Vakils	.. ..
Officials	.. ..
Other professional men.	.. ..
Ordinary money lend- ers.	.. ..
Banks, nidhis, &c.	.. ..
Class of purchasers +—	
Agriculturists	.. ..
Field labourers	.. ..
Traders	.. ..
Vakils	.. ..
Officials	.. ..
Other professional men.	.. ..
Ordinary money lenders.	.. ..
Banks, nidhis, &c.	.. ..
Purpose of sale (in the case of voluntary sale).	
Marriage and domes- tic expenses.	.. ..
Discharge of debts	.. ..
Court expenses	.. ..
Purchase of land	.. ..
Improvement of land, houses, &c.	.. ..
Trade	.. ..

+ NOTE.—The class should be determined by the chief means of livelihood.

STATEMENT B₁—Sales of land (zamindari).

<i>Class of persons whose lands</i>	
<i>were sold</i> —	
Agriculturists	..
Traders	.. ..
Vakils	.. ..
Officials	.. ..
Other professional men.	.. ..
Ordinary money lenders.	
Banks, nidhis, &c.	..
<i>Class of purchasers</i> *	
Agriculturists	..
Field labourers	..
Traders	.. ..
Vakils	.. ..
Officials	.. ..
Other professional men.	.. ..
Ordinary money lenders	
Banks, nidhis, &c.	..
<i>Purpose of sale (in the case of voluntary sale)</i> —	
Marriage and domestic expenses.	
Discharge of debts	..
Court expenses	..
Purchase of land	..
Improvement of land, houses, &c.	
Trade	.. ..

* NOTE.—The class should be determined by the chief means of livelihood.

STATEMENT C.—Transfers of revenue registry (other than those due to partition or inheritance).

<i>Class of transferees—</i>	
Agriculturists ..	{ Permanent transfer.
	{ Temporary transfer.
Non-agriculturists.	{ Permanent transfer.
	{ Temporary transfer.
<i>Class of transferees—</i>	
Agriculturists ..	{ Permanent transfer.
	{ Temporary transfer.
Non-agriculturists.	{ Permanent transfer.
	{ Temporary transfer.

Confidential No. 107

Gobt. of {1896} Madras.
REVENUE.

1294
UNDER SECRETARY
19 MAR 96
CONFIDENTIAL PUBLIC TR DEPT.

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Encl. one
+ 3 books
4 cc

G.O., No. 97, 3rd March 1896.

MARCH.

Directing the Board of Revenue to call upon Collectors to furnish as accurate statistics as they can gather of mortgages, sales and other transfers of land which have taken place during each of the last five years.

Order: No. 593 & 21st March 1896

Communicated to all District Judges and the Dy. Registrars who will be requested to render necessary assistance to collectors in the compilation of the statistics called for by the Rev. Dept.

W. P. 20/3/96

21/3/96

All St. Judges with one sp. copy each (40)
Dy. Registrars with one s.c. (2)
Rev. Dept. with two s.c. (3)
Copy to the Honble the Chief Justice with Ch.
with one s.c. + a copy of circular (2)

Note

It is submitted that it would be enough to communicate merely the Rev. Dept. order to the above addressees except the High Courts which may also have the Govt. of India circular.

Yes W. P. 20/3/96

No. 593, JUDICIAL, 21ST MARCH 1896.

CONFIDENTIAL.

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JUDICIAL DEPARTMENT.

READ—the following paper:—

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(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

To the Board of Revenue (Land Revenue).
the (Revenue Settlement, Land Records and Agriculture).
the Judicial Department.
E. A. Nicholson, Esq.

ORDER—No. 593, Judicial, dated 21st March 1896.

Communicated to all District Judges and the Inspector-General of Registration, who will be requested to render the necessary assistance to Collectors in the compilation of the statistics called for by the Revenue Department.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To all District Judges.

To the Inspector-General of Registration.

„ Revenue Department.

Copy to the Hon'ble the Chief Justice with C.L.

Gobt. of {1896} Madras.
JUDICIAL.

CONFIDENTIAL.

Issued

Recd.

Encl.

G.O., No. 593, 21st March 1896.

MARCH.

Transfers of Land.

Communicating to all District Judges and the Inspector-General of Registration Revenue Department Proceedings directing Collectors to furnish as accurate statistics as they can gather of mortgages, sales and other — which have taken place during each of the last five years.

First copy sent to Press.

Returned for Signature.

Despatched.

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ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

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N.B.—

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