Sch 5221

G.C. No 335 W. 19. 12. 82.
B. No 839 W. 27. 3. 84.
No 32 E. 24-4-85.
No. 1496 W of 26th June 1885

Communicated to
Officers of the P.W. Dept,
with reference to G.O.
No 335 GW of 15th Dec.
1882, & in Continuation
of G.O No 591 W of 12th March
1885.

22-6-85

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

GENERAL.

80 S.C.

To

SECRETARY TO GOVERNMENT
11 JUN 85
PUBLIC WORKS DEPARTMENT

Circular No. 7 P.W.

Dated May 26, 1885.

Received 13/6/85.

No 1496 W dated 26th June 1885

CA.
24.6.85

To

The Ch Engr for Irrign
" Consg Engr for Roads
" Supdg Engrs for the Sc.
C. A to Govt
Supt of Works & Ex. Secretary
Engrs in Chief State Ry
Examr P. W. Accts
Examr Br Ry Accts
Examr State Ry Accts

26-6-85

Rec'd 16.6.85

Rules regarding connection of public servants in India with land-holding and commercial speculations.

Govt. C. B. Press, Simla.—No. 81 P. W. D.—1-6-85.—1,825.

"80 spare copies

[*For General Distribution.*]

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GENERAL.

Simla, May 26th, 1885.

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The Chief Commissioners, Central Provinces, British Burma, Assam, and Coorg.
The Resident, Hyderabad.
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The Superintendent of Works, Simla Imperial Circle.

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B.A. 839 No/27/9
" 107 No/29/9
4

By order,

W. H. Sampson

Under Secretary to the Govt. of India.

No. $\frac{21}{797-806}$, dated Simla, 13th May 1885.

From—The Secretary to the Government of India, Home Department,

To—All Local Governments and Administrations.

In the course of correspondence with a Local Government, it has been brought to the notice of the Government of India that some misapprehension exists as to the precise scope and proper interpretation of the standing orders which regulate the connection of public servants with land-holding and commercial speculations in India. The Governor General in Council accordingly considers it desirable, in continuation of Home Department Resolution Nos. 5—224-246, dated 20th February 1884, to frame, for facility of reference on the part of Local Governments and Administrations and Officers serving under them, a brief summary of the existing rules, and of the more important interpretations which have been placed upon certain of them by the Government of India with the approval of Her Majesty's Secretary of State.

2. Covenanted civil servants, military officers in civil employ, and all persons holding civil offices ordinarily held by covenanted or commissioned officers of the two classes above mentioned, are prohibited from acquiring or holding land within the province in which they are employed or with the administration of which they are concerned, whether that connection be permanent or temporary.* This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

Acquisition and possession of landed property intended to be applied to agricultural purposes.

* To Secretary of State, No. 40, dated 16th June 1873; from Secretary of State, No. 99, dated 26th August 1873 (embodied in Home Department Resolution No. 13-467, dated 13th February 1874).

3. Natives of India appointed under the Statutory Rules are permitted to hold any lands actually in their possession when they enter the service of

Government, or which may come into their possession thereafter by inheritance, gift* or devise, provided that full information in respect of such lands is given to the Local Government, which will consider in each case whether the fact of an officer holding any particular lands need be a bar to his employment in the district where these are situated. No fresh purchase of land is, however, allowed on the part of a Statutory civil servant without the previous sanction of the Local Government under which he is serving.†

* *I.e., bonâ fide* gifts from relatives or near friends.

† Home Department Resolution Nos. 11—426-37, dated 17th March 1882; and Circular letter Nos. 26—1095-1104, dated 21st July 1882.
(Despatch from Secretary of State, No. 68, dated 8th June 1882.)

4. Uncovenanted officers exercising independent judicial or revenue functions, whether of European, Eurasian or Native descent, are not debarred from acquiring or possessing landed property in British India for agricultural purposes, provided that they must not hold landed property in the districts in which they are employed. Although uncovenanted officers are not precluded from holding land, it is inexpedient that appointments which necessarily confer a considerable amount of power and influence on their occupants, such as those of Munsif, Deputy Collector, and Tehsildar, should be filled by persons holding landed property within their jurisdiction.‡

‡ Despatch from Secretary of State, No. 22, dated 10th August 1861.

5. Officers of all classes (including candidates for office) must be required to make a declaration of the fact of their being in possession of, or of their having acquired, landed property, stating the district within which it is situated, with such other particulars as may be considered necessary, of which registers should be kept by the Local Governments concerned.§

§ Despatch from Secretary of State, No. 22, dated 10th August 1861.

6. It is incumbent on the several Local Governments to take care that no officer who may be in possession of landed property in British India or elsewhere, to whatever branch of the service he may belong, shall apply any portion of the time and attention which ought to be devoted to his public duties, whether civil or military, to the management of that property, and that longer or more frequent leaves of absence are not permitted on that account.‖

‖ *Idem.*

7. Civil servants and military officers in the actual service of the Crown in India are prohibited from holding lands in a Native State for any purpose whatever. This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

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8. With regard to investments other than those in land for the profits of cultivation, officers of every rank and class in the public service are expected to abstain from any investment (though of itself unobjectionable) which interests them privately in affairs or undertakings of the kind with which their public duty is connected.¶ Subject to this general proviso, there is no objection to Government** servants holding shares in mining or other companies (including agricultural companies) having for their object the development of the resources of the country, provided that they must not take part in the management of any such company, and that they must not be employed in the districts where the operations†† of the company with which they may be connected are carried on.‡‡ This latter prohibition must be held to apply sometimes with less, sometimes with greater, force to certain officers connected with the central administration, such as Members of the Local Government, Members of the Board of Revenue and their Secretaries; and to indicate the necessity of great circumspection on the part of such

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** The Secretary of State has held (*a*) that the standing orders as to the connection of Government officers with trading companies apply only to gazetted officers of the Covenanted and Uncovenanted Services, and do not apply in the case of clerks and other ministerial officers in Government employ, with regard to whom the supervision of heads of departments should suffice as a check.

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officers as to the undertakings with which they become connected in any part of the province in which they are employed.*

* To Madras Government, No. 1086, dated 10th July 1884.

9. In the matter of taking part in the management of a company, it has been decided† that the prohibition was not intended to apply to the participation of Government officers in the direction of those companies only which are designed to develop the resources of the country, but also to preclude such officers from taking part in the direction of such institutions as banks.‡ It has also been held that the prohibition against officers taking part in the management of a company applies§ to public servants on leave equally with those in active service, but that it does not extend‖ to officers who, with the consent of the Government of India, take service under Railway Companies working under concessions from Government, nor does it apply to the management¶ of associations which are established *bonâ fide* for the purpose of mutual supply and not of trade and trade profit (provided in this latter case that the interests of Government do not suffer by the double employment of the officer concerned). Although the prohibition against taking part in the "management" of a company cannot, taken literally, be held to debar an officer from taking part as a promoter or as one of the applicants for registration in the Memorandum of Association, the Governor General in Council has held that the danger against which the prohibition was aimed, namely, that of official influence being abused or official trust betrayed, is, under such circumstances, not much less than if the officer took part in the management after the company has been started. Government servants are therefore distinctly forbidden to take any part in the promotion or registration of companies.

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10. It is a standing order that servants of Government are required to abstain from speculative investments, but no literal definition has been laid down as to the stage at which, or circumstances under which, the holding of land or other valuable property becomes speculative. It is obviously speculative to secure a grant of land supposed to be auriferous with the object of disposing of it hereafter to companies. Habitual speculation by officials has been always held to be an evil; and the Government has reserved** to itself full power to deal stringently with the practice whenever it appears to prevail. The general distinction which exists between permanent and speculative investments is sufficiently described in the extract given in the margin†† from Home Department letter to the Government of Bengal, No. 1495, dated 10th April 1873.

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No. 810.

Copy forwarded to the Public Works Department.

To

The Secretary to the Govt of Madras

Public Works Department

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

GENERAL.

To

Circular No. 7 P.W.

Dated May 26, 1885.

Received

Rules regarding connection of public servants in India with land-holding and commercial speculations.

Govt. C. B. Press, Simla.—No. 81 P. W. D.—1-6-85.—1,625.

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GENERAL.

To

Circular No. 7 P.W.

Dated May 26, 1885.

Received

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2. Covenanted civil servants, military officers in civil employ, and all persons holding civil offices ordinarily held by covenanted or commissioned officers of the two classes above mentioned, are prohibited from acquiring or holding land within the province in which they are employed or with the administration of which they are concerned, whether that connection be permanent or temporary.* This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

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Government, or which may come into their possession thereafter by inheritance, gift* or devise, provided that full information in respect of such lands is given to the Local Government, which will consider in each case whether the fact of an officer holding any particular lands need be a bar to his employment in the district where these are situated. No fresh purchase of land is, however, allowed on the part of a Statutory civil servant without the previous sanction of the Local Government under which he is serving.†

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5. Officers of all classes (including candidates for office) must be required to make a declaration of the fact of their being in possession of, or of their having acquired, landed property, stating the district within which it is situated, with such other particulars as may be considered necessary, of which registers should be kept by the Local Governments concerned.§

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6. It is incumbent on the several Local Governments to take care that no officer who may be in possession of landed property in British India or elsewhere, to whatever branch of the service he may belong, shall apply any portion of the time and attention which ought to be devoted to his public duties, whether civil or military, to the management of that property, and that longer or more frequent leaves of absence are not permitted on that account.‖

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7. Civil servants and military officers in the actual service of the Crown in India are prohibited from holding lands in a Native State for any purpose whatever. This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

Acquisition and possession of landed property in Native States for any purpose.

8. With regard to investments other than those in land for the profits of cultivation, officers of every rank and class in the public service are expected to abstain from any investment (though of itself unobjectionable) which interests them privately in affairs or undertakings of the kind with which their public duty is connected.¶ Subject to this general proviso, there is no objection to Government** servants holding shares in mining or other companies (including agricultural companies) having for their object the development of the resources of the country, provided that they must not take part in the management of any such company, and that they must not be employed in the districts where the operations†† of the company with which they may be connected are carried on.‡‡ This latter prohibition must be held to apply sometimes with less, sometimes with greater, force to certain officers connected with the central administration, such as Members of the Local Government, Members of the Board of Revenue and their Secretaries; and to indicate the necessity of great circumspection on the part of such

Investments other than those in land for the profits of cultivation.

¶ Paragraph 6 of Despatch from the Government of India to Secretary of State, No. 40, dated 16th June 1873; Despatch from Secretary of State, No. 99, dated 26th August 1873; and Home Department Resolution No. 13-467, dated 13th February 1874.

** The Secretary of State has held (*a*) that the standing orders as to the connection of Government officers with trading companies apply only to gazetted officers of the Covenanted and Uncovenanted Services, and do not apply in the case of clerks and other ministerial officers in Government employ, with regard to whom the supervision of heads of departments should suffice as a check.

(*a*) Despatch No. 73, dated 19th July 1883, paragraph 5.

†† *N.B.*—The right of officers, civil and military, to hold shares in agricultural companies operating in Native States, is regulated by the same rules as apply to their holding shares in similar companies within British territory.
Despatch from Secretary of State, No. 22, dated the 25th November 1862, paragraph 5.

‡‡ Despatch from Secretary of State, No. 46, dated 31st May 1862.

officers as to the undertakings with which they become connected in any part of the province in which they are employed.*

* To Madras Government, No. 1086, dated 10th July 1884.

9. In the matter of taking part in the management of a company, it has been decided† that the prohibition was not intended to apply to the participation of Government officers in the direction of those companies only which are designed to develop the resources of the country, but also to preclude such officers from taking part in the direction of such institutions as banks.‡ It has also been held that the prohibition against officers taking part in the management of a company applies§ to public servants on leave equally with those in active service, but that it does not extend‖ to officers who, with the consent of the Government of India, take service under Railway Companies working under concessions from Government, nor does it apply to the management¶ of associations which are established *bonâ fide* for the purpose of mutual supply and not of trade and trade profit (provided in this latter case that the interests of Government do not suffer by the double employment of the officer concerned). Although the prohibition against taking part in the "management" of a company cannot, taken literally, be held to debar an officer from taking part as a promoter or as one of the applicants for registration in the Memorandum of Association, the Governor General in Council has held that the danger against which the prohibition was aimed, namely, that of official influence being abused or official trust betrayed, is, under such circumstances, not much less than if the officer took part in the management after the company has been started. Government servants are therefore distinctly forbidden to take any part in the promotion or registration of companies.

† Despatch from Secretary of State, No. 73, dated 19th July 1883, paragraph 4.

‡ Paragraph 4 of Despatch from Secretary of State, No. 73, dated the 19th July 1883.

§ From Secretary of State, No. 99, dated 7th September 1882.

‖ Resolution of the Public Works Department, Nos. 1650-1672G., dated 14th December 1882.

¶ Despatch from Secretary of State, No. 73, dated 19th July 1883.

10. It is a standing order that servants of Government are required to abstain from speculative investments, but no literal definition has been laid down as to the stage at which, or circumstances under which, the holding of land or other valuable property becomes speculative. It is obviously speculative to secure a grant of land supposed to be auriferous with the object of disposing of it hereafter to companies. Habitual speculation by officials has been always held to be an evil; and the Government has reserved** to itself full power to deal stringently with the practice whenever it appears to prevail. The general distinction which exists between permanent and speculative investments is sufficiently described in the extract given in the margin†† from Home Department letter to the Government of Bengal, No. 1495, dated 10th April 1873.

Speculation generally.

** Para. 7 of Despatch to Secretary of State, No. 40, dated 16th June 1873.
Despatch from Secretary of State, No. 99, dated 26th August 1873.

†† The Government of India consider that there exists an essential difference between permanent and speculative investments; that the distinction is one of motive, and that the frequency of a man's purchases and sales may be, and usually is, very good evidence of his motive in effecting them. If an officer habitually buys and sells securities of a value notoriously fluctuating, it is clear that he is addicted to speculation, and he thereby undoubtedly lays himself open to the disapproval of Government, which can be expressed in various ways, and in a degree proportionate to the nature of the dereliction. If he engages in such pursuits to an extent which attracts public notice and unfavourable remark, so that his integrity or his application to his public duties is discussed and doubted, then he has given rise to a scandal with which the Government will have to deal.

11. The foregoing paragraphs contain a brief summary of the more important orders which have been issued from time to time on the subjects under notice, and the Governor General in Council trusts that they will serve as a useful guide to Local Governments and Administrations and to Officers serving under them. It should, however, be understood that this summary merely embraces the more important orders, and does not profess to be exhaustive.

No. 810.

Copy forwarded to the Public Works Department.

(11)

1 № 3359 W d/ 19. 12. 82
" 839 W d/ 27. 3. 84
" 1407 W d/ 21. 5. 83
" 753 W d/ 20. 3. 84
" 1074 W d/ 29. 4. 84
" Last Da/ 11. 3. 85.

Ch. 9704
2 9/11 85

№ 32 Ed/ April 24th 1885

2/

No. 32 Ed/ April 24th 1885

P. W. Dept.

ho. C.J April '85.

Memorandum

Return of lands or interest in lands held by Covenanted Civilians & Military officers in Civil employ for the year ended 31st Decr. 1884.—
(C. nos. 413, 2231, 2356, 2628, 2722 & 2745)

Forwarded to the Public Dept. in Continuation of ho. 608 D, of 11th March 1885.

CS.

22.4.85

Dy. W.

23.4.85

To

The Public Dept

Dy. 21/4.

Accepted 22/4/85.

All "Nil" returns have been separately "recorded" in P. W. series. CS

B No 839 W of 27-3-84.

Recorded with reference to G.O. no. 335 of 19th December 1882.

Pd/ J.S. 25-3-84.

C No. 2677/84

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

GENERAL.

To

Circular No. ~~2~~ 3 Public Works.

Dated March 15, 1884.

Received

B No 839 W of 27-3-84.

Rules regarding connection of public servants with landholding and commercial speculation in India.

No. 454, P. W. D. Press—15-3-84—1,526.

With order.

[For General Distribution.]

Circular Public Works.

GOVERNT OF INDIA.

PUBLIC WO DEPARTMENT.

GRAL.

Fort Will arch 15, 1884.

The following is forwarded tal Governments, Administrations and Officers marginally noted for information and guidance, in continuation of Public Works Department Circular No. 16, dated 30th March 1874.

The Governments of Madras, Bombay, Bengal, -Western Provinces and Oudh, and the Punjab, in the Public Works D
The Chief Commissioners of the Central Provi ish Burma, Assam, and Coorg.
The Resident at Hyderabad.
The Agents to the Governor General for Cen a, Rajputana, and Beluchistan.
The Accountant General, Public Works Departme
The Inspector General of Military Works.
The Director General of Railways.
The Consulting Engineers to the Government of r Guaranteed Railways, Calcutta, Lahore and Lucknow.
The Director General of Telegraphs in India.
The Director-in-Chief, Indo-European Telegraph.
The Director, Persian Telegraph.
The Director, Persian Gulf Telegraph.
The Superintendent of Works, Simla Imperial Circ

G. H. D. WALKER,

Under Secy. to the Govt. of India.

No. $\frac{5}{224-48}$, dateth February 1884.

RESOLUTION,—By the Gov ent of India, Home Department.

Read the following papers :—

Home Department Resolution, dat 4th January 1862.
Ditto ditto, dat 6th January 1863.
Ditto ditto, dat 3th February 1874.

A case has recently come before the G nment of India in which the standing orders regulating the connection of public servants h landholding and commercial speculation in India had been infringed. The Governor Gen in Council accordingly considers it desirable to call attention to those orders, and directs th the Resolutions cited in the preamble, copies of which are hereto attached, should be re-circu ed for the information and guidance of Local Goverments and Administrations and Officers ving under them.

ORDER.—Ordered, that a copy of this Re tion and of its appendix be forwarded to the Local Governments and Administrations noted on the margin for information.

Madras.
Bombay.
Bengal.
North-Western Provinces and Oudh.
Punjab.
Central Provinces.
British Burma.
Coorg.
Assam.
Hyderabad.

Also that a copy be forwarded to all Dartments of the Government of India for information.

Also that a copy be forwarded t erintendent of Port Blair and the Nicobars, Sanitary Commissioner with the Governndia, Surgeon-General with the Government of India, Director General of the Arch Survey of India, Secretary to the Board of Examiners, Registrar of the Calcutta Un Bishop's Chaplain, and the Registrar of the High Court, Calcutta.

I. Resolution of the Governor Gener uncil, and Notification dated the 14th J 62.

Read the following correspondence on ect of Government servants holding land in India :—

Revenue Consultation, 20th January os. 1 to 3.
Revenue Consultation, 7th April 186 to 5.
Revenue Despatch to Secretary of St 6 of 1860, dated 2nd April.
Revenue Despatch from Secretary of o. 36 of 1860, dated 24th July.
Revenue T. S. Proceedings, 31st Aug, Nos. 52 and 53.
Revenue Proceedings, 25th October 18. 46 to 52.
Revenue Despatch to Secretary of Sta 37 of 1860, dated 25th October.
Revenue Proceedings, 26th October 18. 53 to 55.
Revenue Despatch to Secretary of Sta 38 of 1860, dated 26th October.
Revenue Proceedings, 31st October 18. 70 and 71.
Revenue Despatch to Secretary of Sta 39 of 1860, dated 31st October.
Revenue Proceedings, 8th March 1861 and 2.
Revenue Despatch to Secretary of Stat 5 of 1861, dated 8th March.
Revenue Despatch from Secretary of So. 22 of 1861, dated 10th August.
Revenue Despatch to Secretary of Stat 16 of 1861, dated 1st October.
Revenue Despatch from Secratary of So. 29, dated the 30th November 1861.

Resolution.—In the Despatch No. 22, the 10th August 1861, Secretary of State lays down rules under which Governments may hold landed property in India ; and prescribes that in the case of Covenanted Servants, the possession by them of such property shall be contingent on its being sit out of the Presidency to which they are attached. This restriction is modified as s the Presidency of Fort William by the subsequent despatch of the 30th of Nove No. 29, wherein the Secretary of State accords his permission to officers of the Beng il Service attached to the Lower Provinces acquiring and holding lands in the Upper inces, including the Punjab and Oudh, and, similarly, to officers attached to the Upper vinces acquiring and holding lands in the Lower Provinces. In according this perm the Secretary of State requires that officers possessing lands in either Division of the idency shall be absolutely precluded from employment under the Local Governments o Division in which their lands are situated.

Resolved, that the following Notificatio published in the *Calcutta Gazette* :—

Notification dated 4th January 1862.

The following orders passed by the Ri Hono'ble the Secretary of State in Council on the subject of the possession of landed pr y in India by public servants are published for general information :—

(1.) *Extract from the Secretary of State's spatch No. 22, dated the 10th August* 1861.

Para. 1. I have had under my consid ion in Council your Excellency's letters dated the 25th, 26th and 31st October 1860 (Nos 38 and 39), and 8th March (No. 5) 1861, on the subject of the possession of lande operty in India by the public servants of the State.

* * * * * * * *

4. I have carefully considered in Coun he entire subject, and I am now prepared on the part of Her Majesty's Government to down the following Rules for your future guidance. I should premise that these Rules fer only to the acquisition or possession of lands intended to be applied to agricultura rposes, and are not to be construed to include lands occupied merely by buildings for reside and their usual appurtenances.

5. Officers of the Covenanted Civil Se e are at liberty to acquire and possess lands anywhere out of the Presidency to which hey are attached, but are absolutely precluded from holding lands within their own Pr ency. Thus an officer of the Bengal Civil Service may hold lands in Madras or Bomb , but cannot be permitted to hold lands in any part of the Bengal Presidency, notwithstandi that, at the time of their acquisition, he may himself be actually employed in a differ t Lieutenant-Governorship from that in which the lands may happen to be situated.

6. Regimental military officers may hold lands in any part of India, with the distinct understanding, however, that a military officer possessing land will be disqualified for temporary employment in any civil capacity in the district within which his land is situated but military officers who are placed in permanent employment in the civil administration must, like the officers of the Covenanted Service, be prevented from holding land in the Presidency to any part of which they may be sent.

7. No restrictions are to be placed on the possession or acquisitton of lands by uncovenanted officers of any description, whether of European, Indo-British, or Native descent, beyond those now in force.

8. Officers of all classes (including candidates for office) must, however, be required to make a declaration of the fact of their being in possession of, or of their having acquired, landed property, stating the district within which it is situated, with such other particulars as you may consider necessary, of which registers should be kept at the seat of Government of each Presidency or Lieutenant-Governorship. Although uncovenanted officers are not to be precluded from holding land, it may, nevertheless, be inexpedient that appointments which necessarily nonfer a considerable amount of power and influence on their occupants, sech as those of Sudder Ameen, Deputy Collector and Tehsilder, should be filled by persons holding landed property within their jurisdiction ; and it is right that the several Government should always have at hand the information necessary to guide their judgment in selecting individuals for such offices.

9. It will, moreover, be incumbent on the several Local Governments to take care that no officer who may be in possession of landed property in India or elsewhere to whatever class of the service he may belong, shall apply any portion of the time and attention which ought to be devoted to his public duties, whether civil or militauy, to the management of that property, and that longer or more frequent leaves of absence are not to be permitted on that account.

* * * * * * * *

(2.) *Secretary of State's Despatch No. 29, dated the 30th November* 1861.

With reference to the letter from your Excellency in Council, dated the 1st October last (No. 16), which has been considered by me in Council, I have resolved to accede to your recommendation for a modification of the terms of my Despatch of the 10th August last (No. 22), so far as to permit officers of the Bengal Civil Service, attached to the Lower Provinces, to acquire and hold land in the Upper Provinces, including the Punjab and Oudh. Similarly officers attached to the Upper Provinces may be permitted to acquire and hold lands in the Lower Provinces of Bengal. It will, of course, be understood that such officers possessing lands in either Division are absolutely precluded from employment under the Local Governments of the Division in which their lands are situated.

Orderd, that a coppy of the foregoing Resolution be sent to the Local Governments noted in the margin, and (No. 259) to the Military Department, and (No. 260) Public Works Department for information, and (No. 261) to the Foreign Department for information and for communication to the Government of the Punjab, the Chief Commissioner of Oudh, the Chief Commissioner of the Central Provinces, the Commissioners of Mysore, Pegu and the Tenasserim Provinces, and to such other officers under the control of that Department as may be deemed necessary.

No. 254, Government of Bengal.
„ 255, Government of the North-Western Provinces.
„ 256, Government of Fort St George.
„ 257, Government of Bombay.
„ 258, Government of the Straits Settlements.

II. Resolution of the Governor General in Council, and Notification dated the 16th January 1863.

Read the following papers on the subject of Government servants holding lands and engaging in speculations in India :—

Revenue Despatch from Secretary of State, No. 22 of 1861, dated 10th August.
Revenue Despatch from Secretary of State, No. 16 of 1861, dated 1st October.
Ditto ditto from ditto, No.29 of 1861, dated 30th November.
Resolution of the Government of India, dated 14th January 1862.
Letter from the Government of Bombay, No. 323, dated 28th January 1862.
Minutes by the Governor General and the Members of Government thereon, recorded on Public Proceedings of the 11th March 1862, Nos. 10 to 13.
Letter to Government of Bombay, No. 1421, dated 11th March 1862.
Public Despatch to Secretary of State, No. 23 of 1862, dated 11th March.
Letter from Secretary to the Landholders and Commercial Association, dated 31st March 1862, and its enclosed memorial addressed to the Secretary of State, praying that the covenanted and military servants of Government may be permitted to purchase and hold lands in India without any restriction.

Revenue Despatch to Secretary of State, No. 9 of 1862, dated 12th April.

Letter from Government of Madras, No. 537, dated 11th March 1862.

Minutes by the Governor General and the Members of Government thereon, recorded on Revenue Proceedings of the 8th May 1862, Nos. 2 to 7.

Revenue Despatch to Secretary of State, No. 10 of 1862, dated 8th May.

Public Despatch from Secretary of State, No. 46 of 1862, dated 31st May.

Ditto ditto to ditto ditto, No. 59 of 1862, dated 18th July.

Revenue Despatch from ditto ditto, No. 22 of 1862, dated 25th November.

RESOLUTION.—In his Despatch No.46, dated 31st May 1862, the Secretary of State observes that, as a general rule, there is no objection to Government servants holding, under certain restrictions, shares in Mining or other Companies having for their object the development of the resources of the country. In the recent Despatch dated the 25th of November, Sir Charles Wood states that the question raised by the Landholders and Commercial Association was fully considered when his Despatches No. 22, dated 10th August, and No. 29, dated 30th November 1861, were under preparation, and he sees no reason to modify the instructions conveyed therein. He also communicates instructions on the points submitted by the Government of Madras relative to a civilian holding shares in a Joint Stock Company formed for agricultural purposes in his own Presidency, and in regard to a Madras Civilian holding land in Mysore, Coorg, Cochin or Travancore; or becoming a shareholder in a Company formed for holding or cultivating land in those territories.

Resolved, that the following Notification be published in the *Calcutta Gazette*:—

Notification dated the 16th January 1863.

The following orders passed by the Right Hon'ble the Secretary of State for India are published for general information, in continuation of the Notification No. 241, dated the 14th January 1862, published in the *Calcutta Gazette* of the 15th idem:—

(1.) *Extract from the Secretary of State's Public Despatch No. 46, dated the 31st May 1862.*

PARA. 2 You will have learned from my Despatch to the Government of Bombay dated the 8th April last, No. 11, that in connection with the orders of that Government of the 26th November 1861, relative to the case of public officers who might take part in any Company formed for working the Gold Mines in the Dummul Hills, I stated that, "as a general rule, I see no objection to servants of Government holding shares in Mining or other Cumpanies having for their object the development of the resources of the country; and the only restriction I think it necessary to impose is, that public servants shall take no part in the management of such institutions, and shall not be employed in the districts where the operations of the Company may be carried on.

3. With the exception of the concluding proviso, that no public officer shall be employed in any district where any Company, in which he holds shares, may carry on its operations, the sentiments above expressed are in accordance with the opinions recorded by Earl Canning and the several Members of your Council; and, as I think it important that this condition should be maintained, I have to direct that my decision, communicated in the terms above quoted to the Government of Bombay, may be made generally applicable, and may be published for general information.

4. There can be no doubt as to the great evil of public servants in India engaging in speculations in the public funds, or in the shares of Joint Stock Companies; but I agree in the opinion of Lord Canning that such a practice, on the part of any officer, could not long escape the knowledge of Government, and that it would be in the power of Government to mark its sense of such conduct, either by withholding promotion, or in any other way it might deem fit.

(2.) *Extract from the Secretary of State's Revenue Despatch No. 22, dated the 25th November 1862.*

PARA. 3. In your letter of the 8th May (No. 10), you request to be informed whether a covenanted civilian may hold shares in a Joint Stock Company formed for agricultural purposes, such as tea or coffee cultivation, in his own Presidency. This question is sufficiently answered in my Public Despatch of the 31st May (No. 46) 1862, which you would have received shortly after the date of your reference.

4. As regards the question whether a covenanted Madras civilian may hold land in Mysore, Coorg, Cochin or Travancore, I agree with your Government in viewing with disapproval the holding by covenanted civil servants of lands in Native States; and I consider that the same objection applies to the holding of such lands by military officers in the actual service of the Crown in India.

5. The right of officers, civil or military, to hold shares in the Agricultural Companies operating in Native States may be regulated by the same rules as apply to their holding shares in similar Companies within the British territories.

ORDERED, that a copy of the foregoing Resolution be forwarded to the Government of Bombay, with reference to their letter No. 323, dated 28th January 1862, and the reply to it, No. 1421, dated 11th March 1862; to the Government of Madras, with reference to their letter No. 537, dated 11th March 1862; and to the Governments of Bengal and the North-Western Provinces, as well as the Straits Settlement, and the Military and Public Works Departments for information; and to the Foreign Department for information and for communication to the Government of Punjab, the Chief Commissioners of Oudh, Central Provinces and British Burma; the Commissioner of Mysore, and to such other officers under the control of that Department as may be deemed necessary.

Ordered also, that a copy of paragraphs 1 and 2 of the Despatch, dated the 25th November 1862, No. 22, be forwarded to the Landholders and Commercial Association, with reference to their Secretary's letter dated the 31st March 1862.

III. Resolution No. 13—467, dated Fort William, the 13th February 1874.

READ the subjoined extracts from a correspondence with her Majesty's Secretary of State for India on the subject of the holding of land by Government servants in India and of other investments:—

Extract, paras. 3 to 8 of Despatch to the Secretary of State, No. 40, dated the 16th June 1873.

Para. 3. The main rule which we propose to alter is that which deals with the holding of land in India by covenanted civilians and by military officers in civil employ. The general rule now is that no such civil officer may hold land within his own Presidency. The correspondence which has only just ended raised the point whether officers belonging to the Financial Department, who are liable to serve in any Presidency or Province, are debarred under this rule, or under any other, from holding land anywhere in India beyond their own Presidency. And the reply of the Secretary of State in his Despatch marginally cited* was that the prohibition (imposed by the general rule above quoted) does not apply to districts in which officers of the Financial Department may be temporarily serving outside the limits of the Presidency to which they were originally appointed. By the wording of this reply the ruling which it conveyed applied only to the case of the Financial Department, but the letter† from this Government which submitted the case had pointed out that "under the literal terms of the rules it is clear that a Bengal civil servant may ordinarily acquire and hold hand in British Burma." And though the answer from the Secretary of State may be understood to assume that an officer connected with the local administration of a Province outside the limits of his original Presidency is forbidden by the spirit of existing rules from holding land within that Province, yet this important construction is not positively laid down either in the Despatch from the Government of India or in the Secretary of State's reply to it. Practically, and especially, in delicate and closely contested cases a rule is only effective within the range of its literal meaning. And the literal meaning of the general rules which curtail the right of covenanted and commissioned civil officers to acquire land is still only this—that the land must not be within the Presidency to which they were first appointed. Thus an officer who, like an Accountant General, may be sent to serve in any Province or Presidency, or who like a Secretary to the Government of India, or Member of the Supreme Government, may be officially connected with all Provinces, is only debarred by the haphazard of his first appointment from holding land in one particular Presidency, whether he be actually serving in it or not. Nor is it absolutely certain, according to the letter of the rules (though according to their spirit there may be no doubt), that the present Chief Commissioner and Judicial Commissioner of British Burma, being both Bengal civilians, are incapable of holding land in that Province, which is separate from the Bengal Presidency.

* No. 74, dated 15th December 1866.

† No. 21, dated 13th July 1866.

4. We have determined that it is expedient to remove these doubts and inconsistencies by amending the rules so as to bring them back into direct correspondence with their original objects and motives. The reasons why certain officers in civil employ were forbidden to hold land in their own Presidency are* (1) because their attention might be diverted from public to private business to the detriment of public business; and (2) because they might use (or be suspected of using) their official influence unduly for their own benefit, and to the disadvantage of others in the management of their estates. But these reasons obviously apply with equivalent force wherever an officer holds land and public office in the same Province; wherefore we desire to pass the plain rule that henceforward no officer (covenanted or military in civil employ) shall hold land in a Province with the administra-

* See Despatch of Supreme Government to Secretary of State., No. 6, dated 2nd April 1860.

tion of which he is in any manner connected. If this rule is approved, then the aforesaid civil officers will be precluded from taking office which gives any sort of jurisdiction over any part of a Province within which they may hold land, and (conversely) from holding or acquirng land within the territorial limits of the Province in which they may be serving temporarily or permanently. In fact they must choose, upon any transfer or fresh appointment which raises the dilemma, between holding office and holding land; they cannot hold both in one Province. But we do not wish to give the new rule retrospective effect, or to make it interfere with the right of civil officers to keep land which they have already acquired under the permission given by preceding regulations; though in the event of promotion to high administrative positions, such officers may be expected to take an early opportunity of conforming to the general rule in force. And it should be here noted that we propose to retain, for the purposes of these rules, the definition of landholding which was framed by Sir C. Wood,* whereby it is taken to mean only the acquisition of land intended for cultivation, not of land occupied by buildings for residence. Whether land can be held for commercial speculation is a different question, which we touch upon toward the end of this letter.

* Despatch, 10th August 1861.

5. We are aware that the effect of the broad rule which we have now proposed will be to hamper greatly any safe investment in land in India by officers who are liable to serve in different Presidencies and Provinces. And we admit that it must operate to discourage civil officers generally from making these investments anywhere; for the land must always be held at a considerable distance and on a precarious tenure, since in these days transfers from one Presidency or Province to another are much less rare than formerly. Nor do we overlook the arguments, often urged heretofore, that there is some actual advantage in associating under due precaution official position with landed interest in the country. But it has long been decided that these considerations are more than counterbalanced by the disadvantages accompanying the possession of land in a Province by officers who belong to its civil administration. This being the case, we feel the necessity of making one plain rule that shall be logical and consistent; and we observe that the extension which we propose to give to the prohibiting rule already in force will only affect comparatively small sections of the whole body of civil officers; that is, it will affect those only who are liable to serve beyond the limits of the Presidency to which they were first appointed; or who may be officially connected with districts beyond those limits. It may, if unreservedly enforced, prevent a member of the Supreme Government from holding any land at all in India; although we do not pledge ourselves to enforce it thus absolutely, or without making special exceptions in cases which are plainly unobjectionable. We propose to bring under the same category with covenanted civilians and military officers in civil employ all persons holding offices ordinarly held by officers of these classes. The amended rule will then run to effect that no such civil officer shall acquire, or continue to hold, land in any Province to which he is temporarily or permanently appointed, or with the administration of which he is concerned. And we intend to preserve unchanged all the other rules which have from time to time been passed in restraint of land-holding by different classes of public servants in various situations.

6. In regard to all investments other than those in land for the profits of cultivation, we have adopted and propose to notify the general principle that servants of Government are expected to abstain from any investment (though of itself unobjectionable) which interest them privately in affairs or undertakings of the kind with which their public duty is connected. The principle is well known, and the reasons for it are obvious; but we have latterly found cause for believing that it should be re-asserted distinctly.

7. We have recently been asked to consider the question of speculative investments by public officers, which is on some sides of it cognate to the subject of this letter, but we take it to be on the whole a different matter requiring different treatment. For, although we can frame a precise rule demarcating the limits within which land should or should not be held by public servants, and ulthough it is easy to say that a Financial officer must not hold shares in a Bank within his circle, or a Consulting Engineer Railway shares, yet we do not propose to go farther and to attempt any literal definition of the stage at which the holding of land or other valuable property becomes speculative. We need only remark that while land-holding and other investments are under certain conditions forbidden to public servants as a necessary precaution against evil (one of which is speculation) that may possibly follow, habitual speculation by officials is held by us to be an evil in itself. And we have given notice that we reserve to the Government full power to deal stringently with the practice whenever it appears to prevail.

8. We enclose copies of correspondence with the Government of Bengal * upon the advisability of endeavouring to frame a definition of the term which shall include all transactions by a public servant which a Government may properly disapprove. We are of opinion that no such fixed rule of conduct is really needed, either by Government or by their officers, for their guidance in this matter.

* From Bengal, No. 1445G, dated 30th December 1872.
To Bengal, No. 1495, dated 10th April 1873.

No. 1445 G., dated Calcutta, the 30th December 1872.

From—C. E. Bernard, Esq., Officiating Secretary to the Government of Bengal, Appointment Department,

To—The Officiating Secretary to the Government of India.

Referring to the Notification of the Government of India in the Home Department dated 28th August 1872, and published at page 814 of the *Gazette of India* of the 31st idem, on the subject of prohibiting public officers from engaging in speculations in India, I am directed to submit that the Notification seems to the Lieutenant Governor to put Local Governments in a position from which they may fairly ask to be relieved by a more exact definition as to what are the speculations which public officers may, and what they may not, engage in. I am to point out that it is notorious that, since the publication of the Despatch of 1862, very many officers have engaged in what is commonly termed speculation; that is to say, in the days of the company mania they applied for allotments in the shares of many companies, real and bubble; they took shares in tea estates, mines, mills; sometimes they bought and sometimes they sold.

2. The Lieutenant Governor finds it impossible to draw a line between permanent investments and purchase with a view to re-sale, it being only a question of degree. It can be only said that it was commonly believed that some officers in Calcutta (and it is believed still more in Bombay) went into these things to such an extent that they were commonly spoken of in society as much addicted to speculation. Yet His Honor is not aware that action was taken or precise rule laid down. Such times may recur, and isolated cases probably do occur; many servants of Government still hold shares in many undertakings, public and private, and the Lieutenant Governor does not know what is to be considered a speculation, and what not.

3. There are, moreover, certain public officers who also engage in private business, *e. g.*, law officers, and some, as the Administrator General, who apparently have always held themselves entitled publicly to serve as directors of public companies.

No. 1495, dated Fort William, the 10th April 1873.

From—A. C. Lyall, Esq., Secretary to the Government of India,

To—The Officiating Secretary to tho Government of Bengal, Appointment Department.

I am directed by the Governor General in Council to reply to your letter No. 1445 G., dated 30th December last, desiring some definition of the term 'speculation' for use in applying the rule which prohibits officers from engaging in it.

2. The question here raised by His Honor points evidently to cases which lie beyond those particular dealings which are already prohibited by rule, such as investment in land within the district to which an officer belongs, connection with the management of any bank or business, and other transactions barred by specific order. His Honor now inquires whether the Supreme Government would lay any formal restriction upon speculative investments generally so as to regulate precisely what an officer may or may not do.

3. I am to reply that His Excellency in Council would not attempt to shape, for public servants, any such fixed rule of conduct in this matter. If it were possible to devise such a rule, the expediency of doing so would be questionable; for His Excellency believes that, in practice, the spirit of existing orders is beyond mistake—that it never can be really misconceived by officers in the service, and therefore that there can be no practical difficulty about enforcing these orders as they now stand.

4. The Government of India consider that there exists an essential difference between permanent and speculative investments, that the distinction is one of motive, and that the frequency of a man's purchase and sales may be, and usually is, very good evidence of his motive in effecting them. If an officer habitually buys and sells securities of a value notoriously fluctuating, it is clear that he is addicted to speculation, and he thereby undoubtedly lays himself open to the disapproval of Government, which can be expressed in various ways, and in a degree proportionate to the nature of the dereliction. If he engages in such pursuits to an extent which attracts public notice and unfavorable remark, so that his integrity or his application to his public duties is discussed and doubted, then he has given rise to a scandal with which the Government will have to deal.

5. His Excellency believes that these general instructions will be found to govern all the cases to which your letter alludes; and if so, to those cases they may be applied. In regard to officers whose whole time is not at the disposal of Government, they are not in precisely the same category with other public servants; nevertheless if their behaviour gives rise to scandal, that is, to common rumour that they are in any way making private profit out of the opportunities given by their official position, in that event the Government can of course recognize no difference whatever between these and other servants of the State.

Extract para. 4, of Despatch from the Secretary of State, No. 99, dated the 26th August 1873.

I fully approve of the orders which have been issued by your Excellency in Council on the general question of investments by covenanted civilians and military officers in civil employ.

RESOLUTION.—The Governor General in Council desires that the foregoing extracts be forwarded to the Local Governments and Administrations for information and for circulation to all officers affected by the present orders, or holding a position in which they are likely to be so affected.

2. His Excellency in Council is pleased to determine, in continuation of preceding orders upon the same subject, that covenanted civil servants and military officers in civil employ, and all persons holding civil offices ordinarily held by covenanted or commissioned officers of the two classes aforesaid, are prohibited henceforward from acquiring or holding land within the Province with the administration of which they are concerned, whether that connection be permanent or temporary. This order will not necessarily take retrospective effect.

3. With regard to investments of any kind by public servants, it is hereby notified that the rules and general principles contained in the 6th and 7th of the Despatch to the Secretary of State, and in the enclosures to which they refer, will henceforward be acted upon by the Government, and are to be observed by all officers, of every rank and class, in the public service.

Nos. 13—468 to 486.

ORDER.—Ordered, that a copy of this Resolution be forwarded to the several Departments of the Government of India, to the Local Governments and Administrations, to the Superintendent of Port Blair and the Nicobar Islands, and to the Director General of the Archæological Survey of India, for information and guidance.