GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

Read—the following paper :—

From A. MACKENZIE, Esq., C.S., Secretary to the Government of India (Home department—Public), to the Chief Secretary to Government, dated Simla, 13th May 1885, No. 21-797.

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 speculation 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).

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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.

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

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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

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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.

Speculation generally.

† Paragraph 7 of despatch to Secretary of State, No. 40, dated 16th June 1873.
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‡ 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 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.

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.

ORDER—dated 16th June 1885, No. 1380, Public.

Communicated to the departments of the Secretariat.

(True Extract.)

M. HAMMICK,
Ag. Under Secy. to Govt.

To the Revenue department.
„ Public Works department.
„ Military department.
„ Heads of departments under the Chief Secretary.

Exd. T. O'Connor.

Govt. of {1885} Madras.

PUBLIC.

Issued

Recd. *Encl.*

G.O., 16th June 1885, No. 1380.

JUNE.

Holding of Lands, &c.

Communicating to the departments of the Secretariat, resolution of the Government of India circulating, for information and guidance, a summary of the rules which regulate the connection of public servants with land-holding and commercial speculation in India.

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

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, 19th July 1883, para. 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 1882, paragraph 5.

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

** 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

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

‡‡ Paragraph 4 of despatch from Secretary of State, No. 73, dated 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.

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(True Extract.)

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Ag. Under Secy. to Govt.

To the Revenue department.
" Public Works department.
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" Heads of departments under the Chief Secretary.

Exd. T. O'Connor.

Govt. of {1885} Madras.

PUBLIC.

Issued

Recd. *Encl.*

G.O., 16th June 1885, No. 1380.

JUNE.

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B/L 1572 Sup 6/7/85

JUNE.

Recorded
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GOVERNMENT OF MADRAS.

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READ—the following paper:—

From A. MACKENZIE, Esq., C.S., Secretary to the Government of India (Home department—Public), to the Chief Secretary to Government, dated Simla, 13th May 1885, No. 21-797.

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 speculation 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.

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

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, 19th July 1883, para. 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.

** 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

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

‡‡ Paragraph 4 of despatch from Secretary of State, No. 73, dated 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.

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.

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.

† Paragraph 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 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.

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.

ORDER—dated 16th June 1885, No. 1380, Public.

Communicated to the departments of the Secretariat.

(True Extract.)

M. HAMMICK,
Ag. Under Secy. to Govt.

To the Revenue department.
" Public Works department.
" Military department.
" Heads of departments under the Chief Secretary.

Exd. T. O'Connor.

Govt. of {1885} Madras.

PUBLIC.

Issued

Recd. *Encl.*

G.O., 16th June 1885, No. 1380.

G.O. No. 1572 dt 16-7-85
Recorded
JUNE.
SD/J.S.S

Holding of Lands, &c.

Communicating to the departments of the Secretariat, resolution of the Government of India circulating, for information and guidance, a summary of the rules which regulate the connection of public servants with land-holding and commercial speculation in India.