Revenue Department

Minutes of Consultations

23rd June 1857

Back Numbers 30 - 33

Order No 613 dated 20th June 1857

பாதுகாப்பு பிரிவு - - 1 -

செப்பனிடுபவர் பெயர் கி. சுப்பராயன்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள். 9/06

செப்பனிட்டு முடித்த நாள் 11/06

சரிபார்க்கும் முதல் தர நி. பா. எ. கையொப்பம்

சரிபார்க்கும் இரண்டாம் நி. பா. எ. கையொப்பம்

தொழிற்சாலை உரிமையாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 23d June 1857.

Read the following papers.

No. 30. Extract from the Proceedings of the Board of Revenue; dated 11th May 1857, No. 1499.

Read letter from the Collector of Salem, dated 3rd April 1857.*

* *In Cons. 11th May 1857.*

(Here enter No. 54.)

Resolved that the above letter be laid before Government, with reference to Extract Minutes of Consultation dated 1st April 1857, No. 313, Revenue Department.

2. With this communication, the Acting Collector submits for sanction a Statement of the sums paid in compensation for land taken up for the new Jail and Court Houses at Salem.

3. The extent of land taken up is A.80, G.13, A.2 bearing an assessment of Rupees 142-13-10, and the compensation paid amounts to Rupees 1,000. The Statement however does not include a spot of Enam land measuring A.9, G.37, A.11 takenup for the Jail. The owner of this land is absent from Salem, and the compensation to be paid to him will be settled on hi return and then reported for sanction.

4. Including this Enam, the entire extent of land taken up will amount to A.90, G.35, A.13, the Board therefore presume that all the land which Government have desired to be purchased, has been secured. The Collector will state, whether this is the case, and if not, will at once carry out the orders of Government on the subject.

5. The sums now recommended for sanction are merely compensation to the parties in possession of the land for their right of occupancy, improvements, &c. The Government have still to purchase the rights of the Mootahdar within whose estate the lands are situated. The Acting Collector states that the lands were included in the assets of the Alagapoorum Mootah, and that the Mootadar demurs to receive compensation calculated on the principle laid down in Extract Minutes Consultation dated 27th August 1855, No. 985, Revenue Department, and claims a remission of the entire assessment payable on the lands. The Acting Collector also states that it has been usual in Salem hitherto to deduct the entire assessment of lands purchased by Government from the Peshcush of the Mootahs in which they are situated. The assets of the estate were calculated at Rupees 3,356, and the Peshcush was fixed at Rupees 3,115, or a deduction of about 7 per cent. was made in favor of the proprietor.

6. The Board presume that Government must adopt one of the two courses, either admit the Mootadar's claims or submit the matter to arbitration under Section VI. Act XX. of 1852, and they offer their recommendation in favor of the former course.

7. The Board would here observe that it was their wish to have laid before Government at an earlier date, the arguments upon which they base their views regarding the principle to be followed in granting compensation to Zemindars and other proprietors of estates for lands taken for public purposes; but before doing so, they considered it incumbent upon them to procure the information called for in Extract Minutes of Consultation 27th August 1855, No. 985, Para. 10, and they have not yet succeeded in obtaining the complete details. But as the letter from the Acting Collector of Salem brings the question again forward, they will now state their opinion upon it.

8. To simplify the subject, they will confine it to assessed lands fit for cultivation, as none of the claims at present under consideration include compensation for immemorial waste or Porumpoke. The Board argue for the practice hitherto followed of remitting the entire assessment of such lands when taken for public purposes, while Government consider that a portion of it only should be remitted, and have proposed, in the case of Zemindaries, to retain a part equal to the per centage in which the Peshcush falls below the Beriz of the estate or its former average collections according to the mode of calculation upon which the Peshcush was originally fixed.

9. In support of their views, Government* bring forward two considerations. First, that the whole of the cultivable extent of an estate is not cultivated and does not pay assessment every year, and therefore to remit a sum equivalent to the whole assessment of the land taken, would certainly be to give the proprietor more than

* *Ex. Mins. Cons. No. 985, 27th August 1855, Para. 3.*

he received if the land had been left untouched; and second, that inasmuch as the permanent assessment of the Mootahs and Zemindaries was formed on a certain proportion only and not the whole of the computed assets of the property, if the process of taking land and granting compensation recommended by the Board were carried to a certain extent, the proprietor would be entirely relieved from payment to Government and would retain a portion of his original property as absolute enam. Government therefore came to the conclusion that "it is not necessary "to remit a sum equivalent to the whole assessment of the land taken, but only a part of it pro- "portionate to the terms of the original settlement of the village."

10. But in the opinion of the Board difficulties will follow an attempt to carry out the principle here laid down, and instead of effecting the voluntary and amicable agreements wished for by Government, it will become necessary, when land is required for public purposes, to put in action the provisions of Act. XX. of 1852, since it cannot be expected that proprietors will voluntarily surrender their properties on such terms. The Board have formed this opinion after much consideration of the subject, from coming to the conclusion that the Zemindars are entitled in justice to that full remission of assessment which they claim and which has hitherto been allowed to them when they have been called upon to give up cultivable lands for public purposes.

11. They would point out that Zemindars hold their estates on condition of paying a fixed annual Peshcush, and are vested with a right to collect assessment on all the lands within their boundaries. In the Zemindary estates, formed under our rule, the Peshcush was calculated on the assessment or Beriz of the cultivable area, or on the previous average collections, deducting a per centage to provide for variations of season and other contingencies, and form the Zemindar's remuneration for his responsibility and trouble in managing the estate. Government observe that "the whole of the cultivable extent is not cultivated and does not pay assessment (to the "Zemindar) every year," and in numerous instances this is true; but it is equally true that such a result was both contemplated and wished for, and that the unoccupied lands were assigned in full to the Zemindars for the express purpose of giving value to their estates, and furnishing an incentive to the outlay of capital in their improvement.

12. When accordingly any unoccupied land in a Zemindary is taken up for cultivation or other uses by a private party, the Zemindar is entitled to collect its assessment from him. Lands taken for public works cease of course to be available for agriculture; but the Board cannot see that in consequence of their occupation in this manner, the Zemindar ought to lose any part of the assessment which a private person would have paid for their use. They consider that Government on these occasions places itself in the position of a private person, and is bound to pay the full assessment of the land which they occupy; but instead of making annual dayments like a private individual, trouble is saved by deducting the amount from the Zemindar's Peshcush.

13. In support of the soundness of the course which they recommend, Government further observe that if the full assessment was remitted to the Zemindar, the result would be "if carried "to a certain extent, that the proprietor would be entirely relieved from payment to Government "and would retain a portion of his usual property, one third usually, as absolute enam." On this point the Board will offer 2 observations, though the case supposed is an extreme one. Firstly, they consider that the result would be natural and just. The Zemindar being deprived, for the convenience of Government, of a valuable property which he held under a solemn deed or sunnud, and for which he has perhaps expended large sums in purchase or improvements, is clearly entitled to compensation. If Government do not wish that compensation to be given, by leaving on his hands some lands on rent free tenure, it is open to them to arrange for granting compensation in an other shape. Secondly, the Board invite attention to what would follow from the priciple of Government on its being carried out to its full extent, by instancing the case of an entire estate required for public purposes. The proprietor would then only receive remission of the whole Peshcush, or in other words be merely relieved from his responsibility to the state and receive no compensation whatever for the loss of his estate.

14. On these grounds, the Board are led to request the sanction of Government for continuing the practice of of remitting in full the assessment of culturable lands taken from the estates of Zemindars and other proprietors for public purposes. If their arguments lead Government to

accede to this course, sanction is requested for following it in the case now reported by the Acting Collector of Salem, and also in the instances reported in their letter of 11th August 1855.

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 31. Extract from the Proceedings of the Board of Revenue; dated 18th May 1857, No. 1634.

Read letter from the Collector of Chingleput dated 9th De-
**In Cons. 18th May 1857.* cember 1856.*

(Here enter No. 423.)

In their letter to Government of the 11th August 1855, the Board proposed that a deduction equal to the assessment of certain lands taken for the Northern and Western Roads in the District of Chingleput, should be made from the Peshcush of the Mootahs and Shrotiem villages in which they are situated as compensation to the proprietors.

2. In Extract from the Minutes of Consultation of the 27th August 1855, No. 985, Revenue Department, however, Government expressed an opinion that
Para. 3. the calculation was made on a wrong basis, and that the remission should be of a part only of the assessment "proportioned to the terms of the original settlements of the village." Fresh accounts were accordingly required.

3. These are submitted with the letter now recorded; but the Collector has misapprehended the principle of the intended calculation. The desire of the Government, according to the Board's construction of their order, was that the remission should bear the same proportion to the assessment of the land taken, as the Peshcush did to the Beriz of the estate or Shrotiem at the time of the permanent settlement. Whereas, instead of the latter, Mr. Shubrick has taken the average of the income (or as it is called in the statements, gross produce) for 10 years.

4. Such being the case, the Statements will not answer their purpose; and if the principle laid down by Government in the Minutes of Consultation quoted above be maintained, it will be necessary to return them for correction.

5. As, however, the Board in their Proceedings noted in the margin, have solicited a re-
Proceedings to Government consideration of the rule then propounded, they resolve, before call-
11th May 1857, No. 1499 ing for fresh statements in this case, to submit it again for the orders of the Right Honorable the Governor in Council with a view to its being decided whether, with reference to the arguments offered by the Board in the Proceedings adverted to at the commencement of this para., compensation shall be granted according to the calculation submitted with their letter of
No. 985 R. D. the 11th August 1855, or that prescribed by the Minutes of Consultation of the 27th of the same month.

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 32. Extract from the Proceedings of the Board of Revenue; dated 22d May 1857, No. 1727.

Read the following letter from the Collector
Dated 28th February in Con. 22d May 1857. of North Arcot, submitting a statement of compensation to be paid to the Shrotriemdar of Vengole and Coottumbakum for lands taken up for public purposes.

(Here enter No. 49.)

Resolved that the above letter, with its enclosure be forwarded for the orders of Government.

2. The total extent of land taken up in Fusly 1256 in the shrotriem villages of Vengole and Coottumbakum for the great western road is stated to be Cawnies 15-2-4, bearing an assessment of Rupees 39-10-5. Of this land, C. 12, A. 4, A. 12, assessed at Rupees 32-2-6, belonged to the

shrotriemdar, and C. 2, A. 13, A. 8 assessed at Rupees 7-7-11 to the village officers. The compensation to be granted for the former is Rupees 7-13-4, calculated on the principle laid down in para. 3 of Extract Minutes Consultation dated 27th August 1855, No. 985, R. D. The Board in their Proceedings dated 11th May 1857 have solicited Government to reconsider the orders above referred to; and in submitting the present case for decision, it is only necessary for the Board to point out that by the operation of those orders, the Shrotriemdar will receive only Rupees 7-13-4 per annum for lands which have annually yielded him about Rupees 32. They would also remark that the lands were taken when there was no special act authorising their appropriation, and that the proprietor has received no interest in the interval of 11 years since their assumption

3. In regard to the village service enams the Collector proposes remitting the full assessment due on them. This course seems correct, as the Proprietor will have to give the holders lands of equivalent value, if he has not already done so. It will be necessary for the Collector to see that the Enamdars are duly reimbursed by the proprietor, but any further compensation which may be justly due to them for private improvements, &c., must of course be borne by Government. The Collector will also satisfy himself that suitable lands of equivalent value are assigned by the proprietor for those of which the village officers have been dispossessed.

	Rs.	As.	P.
* For his own lands	94	2	8
For service enams	82	7	1
	176	9	9
† For his own lands	7	13	4
For service enams	7	7	11
	15	5	3
‡ For his own lands	351	14	2
For service enams	82	7	1
	434	5	3
§ For his own lands	32	2	6
For service enams	7	7	11
	39	10	5

4. The amount to be paid to the Proprietor for past arrears on the Collector's calculations amounts to Rupees 176-9-9,* and the annual remission from his Peshcush similarly calculated is Rupees 15-5-3.†

5. On the principle advocated by the Board, these sums would be respectively Rupees 434-5-3‡ and Rupees 39-10-5.§

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 33.

ORDER THEREON, No. 613; dated 20th June 1857.

With these communications, the Board of Revenue submit letters from the Acting Collector of Salem, and from the Collectors of Chingleput and North Arcot, relative to the compensation to be paid to certain Mootahdars and Shotriemdars, for land taken for the new Jail and Court Houses at Salem, and for certain roads in Chingleput and North Arcot.

2. The Acting Collector of Salem reports that Acres 80-38-2 were taken for the Jail and Court Houses; that compensation amounting to 1,000 Rupees has already been paid to the holders thereof, and solicits sanction, not only for that sum, but also for making a deduction from the Peishcush, Rupees 3,115, payable by the Mootahdar of Alagapoorum, in whose Mootah the land is situated. The full Teerwah of the land is Rupees 142-13-10 and the remission calculated on the principle laid down in Extract Minutes Consultation dated 27th August 1855, No. 985, amounts to Rupees 132-9-3. Mr. Cherry states that the Mootahdar declines to consent to such terms of remission, on the ground that he should have the same advantage on disposing of his land to Government, as he would have by giving the same on Puttah to a cultivating ryot. The Board's remarks on this communication contained in their Proceedings of the 11th May will be noticed below.

3. The Collector of Chingleput submits statements of land taken for the Western and Northern roads in that District, and the compensation proposed to be paid in each case. The Board point out that the Collector has misapprehended the principle laid down in the order of 27th August 1855, having taken into calculation the proportion of the Peishcush to the average of the gross produce for 10 years, instead of to the Beriz of the Estate at the time of settlement.

They, however, before calling for revised statements, submit them as sent by the Collector for the consideration of Government, together with their Proceedings of 11th May in which they have solicited a reconsideration of the rule laid down in the order in question.

4. The Collector of North Arcot reports on Petition No. 746 of 1855 from the Shrotriem Ezaradar of Vengole and Coottumbaukum, soliciting compensation for land taken for a Public road. Mr. Whittingham submits a statement of the compensation due to the Proprietor according to the instructions contained in Minutes Consultation dated 27th August 1855. The land was taken up in Fusly 1256, and is Cawnies 15-2-4 in extent, bearing an assessment of Rs. 39-10-5. The compensation payable amounts to Rupees 15-5-3 per annum. A portion of this, Rupees 7-7-11, is the full teerwah of Cawnies 2-13-8 of Mauniem land belonging to village officers, and the Collector observes that it is just that the Government should compensate the Shotriemdar by paying the full teerwah, as he will be required to grant to those officers other land in lieu. With this explanation the Collector solicits authority to pay to the Shotriemdar Rupees 175-9-9, being the compensation for 11 Fuslies from 1256 to 1266, and to deduct from Fusly 1267 the sum of Rupees 15-5-3 from the annual Jody of Rupees 440. The Board point out, with reference to their Proceedings of 11th May, that by the operation of the order of 27th August 1855, the Shotriemdar will receive only Rupees 7-13-4 per annum for lands which yielded him about Rupees 32; that the proprietor has received no interest in the interval of 11 years since their assumption, and that the course recommended by the Collector in regard to the village service enam is correct. The compensation to be paid in arrear, and the annual remission to be deducted from the jody, according to the Board's view of the subject, is specified in the margin.

	Rs.	A.	P.
Arrear	434	5	3
Annual deduction.	39	10	5

5. The principle discussed by the Board in the papers above recorded is an important one. The Government in their order of the 27th August 1855, No. 985, decided that remission from Peishcush on account of land taken for public purposes should be only a part of the Teerwah of the land so taken, proportionate to the terms of the original settlement of the village. The grounds, for such a decision were, "first that the whole of the cultivable extent is never cultivated, and does not pay assessment every year, and that therefore to remit a sum equivalent to the whole assessment of the land taken, would be to give the Proprietor more than he would have received if the land had been left untouched; and second, that inasmuch as the permanent assessment of the Moottahs or Zemindaries, was based on a certain proportion only, and is not the whole of the computed assets of the property, if this process of taking land and giving compensation were carried to a certain extent, the Proprietor would be entirely relieved from payment to Government and would retain a portion of his original property, one-third usually as absolute enam." The Board in their Proceedings of the 11th May, request a reconsideration of this rule. They are in favor of the practice hitherto followed of remitting the entire assessment of Zemindary lands when taken for public purposes. They urge that difficulties will follow an attempt to carry out the principle laid down in the order of 27th August 1855; that instead of effecting the voluntary and amicable agreements *wished* for by Government, it will become necessary, when land is required for public purposes, to put in action the provisions of Act XX. of 1852, since it cannot be expected that proprietors will voluntarily surrender their properties on such terms; that the Zemindars are entitled in justice to that full remission of assessment which they claim, and which has hitherto been allowed to them when they have been called upon to give up cultivable lands for public purposes, inasmuch as they hold their estates on condition of paying a fixed annual Peishcush, and are vested with a right to collect assessment on all the lands within their boundaries; that in numerous instances it is true, as observed by Government, that the whole of the cultivable extent is not cultivated, and does not pay assessment to the Zemindar every year, but that it is equally true that such a result was both contemplated and wished for, and that the unoccupied lands were assigned in full to the Zemindars for the express purpose of giving value to their estates, and furnishing an incentive to the outlay of capital in their improvement; that when accordingly any unoccupied land in a Zemindary is taken up for cultivation or other uses by a private party, the Zemindar is entitled to collect its assessment from him; that lands taken for public works cease of course to be available for agriculture, but that they cannot see that in consequence of their occupation in this manner, the Zemindar ought to lose any part of the assessment which a private person would have paid for their use. The Board consider that Govern-

ment on these occasions places itself in the position of a private person, and is bound to pay the full assessment of the land which they occupy, but that instead of making annual payments like a private individual, trouble is saved by deducting the amount from the Zemindar's Peishcush. With reference to the argument adduced by Government, that if the principle of remitting the full Teerwah of land taken for public purposes is carried to a certain extent the proprietor would retain a portion of his property, one-third usually, as absolute enam; the Board urge that though the case supposed is an extreme one, "the result would be natural and just," inasmuch as the Zemindar being deprived, for the convenience of Government, of a valuable property which he held under a solemn deed or sunnud, and for which he has perhaps expended large sums in purchase or improvement, is clearly entitled to compensation, and they invite attention to what would follow from the principle of Government on its being carried out to its full extent, by supposing the case of an entire estate required for public purposes; the Proprietor would then, the Board say, only receive remission of the whole Peishcush, or in other words, be merely relieved from his responsibility to the state, and receive no compensation whatever for the loss of his estate. On these grounds, the Board request the sanction of Government for continuing the practice of remitting in full the assessment of cultivable lands taken from the estates of Zemindars and other Proprietors for public purposes, as also for following it in the particular cases under notice.

6. The Government have given their careful consideration to the subject under notice. They are still of opinion that the principle laid down in Extract Minutes of Consultation dated 27th August 1855 is a fair one, inasmuch as the Government did not intend at the time of the permanent settlement to give any portion of the land altogether free of rent. On the other hand, the Moottahs are held under the same terms as the Zemindaries of the Northern Circars, viz. by a Sunnud i Milkeat Istumrar, under Regulation XXV. of 1802, and under this document the proprietary right in the soil was solely vested in the Moottahdars and their heirs for ever, provided that the Peishcush was regularly paid. Land required for Public Works can therefore, as correctly observed by the Board, only be taken on terms agreeable to the Moottahdars, or by means of Act XX. of 1852. The Government are willing to act liberally towards the Moottahdars by adopting the Board's view of the subject, and they accordingly cancel the rule laid down in their order of 27th August 1855, and direct that the full teerwah of land in permanently settled estates taken for public purposes be remitted to the Moottahdars or Zemindars. It must however be carefully ascertained in each case that the remission that may be demanded on the land required by Government, is bona fide the teerwah that was originally fixed on it or has been paid for it by its holder for several years, and that it has not been raised by the Zemindar or Moottahdar for the purpose.

7. Having disposed of the general question, the Government authorize the following compensations conformably to the rule above laid down. Payment of Rupees (1000) one thousand to the holders of the land taken up for the proposed Salem Jail and Court houses, as also the deduction on account of the same land of Rupees (142-13-10) one hundred and forty-two, annas thirteen and pice ten for the annual Peishcush payable by the Moottahdar of Alagapoorum. The net Peishcush will be Rupees 2,972-2-2, but to avoid fractions Rupees 2,972 alone will be collected.

Payment to the Shotriemdar of Vengole and Coottumbaukum in North Arcot of Rupees (434-5-3) four hundred and thirty-four, annas five and pice three being the compensation due to him for 11 Fuslies from Fusly 1256 to 1266, the land having been taken in the former Fusly for certain public roads, as also the annual remission from the Jody payable on the said Shotrium of Rupees 39-10-3 from Fusly 1267. The net Jody will be Rupees 400-5-7, but to avoid fractions the Collector will be instructed to collect only Rupees (400) four hundred.

8. The Government will be prepared to authorize compensation on the same terms for lands taken in the Chingleput District for the Northern and Western road, when the revised Statements are submitted as promised in Board's Proceedings dated 18th May 1857, No. 1634.

(Signed) H. FORBES,
Acting Secretary to Government.

Revenue Department

Read the following Papers

No. 1499

Extract from the Proceedings of the Board of Revenue dated 11th May 1857. No. 1499

Read letter from the Collector of Salem dated 3rd April 1857.

(Above Date No. 54.)

Resolved that the above letter be laid before Government with reference to Extract Minutes of Consultation dated 27th Augt 1857 No. 373 Revenue Department.

2. With this communication the Acting Collector submits for sanction a Statement of the sums paid as compensation for land taken up for the New Jail and Court Houses at Salem

3 The extent of land taken up is 80-12-2, bearing an assessment of Rupees 142-13-10 and the compensation paid amounts to Rupees 1000 — The Statement however does not include a Plot of Enam land measuring 0 37-0 taken up for the Jail. The owner of this land is absent from Salem, and the compensation to be paid to him will be settled on his return and then reported

4 Including this Enam the entire extent of land taken up will amount to 80-49-2. the Board

Board therefore presume that all the lands which Government have decided to be purchased have been secured. The Collector will state whether this is the case and if not will at once carry out the orders of Government on the subject.

5. The sums now recommended for sanction are merely compensation to the parties in possession of the lands for their rights of occupancy & improvements &c. The Government have still to purchase the rights of the Mootah Owners within whose Estate the lands are situated. The Acting Collector states that the lands were included in the assets of the Mogaporum Estate and that the Mootadars demand to receive compensation calculated on the principle laid down in Extract Minutes Consultation dated 27th August 1863, No 985, Revenue Department, and claims a proportion of the entire assessment payable on the lands. The Acting Collector also states that it has been usual in Salem hitherto to deduct the entire assessment of lands purchased by Government from the Peishcush of the Mootahs in which they are situated. The assets of the Estate were calculated at Rupees 3336, and the Peishcush now fixed at Rupees 3115 - or a deduction of about 7 per cent was made in favor of the Proprietor.

6. The Board presume that Government must adopt one of the two courses either admit the Mootadar's claims or submit the matter to arbitration under Section VI Act XX of 1863, and they offer their recommendation in favor of the former course.

7. The Board would here observe that it was their wish to have laid before Government at an earlier date the arguments upon which they base their views regarding the principle to be followed in granting compensation to Zemindars and other proprietors of Estates for lands taken for public purposes, but before doing so they considered it incumbent upon them to procure the information called for in Extract Minutes of Consultation 27th August 1863 No 985, Para 10, and they have not yet succeeded in obtaining the complete details. But as the letter from the Acting Collector of Salem brings the question again forward, they will now state their opinion upon it.

8. To simplify the subject they will confine it to assessed lands fit for cultivation

as

as none of the claims at present under consideration include compensation for immemorial waste or Jungle. The Board argue, for the practice hitherto followed of remitting the entire assessment of such lands when taken for public purposes, while Government considers that a portion of it only should be remitted and have proposed, in the case of Zemindaries, to retain a part equal to the per centage in which the Reh exceeds falls below the Basis of the Estate or its former average Collections according to the mode of calculation upon which the Reh cess was originally fixed.

9. In support of their views Government bring forward two considerations. First, that the whole of the cultivable contents of an Estate is not cultivated and does not pay assessment every year, and therefore to remit a sum equivalent to the whole assessment of the land taken would certainly be to give the proprietor more than he received if the land had been left in its waste and Jungle, that inasmuch as the permanent assessment of the Mootahs and Zemindaries was formed on a certain proportion only and not the whole of the cultivable assets of the property if the

* E. M. C. No 163 of 1855. Para 3.

the process of taking land and granting compensation recommended by the Board were carried to a certain extent, the Proprietor would be entirely relieved from payment to Government and would retain a portion of his original property as absolute gain. Government therefore came to the conclusion that "it is not necessary to remit a sum equivalent "to the whole assessment of the land taken, but only "a part of it proportionate to the terms of the "original settlement of the Village."

10 But in the opinion of the Board difficulties will follow an attempt to carry out the principle here laid down, and instead of effecting the voluntary and amicable arrangements wished for by Government, it will become necessary, when land is required for public purposes, to put in action the provisions of Act XX of 1852. Since it cannot be supposed that proprietors will voluntarily surrender their property on such terms. The Board have formed this opinion after much consideration of the subject, from coming to the conclusion that the Zemindars are entitled in justice to that full proportion of assessment which they claim and which has hitherto been allowed to them when

when they have been called upon to give up cultivable lands for public purposes.—

11. They would point out that Zemindars hold their Estates on condition of payment of a fixed annual Peshcush, and are vested with a right to collect assessment on all the lands within their boundaries. In the Zemindary Estates formed under our rule, the Peshcush was calculated on the Jeyepoont or Rent of the Cultivable area, or on the previous average collections, deducting a percentage to provide for variations of season and other contingencies, and form the Zemindar's remuneration for his responsibility and trouble in managing the Estate. Government observes that "the whole of the cultivable waste is not cultivated "and does not pay assessment (to the Zemindar) "every year" and in numerous instances this is true; but it is equally true that such a result was both contemplated and wished for, and that the unoccupied lands were assigned in full to the Zemindars for the express purpose of giving value to their Estates, and furnishing an incentive to the outlay of capital on their improvement.

12 When accordingly any unoccupied lands

land in a Zemindary is taken up for cultivation or other uses by a private party, the Zemindar is entitled to collect its assessment from him. Lands taken for public works cease of course to be available for agriculture, but the Board cannot see that in consequence of their occupation in this manner, the Zemindar ought to lose any part of the assessment which a private person would have paid for their use. They consider that Government on these occasions places itself in the position of a private person, and is bound to pay the full assessment of the land which they occupy, but instead of making annual payments like a private individual, trouble is saved by deducting the amount from the Zemindar's Peshcush.

13. In support of the soundness of the course which they recommend, Government further observe that if the full assessment was remitted to the Zemindar, the result would be "if carried "to a certain extent, that the Proprietor would "be entirely relieved from payment to Government "and would retain a portion of his usual pro- "perty, one-third usually as absolute Dewan." On this point the Board will offer 2 observations though

though the case supposed is an extreme one. Firstly. They consider that the result would be natural and just. The Zemindars having deprived, for the convenience of Government, of a valuable property which he holds under a solemn deed or Sunnud, and for which he has perhaps expended large sums in purchase or improvements, is clearly entitled to compensation. If Government do not wish that compensation to be given by leaving on his hands some lands on rent free tenure, it is open to them to arrange for granting compensation in another shape. Secondly The Board invite attention to what would follow from the principle of Government on its being carried out to its full extent, by sustaining the case of an entire Estate required for public purposes. The Proprietor would then only receive resumption of the whole Peshcush, or in other words be merely relieved from his responsibility to the State and receive no compensation whatever for the loss of his Estate.

14 On these grounds the Board are led to

to request the sanction of Government for continuing the practice of remitting in full the assessment of Cultivable lands taken from the Estates of Zemindars and other proprietors for public purposes. If their arguments lead Government to accede to this course, sanction is requested for following it in the case now reported by the Acting Collector of Salem, and also in the instances reported in their letter of 11th August 1835.

(I have &c)

(Sgd.) J. Lewin
Acting Secretary

To
H. Forbes Esqr
Acting Secy to Government
Rev. Department

Gt. Marshpore

Cons: 7th Apl. 57 No. 7 & 8.
" 28th Augt. 55 " 22 & 23.

K-10

Rev. 1854 Rev. Dept.
Do. to Cons. 23d June
No. 576

Extract from the Proceedings of the Bd. of Rev.

Dated 11th May 1855
Recd 12th "
2 Encls.
Returned No. 1499

Encl. No. 613. 30th June

Submitting with the Boards views thereon a letter from the Collector of Salem relative to the compensation to be paid for the New Jail & Court Houses at Salem; and requesting that should Govt. approve of the principle recommended by the Board in regard to granting Compensation to Remainders &c for lands taken for public purposes it may be followed in the present case as also in the instances reported on the Bds. letter of 11th August 1855.

No. 30.

C15 Treasury Rep. C 4th June

Revenue Department

N° 1727

N° 3. Extract from the Proceedings of the Board of Revenue dated 22d May 1857. N

Read the following letter from the Collector of North Arcot, submitting a Statement of Compensation to be paid to the Shrotriemdar of Vengole and Coottumbakum for lands taken up for public purposes.

Dated 21st February
Rec'd 22d May 1857.

(Revenue Enter N° 491)

Resolved that the above letter with its Enclosure be forwarded for the orders of Government.

2. The total extent of land taken up in Fusly 1256 in the Shrotrium Villages of Vengole and Coottumbakum for the great western road is stated to be Cawnies 15-2-4, bearing an Assessment of Rupees 39-10-6. Of this land, 12-4-12 assessed at Rupees 32-2-6, belonged to the Shrotriemdar and

and 2. 13. 8 assessed at Rupees 7-7-11
to the Village Officers. The compen-
sation to be granted for the for-
mer is Rupees 7. 13. 4, calculated on
the principle laid down in Para 3
of Extract Minutes Consultation dated
27th August 1855, No 985, R. D. The
Board in their Proceedings dated 11th
May 1857 have solicited Government
to reconsider the orders above referred
to, and in submitting the present
case for decision, it is only necessary
for the Board to point out, that by
the operation of those orders the Shro-
triendar will receive only Rupees
7. 13. 4 per Annum for lands which
have annually yielded him about
Rupees 32. They would also remark
that the lands were taken when
their was no special Act authoris-
ing their appropriation, and that
the Proprietor has received no Interest

in

in the interval of 11 years since their
assumption.

3. In regard to the Village
Service Enams the Collector proposes
remitting the full Assessment due
on them. This course seems correct,
as the Proprietor will have to give
the holders lands of equivalent va-
lue, if he has not already done
so. It will be necessary for the
Collector to see that the Enamdars are
duly reimbursed by the Proprietor, for
any further compensation which may
be justly due to them for private
improvements &c. must of course
be borne by Government. The Collector
will also satisfy himself that suita-
ble lands of equivalent value are
assigned by the Proprietor for those
of which the Village Officers have
been dispossessed.

4. The amount to be paid
to the Proprietor for past arrears

on

on the Collectors calculations amounts to Rupees 176-9-9, and the annual remission from his Peishcush similarly calculated is Rupees 15-5-3.

× For his own lands	94	2 - 8
For Service Enams	82	7 - 1
	176	9 - 9

* For his own lands	7	13 - 4
For Service Enams	7	7 - 11
	15	5 - 3

5. On the principle advocated by the Board, these sums would be respectively Rupees 434-5-3. and Rupees 39-10-5

* For his own lands	351	14 - 2
For Service Enams	82	7 - 1
	434	5 - 3

° For his own lands	32	2 - 6
For Service Enams	7	7 - 11
	39	10 - 5

/ A true Extract /

J. D. Sim

Acting Secretary

To

R. Forbes Esq.
Acting Secretary to
Government,
Revenue Department

Revenue 1857 No 1 to 4
Dated Fort St George
the 23rd April 1857

Extract from the Proceedings of the Board of Revenue

Dated 22nd May 1857
No 4 to 23rd
Read
2 Sept
Referred
16th Nov 1797
No 6 to 20th Dec

Submitting copy of the Board's remarks on the letter from the Collector of Salem dated 13th January 1857 reporting the circumstances which led to the Investigation of the Peishcush and Service Enams of Vengalatoor and the Commutation thereof for Lands held on the Ryotwar tenure.

Read and Recorded.

J. D. Sim

Revenue Department

No 1634

No 31 Extract from the Proceedings of the Board of Revenue dated 18th May 1857.

Read letter from the Collector in Cuttack 12th May 1857. of Chingleput dated 9th December 1856.

(See enter No 423)

In their letter to Government of the 11th August 1855, the Board proposed that a deduction equal to the assessment of certain lands taken for the Northern and Western Roads in the District of Chingleput, should be made from the Peishcush of the Mootahs and Shrotriem Villages in which they are situated as compensation to the Proprietors.

2. In Extract from the Minutes of Consultation of the 27th August 1855, No 985, Revenue Department, however Government expressed an opinion that the calculation was made on a wrong basis, and that the remission should be of a part only of the assessment proportioned to the terms of the original settlements of

Para 3.

the

the Village." Fresh Accounts were accordingly required.

5. These are submitted with the letter now recorded; but the Collector has misapprehended the principle of the intended calculation. The desire of the Government, according to the Board's construction of their order, was that the remission should bear the same proportion to the assessment of the land taken, as the Peishcush did to the Rent of the Estate or Shotteem at the time of the permanent Settlement. Whereas, instead of the latter, Mr. Shubrick has taken the average of the Income (or as it is called in the Statements, Gross Produce) for 10 years.

Such being the case, the Statements will not answer their purpose, and if the principle laid down by Government in the Minutes of Consultation quoted above be maintained, it will be necessary to return them for correction.

6 As, however, the Board in their Proceedings noted in the Margin, have solicited a reconsideration of the Rule

Proceedings to Govt. 15th May 1857 Para 4

R-15 /14

Rule then propounded, they resolve, henceforth calling for fresh Statements in this case, to submit it again for the orders of the Right Honorable the Governor in Council with a view to its being decided whether, with reference to the arguments offered by the Board in the Proceedings adverted to at the commencement of this Para, Compensation shall be granted according to the calculation submitted with their letter of the 11th August 1855, or that prescribed by the Minutes of Consultation of the 27th of the same month.

(A true Extract)

H. Stokes

Sy Secretary.

To

H. Stokes Esq.

Sy Secretary to Government,

Revenue Department.

Sd H Montgomery

R-16 -15

Rec: Jan 576

An important principle is involved in the question submitted by the Board of Revenue, on which I request the decision of Government.

Rain orders have already been passed on the 28th August 1855, but the question is now raised whether

repeated for any public pur-
-pose, and the heirs and
all remitted, the purchaser,
for no fault of his own, under
take the object of the
be had invested.

The question will appear
in what I cannot talk Quick-
-ly in its true light, if it be
applied to a house situated
on an estate - and certainly
a house the pulled down
to make way for a railway,
the proprietor cannot be
remunerated by a mere re-
-muneration of the Purchase-

12 May. 1857.

R-18

Sapphoca the Mookhtadars of Palem held
Revo Estates under the same Terms as
all other Zemindars viz by a Summud-i-
Milkeat Sekmurar under Reg.re XXV
1802.

In that case it is not the Powers
Govt to prescribe the terms on which
they will take any portion of the land mode
over to the proprietor

The peishcush was fixed on a calculation
of what the land had paid for a series
of years. But was fixed as the whole
[illegible] of the whole Estate. The Govt was
not bound to retain the several parts
as a permanent demand on the Zemin-
-tenants but was left at liberty to get
what he could being thereby bound to alter
into Specific engagements with his ryots for
a Rent & to grant them writtn Leases stating
in what they had then Rents in the Court of Law.
all other respects the proprietary right in
the Soil

il was vested indefeasibly in
them heirs forever.

The Govt therefore
to obtain land for public purposes
is agreable to the Govr or by means

xxx
1852

Hitherto such arrangements
have been effected allowing Mr Johns
calculated on the full average
rate of the 5 per cent required

The principle laid down in Genl
Bates letter is undoubtedly a just one but
if it does not afford, it cannot be enforced

R. 21

Ben Hon Supposition - & that [redacted]
Hatch was a mate originally sent
on each portion of the property
& that the Commissioner or Marshall cannot make this at the same
otherwise first might be liable to
imposition - Upon the footing
that the larger portion of the prod.
each was raised on the particular
portion of land respected -

At

[illegible] draft [illegible]
[illegible] accordance with the provisions
[illegible] Government [illegible]
[illegible] 6, [illegible]
27 Pharaoh [illegible] the Hon.
accordance with [illegible]
[illegible] effect vote [illegible]
[illegible] Ballot [illegible]
Section VII Key "Provision believes that [illegible]
"Section [illegible] State [illegible]
"cases are [illegible] under any
"the Rights [illegible]

"Reliance" and Reg: IV
of 1902 Richard, but Regs
XXV, XXVIII, & XXX of 1902,
I see cannot limit, in fairness,
the parking, the actual right
in any description of lawful
use. His regulation is
a clear contract by the
Council as Highway
Authority to
demand on their Roads,
but I shall be glad if
the Ford will be good
enough to consider the point
raised in connection

with the laws I have referred
to, and also that of the
order of the 27 of August
1955. in so far as affected in
direct terms.

3. 6. 57.

Fc-24

Revenue Dept

No. 613

Extract from the Minutes of Consultation

Under date the 20th June 1857

Read the following

Extract from the Pro: of the B: of Revs. / Here enter 11: May 1857 No 11497

Ex: from the Do Do / Here enter 18: —"—"— 1634/

Extract Do Do / Here enter 22d —"—"— 1727



With the communications the Board of Revenue submit letters from the Acting Collector of Salem, and from the Collectors of Chingleput and North Arcot, relative to the compensation to be paid

paid to certain Mootah-
-dars and Khoriumdars,
for land taken for the
new Jail and Court
Houses at Salem, and
for certain Roads in
Chingleput and North
Arcot.

2. The Acting Collec-
-tor of Salem reports that
Acres 80. 38. 2 were taken
for the Jail and Court
Houses; that compensa-
-tion amounting to
1000 Rupees has already
been paid to the Holders
thereof, and solicits
sanction, not only for
that sum, but also for
making a deduction from
the Peishcush, of Rs 3115.
payable

R 25 2/23

payable by the Mootah-
-dar of Alagapooram, in
in whose Mootah the
land is situated. The
full Jeerwah of the
land is Rupees 142-13-10
and the permission
calculated on the
principle laid down
in Extract Min. Cons.
dated 27 August
No 985 amounts to
Rupees 132-9-3. Mr
Cherry states that the
Moottahdar declined
to consent to such
terms of permission,
on the ground that
he should have the
same advantages
on disposing of his
land

cannot be Govt. but which he would have by giving the same on Pattah to a cultivating Ryot. The Board's remarks on this communication contained in their Proceedings of the 11th May will be noticed below.

3. The Collector of Chingleput submits statements of land taken for the Western and Northern Roads in that District, and the compensation proposed to be paid in each case. The Board point out that the Collector has misapprehended the

the principle laid down in the order of 27 August 1855, having taken into calculation the proportion of the Peishcush to the average of the gross produce for 10 years, instead of the Peishcush of the Estate at the time of settlement. They however, before calling for revised statements as sent by the Collector submit them for the consideration of Government, together with their proceedings of 11th May in which they have solicited a reconsideration of the rule laid

laid down in the
order in question.

4. The Collector
of North Arcot reports
in Petition No. 746 of
1855 from the Shrotriem
Garadar of Vengorle
and Coottumbaukum,
soliciting compensation
for land taken for a
Public road. Mr
Whittingham submits
a statement of the
compensation due
to the Proprietor ac-
-cording to the instruc-
-tions contained in
Minute Consultation
dated 27 August 1855.
The land was taken
up in "in" Fasly 1256, and
is

is assessed 15-2-4
in extent, bearing
an assessment of
Rupees 39. 10. 5. The
compensation pay-
-able amounts to
Rupees 15-5-8 per
annum. A portion
of this, Rupees 7. 7. 11
is the full teerwah
of assessed land
of Mannium land
belonging to village
Officers, and the Col-
Collector observes that
it is just that the
Govt should com-
-pensate the Pro-
-prietors by pay-
-ing the full teer-
-wah ~~allowed to~~
as

as he will be
required to grant
to those Officers
other land in
lieu. With the
explanation the
Collector solicits
authority to pay
to the Khotrieem-
-dars Rupees 175-9-9,
being the compen-
-sation for 11 suc-
-ceeding from 1256 to
1266, and to de-
-duct from Surly
1267 the sum of
Rupees 15-5-3
from the annual

Sudy

Sudy of Rupees 440.
The Board point
out with refer-
-ence to their Pro-
-ceedings of 11th May
last by the opera-
-tion of the Re-
-duction Order of 27th August
1855 the Khotrieem
-dar will re-
-ceive only Rs 7-13-4
per annum for
lands which
yielded him
about Rupees
32 ; that the
proprietor
has received
no

no interest in the interval of 11 years since their assumption, and that the course recommended by the Collector in regard to the Village Service Enam is correct. The compensation to be paid in arrear, and the annual remission to be deducted from the jodi, according to the Board's view of the subject, is specified in the margin.

Arrear — Rs. a P. 434-5-3
Annual deduction — 89-10-5

The

R. 29 - 27. 6

5. The principle discussed by the Board in the paper above recorded is an important one. The Government in their order of the 27th August 1855. No 983 declared that remission from assessments on account of land taken for public purposes should be only a part of the loss of the land so taken, proportionate to the terms of the original settlement of the village. The grounds for such a decision were first, that the whole of the cultivable extent is now cultivated and does not pay a fresh assessment every year, and that therefore to remit a sum equivalent to

equivalent to the whole
apeprment of the land
taken, would ~~certainly~~
be to give the Proprietor
more than he would
have received if the land
had been left untouched,
and Second; that inas-
much as the permanent
apeprment of the Mocttahs
or Zemindaries was based
on a certain proportion
only, and is not the whole
of the computed apets
of the property, of this
process of taking land
and giving compensation
were carried to a certain
extent, the Proprietor would
be entirely relieved from
payment to Govt and
would

R-30

would retain a portion of
his original property
one third usually as ab-
-solute Inam." The Board
in their Proceedings of
the 11th pray request a
reconsideration of this
rule. They are in favor
of the practice hitherto
followed of permitting
the entire apeprment
of Zemindary lands
when taken for public
purposes. They urge
that difficulties will
follow an attempt to
carry out the principle
laid down in the order
of 27th August 1858, that instead
of effecting the voluntary
and amicable agreement
with

wished for by Government,
it will become necessary,
when land is required
for public purposes, to put in
action the provisions of
Act XX of 1852; since it
cannot be expected that pro-
prietors will voluntarily
surrender their properties
on such terms; that the
Zemindars are entitled
in justice to that full
exemption of assessment
which they claim, and
which has hitherto been
allowed to them when
they have been called
upon to give up culti-
vable lands for public
purposes, inasmuch as
they hold their estates on
condition

condition of paying a
fixed annual Peishcush,
and are vested with
a right to collect assess-
ment on all the lands
within their boundaries;
that in numerous instances
it is true, as observed
by Government, that
the whole of the
cultivable extent is
not cultivated, and
does not pay assess-
ment to the Zemindar
every year, but that
it is equally true
that such a result
is to be contem-
plated and wished for,
and that the unoccupi-
ed lands do not appear
in

cannot see that without
consequence of their accru-
pation in this manner, the Zemindar
ought to lose any
part of the assess-
ment which a private
person would have
paid for their use. The
Board consider that
God on these occasions
places itself in the
position of a private
person, and it is
bound to pay the
full assessments
of the land which
they occupy, but that

instead

in full to the Zemindars
for the express purpose
of giving value to
their Estates, and
furnishing an incen-
tive to the outlay of
capital in their im-
provement; that when
accordingly any un-
occupied land in a
Zemindary is taken
up for cultivation
or other uses by a pri-
vate party, the Zemin-
dar is entitled to col-
lect its assessment
from him; that lands
taken for public works
cease of course to be
available for agricul-
ture but that they

cannot

instead of making
annual payments to
like a private individ-
dual, trouble is saved
by deducting the amount
from the Zemindar's
Peishcash. With reference
to the argument ad-
duced by Government,
that if the principle
of remitting the full
revenue of land taken
for public purposes is carried
to a certain extent — the
proprietor would not
retain a portion of
his property, one third usually,
as absolute tenure;
the Board urge.

that though the case supposed
is an extreme one, the result
would be natural and just
as much as the Zemindar
being deprived, for the convenience
of Government, of a valuable
property which he held under
a solemn deed or Sunnud;
for which he has perhaps paid
large sums on purchase or
improvement, he is clearly
entitled to compensation, and
they invite attention to what
would follow from the principle
of Government on its being
carried out to its full extent
by supposing the case of an
entire Estate required for
public purposes; the Proprietor
would then, the Board say
only retain [illegible] of the whole Peishcash
or, in other words be
merely entitled from his
responsibility to the state on
receiving

receive no compensation whatever for the loss of his Estate. On these grounds the Board request the sanction of Government for continuing the practice of remitting in full the assessment of cultivable lands taken from the Estates of Zumindars and other proprietors for public purposes as also for following it in the particular cases under notice.

The Government have given their careful consideration to the subject under notice. They are still of opinion that the principle laid down in Extract Minutes of Consultation dated 27th August 1855 is a fair one inasmuch as the Government did not intend at the time of the permanent settlement to give any portions of the land altogether free of rent. On the other hand

hand the Mocttahs are held under the same terms as the zemindaries of the Northern Circars viz. by a Summud i-Milkeat Istumrar, under Regulation XXV of 1802, and under that document the proprietary right in the soil was solely vested in the Mocttah dars and their heirs for ever, provided that the Peishcush was regularly paid and required for Public Works cess therefore as exactly obtained by the Board might be taken for true appraisal to the Mocttahdars or by means of act XX of 1852. The Government are willing to act liberally towards the Mocttahdars by adopting the Board's view of the subject, and they accordingly cancel the rule laid down in their order of 27th August

August 1855 and direct that
the full terrunk of land in
permanently settled Estates
taken for Public purposes be
remitted to the Mouttahdars
or Zemindars. It must however
be carefully ascertained in
each case that the remission
that may be demanded on
the land required by Govern-
ment is bona fide the terunk
that was originally fixed on
it or has been paid for it
by its holder for several years
and that it has not been
raised by the Zemindar or
Mouttahdar for the purpose.

7. Having disposed of
the general question the
Government authorize the
following compensations con-
formably to the rule above laid
down. Payment of Rupees
(1000) One thousand to the
holder

Pennycheary 35-33

holders of the land taken up
for the proposed Salem Jail
and Court houses as also
the deduction on account
of the same land of Rupees
(142-13-10) One hundred and
forty two annas thirteen and
pice ten for the annual
Peishcush payable by the
Mouttahdar of Nagapoore.
The net Peishcush will be
Rupees 2972-2-2 but to avoid
fractions Rupees 2972 alone
will be collected.

Payment to the Hon
ble Trustees of Forts and
Coottumbankum in North
Arcot of Rupees (9364-5-3) Nine
hundred and thirty four Rupees
five and pice three being the
compensation due to him
for 11 Trustes from Fasly 1756
to 1766, the land having been
taken in the former Fasly for

certain public roads as also the annual remission from the Jody payable on the said Shotrum of Rupees 39-10-5 from Fusly 1267. The net Jody will be Rupees 400-5-7 but to avoid fractions the Collector will be instructed to collect only Rupees (400) Four hundred.

8. The Government will be pleased to authorize compensation on the same terms for Lands taken in the Chingleput District for the Northern and Western road, when the revised Statements are submitted as promised in Board Proceedings dated 18th May 1857 No. 1631.

4 Copies to the Bd. of Rev. with 13 Inclosures Recd 22 June
1 — Accts Genl
1 — Civil Audr

para 6: ? Not to be published for Land was wanted

By Tel Cons 28th Sept/55 No 2273

K 36

Revenue 1857 Departt
Dt 25th June

No 613

Extract Mins of Cons.
Dt 29th June 57
Extract from Do 30th Sept/57 No VIII
Cons 9 Feb/58

Ex. Mins. Cons. Financial Railway
Departt Dt 17th March 59
No 500 Cons.

From Bd of Revr dated 22 Oct 1857
No 1969
From Do Dt 20th Augt/58 No 1759
in Do 16th Octr No 1876.

Passing orders on the letters of the Acting Collector of Salem and from the Collectors of Chingleput and North Arcot, relative to the compensation to be paid to certain Mootahdars and Shrotriemdars for land taken for the new jail and Court Houses at Salem, and for certain roads in Chingleput and North Arcot.

No 30 to 32.

4th June