2

Revenue Department

Minutes of Consultations

1st Sept 1857

Back Numbers 1-2

Order No 863 dated 26th August 1857

(Secret)

செப்பிடுபவர் பெயர்:

செப்பிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 27.11.06

செப்பிட்டு முடித்த நாள் 15.3.07

சரிபார்க்கும்
மு.நி.பா.எ.
கையொப்பம்

அலுவலகத்தில் பெறப்பட்ட நாள்
கைகளர் மட்டும்

No. 1. Read the following letter from H. RICKETTS, Esq., Commissioner for the Revision of Civil Salaries, &c.; to the Acting Chief Secretary to the Government of Fort Saint George; dated Ootacamund, the 31st July 1857, No. 1125.

1. Enam Commission of Madras.
2. Agent to the Governor of Fort Saint George and his Assistants in Vizagapatam.
3. Ditto. ditto. in Ganjam.
4. Ditto ditto. in Kurnool.
5. Collector of Madras.
6. Honorable Company's Astronomer Madras.

SIR,

In continuation of my letter No. 1115, dated the 24th Instant, I beg to forward herewith copies of my purposed reports on the subjects noted in the margin, and to request that they may be submitted for the opinion and views of the Right Honorable the Governor in Council.

2. I request the return of these papers (not copies), unless you should print them, in which case I shall be obliged if you will have fifty copies struck off for the use of this office, the cost of which I shall be happy to remit on being informed of the amount.

ENAM COMMISSION.

Madras.

As the only establishment engaged in enam inquiries under the Madras Government, at the present time, is a small establishment in Cuddapah, costing Rupees 65 per mensem, it seems scarcely necessary for me to take up this department; but as it appears from a copy of Extract from the Minutes of Consultation, dated the 19th January 1857, that the Madras Government has recommended the employment of a Commissioner for enam inquiries, on a salary of Rupees 2,500 per mensem, and Deputy Commissioners on a salary of Rupees 1,200 per mensem each, it seems desirable that I should record my opinion of the necessity for employing a separate Agency for these operations, and the suitableness of the salaries proposed.

It is the intention of the Government to carry on an investigation of enam titles simultaneously with the survey. But, from paragraph 15 of the Minutes of Consultation, it appears to be intended that operations should be undertaken in the Bellary and Cuddapah districts at once, without waiting for the survey, which may not reach those districts for years. I would earnestly recommend abandonment of this intention. Without a survey the proceedings would be incomplete and inconclusive, and such a course would give quite a different character to the undertaking. Carried on simultaneously with the survey, the enam enquiries will be a necessary part of a general adjustment of interests and titles, which, though disagreeable to a few, will be of immense advantage to the many, especially as it is intended to fix the assessment on very moderate terms for a long course of years; whereas, if resumption proceedings are undertaken in Bellary and Cuddapah, independent of the survey, assuredly they will occasion all the bitterness and disaffection to which they have given rise in other parts, and with some reason, for the Enamdars in these districts would be subjected to double vexations. Though partial surveys might be necessary on prosecution of the resumption enquiries, the owners of the enams would again have to attend and point out their boundaries, and shew their right to possession, when the general survey reached them. Some may say, but little inconvenience could be suffered on the occasion of the second visitation; a party would merely have to shew that the land he held had been subjected to inquiry, and his right would be recognized; but still, his land must be surveyed, and its exact position, contents, and boundaries, all ascertained. Those who are acquainted with native habits and feelings, will understand how distasteful this double inquisition would be.

Though paragraph 39 of the Minutes of Consultation proposes the appointment of Deputy Commissioners for the investigation and adjudication of enam titles, paragraph 15 provides that, where the investigations may be conducted simultaneously with the survey, the Superintendent of the survey shall be a Commissioner under the Act. I would recommend that

the Commissioner for the survey and settlement should be the Commissioner for the superintendence of the prosecution of the enam investigations, and that the Superintendents under him should themselves, or by means of subordinate officers duly authorized, have the immediate conduct of the enquiries.

The Government of Madras have recommended the appointment of an officer, with the salary of a member of the Board of Revenue, for the general direction of the survey and settlement work. If the operations of survey and settlement, and enam investigation, are to be carried on simultaneously, it certainly is desirable, with a view both to economy and efficient superintendency, that one person should have the general control of the whole, and not that there should be one controller of the survey and settlement, on the salary of a member of the Board of Revenue, and another controller of the enam investigations, on a salary of Rupees 30,000 per annum.

I have proposed that a Commissioner, with a salary of Rupees 32,000 per annum, and a travelling allowance of Rupees 15 per day when absent from Head Quarters on duty, should have the superintendence of the survey and settlement, and to this officer I would also entrust the general direction of the enam inquiries. It is not my intention that he should have the trial of any cases, either original, or in appeal, [but he will revise certain cases decided by the Superintendents against the Government, as hereafter provided]. He will have the superintendence of the operations, see that they are carried on systematically, and according to the rules that may be laid down, watch results, and bring forward, from time to time, such measures for forwarding the work as experience may shew to be needful.

The immediate conduct of the inquiries, I would place in the hands of the Superintendents of settlement, when the survey and settlement shall be in different hands. When one person may have both survey and settlement, he should also conduct the enam inquiries. It will be necessary, in either case, to appoint officers to hold the investigations under the directions of the Superintendent, without divesting the Superintendent of authority to hold the investigation himself whenever, for any cause, he may consider such a course desirable. At first, it may be well to commence with one Deputy Collector only under each Superintendent for the trial of these cases. When cases have been made over to this officer, whether they be individual cases, or all the cases in a talook or other defined tract of country, the Superintendent should have no more jurisdiction in such cases; but appeals from the decision of the Deputy Collector should be to the authority vested with power to hear appeals. After a time, when the system shall be understood, two or even three Deputy Collectors might be placed under a Superintendent, for the conduct of these duties.

Very carefully prepared rules of practice will be necessary for the guidance of the surveyors, and the settlement officer and his subordinate Deputy Collectors. It appears that in several Districts there are no fists or any authentic records of the enam holdings. The preparation of lists must, under such circumstances, devolve on the surveyor. When, in the course of his survey, he comes across a field held under enam tenure, he must call on the possessor to name the other fields, if any, wherever they may be, held under the same tenure with the field found, and such other fields should be immediately entered in village lists prepared for the purpose. Should the field found be the only field held under the tenure, it may be at once reported to the Superintendent for investigation; but should there be other fields held under the same tenure, it is desirable that the tenure should not be reported till such other fields have been taken up by the survey, in order that the whole tenure may at once come under investigation. But, should such other fields be at a distance, in other talooks besides the talook under survey, then it is questionable whether investigation should be postponed till the survey shall have reached such other fields, or not. The solution of this question must depend on local and other circumstances. I allude to the subject here because it is necessary there should be an officer or officers, under the surveyor, especially appointed to this duty of listing enams.

The Superintendents and their Subordinate Deputy Collectors having initiated and decided the cases primarily, the next want will be a suitable Court of revision, to which either the Government, or the Enamdar dissatisfied with the first award, may appeal. Regulation XXXI. of 1802, contains no provision for appeal from the orders of Collectors. Mr. Stokes, in the 11th paragraph of his Draft Act, provides that an appeal shall lie from the decision of the Commissioner to the Board of Revenue, within 30 days from its delivery. The provision appears objectionable on two grounds; it is not desirable that the executive should pass final orders in such cases, and it is quite impossible that the Board should have time to dispose of them. The Bombay law XI. of 1852, provides that appeals shall be heard by the Governor in Council. This is still more objectionable. I have recommended that in Bombay separate tribunals should be provided for disposing of such appeals; and I recommend that separate tribunals be provided in Madras, before which the Government, or the Enamdars dissatisfied with the primary award, should carry their appeal. In every point of view this appears a desirable measure. The Judge for enams will be as independent as any Judge holding office at the pleasure of the executive Government, can be. The Government in the Legislative Department, have the power of enacting rules by which decisions in enam cases shall be governed; it can have no wish to interfere with the adjudication of cases under those rules. At first, appeal might be allowed to the Judge of the district in which the survey was proceeding; and as soon as ever appeals multiplied, I would appoint a separate Judge to dispose of them, and allow his decision to be final, unless the amount at issue be such as to make the case appealable to the Privy Council.

Parties dissatisfied would appeal to this Court in the form that may be prescribed. It remains to be provided how the cases in which the Government may be dissatisfied, should be brought before the Court. In Bengal, when enquiries of this kind were undertaken, all small tenures under ten* beegahs in extent, were relinquished without inquiry. The Bombay Government do not advocate this course; and the Madras Government are of opinion that "there seems no reason to give up these lands in perpetuity, a measure which would not only be an unwise sacrifice of the rights of Government, but also an injustice to other holders of enam, and to the general payers of revenue." The best information procurable makes the number of these small enams 1,14,403, embracing 98,603 Cawnies (equal to 131,470 acres) the net revenue of which is estimated at Rupees 5,70,219, being an average of about 1¼ acres of land and nearly 5 Rupees of revenue per enam. At 20 years' purchase, each tenure may be worth, at the outside, Rupees 100. If the system of assessment at half rates, which has been approved in other parts, were adopted each enam would be worth about Rupees 50. But Rupees 5 for 1¼ acres, or nearly 6 Rupees per Cawny, I believe to be a very exaggerated estimate of the alienated revenue. I find from the Board's Report for the year 1853-54 that the average rental of the whole Presidency is a fraction more than Rupees 3 per cawny. Rent free lands almost always pay less revenue than other lands of a like description. Taking the average of the whole country at full rates, each tenure will pay about 2½ Rupees, and be worth, at 20 years' purchase, Rupees 50, if assessed at half rates, Rupees 25. Whether it is worth the while of the Government to prosecute 114,403 cases for an average revenue of 2½ rupees at full rates, or the 1¼ Rupees at half rates each, is not for me to decide; but I feel quite certain that it cannot be worth the while of the Government to carry such cases to an appellate Court. If it be determined to prosecute such cases I would strongly advise that the first decision be acquiesced in, and no appeal preferred. For Bombay, I have proposed that no decision should be appealed by the Government, unless the amount at stake exceeds Rupees 25 annual revenue. I would follow the same course in Madras.

* *A fraction less than 3 acres, or between 3 and 3 cawnies.*

I have proposed for Bombay that the Revenue Commissioner vested with the control and direction of Enam inquiries, should revise decisions against the Government when the revenue of the lands exceeded Rupees 25; and that, if he disapproved he should direct resumption, leaving the Enamdar to appeal to the Judge of Enams. But, on reconsideration, I am of opinion, it would be fairer to give the party the full benefit of the decision in his favor, and to follow the plan pursued in Bengal. The Commissioner, if dissatisfied with the award, directed appeal to be preferred to the Judge of Enams (there called the special Commissioner).

But in Madras the cases will be so numerous that the Commissioner will have no time to revise all the decisions which may be passed against the Government. I would leave it to the Superintendent of settlements to dispose finally of the question of appeal in all cases decided against the Government by his Subordinate Deputy Collectors, in which the yearly revenue did not exceed Rupees 500; cases decided by the Superintendent himself against the Government must be revised by the Commissioner, who if dissatisfied, will direct appeal to the Judge for enams.

To recapitulate, the system would be this. The surveyor to report to Superintendent of settlement all enams found in survey. The Superintendent, as the rule, to make over the cases for trial to his Subordinate Deputy Collectors, reserving for himself only peculiar cases. The Subordinates' decrees, in all cases not exceeding Rupees 35 annual revenue, if against the Government to be final. Cases above Rupees 25, and not exceeding Rupees 500 per annum, if against the Government to be reviewed by the Superintendent; and if he sees good cause, he is to appeal them to the Judge for enams, if he sees no cause for appeal, his decision to be final. Cases above Rupees 500 per annum, decided against the Government by Deputy Collectors, and cases decided against the Government by the Superintendent himself to be reviewed by the Commissioner, who, if dissatisfied, will direct appeal to the Judge for enams. Parties in all cases decided against them and in favor of the Government, whether for more or less than Rupees 25, to have an appeal to the Judge for enams. This system would be, in every respect, fair. It would be inexpensive, and it would be in conformity with the orders of the Court I have so often quoted. Instead of the Governor in Council, or the Board of Revenue being occupied in the hearing of appeals, duly constituted, tribunals, suitably paid, and suitably trusted, would decide all the enam cases.

It is not easy to frame an estimate of the expense of such operations. At first, I would not employ more than one Deputy Collector under each Superintendent of settlement, exclusively for conducting enam inquiries; but, probably, after a time, each Superintendent may be able to control three Deputy Collectors. At first, the appeals may be so few that the existing civil authorities may be able to dispose of them. When the machinery shall be in full work, there may be appeals sufficient to employ two Judges for enams. I would recommend application being made for five listers to attend the surveyors, to make lists of enams found on survey in order to inquiry into titles, twenty Rupees per mensem each should suffice for these officers; five Deputy Collectors at Rupees 250 per mensem each, and Rupees 100 per mensem each for establishment, to hold investigations into enam holdings under the control of the Superintendents of settlements; one Judge of enams at Rupees 2,083-5-4 per mensem, or Rupees 25,000 per annum to try appeals in enam cases.

The total immediate expense would be Rupees 52,000 per annum.

	Rs.	A.	P.	Rs.	A.	P.
1 Judge for enams,	2,083	5	4			
Establishment,	400	0	0			
5 Deputy Collectors at 250-0-0	1,250	0	0	2,483	5	4
Establishments at 100-0-0	500	0	0			
5 Listers at 20-0-0				1,750	0	0
				100	0	0
Total per mensem...				4,333	5	4
						12
Or per annum...				52,000	0	0

and permission should be obtained to double or treble the number of listers and Deputy Collectors as soon as they could be profitably employed. The larger the number of Subordinates employed, the cheaper the operations will be, provided the number be not more than can be efficiently controlled.

Ordered that the following reply be despatched.

No. 2. From H. FORBES, Esq., Acting Secretary to the Government of Fort St. George; to H. RICKETTS, Esq., Commissioner for the revision of Civil Salaries, &c; dated 26th August 1857, No. 863.

SIR,

In acknowledging the receipt of your letter of the 31st Ultimo, No. 1125, I am directed to return to you the papers which it enclosed, and to inform you that, as stated in my letter of the 10th Instant, the Right Honorable the Governor in Council proposes to reserve his remarks on your recommendations until your whole report is before him.

2. From this general resolution His Lordship in Council will however except the paper upon the duties of the proposed Enam Commissioner, and will take its subject into early consideration when giving detailed instructions to the Superintendent of the General Survey.

No 1125 — 863

To

The Acting Chief Secretary to the Government of Fort Saint George.

Dated Cotacamund the 31st July, 1857.

Sir,

In continuation of my letter No 1115, dated the 26th Instant, I beg to forward herewith copies of my proposed reports on the subjects noted in the margin, and to request that they may be submitted for the opinion and orders of the Right Honorable the Governor in Council.

1. Enam Commission of Madras.
2. Sent to the Governor of Fort Saint George and his assistants in Vizagapatam
3. Ditto ditto in Ganjam
4. Ditto ditto in Kurnool
5. Collector of Madras.
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2. I request the return of these papers (not copies), unless you should print them, in which case I shall be obliged if you will have fifty copies struck off for the use of this office, the cost of which I shall be happy to remit on being informed of the amount.

I have

I have the honor to be
Sir.
Your most obedient Servant
Henry Pr Kell
Commissioner for the revision
of civil Salaries and Establishments
throughout India.

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Mr.

Mr. Stokes, in the 11th paragraph of his draft act, provides that an appeal shall be from the decession of the Commissioner to the Board of Revenue, within 30 days from its delivery. The provision appears objectionable on two grounds; it is not desirable that the executive should pass final orders in such cases, and it is quite impossible that the Board should have time to dispose of them. The Bombay law XI of 1852, provides that appeals shall be heard by the Governor in Council. This is still more objection-able. I have recommended that in Bombay separate tribunals should be provided for disposing of such appeals; and I recommend that separate tribunals be provided in Madras, before which the Govern-ment, or the Enamdar dissatisfied with the primary award, should carry their appeal. In every point of view this appears a desirable measure.

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To recapitulate, the system would be this. The surveyor to report to Superintendent of settlement all Enams found in survey. The Superintendent, as the rule, to make over the cases for trial to his subordinate Deputy Collectors, reserving for himself only peculiar cases. The subordinates' decrees, in all cases not

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The total immediate expense would be rupees 32,000 per annum.

1 Judge for Enams	Rs. 2053-5-4	
Establishment	100-0-0	
		2453-5-4
5 Deputy Collectors at	250 — 1250-0-0	
Establishment at	100 — 500-0-0	
		1750-0-0
5 Listers at 20		100-0-0
Total per mensem	Rs.	4333-5-4
		12
or per annum	Rupees	52,000-0-0

15/63

and permission should be obtained to double or treble the number of listers and Deputy Collectors as soon as they could be profitably employed. The larger the number of Subordinates employed, the cheaper the operations will be, provided the number be not more than can be efficiently controlled.

R 1877 2
ind R. 941.

16/643

– Memo –

In circulating these reports of the Commissioner Dr Ricketts Jr General I presume that Govt will wish with the course which has been followed in the Rev Dept (as enclosed in the printed letter of the Rev. Secretary) to be continued –

The printing of Dr Ricketts papers will therefore & not be undertaken but-
expenses will be made for the Govt-
Office – Ille

I think the same course should be followed except as regards paper No 1. on which Govt R. should be informed that the points discussed & suggestions offered in it – will be taken into consideration by Govt – when preparing the directions for the Supt of Assessment.

It

2 Copies
Disp. 27

12/663

17

No. 863

A. Richetts Esq.

Sir

I am acknowledging
the receipt of your letter
of the 31. ult. No 1125. I
am directed to return
herein the papers which
it enclosed, and to
inform you that, as
stated in my letter of
the 10th inst. the R. Hon.
the Governor General pursues
the same line of remarks
or point recommended
to your notice in his speech.

I have the honour
to be Sir your
most obedient humble Servant

in Council will
direct except the
paper upon the
duties of the persons
Queen Communications,
and will take it into
consideration
giving detailed in-
structions to the
Superintendent of the
Several Settlements.

E.E. Fort St. Geo: 26th Aug.

18
163

Memorandum

Mr. Pringle that the Draft of the proposed Queen Investigations and the Orders thereon have been sent out in Circulation. It seems desirable that the Correspondence that have passed on the same subject with Mr. Dickens should be sent to the Members of Govt. of these Settlements to enable to Mr. Dickens view, as it is not improbable that they may have wished to offer.

Ker Mr Dickens 31 July 1857 No 125
Do 26 Aug 863.
Govt C. 24 Dec 1857 No 1354.

We have taken by the last Packet from Mr Dickens his Instructions - Queen on the Despatch of the Forces is quite so - They are good MC

19/863

Revenue 1857 Dept.
Do. to Cons: 1st September

5/11/04

No. 863

To the Commissioner for the revision of Civil Salaries and Establishments throughout India.

Dated 26th August /57

26-8-1857

Observing that Govt. propose to reserve their remarks on his recommendations, until his whole Report is before them, except the paper upon the duties of the proposed Enam Commissioner, which will be taken into early consideration.

No. 142.

Further E. M. C. dated 24 December 1857 No. 1354 para 2 regarding the question of an Enam Commission

C19 Aug. R24