M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1308 Press Mis.

Dated 27 - 9 - 1859

Not to be folded or roughly handled

Proceedings of the Madras Government Revenue Department,
from **24***th September to* **4***th October* 1859.

No. 44. Read the following letter from W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, dated 9th September 1859, No. 3575.

I am directed by the Board of Revenue to submit for the orders of Government copy of the Board's Proceedings dated 20th February 1858, No. 666, regarding a Canara, case in which a suit is now pending in the District Courts.

2. These proceedings, as will be perceived from their contents were intended to have been sent to Government at the time they were held; but by some unaccountable oversight in the Board's office they were communicated merely to the Collector of Canara, a fact which has only now come to the Board's knowledge.

3. They can only express their extreme regret at the delay that has thus occurred.

No. 45. ORDER THEREON, 27th September 1859, No. 1308.

With this letter the Board send up an Extract from their Proceedings dated February 20th 1858, No. 666, relating to a certain case in Canara, which was inadvertently omitted to be sent up at the time.

2. The immediate and entire abolition of the Dawanikáï Beriz on estate No. 29, is approved; as are also the other recommendations in para. 6 of the Proceedings now submitted.

3. Neither the owner of that estate nor the mortgagee of the fees, nor any other party, has any claim whatever to compensation; and it is difficult to conceive for what it is proposed that Government should give it. The authority of the Government has been exercised for many years, illegally and by means of original collusion on the part of the local Revenue servants, to enable an individual to levy unauthorized exactions. As soon as the facts of the case become known to Government, the practice is put a stop to as a matter of course.

4. The Board will be pleased to report the result of any suits that may have been brought for the recovery of the fees.

(Signed) J. D. BOURDILLON,
Secretary to Government.

No. 666.

Extract from the Proceedings of the Board of Revenue, dated 20th February 1858.

Read the further explanation afforded by the Acting Collector of Canara on Petition No. 718 of 1855, under date 20th October 1857.

(Here enter No. 35.)

1. In this Petition the ryots of 7 Bagayet Villages in the Chindawar Magany of the Honore Talook complain of an extra cess being collected from them on each candy of Betelnut produced in their gardens, by the proprietor of the Wurg or Estate, Mooly No. 29, situated in the Moogoovay Village of the above Magany, and registered in the name of Krista Kumpty.

2. In explanation of this extra cess the Acting Collector reports that under the former Government, the owners of garden lands employed conjointly an agent (Dowash) to arrange the sale of their produce to the wholesale Merchants, see it fairly weighed, and collect its price. For these services the agent was remunerated by a fee (Downikay) on the produce sold, and it appears that the ancestors of the proprietor of the estate—Mooly No. 29, had influence enough to obtain this agency business, and for the purpose of securing a supposed right to collect the fee from the garden ryots got an extra cess, under the name of Downikay, added to the ordinary assessment of their estate.

3. The Downikay Beriz thus added to estate No. 29 consisted at first of R. 66 A. 12 P. 10 but was reduced to 50-1-7 when the revised or Tharao settlement was introduced. The Acting Collector states that the collections made by the owner of the Estate from the proprietors of gardens on this account in the adjacent 7 Villages amounts to about Rupees 160 annually, at the rate of A. 6 P. 5 on each Candy of Betelnut.

4. The garden proprietors in these villages thus have to pay a supposed agent from whom they obtain no aid whatever all service having long ceased. No similar practice exists in other parts of the District, and it is remarkable that this unfair demand on the ryots should have continued so long in this locality. To explain this circumstance Mr. Robinson observes that the Estate No. 29 has always paid its full assessment, and has not therefore undergone detailed annual scrutiny. The ryots too appear to have made no opposition to payment of the Downikay fee though the subject once came before Mr. Dickenson, who was Collector in 1829 and 1830, but the destruction of the Records during the insurrection of 1837 prevents the result being ascertainable.

5. Latterly however they have become aware that the demand was not a just one, and have refused to pay it. The consequence is that actions have been brought against them in the Civil Court by a party who sub-rents the privilege of collecting this fee from the present proprietor of Estate No. 29, and that the Downikay Beriz included, in the assessment of that Estate remains uncollected and in arrears for the last 2 Fuslies.

6. The Board have no hesitation in recommending that authority be given to the Collector to strike off this Downikay Beriz from Estate No. 29, and to inform the owners of gardens in the 7 villages, and the proprietor of Estate No. 29 that Government sanctions no demand upon them for any Downikay fee, and that they are at liberty to employ an agent or not, for the disposal of their garden produce just as they please. This information should be given in a written official form so as to be useful to the ryots for the defence of the suits brought against them in the Courts.

7. A question however remains whether the present holder of that part of Estate No. 29 against whom the demand for the Downikay Beriz stands, has any claim to compensation on losing the right to collect this fee which he has hitherto leased on the fact of his paying an annual Beriz for it to Government. This point comes specially under notice because the proprietor has mortgaged the right to collect the fee, and the mortgagee has sub-rented the privilege to another party.

8. The Acting Collector expresses an opinion that the party interested in Estate No. 29 is "entitled to consideration in the final adjustment of the difficulty." But the Board can see no decided or legal claim, as no promise of a continuance of the privilege had been made. The arrangement was therefore terminable by Government at its pleasure and it had clearly only been allowed on the understanding that

services were rendered to the ryots for the fee which they were called on to pay, but as long prescription gave such an idea of a vested right as to lead to money transactions regarding the enjoyment of the privilege, and as Government has profited by the arrangement, and received an annual sum in excess of the ordinary assessment, they may see fit to grant some compensation from this source with a view to encourage a withdrawal of the suits and an amicable settlement of the whole question. In this case the Board will call on the Collector to report for what sum the privilege has been mortgaged by the Proprietor of Estate No. 29, and what compensation may in his opinion with fairness be given.

9. Besides being relieved from the Downikay Beriz, Mr Robinson suggests that the assessment of Estate No. 29 should be examined and revised "with reference to present area and character of the soil" but this subject can be treated of separately by the Collector Mr. Fisher.

(A true Extract.)

(Signed) G. S. FORBES,
Secretary.

To

W. FISHER, Esq.
Collector of Canara.

Official Memorandum

With reference to the Official Memo: from the Secretary to Government dated 10th Instant, No 250, the Acting Secretary to the Board of Revenue has the honor to forward the explanation of the Collector of Canara on Petition No 718 of 1855 referred to in the Board's Proceedings of the 20th February 1858 No 666 and to state that nothing further has been done in the matter since the date of the abovementioned Proceedings - the proceedings in the Civil Court being Stayed.

Revenue Board Office
Fort St. George
16th September 1859

By order
Illegible
Acting Secretary

To
J. D. Bourdillon Esqr.
Secretary to Government
Revenue Department.

Enclosures

Enclosures to Letter from the Acting Secretary to the Board of Revenue dated 16th September 1859 No 3535

Extract Para 1 of Proceedings of the Board of Revenue dated 20th February 1858 No 666 regarding a Petition from Cole requesting a Decision on a point connected with a Suit now pending in the Civil Courts

Board's Proceedings

Revenue 1859 Dispatch
Off. Memo. No. 1710

From
The Acting Secretary
to the Board of Revenue

To The Secretary to
Government
Revenue Deptt.

Dated 16th
Despd 16 } September
Recd. 17 } 1859.

E.2. of Dist. D. 16-1-60

Forwarding the
explanation of the Collr
of Canara on Petition
No. 718 of 1855 referred
to in the Board's Proc:
:ceedings of the 20th Febry
1855 No 666 —

C 24th Sept

Law Dept.

No 1318

Proceedings of the Mixed Commission
Under date the 27th September 1859.
Read to forwarding letter
from the Colonial Secretary to the
Board of Commissioners.

Submitting copy of Board's Order
dated 20th July 1858 relative generally to
Cancer Cases in particular & inviting
cases pending in the Colonies
and stating the causes of the delay
in their transmission.

(Received 4th October 1859 & Entered)

Read the letter from the Board
dated 20th July 1858 relating to Cancer Cases
which
and Enclosing Copies of Orders
thereon, together with the Report
of the Surgeon
The communication and enclosures
of the Commissioners
Berry and Estate No 39, in Essequebo
were also Considered, recommended
to the Board of Directors
direct accordingly.

To Letter the Powers of
Attorney for Estate Nos 39 &
of

Law Dept.

No 1318

Proceedings of the Mixed Commission
Under date the 27th September 1859.
Read the following letter
from the Colonial Secretary to the
Board of Commissioners.

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direct accordingly.

To Letter the Powers of
Attorney for Estate Nos 39 &
of

Rec'd 4th Oct. 1859.

Colonial Office
Downing Street
4th October 1859.

Sir,

I am directed by the Duke of Newcastle to transmit to you, to be laid before the Commissioners appointed under the Convention of the 2nd February 1853 for the Suppression of the Slave Trade, a Despatch from the Governor of British Guiana, with its Enclosures, on the subject of Cancer Cases pending in that Colony.

I am, Sir,
Your most obedient
humble Servant
(Signed) Fred. Rogers

The Secretary to the Board of
Commissioners &c. &c. &c.

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Commissioners &c. &c. &c.

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13th Sept. 1858.

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The Secretary to the Board of
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No 308. 27 Sept. Kingston Jam. 1858

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were also Considered, recommended
to the Board of Directors
direct accordingly.

To Letter the Powers of
Attorney for Estate Nos 39 &
of

of the Jews from any other Family
have any Claim whatsoever to
Succession, and that the Affe-
-ction to succeed particular
in Fee Tail to the Government
should give it the Authority
of the Government that have
exercised for many Years,
illegally and by Original
Erected into the Court
Revenue Seperate, Incumbe
an Individual to any Person
Manner Exercised the Power
the Tenth of the Year Necessary
Persons to Government, the
Practice is left Applied as
a Matter of Course.

The Board will be pleased
to Report the Result of Enquiry
and they have their Examples
for the Accuracy of the Fact.

Office of the Board
Dec 25

Revenue 1859 Decbr.
Pro.s of Govt. 4th October.
No. 1308.

Pro. of the Madras Govt.
Dy 27th Septr. 59.
Rec.d at the Board of Rev.e 8th
June 60 & Entd 12th
ditto.

Abolition of the
Dawanni Cai Peruj
on certain Estate in
Canara, approved.

No 444 to 45.