Revenue Department

N° 321

Dated 14-3-1859

No. 59. Read the following Extract from the Proceedings of the Board of Revenue, dated 28th February 1859, No. 734.

Read again the following letters:—

No.	2356,	From	Ganjam,	dated	27th May	in Con.	6th Sep. 1858,	No. 85.
,,	3803,	,,	Vizagapatam,	,,	12th Sep.	,,	2nd Dec. 1856,	,, 145.
,,	3730,	,,	Rajahmundry,	,,	12th	,,	21st Aug. 1858,	,, 98.
,,	3882,	,,	Masulipatam,	,,	19th Sep.	,,	2nd Dec. 1856,	,, 124.
,,	3713,	,,	Nellore,	,,	15th ,,	,,	24th Nov. 1856,	,, 197.
,,	4461,	,,	Cuddapah,	,,	9th Nov.	,,	3rd Dec. 1857,	,, 116.
,,	2541,	,,	Bellary,	,,	25th June	,,	2nd July 1857,	,, 65.
,,	3661,	,,	Kurnool,	,,	8th	,,	17th Sep. 1856,	,, 91.
,,	3499,	,,	Chingleput,	,,	4th	,,	8th ,, ,,	,, 309.
,,	985,	,,	North Arcot,	,,	13th	,,	24th March 1857,	,, 59.
,,	1884,	,,	Do.	,,	18th	,,	23rd May ,,	,, 114.
,,	3417,	,,	South Arcot,	,,	28th Aug.	,,	15th Oct. 1856,	,, 180.
,,	3988,	,,	Tanjore,	,,	29th Sep.	,,	8th Dec. ,,	,, 152.
,,	3408,	,,	Trichinopoly	,,	27th Aug.	,,	2nd Sep. ,,	,, 139.
,,	3662,	,,	Madura,	,,	11th	,,	17th ,, ,,	,, 193.
,,	4977,	,,	Tinnevelly,	,,	26th Nov.	,,	4th Dec. ,,	,, 383.
,,	4511,	,,	Coimbatore,	,,	28th Oct.	,,	6th Nov. ,,	,, 172.
,,	115,	,,	Salem,	,,	2nd Jan.	,,	3rd April 1857,	,, ——
,,	3439,	,,	Canara.	,,	27th Aug.	,,	15th Oct. 1856,	,, 103.
,,	4209,	,,	Malabar,	,,	9th	,,	18th do. ,,	,, 126.

In Con. 14*th August* 1856. Resolved that the above letters be laid before Government, with reference to Extract Minutes Consultation, 18th July 1856, R. D., No. 748.

2. In the above Extract Minutes Consultation the Board were instructed to report the practice in the different Districts in regard to including Date and Palmyra trees on Ryots' holdings in the Abkary Farms, in order that Government might decide whether any change was generally necessary or not.

In Con. 21*st April* 1858. 3. Since the date of the above orders however Government have in Extract Minutes Consultation, 6th March 1858, No. 298, R. D., virtually decided the question by giving up all claims to trees growing in Puttah and Inam lands as well as in back-yards. The principle that the fixed land Assessment includes the value of the trees growing on it having been thus established, it only remains to consider whether carrying it out fully will involve any material sacrifice of Revenue. Before proceeding to this point, it may be as well to point out that under Section XVII, Regulation I. of 1820, Abkary renters cannot "compel or require the owner or occupier of any private garden or ground to draw toddy from Cocoa, Date, or other palm trees" nor have they "any right of control or interference therewith other than to prevent the sale by unlicensed persons of toddy drawn therefrom." The Second Clause of the same Section precludes Renters from levying "any personal tax, ground-rent, Quit-rent, tope-rent or any tax payable by toddy drawers unconnected with the exclusive privilege of vending toddy." Under the Abkary Regulation in fact a Renter acquires only the exclusive privilege of manufacturing country fermented liquor as well as the retail sale of foreign and country spirits and liquors, and is not vested with any power over the trees.

4. The Board will now briefly review the Collector's reports.

T. J. Knox, Esq., 27th May in Con. 6th Sep. 1858. *Ganjam.*—5. Toddy is not drawn from Palmyra trees in Ganjam. "There are said to be 1,14,508 Date trees, of which 1,09,256 are in Jeroyty or lands paying Assessment to Government and included in the Abkary Farms; 3,199 are profitable in no way because scattered in the jungles on the Hills, &c., 1,140 are under the enjoyment of Inamdars and Agraharums; 14 are in the compound of a dwelling house, and the toddy of 899 is enjoyed by ryots in the Estates of Zemindars and Proprietors.

Of the trees which are under the enjoyment of ryots, some were planted by the ryots themselves to mark the boundaries of their fields and gardens," and Mr. Knox sees "no reason why any change in the ryots' favor should be made especially as none of these trees are on the Government land." He also recommends that "in Cowles given for waste land on which Toddy yielding trees are growing, the right to these trees should be destinctly declared to be the Government's and not the enjoying tenants."

6. Mr. Knox's letter is wanting in perspicuity and he has omitted to state whether any loss is likely to result from exempting all trees on the ryots' land, from the operation of the Abkary Farm.

Vizagapatam.—7. In Vizagapatam the general rule is that when "Date and Palmyra trees existing in Jeroyty land were originally planted by the cultivating ryot or his predecessor, the occupant has a right to the fruit, leaves, &c., free from tax and the Toddy drawers possibly make him some inconsiderable allowance for the privilege of drawing Toddy. But this is optional. If a complaint were made of opposition by the ryots to the servants of the renter drawing Toddy their interdiction would be set aside;" "in some places the Puttadars unless the trees are included in their leases are not supposed to have a right to the produce of trees." "To trees in the waste the villagers are not supposed to have any right whatever," and no trees can be felled without the permission of Government, or the Zemindar according as they stand on Government or private lands.

P. B. Smollett, Esq., 12th Sept. in Con. 2d Dec. 1856.

8. Mr. Smollett roughly estimates the loss consequent on any change which however he deprecates, at 1,800 or 2,000 Rupees.

9. In para. 6 of his letter Mr. Smollett says: "It is not supposed in this district that the cultivator is the owner of his holding. If he was, the trees would of course be his property. He is the tenant only, therefore the trees do not appertain to him." If by cultivator Mr. Smollett here means a Government ryot holding a Government Pu*tah, the Board must deny both the assertion and the argument. A Government Puttah gives as valid and permanent a title in Vizagapatam as in any other district and subject only to the payment of the regulated assessment the Puttahdar is the owner of his holding, for so long as its assessment is paid, Government cannot eject him, and he may sell, mortgage, bequeath or alienate his land as he pleases—nor is this principle of proprietorship lessened by the fact that his rights do not at present extend to trees on the land—for these or any other particular item may be reserved to Government without affecting his proprietorship to the land, though of course every such reservation lessens its value. The Board have certainly countenanced no measures which would reduce a ryotwary Puttahdar to a mere tenant at will, and they must remark that if the practice of the district unknown to them is as described by Mr. Smollett it is somewhat inconsistent in him to deprecate a change which by his train of reasoning would so far as it tends to establish proprietorship in the soil operate to lay the surest foundation of national progress and prosperity.

Rajahmundry.—10. In Rajahmundry the Abkary renters though vested in their licenses with the exclusive privilege of selling liquor are not authorized to exercise any interference with the Palmyra and Date trees, which are separately rented generally to Toddy drawers, though in a few cases the Abkary farmers also hold these rents. The persons to whom the trees are thus let by the joint renters of the Villages acquire the right of manufacturing Jaggery, of using the leaves, fruit and fibre of the trees, and of appropriating the Toddy drawn from them but they cannot sell the Toddy or make Arrack without a license from the Abkary contractors with whom they generally enter into agreements for the purpose. The trees thus rented out however are only those which whether situated on Inam or Government lands are classed as "Moturpha" or taxable, but the Collector has been unable to ascertain when, or by whom, or on what principle this classification was formed. The Ryots are supposed to have a right in virtue of their Puttah, only to those trees which they or their ancestors planted, and these are excluded from the tree rents and can only be worked by the renters with the consent of the Ryots by private agreement between themselves. In several Talooks the same practice obtains in regard to trees on Inam lands, the right of drawing Toddy being let by the joint Village renters and a certain sum being entered on this account in the Village rents. Nearly 80,000 trees are thus rented out, and the practice existed previous to the permanent set-

A. Purvis, Esq. 12th in Con. 21st August 1858.

tlement. The Collector does not think that the crops of the Ryots suffer material injury from this system, and does not recommend any change beyond renting the trees to the Ryots themselves, or rather making them pay an extra sum for the trees and leaving them to make their own arrangements with the Toddy renters if so disposed. This would certainly be an improvement on the present system, but it does not in the Board's view go far enough. As the practice of renting the trees on Inam lands existed prior to the permanent settlement, their produce clearly forms no part of the Inam and where they exist in sufficient numbers to be worth noticing a fair but moderate sum may justly be assessed in perpetuity on the Inam, and the trees in consideration of this additional payment be made over to the Inamdar as his absolute property. If this be equitably arranged the Inamdars would have no just ground of complaint, and all pretext even for objection might be removed by simply allowing them the option of adhering to the present system if they deem it more advantageous. The rent should obviously be permanent or the Inamdars might cut down and sell the trees, claim remissions in bad seasons &c., but on the other hand the tax should be materially lighter in consequence of being permanent. The treatment of trees on the Ryots' Puttah lands will be noticed in a subsequent part of these Proceedings, and it will suffice here to point out that the Abkary Farms oppose no obstacle to their being dealt with in whatever manner may be deemed most desirable.

Masulipatam.—11. In Masulipatam Date and Palmyra Trees are not included in the Abkary rents, and the renters interfere no further than to see that they are not so profusely felled as to interfere with the supply of Toddy to the kalalees or drawers, who are generally their under farmers. In regard to ownership the custom varies in different Talooks. In Bunder, Peddanah, Kykaloor and Pentypaud, the ryots are considered to have no right to the trees on their Puttah lands, and Government rent them together with those on Perumboke lands to the toddy drawers for fixed sums. In Ralunghy and Deevy, the Ryots possess a right to the trees on their holdings and pay a tax direct to Government on each tree, or on each group, according to local usuage. The right however extends only to trees planted by themselves or their ancestors; those growing spontaneously being deemed Government property. In regard to private trees the Toddy drawers make their own arangements with the owners. The Acting Collector considered no change of system necessary.

J. Fraser, Esq., 19th Septr. in Con. 2d Decr. 1856.

Nellore.—12. The Collector of Nellore has in some measure misapprehended the reference made to him. It appears that the Abkary Renters do not interfere with trees on Puttah lands, and the Collector believes that they would suffer no real loss if formally prohibited from doing so, though they might take advantage of such a rule to claim compensation. On the other hand Mr. Elton believes the ryots would gain little by any change, and he considers Section 17, Regulation 1 of 1820, quite sufficient for their protection which it undoubtedly is, if enforced.

F. B. Elton, Esq., 15th Sept. in Con. 24th Novr. 1856.

Cuddapah.—13. The practice of the Cuddapah Districts is very obscurely stated by the Collector. In 1830 the Board directed Date trees to be specially reserved to Government but made no mention of Palmyras which however are not generally abundant in the Province. The instructions in regard to the former are stated to be still observed, but Palmyras on Puttah and Inam lands seem virtually to be recognized as belonging to the land owners.

M. Murray, Esq. 9th Nov. in Con. 3d Decr. 1857.

Bellary.—14. In Bellary Toddy is extracted from Date trees which chiefly grow in waste land. Those situated on Puttah or Inam lands cannot be used without the land holder's consent. Palmyra trees are very rare and plantations of them have been formed experimentally at Government expense.

C. Pelly, Esq., 25th June in Con. 2d July 1857. *Pro. to Government 3d June* 1858.

Kurnool.—15. Captain Russell merely states that Date and Palmyra trees are included in the Abkary Farm, that there is no necessity for any change and that its introduction would lead to a loss of about Rupees 1,000.

Capt. J. G. Russell, 8th in Con. 17th Sep. 1856.

Chingleput.—16. The report of the Collector of Chingleput is in several particulars inconsistent and generally not very intelligible. As far as the Board can understand it, the rule in Chingleput is to include all trees capable of producing Toddy in the Abkary rents; where however the trees stand on Puttah land, Toddy cannot be drawn from them without the ryot's consent, and payment is made to him for it. Mr. Shubrick calculates that a remission of about 6,000 Rupees per annum must be made to the Abkary renters if all trees capable of producing toddy are excluded from his farm, but this is inconsistent with other parts of his letter and founded on a misapprehension of the case. As it is intended only to exclude trees on puttah land which the renter at present cannot use without payment and the ryot's consent, it is obvious that no loss can be entailed on him by a rule to this effect. In the concluding para. of his letter Mr. Shubrick proposes that when cowles for waste are issued to Poyakaries, the trees on the land should be expressly declared liable to the demands of the Abkary renter. This however would be clearly unjust. When waste land is included in the Puttah of another ryot whether Merassidar or not, and duly paid for the Poyakary who wishes to cultivate it must make his own arrangements with the owner. He then stands in the position of the sub-tenant of a private proprietor and Government have no concern with him as the proprietor alone is liable for the assessment, and all disputes between him and his tenants are matter for judicial decision. If however the waste belongs to Government and is not included in any persons puttah, the Poyakary's right to the land or trees on obtaining a cowle from Government is as complete as if he were a Merrassidar, and the distinction which the Collector proposes is inadmissible especially as no Poyakary or stranger can obtain land until it has first been offered to the resident ryots or Merassidars.

C. J. Shubrick, Esq., 4th in Con. 8th Sep. 1856.

C. Wittingham, Esq., 13th in Con. 24th March 1857, *18th in Con. 23d May* 1857.

North Arcot.—17. In North Arcot the trees are not included in the Abkary Farm and the Ryots exercise complete ownership over those standing on their Puttah lands.

South Arcot.—18. Trees on Puttah land in South Arcot are the exclusive property of the ryots, and the Abkary renters cannot draw Toddy from them without the consent of the owners. Where the trees grow on waste they are regarded as the common property of the villagers who have hitherto paid Government Anna 1, Piee 3, for every tree actually yielding Toddy, and again rented out the produce to the Abkary Contractor. This arrangement as well as the exceptional inclusion in the Farm of some trees in the immediate neighbourhood of Cuddalore, will be considered in carrying out the new rules in regard to the ownership of all trees on puttah lands.

A. Hall, Esq., 28th August in Con. 15th October 1856.

E. M. C. 6th March in Con. 21st April 1858, *No. 298, R. D.*

Tanjore.—19. The practice of including the trees on ryots holdings does not obtain in Tanjore, as they are held to belong to the land owners. The only exception is in the rental by the Collector of some Palmyras which stand on the sides of the high road from Tanjore to Negapatam.

J. W. Cherry, Esq., 29th September in Con. 8th Dec. 1856.

Trichinopoly.—20. In Trichinopoly there are very few Palmyras trees and the Date rarely attains such a size as to produce Toddy. The Abkary Farms do not include the right to draw Toddy from any tree whatever, and in this province toddy is obtained only from Cocoanut trees which are the private property of the Ryots on whose lands they grow.

J. Bird, Esq., 27th August in Con. 2d Sept. 1856.

R. D. Parker, Esq., 11th in Con. 17th Sep. 1856.

Madura.—21. The same is the case in Madura.

Tinnevelly.—22. Mr. Silver reports the Tinnevelly practice in the following terms—"The general Abkary renter or the sub-renter as the case may be, grants a license to certain of the toddy drawing shanars in every village

J. Silver, Esq., 26th Nov. in Con. 4th Dec. 1856.

in the District, specifying the rate at which he or they are to sell Toddy and the amount to be paid to him (the renter) for being allowed to draw and sell Toddy. These Toddy drawers who are the Palmyra climbers and seldom the proprietors of trees, rent the trees in the village from their owners for the purpose of drawing either Toddy or Pudeny* (sweet Toddy) according as there is a demand for either, on condition of paying to them, swamy-bhogum at so much per tree in addition to the regular tree tax.

*பூதனி
தெப்

Coimbatore.—23. In Coimbatore the trees are included in the Farm, but the Renter must make his own agreement with their owners for their use, and cannot use them without their consent.

E. B. Thomas, Esq., 28th Oct. in Con. 6th Nov. 1856.

Salem.—24. In Salem these trees when on Putcut land are not included in the Abkary rents. The tax levied for them on account of Government has been separately decided in the Ryot's favor and further notice of the subject is unnecessary on this occasion.

H. A. Brett, Esq., 2d Jany. in Con. 3d April 1857. *Board's Pro. 2nd April* 1855. *E. M. C. 31st May in Con. 29th Oct.* 1855, *No. 655, R. D.*

Canara.—25. In Canara the trees on Ryot's holdings are all private property, and the Abkary Renter makes his own arrangement with the owners.

W. Fisher Esq., 27th August in Con 15th Oct. 1856.

Malabar.—26. In Malabar the Abkary Regulation is only in partial operation, the knife and Still tax prevailing in portions of the district. Private right in land is absolute in this District.

W. R. Robinson, Esq., 9th in Con. 18th Oct. 1856.

27. From the above reports, it will be seen that in the 11 Districts of North Arcot, Madura, Coimbatore, Trichinopoly, South Arcot, Canara, Malabar, Bellary, Salem, Tinnevelly and Tanjore, no change is necessary, the Puttadar's right to the trees on his land being practically admitted in accordance with the principle established in regard to other trees. In the remaining Districts it may be necessary to postpone the operation of the principle until the current Abkary leases expire; but the Board will call for the leases of the Renters and ascertain by examination of those documents whether these persons really possess a right to work trees on Puttah lands. The new arrangement will involve some present loss of Revenue, but the Board do not think this will be large and it will be made up by the impulse which the exemption will give to planting. The Board will ascertain and report hereafter the exact loss in each District.

E. M. C. 6th March in Con. 21st April 1858, *No. 298, R. D.*

28. If Government approve of their proposals, the following will be the general rule of practice hereafter:—

I. Date and Palmyra on Puttah and Inam lands, and in back-yards, will be the property of the land owners.

II. Such trees will be excluded hereafter from the operation of the Abkary Rents, but the owners in accordance with Regulation I of 1820, will not be at liberty to vend the liquor drawn from them without the license of the Abkary Renter.

III. The Abkary Renter will as a matter of course be allowed the use of all Toddy producing trees on Government waste free of any payment—but will not be allowed to fell or apply them to any other purpose, and will not be entitled to claim compensation for any withdrawn from the operation of his contract or taken for public purposes, nor when pieces of waste land containing trees are given to Ryots for cultivation. In order to prevent all disputes, these leases will be so worded as to limit the Renter's privileges to trees on unoccupied Government waste, only so long as the land remains unoccupied and to bar claims to compensation in the other cases above mentioned.

IV. Waste land on which Palmyra and Date trees grow in considerable numbers will as a rule be reserved for Abkary or other Government purposes.

V. Trees on Government waste cannot be felled without the permission of the Revenue authorities.

29. These Regulations which of course will not apply to Zemindaries and proprietary Estates will the Board think suffice to protect the interests of Government, while they will add to the value of Ryotwary Estates and remove another ground of official interference with the Ryots.

30. In their Proceedings, dated 10th June 1858, No. 2131, the Board suggested that Palmyras should be placed in the charge of the Conservator of Forests. Further consideration however induces the Board to withdraw this recommendation. The necessity of allowing the Abkary Renters the use of such trees renders it desirable that they should be under the Collector's control. Moreover the Conservator could not take care of them without a large establishment in every District, while this can be done, as heretofore by Collectors without any additional expense. The Conservator's management would also lead to not a little clashing and increase of correspondence not merely in connection with the Abkary but also with applications for land to be brought under cultivation. It has hitherto been the rule in most of the Districts that Government trees should not be felled without the Collector's permission, and without payment of a varying sums, and that for every tree felled a certain number of seeds should be sown. The carrying out of this rule in every District would meet every object, and the Board would now propose that this should be done and such trees re-placed in the Collector's charge.

(A true Extract.)

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

No. 60. ORDER THEREON, No. 321; dated 14th March 1859.

In this paper the Board of Revenue reply to the order of Government dated July 18th, 1856, No. 748, respecting Palmira and Date trees standing on private lands. The enquiry had reference to the treatment of such trees as respects the Abkarry farms; viz. whether they should be entirely and in all cases exempted from the operation of those farms or not. The Board submit the replies of the Collectors to their call for information. Their Proceedings also contain an abstract of the purport of those replies; and they give lastly their own views and recommendations.

North Arcot,	*Malabar,*
Madura,	*Bellary,*
Coimbatore,	*Salem,*
Trichinopoly,	*Tinnevelly,*
South Arcot,	*Tanjore.*
Canara,	

2. The practice varies considerably in the different districts. In the eleven named in the margin, Plamira and Date trees standing on private land, whether puttah land, enam, or backyard, are treated as private property, in common with trees of other kinds, and no change is required there, in order to carry out the wishes of Government. To these eleven Districts may apparently be added Nellore, Bellary, and Chingleput, as virtually belonging to the same category. In the other six Districts, (including Guntoor, which is omitted by the Board as being the one which led to the reference), such trees are more or less interfered with under the Abkarry laws, though the custom is not alike in all. It is remarkable that while the liberal and right practice prevails in all the Southern Districts, the opposite practice is not only confined to the Northern Districts, but is found to grow in intensity towards the North, and exists in its highest development in Ganjam and Vizagapatam.

3. The Government are of opinion that the right of Ryots and others to trees on their land, already declared in the case of trees generally, should be now extended in all Districts to the kinds now in question, viz. Palmira and Date. They approve the propositions contained in para. 28 of the Board's Proceedings as embodying the future practice, and authorize the Board to give them effect immediately whenever practicable, and every where, on the expiry of the current Abkarry leases, at latest. In para. 27 the Board allude to the possibility that those leases may prevent the immediate adoption of the measure completely; but for the reason stated by the Board in the case of Chingleput, (para. 16), it seems doubtful to Government whether the Renters can really have any rights which would be compromised by such a measure. The fourth and fifth of the propositions in para. 28 will require to be carefully attended to and upheld by Collectors.

4. For the reasons stated in para. 30, the Governor in Council is of opinion that Palmira and Date trees on unoccupied land should be under the charge of the Collectors, and should not be included in that of the Conservator of Forests.

5. A variety of orders have been passed within the last few years on the subject of Trees, respecting both their liability to, or exemption from, taxation, and also the proprietary rights incident to them, and both in the Revenue and the Public Works Departments. The Governor in Council considers it desirable that these orders should all be brought together and digested into a single paper; and he requests the Board to cause such a summary to be prepared in their office, and submitted for the approval of Government.

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

Rev Dept

№ 321-

Extract from the Minutes of Consultation
Under date the March 1859

Read the following
Extract from the Proceed-
-ings of the Board of
Revenue-

(Here enter 28 Feby /59 № 734)

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to the order of Governmen
dated 9th by 18/56, № 748,
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North Arcot
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stated in Para 30 the Governor in Council is of opinion that Palmyra and date trees or immovable property should be under the charge of the Collectors, and should not be included in that of the Conservator of Forests.

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To the Board of Revenue Dated 18th April with 23 Enclos.
From — Conservator of Forests

5/3/01

VCA 731/79

24.7.05.

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20.5.08

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6-4-16

Nos 59 & 60.

30.8.16

Revenue 1859 Dept.

Dy. to Cons. 16th March

No. 321.

Extract Mins. of Cons.

Dd. 14th March 59.

Extract Pro: of the Bd of Rev:
Of 28th Apl. 59 & No. 819 inclos:
Extract from the Pro: of the Bd of
Revn. of 16 Septr 59 & No 1744 in

(Laying) orders on the
Reports of the Collectors on
the practice obtaining in
the Districts in regard to
including Date and Pal-
myra trees on ryotí hold-
ings in the Cultivating
Farms.

27 March 1860