M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1976 Press Mis.

168 169

Dated 14 — 10 — 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 14th October 1861.

No. 168. Read the following Proceedings of the Board of Revenue, dated 19th September 1861, No. 5,087:—

Read again the following correspondence:—

To the Collector of Madras, dated 20th January 1860, No. 315.

From the Collector of Madras, No. 24, dated 28th, in Cons., 30th January 1860, No. 440.

Board's Proceedings, dated 24th March 1860, No. 1,497.

From the Government Pleader, No. 66, dated 30th, in Cons., 31st May 1859, No. 2,486.

From the Collector of Madras, No. 173, dated 6th, in Cons., 8th June 1860, No. 2,715.

Board's Proceedings, dated 15th July 1861, No. 3,997.

Read also the following letter from the Collector of Madras, dated 6th August 1861, No. 265.

(In Cons., 8th August 1861, No. 4,999.)

1. In addition to the 1,055 Cawnies alluded to in Board's Proceedings 25th July, No. 3,997, ıe proposed Act would embrace as much of the land (4,596 Cawnies) now held under the old ›rm certificate, as would be transferred upon application to the new form.

2. The orders of the Government on the first adoption of the new form in 1828 were to call ı the old form as much as possible, so that the practice has been on the registry of the transfer f an old form certificate to another, to cancel that document, and to issue to the transferee a new ›rm certificate.

3. Lands are constantly passing from the old to the new form, whereby the privilege of e-entry under the old form ceases, and arrears can be collected only by distraint of personal roperty.

4. There is nothing to prevent all the old being changed into new form certificates, but on he other hand, there is no impediment to discontinuing the practice of exchanging the old for iew forms, and thus the old form still being retained, the Government will have the power of e-entry.

5. This would perhaps be a better plan than seeking a new Act. A Government title having ›nce issued, we can refuse to grant another, except in the case of an old form grantee wishing to ell a portion of his land thus held, when the purchaser must receive a new form certificate for he extent which he has procured.

6. The arrears mentioned are for the whole of Madras Proper. They increased in Faslis 1267 and 1268, in consequence of bills issuing for the first time for lands found without tax in he survey. In this way extensive Mahomedan burial grounds and other spots have been charged or which we can find no proprietor. The Amildar has now been directed to report the extent f these lands that the sanction of Government may be obtained for their permanent exemp- ion.

7. The arrears for 1269 and 1270 are Rupees 8,100 and Rupees 10,806. The latter have been occasioned by one of the two Peons attached to each Division Kanakapillai having been discontinued, and to the Sub-Treasurer requiring our daily collections to be given in before 2 P. M. Under Mr. Pelly's scheme, we shall have a Táluq Treasury, and collections will be received late in the evening, as was the case formerly.

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1. The above correspondence originated in some of the Mírásidárs of the town of Madras aking possession of certain waste land required by Government, in the hopes of being purchased out, though the land was eventually taken possession of by the Collector.

2. Mr. Cunliffe pointed out that it was in the power of any pauper Mírásidár to take possession of any waste land, and that the quit rent of it could only be realized by attaching personal property, a course which was not practicable where no property of the kind existed.

3. Such a state of things led the Board to the conclusion that it would be well to move the Legislative Council to reconsider their decision regarding Act XII of 1851, and they accordingly contemplated the submission to Government of a proposal that the Act in question should

be so far modified as to permit the sale of all lands except those now held under certificate, the objection of the general Council to amend the Act being based upon the fact that these certificates were contracts between Government and the parties concerned, in which it would not be legal to introduce conditions not hitherto contained in them.

4. Being of opinion, however, that recourse to *post facto* legislation was generally undesirable, the Board called upon the Collector to report whether the interest of Government in the question was sufficiently large to call for such a change of the Law as that proposed, and requested the Government Pleader to inform them whether the right of re-entry provided for in the old certificates was in any way affected by Act XII of 1851, and if not what was the proper course to follow when re-entry was necessary.

5. The latter gentleman reported that the old form certificates were in no way affected by Act XII of 1851 as regarded the provision for re-entry contained in them, and explained that possession of the land could be obtained by Government by filing a suit in the Court of Small Causes or the Supreme Court.

6. Mr. Cunliffe reported that the limits of Madras Proper comprised 13,068 Cawnies, of which 4,596 Cawnies were held under the old form certificate, which as before stated provides in case of the quit rent not being paid, that the Government shall re-enter the land, and possess it as though no certificate had been granted; 2,738 Cawnies under the new form of certificate, introduced at the instance of the Law Officers in 1828 and slightly modified in 1854, which provides for the recovery of arrears of quit-rent by the distraint of personal property only; and 1,055 Cawnies without grant, the quit-rent of which is consequently levied under Act XII of 1851, which provides for its realization by the distraint of personal property only, the balance of 4,678 Cawnies consisting of lands occupied by public buildings, for public purposes, and of Perumboke.

7. It will thus be observed that an enactment which would not affect the lands held under either form of certificate would only be applicable to 1,055 Cawnies of land, and would only be required to be put in practice against the pauper defaulting proprietors of such land, and the Board, therefore, have abandoned their intention of seeking a modification of Act XII of 1851, the interests of Government in their opinion not being sufficient to justify such an application.

8. In his present letter, the Collector seems to suppose that all the land transferred from the old to the new form of certificate would also come under the proposed enactment, but this is not the case as it was proposed to leave unaffected all lands now held under any certificate.

9. Mr. Cunliffe is also in error in supposing that there exists any *necessity* for granting a certificate in the new form when an old form grantee is desirous of selling a portion of his land as no enactment confers on a grantee the right to demand a certificate at all, and it is clearly in the power of Government to grant them in such form as they think proper.

10. It appears to the Board that the best course will be to issue for the future a new form of certificate altogether, which shall distinctly provide for the right of re-entry, and at the same time avoid the guarantee of the validity of the title which was objected to by the legal advisers of Government in the old form of certificate.

11. This course will at least prevent Government from yearly depriving themselves of rights under contract which they are at present doing by substituting the certificate now in use for that originally granted, and it will not bear hardly upon the grantees, as it is not compulsory on any person to take out a certificate. Those persons who consider it worth while to have a re-acknowledgment of their titles will not object to a form of lease which will be similar to that on which the greater part of the land in Madras is now held, and which while it will secure to them intact all their existing rights, will at the same time provide for the proper realization of the Government revenue.

12. Government having exempted burial grounds from the payment of quit rent, the Collector will see that this privilege is carefully and fully maintained. The Board trust that the report alluded to in paragraph 6 of his letter will be forwarded at an early date, in order that the fictitious arrears which now appear in the accounts may be written off.

Proceedings of the Madras Government, Revenue Department,
14th October 1861.

13. The approaching revision of establishments under the orders of Mr. Pelly, will, it is hoped, have the effect of expediting the collections.

14. Resolved that a copy of the above Proceedings be submitted for the consideration and orders of Government, pending which the Collector will not issue certificates.

(A true Copy and Extract.)

(Signed) R. A. DALYELL, *Sub-Secretary.*

No. 169. ORDER THEREON, 14th October 1861, No. 1,976.

The Board of Revenue will consult the Government Pleader on the subject of paragraph 10 of Board's Proceedings, and report the result.

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

18-1-55
5-7-95

391-A

1858/15

Revenue 1861 Dept.
No. of Govt. Letter
Dated 4th October 1861
Rec'd at the Madras Govt.
4th October 1861

No. 315.

From W. HUDLESTON, Esq., Sub Secretary to the Board of Revenue.

To B. CUNLIFFE, Esq., Collector of Madras.

SIR,

With reference to your letter, dated 25th January 1859, No. 8, I am directed by the Board of Revenue to request you will inform them whether the particular plot of ground therein referred to, is included in that which, as stated in your subsequent letters, dated 16th November and 13th December 1859, the Mirasidars abandoned on learning that the intention of executing a branch line of rail to the salt kotars was given up, and of which on that intention being resumed by Government, you took possession on behalf of Government.

In Con. 20th February 1859, No. 334.

In Con. 16th Novr. 1859 No. 5741.
" 14th Decr. " " 6209.

2. If this be so, and if the immediate case should not press for adjustment, the Board would be glad to learn from you whether the circumstances which have occurred in similar cases since the date of your letter, have in any way modified your opinion as to the necessity of amending Act XII of 1851, or have supplied additional arguments to strengthen your view.

3. They would also be glad of your opinion as to the applicability of the provisions of Act XXXIX of 1858 to lands assessed to the State revenue within your Collectorate.

4. The preamble of Act XII of 1851, declares its object to be, that such assessment shall be "collected in as summary a manner as in other parts of the territories under the late Government," and the recent Act for the realisation of the public revenue from lands not under the permanent settlement, which are provided for by the Regulations of 1802, contains no exception in favour of the lands within your Collectorate, and no reason whatever appears why those lands, which are of a certain value beyond the ordinary run of lands not situated, as *they* are, in the suburbs of the Presidency town, should enjoy any such exemption, or why the interests of the State and of the community should in Madras itself be sacrificed to the selfish pretensions of a set of pauper squatters, or of nominal occupants whose sale object is to turn to their personal advantage the needs of the public.

5. The Board request you will forward with your reply, copy of any form of certificate, or old grant, the terms of which may, in your opinion, prevent the application of the Act XXXIX of 1858 in cases in which such documents were issued.

REVENUE BOARD OFFICE,
Fort St. George,
20th January 1860.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) W. HUDLESTON,
Sub Secretary.

Exd. J. Wright.

IN CON. 30TH JANUARY 1860, No. 440.

From B. CUNLIFFE, Esq., Collector of MADRAS,
dated Madras, 28th January 1860, No. 24.

I have the honor to reply to the Sub-Secretary's letter of the 20th instant, (received yesterday), No. 315.

2. The land, more immediately the cause of my reference to the Board of the 25th January 1859, and alluded to in the first six paragraphs, has subsequently been taken possession of by me, as reported on the 16th November and 13th December last.

3. At the time of my writing in January 1859, the merasidars having apparently entered upon the land permanently, I thought that a good opportunity offered of showing how inadequately Act XII. of 1851, by authorizing the distraint of personal property only, had provided for the security of the land revenue of Madras.

4. The merasidars afterwards abandoned the land, but entered on it again, when they saw that the Government wanted it for their branch line of Railway to the salt kothars, and opposed my servants in taking possession as mentioned in paragraph 6 of my letter of the 16th November.

5. Though no similar case has since occurred, the general question remains the same; the Veyasarpadi, or any other pauper merasidars can to-morrow take up unoccupied waste lands, and hold them without payment of quit-rent, in expectation of turning them to account by sale hereafter. They have no personal property which I can attach.

6. They still hold the 45 kanis alluded to in paragraph 7 of my letter 25th January 1859, without payment, which I have no means of enforcing, if I cannot re-enter upon the lands held under old grants.

7. If, upon a consideration of the Proceedings of the Legislative Council, the Board agree with me in opinion that I can re-enter upon such lands, I will thank them for instructions to this effect. It may be as well to ask the law officers how this entry is to be carried out. If I am to bring an action against the recusant, to show cause why I should not re-enter, the procedure will be so slow and tedious, as to render the authority useless to me. I should be permitted, after notice served, to make payment within a certain period, to declare, in case of default, that the land has lapsed to the Government, and to give orders to the amildar to take possession of it.

Board's Proceedings, 12th November 1855, No. 3015.

8. With respect to the applicability to the lands of this Collectorate of Act XXXIX. of 1858, I must express my opinion in the negative.

9. The preamble of Act XII. of 1851 is, as quoted by the Board; but its provisions do not fulfil the object contemplated by it, and I am afraid that we must look to the latter alone in considering the powers granted under it.

10. Act XXXIX. of 1856, appears to me an amendment of Regulation XXVIII. of 1802, which was inapplicable to the lands of this Collectorate, after the passing of Act XII. of 1851.

11. Our settlement cannot, I think, be styled ryotwar, for the most part varying under an annual lease, but should rather be considered permanent, as the old grants run for 99 years, and the new form certificates are interminable; and though no exception is made of the lands of this Collectorate, yet Act XII. of 1851, stands unrepealed. I fear, therefore, that Act XXXIX. of 1856, would not, in a Court of law, be accepted as authority for the sale of land in Madras for arrears of revenue.

12. I beg to forward copies of the ordinary leases in force, viz., an old grant,* and a new form certificate, the former allows of re-entry, which the Legislative Council declare "equivalent to sale," but the latter permits only of the distraint and sale of moveable property.

* To be returned.

ENC. 1.—An old grant.

ENC. 2.—Certificate.

Exd. J. Tulloch.

Enclosure No 2 in the Proceedings of the Board of Revenue to the Secretary to Govt Revenue Dept dated 19th Septr 1861 No 5087.

Rec 23 Oct 61

Letter from the Collr of Madras to the Secretary to the Board of Revenue dated 28th Jany 1860 No 24 regarding the notification of Sale 12th 1858.

C. No 1496

No. 1,497.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 24th March 1860.

Read letter from the Collector of Madras, dated 28th January 1860, No. 24.

(In Con. 30th January 1860, No. 440.)

Read letter from the same Officer, dated 7th February 1860, No. 27.

(In Con. 8th February 1860, No. 606.)

The propriety of amending Act XII of 1851, so as to admit of lands within Madras being sold for arrears of Government Revenue, has been admitted, and has formed the subject of lengthened discussion. The draft Bill framed with this view was favorably reported on by the Select Committee of the Legislative Council, but was abandoned in consequence of the feeling of the general Council being opposed to it.

No.	209	From Madras, 15th, in Con.	25th Jany	1856,	No.	10.
,,	221	To Govt.	25th ,,	,,	,,	30.
,,	615	From Madras, 21st, in Con.	27th Feb.	,,	,,	235 R. D.
,,	595	Pro. to Govt.	27th ,,	,,	,,	34.
,,	703	From Govt. 28th Feb. in Con.	4th March	,,	,,	
,,	725	From Madras, 1st, in Con.	26th ,,	,,	,,	
,,	877	To do.	26th ,,	,,		
,,	4996	From Govt. 3d Dec.	1856, in Con.	2nd Jan.	1857	1,280 R. D.
,,	27	To do.	2nd do.	,,		
,,	452	From do. 29th Jan. in Con.	9th Feb.	,,	,,	110 R. D.

2. The main objection raised to the Bill was that the certificates under which land was held in Madras were contracts, and that new conditions, such as this one was, could not be justly added to their original terms. In regard to coercive process for the recovery of arrears of Government Revenue, the lands within the Madras Collectorate may be ranged in three classes:—

I. Those held under the old Form of Certificate.—These titles contain the following express stipulation in case of non-payment of quit-rent or breach of any other condition of the deeds—"It "shall and may be lawful to and for the said President and Council for the time being, for and on "behalf of the said Company, into and upon the said hereby devised premises or any part thereof, "in the name of the whole, to re-enter *and the same to have again, repossess and enjoy, as if this "lease had never been made.*" This stipulation enables Government to recover an arrear by re-acquiring the land, after which it can of course be sold or otherwise disposed of. The remedy is not so prompt and facile as might be desired, but these certificates are in fact covenants under seal, and no alteration can be made in them without the consent of the holders. The Board do not consider that these deeds are affected by Act XII of 1851, but they will request the Government Pleader to favor them with his opinion on the subject, and also to state the course which the Collector should adopt in applying the remedy.

II. Lands held under the *new* Form of Certificates.—These were introduced at the instance of the Law Officers of Government in 1854, exception being taken by them to the old Form as unnecessarily and dangerously pledging Government to the soundness of the *title* on which the lands themselves were held. The Board believe that no difficulty had ever occurred on this score in practice; still, it was well to guard against such a contingency; but they are unable to understand why the alteration was not restricted to this desirable object. Instead of this, the certificates were altered in another material respect, viz., the mode of recovering an arrear of quit-rent, which was a separate matter altogether, the right of Government to its revenue being unquestionable, and its payment being essential to complete the title to the land. By these documents, however, the mode of recovery is reduced to the power to "enter and "distrain and the distress or distresses there to be found to take or carry away and the same to "detain or keep until the said sum so in arrear and unpaid shall be duly paid and satisfied; and if "the same or any part thereof shall be unpaid by the space of thirty days next after the making of "such distress, that then the goods, chattels or effects that may have been distrained and taken shall

Enclosure in F. Govt. 21st April, in Con. 15th May 1854, No. 1,300.

"be publicly sold according to the usual mode of selling property legally distrained for non-payment "of rent." The remedy of Government is thus reduced to the distraint of personal property only.

These deeds are also covenants under seal, and no alteration can, therefore, be made in them by Government alone. But the Board see no reason why such deeds should continue to be issued. Those already granted must remain as they are, but a revised form may be prepared for future use. There would be no injustice to the holders of the *old* form certificates in such a course, as their deeds already give Government the power of re-entering on the land, and their position in this respect would remain unaltered.

III. Land not held under Certificates, but subject to the operation of Act XII of 1851.—This enactment gives Government power to proceed for arrears against *personal* property only. The objections of the Legislative Council to amend it in this respect would, the Board think, be removed by the proposal above made, viz., to leave *existing* certificates unaffected. By this course all existing rights would be preserved, and no complaint of breach of contract could be made against Government. In all other cases the right of the State to its revenue would be protected in the same manner as in the rest of the Presidency.

3. The claim of Government for power to realize its undoubted due on the land by the sale of the lands itself, seems perfectly just and reasonable, for the right to any piece of land (not specially exempt from assessment), however good it may be against all others, is not valid against Government, nor complete until the claim of the State for its revenue is satisfied. The new Form of Certificate admits the right of the State to its share of the produce, or the commuted value of that share, and it is on condition of this being duly paid that Government ratifies and confirms the title otherwise acquired. Again Act XII of 1851 (Section IX) gives that claim priority over all other claims "*upon the land*," as well as on distrained property. And at the Presidency where land is peculiarly valuable, there is less reason than any where else to exempt land from sale for arrears accruing on it.

4. Independent, however, of the recovery of arrears, the non-liability of land to sale is embarrassing in another respect. There are tracts of land in Madras which were waste and unoccupied from time immemorial; they have never been turned to account, and have never paid a fraction to Government. No sooner, however, is it believed that these are required by the State for public purposes, than a "Mirasidar" takes possession. Even if it were admitted, which is not the case, that he could take possession without reference to Government, there can be no question that he is bound to pay the Government assessment. This, however, he omits to do, and the Government have no remedy, for the land cannot be sold, and in many cases there is no personal property to distrain, the Mirasidar being a pauper who takes possession merely on the speculation of being bought out by Government. So also as regards private persons seeking such land: Government cannot give the valid title which they could grant after a public sale, and the land remains unproductive.

5. For the reasons above stated, the Board are prepared to address Government again, with a view to the amendment of Act XII of 1851, in regard to lands not held under certificates; but as recourse to legislation is generally undesirable, they wish first to be informed by the Collector whether the interest of Government is sufficiently large to call for a change in the law. The extent of land occupied and unoccupied should be stated, and the probability of any large quantity of the latter being required for public purposes; as well as the outstanding arrears of late years. Act XII of 1851 (Section VII) gives the Collector power to distrain personal property not only on the premises but elsewhere, so that none but paupers can well escape. The operation of the new Free-hold Rules must also be considered.

Board's Circular Order, 23rd September 1859.

6. Lands subject to ground-rent being the acknowledged property of Government, the Board believe the same difficulty is not experienced in regard to them.

7. Resolved that a copy of these Proceedings be forwarded to the Government Pleader, with a request that he will inform the Board whether Act XII of 1851, Section VIII, affects the liability of lands held under the old certificates to re-entry for recovery of arrears due to Government; and, if not, that he will mention how the Collector should proceed to re-enter when necessary.

(Signed) J. D. SIM,
Secretary.

To C. DALE, Esq., Government Pleader.

Copy to Collector of Madras.

IN CON. 31ST MAY 1859, No. 2486.

From CLEMENT DALE, Esq., Government Pleader SUDR UDALUT,

dated Madras, 30th May 1859, No. 66.

With reference to the interview I had this morning with the Members of the Board of Revenue and yourself, I do myself the honor of forwarding a fair copy of the form of conveyance, as finally settled at that meeting, to be used in conveying land in the neighbourhood of Railway stations to the purchasers.

2. At that interview, you requested me to explain the course to be pursued under the proviso for re-entry. If the premises were within the limits of the Supreme Court, an ejectment could be brought, and upon obtaining Judgment in that suit, the sheriff would deliver possession of the premises to the Government. In analogy to that practice, I should advise, that for the purpose of recovering possession of land under the proviso for re-entry contained in the Deed referred to in para. 1, a suit should be commenced in the proper Court, the plaint setting out concisely so much of the Deed, as is necessary to shew the grant, the covenants which have been broken, and the proviso for re-entry then over the breach of covenant, and pray the Judgment of the Court for possession being delivered. The Plaintiff should be the Secretary of State, the Government giving the Vakeel an order under Regulation 14 of 1856, Section 37 Clause 3rd, which should be filed in Court. No Vakalutnamah is necessary.

3. I recommend a Suit, because no one party has power to revoke a Deed, unless power be reserved to him in such Deed, and unless for some informality or by the consent of all the parties. A Deed can only be avoided by a Judgment or Decree of a Court.

IN CON., 8TH JUNE 1860, No. 2,715.

From B. CUNLIFFE, Esq., Collector of MADRAS,
dated Saidapet, 6th June 1860, No. 173.

I have the honor to submit the information, as near as we can supply it, called for in paragraph 5 of the Board's Proceedings, 24th March 1860, No. 1,497.

2. We have been at some trouble collecting materials for our calculations, and the following is the result of our enquiries.

3. The limits of Madras proper are supposed to comprise 27 square miles, or 13,068 cawnies of land, of which we suppose 4,596 cawnies are held under old certificates, allowing re-entry; 2,738 cawnies under new certificates, and 1,055 cawnies without a title from the Government, and the quit-rent upon which is collected by what are termed ungrant and uncertified bills, the former being applied to lands above, and the latter to those under one cawnie. The remainder or 4,678 cawnies we suppose to consist of lands occupied by public buildings, and for public purposes, and by Perumboke.

4. The rent on the lands held under the two last heads can be realized by the distraint and sale of personal property only.

5. Included in the area held under old form certificates are some 368 cawnies for which such titles have been issued; but whose present owners are unknown, the land lying waste and the tax uncollected.

6. Notices have been issued calling upon the owners of these lands to come forward and claim their property; but as this call was not responded to, the lands have now lapsed to the Government, and can be disposed of by them.

7. I quite approve of the Board's proposition to allow existing new certificates to remain as they are, and to call upon the Legislature to give a right of re-entry to all leases in future to be issued, and to put them on a like footing with old form certificates.

8. This will meet any future applications for a Government title, but the Board will observe that 1,055 cawnies are held without lease, and we cannot compel the holders to take one out.

9. It will be necessary to provide for the collection of quit-rent on these lands, other than by the sale of personal property by re-entry, if this term is applicable to lands for which a Government title has not issued.

10. I do not think that much more occupied land, to satisfy the rent of which moveable property is not forthcoming, will be required for public purposes; but I think that power should be given to the State to realize its own dues, and, therefore, would wish to see the Board's proposition carried out.

Faslis.....	1263...	4,251	6	1
"	1264...	4,272	13	10
"	1265...	4,872	5	1
"	1266...	4,672	3	2
"	1267...	6,049	5	5
"	1268...	8,571	1	5
Total...		32,689	3	0

11. The arrears of the last six years are given in the margin, and beyond this period they are not recoverable under Section XI. Act XII of 1851.

12. The Freehold rules at the present rate of commutation will operate but little.

13. It would the more assist this office, if the process of re-entry can be made summary, after demand made and due notice given of the proposed re-entry to the proprietor; but if such more speedy process be deemed objectionable, we must proceed by suit of ejectment in the Supreme or Court of Small Causes, as advised by the Government Pleader in his opinion given in the Board's Proceedings of the 17th, No. 1,837.

14. The Board will observe that, while the Government Pleader gives in paragraph 3 of his letter, the provisions of Sections 4, 7 and 8 of the Act, he passes over Sections V and VI.

15. The provisions of these sections declare that, whenever, upon the measurement of *any* land, the actual dimensions are found to exceed or fall short of the dimensions upon which the assessment was calculated, the demand shall be increased or abated respectively.

To Board 19th October 1858.
From „ 17th November „
To „ 25th „ „
From „ 10th August 1859.

16. Mr. Dale holds certain premises under lease, and I endeavoured to charge him under Section VI for an excess of land in his enjoyment; but the Board, on my representing the case at Mr. Dale's request, were of opinion that the demand could not be enforced, Mr. Dale making no objection to pay the amount of quit-rent entered in the lease, which was a covenant between the Government and first purchaser.

17. I have no objection to this construction, if the Government are to have the benefit of it in cases falling under Section V. Here, however, I apprehend, the lessee will insist upon the abatement being made, whatever the terms of his lease and covenant, and I continue accordingly to deduct the tax on the area deficient, whenever such a request is made.

Enclosure No 5 in the Revd Sir's Letter to the Secretary to Govt Revenue Department dated 19th September 1861 No 5287.

Rev 2363/60

Letter from the Collector of Chingleput to the Secretary to the Board of Revenue dated 6th June 1860 No 173. regarding the Interpretation of Act 1 of 1859.

O No 1976.

9

No. 3,997.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 25th July 1861.

Read letter from the Collector of Madras, dated 6th June 1860, No. 173.

(In Cons. 8th June 1860, No. 2,715.)

1. The Board gather from the above letter that the proposed Legislative enactment would apply only to 1,055 cawnies of land, and that its advantages would be obtained in respect only of such defaulting proprietors of that land as had no personal property.

2. Under these circumstances the Board are not of opinion that the interests at stake are of sufficient importance to warrant an application for an alteration of the Law.

3. The Board presume that the arrears mentioned in paragraph 11 are the whole arrears of Madras proper, and not only of these 1,055 cawnies which are not held on certificates. They would be glad to receive an explanation of the increase of arrears in the Faslis 1267 and 1268, and to be informed whether they have been increasing in a similar ratio during the last two Faslis.

(A true Extract.)

(Signed) R. A. DALYELL,
Sub-Secretary.

To B. Cunliffe, Esq., Collector of Madras.

Exd. J. Wright.

Note — The old form of Certificate
gave power to re-enter on
the premises in case of default.
It was objected to by the then Law
Officers of Crt on the ground that
it contained a Guarantee of
title — It was accordingly altered
but somehow the alteration instead
of being limited to this objectionable
clause was extended to the remedy
for default which was reduced
to the mere distraint of moveable
property on the premises — This
altered certificate is termed
the New Form — & is now exclu-
sively used — so that we are
gradually changing the old
Certificates to the prejudice of
Crt There seems no reason why
these certificates should not
+

Enc: Rec'd the Rev: of the 15th
Rec'd the Secretary to the C.P. &
2/19 Sept 1861 & 2/20 Sept

Rev 2363/61

Dep Rec'r to Collect and
2/25 Sept 1861 for 3/3 for Warrant
Ack Notification Oct 2 1861

Rev 11 "October 1861

+ he now attend again & in the
respect assimilated to the old
Certificates. This involves no in-
justice as the holders of the old
Certificates may, if they please
remain contend with the Docts
they possess which contain the
re-entry clause. The Bd might
consult the Govt Pleader & alter
the Certificates, if he sees no legal
objection. If he sees such objection
the old Certificates might be con-
tinued.

J.D.S

Let the Board consult the Govt Pleader & report result

Elle

Wells

1-10-64

Rec^d 7 March 1828 P. 445

12-10-92

13/9/58

18-10-95

Rev 1861 Department.

Pro: of Govt for October.

No. 2363

PROCEEDINGS of the BOARD of REVENUE,

Dated 19th September 1861.

Desp^d 1 Oct^r

Rec^d 23^d October

E. O.

No. 5,087.

From Bd of Rev^e 5^th November 61

C. No 2639 with 10^l Dec^r 89 92

From Govt 21^st Dec^r 61 Cab^t 25 62 with

Remarking on the inutility of seeking a modification of Act XII of 1851, in respect of the powers of re-entry and sale of lands for arrears of quitrent in Madras; and intimating that the best course in future will be to issue a new form of certificate, which shall provide for the right of re-entry and at the same time avoid the guarantee of the validity of the title objected to in the old form of certificate.

No. 1976 The Board of Revenue will observe the Government's decision on the subject of their Proceedings noted in the margin.

Fort St George 11th October 1861

(Signed) H. Pattle Sec^y

To the Board of Revenue.

5-7-95

No 168+169.

Cy Cert Rq^d

With an order

No 1976. 11^th Oct^r