

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2203	Press Mis.
168/166	
Dated	13 th 186

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
13th October 1862.*

No. 165. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to the Honorable T. PYCROFT, Chief Secretary to Government, dated Madras, 2nd October 1862:—

SIR,

1. I am directed by the Board of Revenue to acknowledge receipt of the Government Order, dated 27th September 1862, No. 2,109, forwarding for their remarks the Draft Bill for the adjudication of claims to waste lands, &c.

In Cons., 29th September 1862, No. 6,197.

2. The Board observe on the Bill as it stands that there is no provision for the case of a claimant whose claim the Collector may reject, and against whom the Government in the discretion left to them by Section III may not think fit to order a Suit to be brought to try his claim.

3. Section XIV provides for the case of a claimant who may for good and sufficient reason not have brought his claim before the Collector, and allows *him* to institute a Suit in the Special Court against the Collector within twelve months from the delivery of the land to the purchaser.

4. The Board are of opinion that the claimant whose claim has been rejected by the Collector and against whom the Government have not ordered a Suit to be brought to try the claim, should be allowed a similar option of filing a Suit himself, as Plaintiff, against the Collector.

5. The time within which such Suit should be brought might perhaps without objection be limited to six months from the date of the order of the Collector, rejecting his claim, or from the date of the Collector's report to Government that he had so rejected it, and it might also perhaps without objection be provided that no such Suit should be brought "*in forma pauperis*;" but considering that where the Special Courts are constituted, no other Court will be competent to entertain any of this class of claims, and that there is no appeal from any order or decision of such Court, and that the Court itself cannot revise its own decisions or orders, however good ground may be shown for their so doing, it certainly appears to the Board that the claimant cannot with justice be debarred from pressing his claim on the Special Court, although both Government and the Collector may deem it inadmissible.

6. The Board will also observe that Section XVII of the Bill which contemplates that the waste sold shall be free from the Government demand on account of the Land Tax, will not work with the recent order of the Madras Government determining the conditions on which land on the Neilgherries shall be made available to the public, be the purpose what it may for which it is required.

7. It will be therefore necessary to pass an order excepting all the lands on the Neilgherries from the operation of the recently prescribed Rules of the Supreme Government for the sale of waste lands and of the Law passed in furtherance of those Rules.

8. Such a reservation of the entire tract to which perhaps most attention has been turned, would excite much and not unreasonable discontent; and in view of this consideration, and of the extremely high price at which otherwise under the order referred to, land on the Neilgherries will have to be put up to auction, viz., Rupees 55 per acre for the best land, the Board would suggest the expediency of re-considering the matter, in view to a reduction of the price at which land on the Neilgherries shall be sold free of assessment. The proposed rate will probably be found prohibitory, and fatal to prudent enterprise.

9. The only further observation that occurs to the Board on the Bill as it stands is that it contains no definition of waste land, but this omission was probably intentional, and if so it appears to the Board judicious. A general definition, that should not be open to objection in some part of India, could not easily be framed for the present purpose.

10. The Board would, however, submit that the Bill might be made far more useful by rendering it applicable not only to waste land ordered to be sold, but to all waste land with which Government may desire to deal, only providing that in the case of waste land occupied by

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Government for public purposes, if prior claims shall be advanced and be admitted, the compensation to be paid to the claimant shall, should he so desire, be determined by arbitration under the provisions of Act VI of 1857.

11. Very slight additions* to the Bill would render it effective for this purpose, and the Board need scarcely enlarge on the advantage which would result from the provision of a summary process for this purpose.

ANNEXURE.

Preamble line 6 A "or otherwise dealt with" after "sold."

Section I ,, 3 A do. do.

„ 11 A "or occupation" after "sale."

II ,, 1 A "in the case of land ordered to be sold" after "If."

XIV ,, 5 A "or otherwise dealt with" after "sold."

„ 9 A "or occupied on behalf of Government" after "purchaser."

„ 12 A do. do.

„ 41 A "or occupied" after "sold."

„ 43 A "or occupation took place" after "made."

Section XV (a)—(new Section.)

"If in the case of waste land occupied on behalf of Government for public purposes, the Collector or Court be of opinion that the claim of the claimant is established, compensation shall be awarded to the claimant by payment of the value of the land according to its condition at the time it was first occupied, which value shall be either determined by the Collector or at the option of the claimant, by arbitration as provided in Act VI of 1857, and the land shall be retained by Government."

Ordered that the following letter be despatched.

No. 166. From T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Home Department, dated 13th October 1862, No. 2,203.

SIR,

1. I am directed by the Governor in Council to acknowledge the receipt of your letter of the 9th ultimo, forwarding for the opinion of this Government a copy of a Draft Bill "to provide for the adjudication of claims to waste lands and for the investment of the proceeds arising from the sale of such lands, and of other Government lands, and from the redemption of land revenue."

2. In reply I have to inform you that the Draft Bill was on its receipt sent to the Board of Revenue for their remarks. In transmitting the answer just received from the Board I am desired to accompany it with the following observations.

3. Board's letter paragraph 2. The Government do not perceive any omission or uncertainty in the case alluded to in this paragraph. They presume that if the claim be persisted in, and the Government do not order a suit to be brought under Section III of the Act, their abstaining from such a course will be equivalent to an admission of the claim, and the sale of the land will be stopped.

4. The above observation will apply to the further remarks of the Board in paragraphs 3—5 of their Secretary's letter, and it will not be necessary to make further provision for the case of parties whose claims may have been rejected by the Collector, but against whom no suit has been instituted by Government. Section XIV of the Draft the Government conceive to have been intended to meet cases where claimants from absence, minority or other cause had no opportunity of preferring their claims until after the land had been sold.

5. Board's letter paragraphs 6—8. In reference to the view taken in these paragraphs, I am instructed to forward a copy of the orders which were issued by this Government in regard

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13th October 1862.*

to the sale of lands on the Neilgherries on receipt of your previous letter, 15th August last, No. 4,244, and under the discretion allowed to this Government in the letter from the Government of India (letter 20th June, Home Department, No. 3,053). The Government consider that these rules should not be disturbed, and that the lands on the Neilgherries should be treated as exceptional. They think that the course prescribed in paragraphs 8 to 14 of the Proceedings of 24th ultimo, Revenue Department, No. 2,080, is that best suited to these peculiar localities. If however, it be indispensable that the waste lands on the Neilgherries should be sold in freehold, it is evident that the upset price of 5 Rupees or 2½ Rupees per acre must be much enhanced.

6. In the concluding paragraph of their letter the Board submit that the Bill might be made far more useful by rendering it applicable not only to waste land ordered to be sold, but to all waste lands with which Government may desire to deal, only providing that in the case of waste land occupied by Government for public purposes, if prior claims shall be advanced and be admitted, the compensation to be paid to the claimant shall, should he so desire, be determined by arbitration under the provisions of Act VI of 1857. The Government deem this suggestion to be very valuable. In the annexure to their letter the Board have noticed the slight additions to the preamble and certain sections of the Bill which will be requisite to give it effect.

7. This Government, I am desired to state, have no further observations to make on the Draft Bill.

Done

Revenue Board Office
Madras
2nd October 1862.

No.

From
W. Hudleston Esq^r
Secretary to the
Board of Revenue

To
The Honorable J. Pycroft
Chief Secretary
to Government

Sir,
I am directed by the Board of Revenue
to acknowledge receipt of the Government
Order dated 27th September 1862 No. 2109
forwarding for their remarks the draft
Bill for the adjudication of claims to waste
lands &c.

Supers: 29th Sept. 1862
No. 6197.

2 The Board observe on the Bill as it
stands that there is no provision for the case of
a claimant whose claim the Collector may
reject and against whom the Government in
the discretion left to them by Section III.
may not think fit to order a suit to be
brought to try his claim.

3 Section XIV provides for the case of

My notes from
this Bill
are as follows
The Bill is for the purpose of
the Board of Revenue
to be brought to try his claim.

See accompanying form in enclosure -
 Your attention is directed to the fact that the
 enclosed is a duplicate of the original which
 is on file in the office of the State
 and should be used for all purposes of
 reference only. - The original is
 at the State of New York.

do not like to
help the poor here
- The Lesson (XIV) is
familiar, and it is
not a new one.
Claimants from
a large number of
the poor opportunity
to make a decision
on the 2nd of the
1st of the year.

This is
already right
W.H.

Le 20/12/1912
 Mr. H. B. B. B.
 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 98, 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000, 1002, 1004, 1006, 1008, 1010, 1012, 1014, 1016, 1018, 1020, 1022, 1024, 1026, 1028, 1030, 1032, 1034, 1036, 1038, 1040, 1042, 1044, 1046, 1048, 1050, 1052, 1054, 1056, 1058, 1060, 1062, 1064, 1066, 1068, 1070, 1072, 1074, 1076, 1078, 1080, 1082, 1084, 1086, 1088, 1090, 1092, 1094, 1096, 1098, 1100, 1102, 1104, 1106, 1108, 1110, 1112, 1114, 1116, 1118, 1120, 1122, 1124, 1126, 1128, 1130, 1132, 1134, 1136, 1138, 1140, 1142, 1144, 1146, 1148, 1150, 1152, 1154, 1156, 1158, 1160, 1162, 1164, 1166, 1168, 1170, 1172, 1174, 1176, 1178, 1180, 1182, 1184, 1186, 1188, 1190, 1192, 1194, 1196, 1198, 1200, 1202, 1204, 1206, 1208, 1210, 1212, 1214, 1216, 1218, 1220, 1222, 1224, 1226, 1228, 1230, 1232, 1234, 1236, 1238, 1240, 1242, 1244, 1246, 1248, 1250, 1252, 1254, 1256, 1258, 1260, 1262, 1264, 1266, 1268, 1270, 1272, 1274, 1276, 1278, 1280, 1282, 1284, 1286, 1288, 1290, 1292, 1294, 1296, 1298, 1300, 1302, 1304, 1306, 1308, 1310, 1312, 1314, 1316, 1318, 1320, 1322, 1324, 1326, 1328, 1330, 1332, 1334, 1336, 1338, 1340, 1342, 1344, 1346, 1348, 1350, 1352, 1354, 1356, 1358, 1360, 1362, 1364, 1366, 1368, 1370, 1372, 1374, 1376, 1378, 1380, 1382, 1384, 1386, 1388, 1390, 1392, 1394, 1396, 1398, 1400, 1402, 1404, 1406, 1408, 1410, 1412, 1414, 1416, 1418, 1420, 1422, 1424, 1426, 1428, 1430, 1432, 1434, 1436, 1438, 1440, 1442, 1444, 1446, 1448, 1450, 1452, 1454, 1456, 1458, 1460, 1462, 1464, 1466, 1468, 1470, 1472, 1474, 1476, 1478, 1480, 1482, 1484, 1486, 1488, 1490, 1492, 1494, 1496, 1498, 1500, 1502, 1504, 1506, 1508, 1510, 1512, 1514, 1516, 1518, 1520, 1522, 1524, 1526, 1528, 1530, 1532, 1534, 1536, 1538, 1540, 1542,

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Rs. 50 per acre for the best land. the Board would suggest the expediency of reconsidering the matter, in view to a reduction of the price at which land on the Nilgherries shall be sold free of assessment. The proposed rate will probably be found prohibitory, and fatal to prudent enterprise.

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to the Board on the Bill as it stands is that it contains no definition of waste land. but this omission was probably intentional, and if so it appears to the Board judicious. A general definition, that should not be open to objection in some part of India, could not easily be framed for the present purpose.

10 The Board would however submit that the Bill might be made far more useful by rendering it applicable not only to waste land ordered to be sold, but to all waste land with which Government may desire to deal. only providing that in the case of waste land occupied by Government for public purposes, if prior claims shall be advanced and be admitted, the compensation to be paid to the claimant shall, should he so desire, be determined by arbitration under the provisions of Act VI of 1857.

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It is in my opinion
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(See annexure)

Bill would render it effective for this purpose and the Board need scarcely enlarge on the advantage which would result from the provision of a summary process for this purpose.

Revenue B^d Office
Madras,
2^d October 1802.

I have the honor to be,
Sir,
Your most obed^t. servant.

J. Munro
Secretary.

To
The Honble J. Pycroft.
Chief Secretary to Government.

EDC

Marginal Notes by the Honorable
Members of Council on letter from
the Secretary to the Board of Revenue
dated 2^d October 1802. (No. 2786)

By Honorable E. Maltby.

"I have made marginal ce-
-marks. We are not to criticize the ge-
-neral policy about to be pursued, but
the details of the Bill prepared to carry
it out." (Signed E. M.)

(Against para 2)

By Honorable E. Maltby.

"It seems to me that there
is no omission or uncertainty. If the
claim is persisted in and the Court do
not order a suit under Section III, this
is equal to admitting the claim and
stopping the sale." (Signed E. M.)

By Honorable W. D. Morehead.

"This view seems right."
(Signed W. D. M.)

(Against para 4)

By Honorable E. Maltby.

"See my preceding remark
on para 2. I am strengthened in my
view."

view by observing that unless a suit is brought against the claimant in the special court, he is able to sue the collector who sells the land and the purchaser of it in the ordinary Courts of the district. See latter part of Section VII. -

By Honorable W. A. Morehead -

"yes." (Signed W. A. M.)

(Against para 5)

By Honorable E. Malby -

"Do not the Board miss the point here. The section (XXV) is I think, intended to meet cases where claimants from absence, minority &c had no opportunity of making their claim until after the land had been sold."

By Honorable W. A. Morehead -

"This is clearly right."

(Signed W. A. M.)

(At the end of para 5)

By Honorable E. Malby -

"See Section VII - Are the Board right? A decision is not to be open to revision, but this may mean revision by any other authority."

By

By Honorable W. A. Morehead -

"certainly a review of an order desired to be made by the court passing it, cannot be refused."

(Signed W. A. M.)

(Against para 6)

By Honorable E. Malby -

"This point must be carefully attended to. The land is to be sold free from all encumbrance but not from liability to assessment. The section allows it to be taxed afterwards for Imperial or local purposes and perhaps therefore no difficulty will be found."

By Honorable W. A. Morehead -

"yes. the point noticed should be brought to the notice of the Calcutta people." (Signed W. A. M.)

(At the end of para 7)

By Honorable E. Malby -

"See remark on previous para"

(Against para 8)

By Honorable E. Malby -

"This must be attended to and brought before the Govt of India - the course

for their remarks. In transmitting the answer just received from the Board I am desired to accompany it with the following observations.

3 Board's letter para 2. The Government do not perceive any omission or uncertainty in the case alluded to in this para. They presume that if the claim be persisted in, and the Government do not order a suit to be brought under ^{the} III of the Act, their abstaining from such a course will be equivalent to an admission of the claim; and the sale of the land will be stopped.

4 The above observations will apply to the further remarks of the Board in paras 3-5 of their Secretary's letter

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5 Board's letter paras 6-8. In reference to the view taken in these paras, I am instructed to forward a copy of the orders which were issued by this Government in regard to the sale of lands on the Nilgheries on receipt of your previous letter 15th August last N^o 4244,

and

and under the discretion al-
lowed to the Government
in the letter from the Govern-
ment of India (letter 20th June
Home Department, No. 3053).

The Government consider that
these rules should not be dis-
turbed, and that the lands
on the Neilgherries should be
treated as exceptional. They

think that the course prescribed
in paras 8 to 14 of the Proceed-

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No. 2080 is that best suited to

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J. This, I am assured
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-der observations to
make on the draft
but

JP

Fort St. George
13th Oct 1862

Revenue 1862 Deficit
no: of paid for October

Nov 2203.

To the Secretary of the
Govt of India
Home Dept
Dy 13th October 1862.

Waste lands.
15-6-93
14/10/92
18-6-18

Pie. No. 523-524
27-9-62

Ms 165 + 166.

Forwarding opinion
on Bill to provide for
the adjudication of claims
to waste lands.

13-10/62

c 10 Oct 1862 R 11