

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 986.

Press

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201.202

Dated

11 — 5 — 1865.

Not to be folded or roughly handled

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Proceedings of the Madras Government, Revenue Department,
11th May 1865.

No. 201. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, dated Madras, 20th January 1865, No. 334:—

SIR,

1. Referring to Government Orders, dated 16th January, and 1st October 1864, Nos. 101 and 1,814, Revenue Department, I am directed by the Board of Revenue to submit the accompanying revised Draft of Rules for the levy of the water-rate in the Godavery and Kistna Deltas, modified so as to give effect to the orders of Government on the questions of the "Mamul" Nunjah in Zemindary and Inám lands, and of the option of taking or refusing water ordered by the Secretary of State to be allowed in all cases where no special agreement for a permanent arrangement has been entered into.

2. The Board have communicated on the subject with the Collectors of the Districts, and believe that this Draft expresses their views. They trust that it will meet with the approval of Government.

3. In re-constructing the Rules, the Board have omitted the provisions for Inám lands proposed by Government in paragraph 6 of Government Order, dated 16th January 1864, as they appear to be inconsistent with the *option* which is now to be allowed to ordinary Ryots, and as the object of the second provision (*b*) will doubtless in all cases alike be attained with equal ease and less objectionably, by leaving the matter to be decided by the weight of local influence and opinion.

4. The Board also direct me to annex copy of the reply received from the Government Pleader on the subject of the Draft Bill for levying a water-rate, and to submit a revised Draft, modified in

Dated 14th September 1864.

accordance with his suggestions, and with some slight verbal additions and omissions, made partly with reference to Section 1, Madras Act II. of 1864, omitting, however, the words "after the passing of this Act" from Mr. Dale's Draft Section 4, which might be held to preclude the levy of any water-rate for irrigation newly supplied to Zemindary or Inám land *since* the construction of the Anicut but *prior* to the passing of the Act, and which supply may be hereafter continued uninterruptedly. The Board have not made the second addition proposed by the Government Pleader to Section 3 of the Bill, as it goes beyond their intention in the original Draft, and they do not see the necessity for barring any existing jurisdiction of the Courts as regards acts done *after* the enactment of the proposed measure.

5. The Board recommend that the Bill, as now drafted, be transmitted to the local Legislature.

From C. DALE, Esq., Government Pleader, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 14th September 1864, No. 202.

SIR,

1. I have the honor to acknowledge the receipt of the Proceedings of the Board of Revenue under the date and number noted in the margin, and to report that in my opinion the Act as framed would leave it doubtful whether lands held by Zemindars and Inámdars would come under its operation.

2. I therefore advise that an additional Section be introduced immediately before the last, as follows:—

V. This Act shall extend to all lands held by Zemindars or Inámdars for the irrigation of which, water may be, after the passing of this Act, newly supplied or used from any such river, stream, channel, tank or work, as is specified in Section I.

3. I do myself the honor of stating that the expressions "State Funds," "The State," and "The Government," when introduced into Acts which apply to India are ambiguous unless accompanied by an interpretation Clause. I would suggest that the terms "State Funds" and "The State" should be omitted, and that in lieu should be substituted, "Government Funds" and "The Government." As also, that an interpretation Clause should be added, to the effect that by "The Government" is meant The Governor of Madras for the time being in Council.

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11th May 1865.*

4. In the Section which is at present No. III. after the word taken, I suggest there should be added, "or sustainable," and to that Section the following words should be added, "or which may hereafter be done under the provisions or under color of this Act."
5. The Sections will require to be newly numbered.

DRAFT ACT.

Preamble.

Whereas in several Districts of the Madras Presidency large expenditure out of Government Funds has been and is still being made in the construction and improvement of works of Irrigation and Drainage to the great advantage of the country, and of the occupants of land, and whereas it is right and proper that a fit return should in all cases alike be made to Government on account of the increased profits derivable from lands irrigated by such works.

It is enacted as follows:—

Section I.—Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank, or work belonging to, or constructed by Government, it shall be lawful for the Government to levy at pleasure on the land so irrigated a separate cess for the use of the water, which cess shall be additional to any land assessment that may be leviable on the said land as un-irrigated or Punjab.

It shall be lawful for the Government to prescribe the rules under which, and the rates at which such water-cess as aforesaid shall be levied, and to alter the same from time to time, and the rules so prescribed shall have the force of law.

Section II.—Arrears of water-cess payable under this Act shall be realized in the same manner as arrears of Land Revenue are, or may be realized by Law in the Madras Presidency.

Section III.—No action or other proceeding shall be had, taken, or sustainable against any Officer for anything done by him in, or relating to, the imposition, or levying of any such water-rates heretofore imposed or levied with the sanction of the Local Government.

Section IV.—This Act shall extend to all lands held by Zemindars, Inamdars, or any other description of land-holders, for the irrigation of which, water may be supplied or used from any such river, stream, channel, tank or work, as is specified in Section I, provided always that where a Zemindar or Inamdar by virtue of engagements with the Government, is entitled to irrigation free of separate charge, no cess under this Act shall be imposed for water supplied to the extent of such right and no more.

Section V.—No Court of Civil Judicature shall have authority to take cognizance of any question as to the rate of water cess fixed by Government under this Act.

Section VI.—This Act shall take effect only in such Districts or parts of Districts, and in "Fort Saint George Gazette," and shall in no wise affect the right of Government to levy a consolidated Nunjah assessment, where the same may now be in force, or may hereafter be deemed expedient.

Section VII.—The Term "The Government" where used in this Act shall be held to denote the Governor of Madras for the time being in Council.

(Signed) W. HUDLESTON,
Secretary.

[Revised with reference to Government Order, dated 16th January 1864, and 1st October 1864.]

RULES FOR THE ASSESSMENT OF THE WATER-RATE IN THE GODAVERY AND KISTNA DELTAS.

1. The new Revenue Settlement will be made in the Godavery and Kistna Deltas on the principle of an assessment of the land according to its natural capabilities without irrigation, and a separate water assessment to be levied as follows.

2. All lands now permanently supplied with the means of irrigation for a single wet crop, and which are now cultivated as Nunjah, and have actually been irrigated for two or more seasons prior to the 18th July 1863, shall be classed as "irrigated" and charged Rupees 3 per acre per annum for water, in addition to their fixed land assessment. Such land shall not be transferred to Punjab unless the means of irrigation fail permanently.

This provision will not preclude one Ryot from transferring his land to another without forfeiture of the favorable rate for the first year.

3. Where water is supplied for a second crop of any description on Nunjah land, a water-rate compound for irrigation for two crops either for a term of years or in perpetuity, at the rate of Rupees 5 per acre, payable annually (in addition to the land assessment), except on the occurrence of a total failure of water.

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11th May 1865.*

Such composition shall not be for a less period than five years, and if it be made without limit as to time, one clear year's notice of its discontinuance must be given.

4. Sugar-cane, betel, plantains, and other such garden produce remaining on the ground for the time of two crops, shall pay Rupees 6 per annum per acre for water all the year round; but the owner of lands so cultivated may compound under Rule 3.

5. Temporary irrigation for a Nunjah crop on dry land shall be charged for at the rate of Rupees 3 per acre for each crop besides the regular land assessment.

6. Temporary irrigation for Punjab crops on dry land shall be charged at the rate of Rupee 1½ per acre, either for first or second crop, beside the regular land assessment.

7. When Ryots desire to convert dry land into wet, application is to be made to the Collector either directly or through the Tahsildar on or before the 31st March, and the Collector will arrange with the Public Works Department for the supply of water.

Where the means of irrigation for such land already exist, the Ryot shall, as a rule, have the option of continuing or ceasing to use the water at his pleasure, provided that where water is taken for only a single season, the full rate of Rupees 3 per acre per crop shall be charged.

The Collector shall, however, be at liberty to require the Ryot in exceptional cases to enter into an agreement for continuing to take the water for such period as he may deem necessary and equitable in the interests of Government, or of other individual Ryots, before arranging for the supply.

Where it may be necessary to execute new works at Government cost in order to provide the required supply, such preliminary agreements for the continuance of the water-rate as may in each case appear necessary shall be taken from the land-holders, for whose benefit the work is designed, but the fulfilment of the agreement will depend on Government sanctioning the proposed outlay for the works.

8. Where water is temporarily required for Punjab crops and dry land, application may be similarly made at any time, and the Collectors will arrange with the Department of Public Works for the supply if other exigencies will admit of it.

9. Where water is surreptitiously taken by Ryots, double the water-rate which would be chargeable according to these rules, shall be rigidly exacted, and the parties thus taking water will be further liable to a criminal prosecution.

10. These rules shall apply to Zemindary and Inam lands, except where, in the case of Zemindaris, a composition shall have been made either for fixed yearly payment, or according to the quantity of water supplied. Provided always that no charge whatever shall be made under these rules for a single crop on Zemindary or Inam land where such lands are proved to have been customarily cultivated with wet crops under old tanks, channels, or by any other means of irrigation whatever prior to the construction of the Anicuts, or to have been charged in the accounts with such a rate of assessment as indubitably indicates the title of such land to water, or by the terms of the grant to have been given as Nunjah Inam.

11. The arrangement, whereby in a part of the Kistna Delta in the old Guntoor division a consolidated water-rate of Rupees 4 per acre has been introduced will be superseded by the present rules. But in the other parts of the Delta in that division where the system of Nunjah rates prevails, that system will remain undisturbed till the new Revenue Settlement is introduced.

12. The water rate payable under these rules shall be paid at the stated time along with the land assessment, or in the usual instalments where there is no such land assessment payable to Government.

(Signed) W. HUDLESTON,
Secretary.

No. 202. ORDER THEREON, 11th May 1865, No. 986.

Land Revenue.

Nos.

1. With the letter above recorded the Board of Revenue submit as desired in G. O., dated 10th January and 1st October 1864, Drafts of a Bill and of Rules for the levy of a water-cess in localities where the Government may see fit to adopt that mode of realising the revenue from works of irrigation in preference to levy-
ing a consolidated Nunjah assessment.
2. The Government consider that the words, "in lieu of a consolidated Nunjah assessment", which the Board have inserted in Section I. of their Draft Act had better be omitted. The Rules referred to in the second Clause of this Section should also be declared to have the force of law.

The letter with enclosure to be sent to the Board of Revenue for their consideration. The letter to be sent to the Board of Revenue for their consideration. The letter to be sent to the Board of Revenue for their consideration.

works

Proceedings of the Madras Government, Revenue Department,
11th May 1865.

3. In Section IV. the Government would omit the word "newly", and in order to protect the interests of Zemindars and Inámdars who may be entitled to a certain amount of irrigation without payment, in consequence of the value of such irrigation being included in their Peshcush or tenure, they would add a proviso to the following effect: "provided always that where a Zemindar or Inámdar, by virtue of engagements with the Government, is entitled to irrigation free of separate charge, no cess under this Act shall be imposed for water supplied to the extent of such right and no more."

4. The Government would also add a Section similar to Section 58 of Act II. of 1864, barring the Civil Courts from taking cognizance of any question as to the rate, &c., of water-cess.

5. With these remarks the Board's Draft will be transferred to the Legislative Department for disposal.

6. As regards the Rules, the Government think the following alterations desirable:—

I. On further consideration the Government would extend the period of actual irrigation in Rule 2. It would be better also to fix a date antecedent to the Despatch of the Secretary of State, dated 24th November 1863. The sentence might stand thus: "and have been actually irrigated for two or more seasons prior to the 1st July 1863." The holders of lands not so irrigated would have the option conceded by the Secretary of State in the Despatch above referred to.

II. The Government would omit Rule 3 altogether, and levy the full rate in all cases. The Ryots are practical agriculturists, and know well enough on what soils irrigation will prove remunerative, and the concession of 1½ Rupee is not likely to induce them to incur the expense of preparing their lands for irrigation. On the other hand, the retention of the half rate will lead to confusion and disputes, and render enquiries frequent. What the Ryot may fairly claim is time for trial, and this may be conceded in Rule 8. By this Rule a Ryot is to be allowed the option of taking or ceasing to take water if the means of irrigation already exist. The Government think that this is more than can reasonably be sought; and that they may with perfect justice refuse to incur the great inconveniences of such a system, they would allow the Ryot in such a case two years to decide finally whether he will have his land supplied with water for a term of years or not. If he finds that irrigation does not pay on his lands, the supply will cease, and he will be in no worse position than before, and as his land was never previously irrigated he cannot justly complain of any hardship or breach of faith.

7. The last Clause of Rule 8 should be modified so as to declare the fulfilment of the agreements dependent on Government sanctioning the outlay for the works. The last sentence of the Clause, viz., "and in such cases the arrangements for the supply of water will be regulated by tracts only, and not by detached fields" should be omitted, as unless a sufficient number of land-holders apply for irrigation the expense of providing it will not be incurred.

8. The Board will consult the Collectors of the Godavery and Kistna on these points.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

To the Board of Revenue,
,, the Legislative Department.

Exd. R. H. Lee.

Revenue Department
No. 986

Proceedings of the Madras Government

Under date the 11th May 1865.

Read the following
letter from the Secretary to
the Board of Revenue.

Submitting Draft Rules
for the levy of water rate
in the Godavery and Kistna
Deltas and recommending its
transfer to the local Legislature.

(Here enter 20th Exam. No. 334)

With the letter
The 18th of Dec.
above recorded submit as
desired in G. O. dated 10th

Jan 7 & 10th 1864 — drafts of a
Bill and rules for the levy
of a Water cess in localities
where the Government may
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Ranjah assessment.

The Government consider
that the words - "in lieu of
a consolidated Ranjah as-
sessment" which the Board
have inserted in Section I of
their Draft Act, had better
be omitted. The rule referred to in this Section
In Section IV the Government would omit the
word "newly" and in order
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whether he will have his land supplied with water for a term of years or not. If he finds that irrigation does not pay on his lands, the supply will cease and he will be in no worse position than before and, as his land was never previously irrigated, he cannot justly complain of any hardship or breach of faith.

The last clause of Rule 8 should be modified, so as to declare the fulfilment of the agreements dependent on Government sanctioning the outlay for the works. The last sentence

The Board will consult

the clause viz "and in such cases will be liable to pay the outlay of water by detached fields" should be omitted as an owner of the land cannot run the risk of being liable for irrigation. It

consult the Collectors of the Godavery and Krishna on these points.

J.S.

14 To the Board of Revenue, Sec 13 May
5 to the Legislative Dept.

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Copy in a Letter to England
21st November 1865
Land Revenue

Revenue 1865
Pro: of Govt. for

No 986.

Pro: of the Madras Govt.
11th May 1865

Pro Board of Revenue
1 June 1865 No 1476.

From the Legislative Dep^t.
No 1494.

Pro: of the Board of Revenue
11 October 1865 No 2932.

Revising and forwarding
to Legislative Department
and Board of Revenue the
draft bill and Rules for
 levy of Matin Cys.

201-202.

21 May 1865