

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 994	<u>Press</u> ~~MIS.~~
217.218	
Dated	11 - 5 - 1865.

Not to be folded or roughly handled

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

No. 217. Read the following Proceedings of the Board of Revenue, dated 10th April 1865, No. 1,909.

Read again letters from G. BANBURY, Esq., dated 18th October 1864, recorded in Board's Proceedings, dated 5th November 1864, No. 7,232, and from P. R. HUTCHINS, Esq., dated 28th October 1864, recorded in Board's Proceedings, dated 5th November 1864, No. 7,234.

Read also the following letter from E. G. R. FANE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Sydapet, 24th January 1865, No. 26:—

1. Adverting to the Board's Proceedings, dated the 5th November last, No. 7,232, I have the honor to state that having already submitted the Statement called for in paragraph 1, I have only to submit my reply to the other paragraphs of their Proceedings.

2. In paragraph 2. the Board call upon me to explain in what respect the system of charging waste retained in the Puttahs in this District has differed from the system followed in other Districts.

3. From the inquiries I have made, it appears that up to Fasly 1270 the assessment on waste, whether Nunjah or Punjah, was fully remitted on the assumption that it was due entirely to unfavorable seasons, and a consequent deficiency in the supply of water.

4. In Fasly 1271, before the settlement had actually commenced, Mr. Cunliffe issued a Circular to the Tahsildars stating that as that season was more favorable than the previous one, he proposed to charge 20 per cent. on all waste lands, whether Nunjah or Punjah. He did not, however, carry out this principle in its integrity, but relaxed it in a few cases by remitting the full amount of Nunjah Bunker. His reasons for thus relaxing is nowhere recorded, but I am informed that a deficient supply of water was the real reason.

5. In Fasly 1272 he altered the principle of charging waste, and charged full assessment on all dry land, remitting 50 per cent. only of the Nunjah waste.

6. The Tahsildars as usual conducted the settlement, remitting the Nunjah waste on the above principle, but without inquiry into each individual case, as I believe ought to have been done, and is done in other Districts. Mr. Cunliffe then simply distributed the Puttahs, and decided only such important disputes as were brought to his notice, and concluding that the season was generally good, made a charge of 50 per cent. on the waste, the charge being uniform throughout the District. Under such a mode of settlement the entire waste was simply exhibited in Statement No. 8 and totalled up, and from the aggregate amount 50 per cent. was deducted, and the remainder brought to account and charged.

7. This settlement was, however, subsequently reversed with the Board's sanction by Mr. Ellis, who remitted the full assessment on Nunjah waste, concluding that the season was not favorable, and that there was no negligence on the part of the Ryots, and also on the ground that such per-centage charges were impolitic and harsh towards the Ryots.

8. In Fasly 1273 Mr. Banbury issued a Circular similar to the one issued by Mr. Cunliffe in Fasly 1272, that the Tahsildars themselves were to conduct the settlement, and as a rule, all Nunjah Bunker was to be charged by them, and only special cases were to be disposed of by himself; subsequently when he went to the Talooks, he as a rule charged the entire Nunjah waste in each village, but at different rates of per-centage, and remitted the full amount in a few cases only recording his reasons for so doing in his Note Book. Mr. Hutchins, the Acting Sub-Collector followed nearly the same principle in his division.

9. Thus the Board will see that the system followed hitherto in this District has been to treat all waste alike, and to give remissions at a fixed or a varied rate of per-centage, and that until last Fasly no official record was ever kept showing the grounds on which such remissions were granted or withheld, although as observed by the Board, Statement No. 8 of the Village Manual is the document in which the grounds for remitting the items of waste or Shavy or aught else should be recorded. The fact is that the settlement in the Madras District has hitherto been more of the nature of a settlement of village rents than that of a Ryotwary District, it was so last year also; and, therefore, when the Board directed me in their Proceedings of the 28th July last, No. 4,788, to remit the waste in toto when I was satisfied that the waste was the result of insufficient supply of water in the tank, I found it impossible to distinguish the cases in which the waste was justly charged from those in which it ought not to have been charged without holding a second Jammabundy, which was totally impracticable so late in the year; and I was, therefore, obliged to send orders to the Tahsildars that the assessment on the entire Nunjah waste was not to be collected; but I have since directed them according to the Board's Proceedings of the 10th December 1864, No. 7,933, to hold my first order in abeyance until further instructions are received from Government, and have advised them that the settlement of this year will be an individual one, and in strict accordance with the Board's orders especially as regards remissions.

*only in case of
the orders of his predecessor*

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10. Having answered the Board's question as regards the system of settlement hitherto prevailing in this District, I now beg to offer a few remarks on Mr. Banbury's letter as requested by them in paragraph 3 of their Proceedings.

11. Mr. Banbury, in paragraph 4 of his letter to the Board, states that the whole system of Revenue administration in the Madras District, has been to favor the grasping and selfish Mirassidars.

12. On this point I beg to submit that laxity has no doubt prevailed in past years in conducting the settlement, inasmuch as all the waste was concluded to be *bona fide* the result of each individual case, and the assessment was always charged or remitted at a per-centage rate upon whole villages, contrary to the spirit of all the orders of the Board and Government. For such a system, the officers of Government might be blamed; but certainly not the Ryots. For rate Mr. Banbury's plan was not one fitted to remedy the evil; as under it the waste was charged upon the negligent and the industrious alike, the burden falling equally upon both whether Mirasidar or Payakari.

13. Notwithstanding the laxity of the Revenue administration, I find that the cultivation has steadily increased since Fasly 1269, and that too in spite of the notoriously defective means of irrigation of this District, as so frequently pointed out to the Board and Government by my predecessors, and by myself also in one of my late communications. In Fasly 1269 the cultivated area amounted to acres 208,058, assessed at Rupees 10,03,587. In Fasly 1273, the Puttah holdings of the Ryots amounted to acres 266,564, assessed at Rupees 10,32,969, while the cultivation amounted to acres 242,453, bearing an assessment of Rupees 9,49,103. The apparent disproportion between the assessment of the cultivated area of 1269 and that of 1273 is owing to the figures of 1269 including the second crop assessment, while the figures for Fasly 1273 represent simply the Taram assessment, but if the second crop charge is deducted from the figures given for 1269, the real increase in 1273 would amount to Rupees 92,000 or 10 per cent. increase on the Beriz of Fasly 1269.

14. While I admit that laxity has prevailed in the Madras District in conducting the settlement, I am not prepared to admit that the Mirassidars have been treated with any undue leniency. On the contrary, the system pursued towards them appears to have been for some years past rather harsh, as when they wish to retain lands which others have applied for, they have been required to give a Cararnamah to the effect that they would pay for the land under all circumstances, whether the season were good or bad, and water available or not, and the terms of the Cararnamah were invariably enforced, and which I believe is not the case in other Districts.

15. I admit that they, the Madras Mirassidars, are tenacious of their rights, and are averse to strangers getting a footing in the lands to which they consider that they alone have an hereditary right; their conduct, however, cannot be called grasping and unjust, considering all that has been said and written on their Mirassi rights, and the many judicial decisions wherein such rights have been acknowledged and upheld.

16. In paragraph 5, Mr. Banbury alludes to the fact of his having been struck by the enormous remission granted in Madras on Puttah waste retained by Ryots year after year, compared with the remissions granted in South Arcot, and therefore he states he endeavoured to ameliorate this lax system when the District was placed temporarily under his charge.

17. On this point I beg to observe that it is not fair to compare Madras with South Arcot, a District peculiarly favorably situated in regard to means of irrigation, and one in which more than half the Nunjah Beriz (nearly 8 lacs of Rupees) is derived from irrigation from such rivers as the Coleroon, Vellar, Pennar, and Godelam, while in the Madras District there is no river channel worth mentioning, and when there is but one Anicut, viz., that at Kesavaram, which diverts the surplus water of the Kaveripputh tank in the North Arcot District into the Bungaroo channel, which supplies the Chunbrambakam tank, the largest in this District. The revenue under this Anicut amounts to only to Rupees 53,000, while that under the lower Coleroon other Anicuts there amounts to nearly four more lacs of Rupees, and the revenue under facilities for irrigation, I find from the printed reports that the Nunjah waste in South Arcot in Fasly 1271 amounted to Rupees 59,175, and that in Fasly 1272 to Rupees 77,400.

18. In paragraph 10, Mr. Banbury says that the early rains in this District in 1863 were "abundant and continuous." But I find that at the time of Jumma bundy, claims were frequently preferred for remissions on the ground of a failure of rain and the consequent want of water in the tanks which had forced the Ryots to use their own private well water for their

early crops. In such cases Mr. Banbury remitted half the Taram assessment equal to the charge for second crop, if the cultivation was in the months of June, July, and August, clearly shewing thereby that in those early months even there was an insufficient supply of water, the rain did not thoroughly commence till about the middle of October, and the water used for early crops was, therefore, as represented by the Ryots, their private well water.

19. All this proves beyond doubt that the early rains were not so abundant as supposed by Mr. Banbury, but that they were just sufficient to begin the dry cultivation. I submit in the subjoined Statement the rain reports for the last year compared with the previous one, by which it will be seen that the season of 1273, though a better one than that of 1272, was not by any means a very favorable one. The rains which fell in October were certainly far more copious than they had been in the same month of the previous year; but it cannot be said that they were altogether seasonable, as there was no rain in January or the following month.

20. Mr. Banbury states that where the marginally noted characteristics were evident, he concluded negligence on the part of the Ryots, and therefore rejected claims to remissions. In regard to the first characteristic, I beg to refer the Board to the Statement referred to in paragraph 36 of this letter, from which the Board will find that the cultivation was more and the waste less generally than in the previous year.

21. Mr. Banbury seems to think that he has successfully proved the fallacy of my argument that the existence of second crop cultivation is no proof of neglect on the part of the Ryots inasmuch as the Ryots frequently raise their early crops by private wells. I beg to submit, however, that the existence of a second crop cultivation would imply neglect on the part of the Ryots, only when such has been raised after the tanks have received their due supplies. No inquiry appears to have been instituted by Mr. Banbury as to the months in which the second crop was raised, or rather there is nothing on record to show that he did so, and moreover the theory of charging the waste, because there is so much second crop cultivation by means of Government water may hold good in individual cases only; but not as against a whole body of villagers, for all the Ryots were not likely to have had the power of raising a second crop cultivation rendering them liable to a charge on their Nunjah waste.

22. It also frequently happens that a Ryot has land close under the tank bund, and other land at some distance from it. In such cases they generally cultivate the lands in the vicinity of the bund early in the season as soon as the tank is only partially filled. The land at a distance is left waste until the tank is further supplied. If this supply should not come, the distant land remains waste throughout the year; the land close under the tank may either by a well or by tank-water be made to produce both a first and second crop; but the doing so does not prove that the same Ryot's land further removed from the tank could have been cultivated, and that, therefore, the cultivator should not have remission. All these cases, however, shew how very necessary an individual settlement is, and how faulty a general settlement and remission, as adopted by Mr. Banbury may be, and was, according to my opinion in the year in question.

23. When absenteeism is clearly proved, and the Puttahdar has left no one in charge of the land to cultivate it, and when means of irrigation were available, I confess the land should be charged; but in the few cases in which Mr. Banbury charged on the above ground, there seem to have been generally extenuating circumstances, which, however, were not considered or noted down in Mr. Banbury's Note Book.

24. As to the Ryots retaining more land than they cultivate, it appears to me that previous

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	1862-63.		1863-64.	
	Inches.	Tenths.	Inches.	Tenths.
April	0	0	2	2-9
May	0	0 ¹ / ₁₀	0	4
June	0	9 ¹ / ₁₀	1	4-7
July	2	0	3	3
August	4	6 ¹ / ₁₀	4	1-5
September	2	8 ¹ / ₁₀	2	9-1
October	5	6 ¹ / ₁₀	12	3-8
November	5	5 ¹ / ₁₀	2	8-9
December	5	6 ¹ / ₁₀	5	6-7
January	0	4 ¹ / ₁₀	0	0
February	0	0	0	0
March	0	5 ¹ / ₁₀	0	0
	28	2 ¹ / ₁₀	35	4-6

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to calling upon them to give it up, or to pay the full assessment, the Government should be able to show that the water supply was complete. If it be not so, the land should be re-assessed and charged at the dry rate. If after this the Ryots still persist in leaving the land waste, they could then be fairly charged.

25. I admit that the remissions in the Suttivedu Division are less than they are in the Trivallur Division; but it must be observed that that division contains more dry than wet lands unlike the other portions of the District,

and, moreover, being a hilly tract, Ryots do take advantage of the rills that run down from the hills. In the lower part of the division the soil also contains so much moisture throughout the year, that a kind of coarse paddy grown without any irrigation yields generally a fair crop. These natural advantages, coupled with the comparatively light assessment which the Nunjah lands bear in that division, tend to lessen the remissions on account of Nunjah waste. That this is not due to any extraordinary industry in the Ryots of that part of the District, the Ayacut of this division will show. This Ayacut amounts to acres 58,089, bearing an assessment of Rupees 98,612. Of this, the cultivation according to the accounts of last Fasly amounted to

	Acres.	Rs.
Punjab	88,444	57,684
Nunjah	19,645	64,928
	58,089	98,612

acres 27,944, assessed at Rupees 54,234 nearly half the entire Ayacut, or 45 per cent. is thus still waste, which certainly does not say much for the industry of the Ryot of that part of the country.

Vide paragraph 15 of Mr. Banbury's letter.

26. I admit that there is much truth in what Mr. Banbury says in regard to the quantity of water consumed by the Betel gardens at Manaloo in Saidapet Talook, and the consequent waste around these gardens; but I submit that, had Mr. Banbury charged only such lands, it would have been quite fair as they could have been cultivated, had not an undue supply of water been taken up for the Betel gardens; but it was surely unfair to charge on this account the entire remaining waste of the village. In this village the waste is nevertheless less by Rupees 4 than in the previous year, and in all the villages of Saravana Mudali the waste is also less by Rupees 370 than in the previous year.

Paragraph 18 of Mr. Banbury's letter.

27. Mr. Banbury is mistaken in supposing that Shavy chiefly occurs in the second crop cultivation. The remissions in last year for Shavy were chiefly on the first crop cultivation, and there were but very few cases in which remission was claimed, and granted on second crop Shavy, and therefore the presence of Shavy is most undoubtedly the strongest evidence in favor of a deficient supply of water. If as Mr. Banbury says Shavy reports made by the Talook Officers are not to be believed, the Ryotwary system had better be given up, and the village rent or some other more trustworthy system be introduced.

Paragraph 25 of Mr. Banbury's letter.

28. The statement that I made in regard to the waste in Vallur in my letter to the Board, dated 10th July 1864, No. 329, was taken from the report of one of the Office Gumastahs who was specially deputed by Mr. Banbury to inspect the waste of that village. If Mr. Banbury felt satisfied in his mind that the land on the side of the Canal, could be cultivated; and that if the Mirassidars did not chose to do so, while there were others who were willing to cultivate it, I think he ought to have charged only such lands, and not the whole waste in the village, especially as the cause of the remaining waste was ascertained to be; first, that means of irrigation were disproportionate to the extent of land intended to be irrigated; and secondly, the scanty freshes in the river. Mr. Banbury does not allude to these causes in his Note Book, but I think that they were points that he, as Settling Officer, should have considered.

Paragraphs 21 and 27 of Mr. Banbury's letter.

29. Mr. Banbury states that the authority under which he granted the per-centage remissions on the entire waste of each village was to be found in paragraph 5 of the Extract from Minutes of Consultation of the 6th February 1853, No. 159, and paragraph 11 of the Board's Proceedings, dated the 8th August 1859, and that had I read these Proceedings I would not have recorded "that the spirit of all the orders of Government and Board on the subject of remissions is directly opposed to proceedings like Mr. Banbury's."

30. On this point I beg to submit for the attentive consideration of the Board that in the Proceedings quoted by Mr. Banbury, the question of remitting Nunjah waste seems to have been

Vide Board's Circular Order, dated 8th August 1859, No. C., page 164, Volume for 1859.

simply discussed; but there is nothing in the final order* of the Board circulated to all Collectors that the remission on Nunjah waste should be given by a general per-centage. On the contrary, the order above quoted clearly states (paragraph 7) that all lands in the Ryots' Puttah will be charged for except when irrigated lands are left waste from indubitable failure of water.

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31. The same Circular clearly lays down that remissions on Shavy should be given (paragraph 8) by a general per-centage either for the whole Talook, or for a set of villages, and if the Board meant that the remissions on Nunjah waste also were to be given on the above principle, it would have been so stated. Again in paragraph 5 of the Government order, dated 10th March 1860, No. 304, (Board's Proceedings, 12th March 1860, No. 1,245,) the Government have ruled in the most unqualified terms that "Nunjah waste will be dealt with under the general rule above set forth in paragraph 2, viz., where it is clearly waste from natural causes, remissions will be allowed; but not where it is waste through the neglect of the holder." This principle is again repeated in the Board's Standing Circular (paragraph 1) of the 19th June 1863, No. LXIX. Thus the orders on the subject of remissions are positive, and are in favor of full remissions or none, and I see no ambiguity in them, nor can I put any other construction upon them than what I have done.

Paragraph 27.

32. Mr. Banbury adduced in the marginally noted paragraph of his letter, two instances to shew that he did inquire into individual cases. The first of these is the case of Subba Sastroulu, who he states was absent on the western Coast trading. It is true that Subba Sastroulu was absent at the time; but it appears that he always had, and even now has a Gumashta living in the village to superintend the cultivation, and that the Gumashta alleged at the time of Jammabundy that it was impossible for him to have cultivated the land for which he was charged, as it was submerged by the Red Hills tank water. It should have been ascertained how much of the waste was really so submerged; but Mr. Banbury's Note Book, the only record of remissions granted, does not shew that any such inquiries were ever made. In proof of the Gumashta's allegation being correct, Subba Sastroulu has since given up 8 and odd out of nineteen Cawnies* of this waste land on the score that it is thus annually submerged, and

* Nineteen Cawnies left waste in Fusly 1273.

always therefore unfit for cultivation, although the Red Hills tank by which the remainder of this man's land ought to be irrigated received its full supply of water. I think its capacity is much out of proportion to the extent of land under it as shewn in the margin.

	Cawnies.	Assessment.
Ayacut.. ..	1,144	3,792
Cultivation.. ..	1,053	3,502
Waste.. ..	91	290

33. The other instance adduced by Mr. Banbury is that of Appasawmy of Terooneermalai. He also has a Gumashta in the village to look after his cultivation; but it appears that although the tank had received a supply of only five instead of six months, the leaving it waste appears from the further inquiries now made to be the result of neglect on the part of the Gumashta, the land being situated immediately under the bund, I have therefore ordered the assessment to be collected.

34. The number of cases individually charged by Mr. Banbury in the three Talooks settled by him, are those given in the following statement including the two quoted in two previous paragraphs. I was satisfied from the inquiries instituted that the charge made by Mr. Banbury in the case of Veeraragaven and Appasawmy Mudaly was correct, and have therefore issued orders for its collection. If the Board are satisfied with the reasons advanced by Mr. Banbury in each of the remaining cases for charging the waste, I will at once issue orders for the collection of the assessment; but it is to be remarked that out of those cases, Madaveram and Toondalam have, I think, too great an extent of land to be watered by their tanks. The tanks in all the other villages received on an average not more than half the supply they were capable of holding, and they were therefore all peculiarly worthy of consideration, and of having remissions granted to them.

Talook.	Number.	Village.	Name of the party.	Capacity of the tank; months.	Supply received; months.
Trivallur.	41	Kathermedu	Veeraragaven	4	4
	69	Toondalam	Subbaraya Naiker	2	2
	53	Chettymedu	Holder of Puttah No. 1	12	8
Saidapet.	79	Mannoor	Do. of do. " 2	6	4
	87	Terooneermalai	Appasawmy Mudali	6	5
	26	Madaveram	Soobbarama Sas.ry	4	4
	233	Agraharam	Subba Naiker	12	3

35. There is another case in which I consider Mr. Banbury's charge might be upheld. It is that on the lands included in Mr. Pelly's compound at the Adyar in the Saidapet Talook. The waste charge in this case was not charged separately but collectively against the whole village of Cottoor to which it belongs; from inquires since made it appears however that this waste forms the largest portion of the waste of the whole village; and as the Puttahdar derives a handsome rent from the house situated on that land, I consider that the waste charge would be no hardship on him, and have therefore issued orders for its collection.

36. As required in the last paragraph of the Board's Proceedings, I beg to send the Tabular Statement shewing the demand for each village as settled by Messrs. Banbury and Hutchins

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and the orders of his predecessors

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with the waste charged by them, and that remitted by me, together with the supply of water received in each tank. I also forward another Statement* shewing similar particulars for the last five Fuslies, in order that the Board may see that the revenue of the District has steadily increased notwithstanding the adverse nature of many of the seasons, and the acknowledged inadequacy of the means of irrigation.

37. Mr. Hutchins' letter is almost to the same effect as Mr. Banbury's. There is however one point which calls for remark. In paragraph 4, Mr. Hutchins states that he is not bound to record his reasons for granting or withholding remissions.

38. On this point I beg to refer the Board to paragraph 20 (page 72) of the Village Manual, from which they will observe that a Settling Officer is bound to record his reasons; and even if it was not so laid down in the Manual, it stands to reason, that the Settling Officer should record his grounds for granting or withholding remissions; for if he is not to do so, how can appeals to the Board or other authorities be disposed of? If Mr. Hutchins did not choose to write down the grounds in his English Note Book, he should at any rate have had them so in the Tamil Statement, No. 8.

39. On examining Mr. Hutchins' Note Book, I find his plan of settlement was to charge the waste generally, if it was more than 25 per cent. of the cultivation, and if below that percentage he remitted the assessment in toto, and therefore as a rule Mr. Hutchins' settlement was more in accordance with the Board's orders than Mr. Banbury's. He however deviated from the above principles in a few instances, and charged the full assessment in some, and a portion only in others where the waste was more than 25 per cent. of the cultivation. In like manner he remitted the assessment either fully or in a part only where the waste was less than 25 per cent. He generally recorded no reason for his settlement, and did so in only thirty-four cases, and even in these not fully. Of these, eleven cases were disposed of individually as shewn in the following Statement, and as I was of opinion that Mr. Hutchins' settlement might be upheld in the cases of Chinna Veppedu and Singaperumal covil, I have issued orders for the collection of the charge. In the remaining cases the question of charging must be disposed of by the Board, and can only be done with reference to the reported supply of water.

Talook.	No.	Name of the village.	Name of the party charged.	Number and capacity of the tank.	Supply received.	Remarks.
Conjeeveram.	115	Yelachur	Sheshachel-la Mudali.	1 Tank	6 months	4 months
	10	Cavalavadu	Yekabagam Mirasidar.	1 "	6 "	4 "
				1 Thangal	2 "	2 "
				2 "	1 "	1 "
	117	Vadakat-pattu.	Puttahdar No. 13.	1 Tank	6 "	3 "
Maduran-takam.	91	Maduvun-collai.	Six Puttah-dars, all absent.	1 Thangal	1 "	No supply
				No tank	.....	.....
	269	Neercoo-vum.	Yekadogum Mirassi.	1 Tank	4 months	3 months
				1 Thangal	1 "	1 "
Chingle-put.	348	Nunjeva-ram.	Do.	1 Tank	4 "	2 1/2 "
	172	Nochimedu	1 Puttah-dar.	1 "	1 "	1 "
	288	Melcana-campattu	1 Do.	1 "	3 "	3 "
	56	Veerapu-ram.	Samudaya-putta.	1 "	3 "	2 "
				1 Thangal	1 "	
	44	Chinnavep-pedu.	Yekadogum Mirassi.	1 Tank	3 "	20 days.
						3 months.
	323	Singaperu-mal covil.	Do.	1 Thangal	1 "	1 "
				1 Tank	4 "	4 "
						Order issued to collect the full amount of the Bunjer Rupees 35-13-7. Do. do. 13-12-9.

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40. In conclusion, I beg to say that I regret the delay that has occurred in making this report, but it was unavoidable as so many Statements and so many data had to be obtained from the Talooks, and that at the busiest time of the year. It will however result I hope in obtaining the permission of Government for me to make the remissions as originally asked for, more especially as I now see that it wants nothing but a good season to induce the Ryots to cultivate almost every inch of land that will pay for doing so.

ENCLOSURE No. 1.—Tamil Statement.

ENCLOSURE No. 2.

ABSTRACT.—Tabular Statement shewing the Nunjah Dittam Banjer charged, &c., for five Fuslies from 1269 to 1273.

Resolved that the foregoing papers be submitted for the consideration and orders of His Excellency the Governor in Council with reference to the orders of Government, dated 28th October 1864, No. 1,997, and 18th January 1865, No. 76.

1. Mr. Fane was requested to explain in more detail the grounds on which he proposed to revise the settlement made by Messrs. Banbury and Hutchins in the Madras District for Fusly 1273, by remitting the charge made by those two Officers on account of waste wet lands; and to give full particulars for each of the villages in which he considered it necessary to remit this charge. In the letter now recorded he forwards a tabular Statement exhibiting for each village the demand (for irrigated lands) as settled by Messrs. Banbury and Hutchins in Fusly 1273, together with the irrigated wet waste charged by each of those Officers, the amount of waste remitted by each, the supply of water each tank is capable of holding, and the supply of water each tank received in that year.

2. He also furnishes another Statement shewing the demand in the same villages, and the waste charged or remitted for the last five Fuslies, in order to prove that the revenue of the District has steadily increased notwithstanding the adverse nature of many of the seasons, and the acknowledged inadequacy of the sources of irrigation in the Madras District.

3. The Board would refer for particulars on this point to a Tabular Statement prepared in their office and annexed to these Proceedings, shewing the extent and the assessment of wet cultivation and waste charged in the Madras District, and in the three adjacent Districts of North Arcot, South Arcot, and Salem, during the last six years from Fuslies 1268 to 1273. The particulars given in this Statement have been adjusted with reference to the transfer of villages from one District to another in Fusly 1270. They are, therefore, (as it regards Madras,) more correct than those furnished in the accounts submitted by Mr. Fane.

4. It appears from this Statement that in Fusly 1273, the extent of land occupied in the Madras District had increased, since Fusly 1268, by 19 per cent., and the extent of land cultivated during the same period by 17 per cent. The Statement further shews that the amount of waste charged in 1273 by Messrs. Banbury and Hutchins, was somewhat more than 50 per cent., of the entire waste included in the Ryots' holdings. In four of the remaining six years, the whole of the waste entered in the Puttahs was remitted, but in Fusly 1271, the Ryots were required to pay a sum equal to 20 per cent. of the waste area for that year. This charge was imposed by the late Collector, Mr. Cunliffe.

5. Mr. Fane had previously enumerated in his letter, dated 12th November 1864, No. 516, his several reasons for concluding that the amount of waste charged ought to be remitted. These reasons were, first, the numerous petitions addressed to the Board and himself complaining of the hardship of the charge; second, the unequal and unseasonable fall of rain as recorded from time to time by the Talook officers; third, the well known general disrepair of the tanks and irrigation sources throughout the District, as recorded by his two predecessors, Messrs. Cunliffe and Ellis, in all their reports on the public works; fourth, Mr. Banbury's own note book in which in many cases a deficiency of water was acknowledged to have existed, confirming therefore the reports of the Tahsildars that the waste was from want of water and not from the negligence of the Ryots—(paragraph 2.)

6. He now submits the Tabular Statement referred to above (paragraph 2) as the only kind of evidence he could obtain, so long after the settlement, to prove that in each separate village a necessity existed for remitting the charge. The Board remark that the information given in this Statement, as to the supply of water received into each tank during the year, is derived from the village accounts, the village servants being required to forward each month to the Talook Officers a Memorandum shewing the rain fall during the month, the supply of water received into each tank, and the quantity of water distributed within the same period, and that information on such points is recorded in each village as a help to the Revenue Officers in making the settlement.

7. Mr. Fane has also given his opinion on certain questions referred to in the reports made by Messrs. Banbury and Hutchins, in reply to the Board's Proceedings, dated 25th September

and the orders of his predecessors

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1864, No. 6,327, calling upon those Officers to furnish the explanations referred to in Government Order, dated 18th August 1864, No. 1,496.

8. The Board requested each Officer to explain on what principle he had settled claims to remission when such claims were founded on an alleged want of water; and at the same time they specified certain points in particular on which they wished to have further information.

9. Mr. Banbury, in his reply dated 18th October 1864, No. 7,232, adverts in the first instance to the lax revenue system existing in the Madras District "in favor of the grasping and selfish tendencies of the Madras landholders," as a fact well known to the Board and Government, and to the desire which he felt "to ameliorate this lax system when the District was temporarily placed under his charge." With this object in view, he considered, before commencing the settlement, "that when the following characteristics were observable with regard to the waste in a village, their presence would indicate neglect and consequent rejection of claims to remission."

First.—When the waste was larger than last year.

Second.—Where there was much second crop cultivation.

Third.—Absenteeism.

Fourth.—Retaining the waste year after year without any attempt to cultivate, or even to clear. In these cases he argued, "If you cannot cultivate and turn to account your land during such a season as this, what use can it possibly be to you. You, however, decline to relinquish it in favor of more capable and industrious applicants, so it is only just that the State should not lose its demand through your obstinacy." (paragraph 10). His intention in making his settlement on these principles was "to shew that the Ryots could not gratuitously retain in their Putahs, to the total exclusion of all applicants, lands which they never attempted to cultivate," and "fortunately the season proved a remarkably favorable one for the introduction of these measures."

10. Mr. Banbury was also requested to quote the orders or rules on which he acted. The Board wished to be informed why, when in any case there was an admitted want of water, a charge was still made; and secondly, why in some cases a part of the assessment was remitted and a part charged.

11. In reply to these points he refers to various orders requiring that persons who neglect to cultivate their lands, should pay the Government revenue notwithstanding. He states that "Wherever the waste was shewn to have arisen *bonâ fide* from want of means, or that the Ryots had really done their best, the charge was fully remitted," and he refers to two examples in which that course was followed.

12. As to portions being charged and portions remitted, he remarked that former laxity in the administration of the Madras District had already been acknowledged; that the Ryots are not therefore wholly to blame for this unfortunate system; that he did not desire to be harsh and relentless the first year; that his object was, as before stated, to shew that this practice of gratuitous retention was drawing in a close; and that authority to remit and charge portions of claims to alleviation has, as the Board must be well aware, always been inherent in the Office of Collector, and is universally exercised. (paragraph 23.)

13. To the question why he did not dispose of each individual case separately, he replies that he did dispose of some cases separately; and that if he had not done so, he had ground for his procedure, as remissions had always been given village by village and no exception taken to the course. He also added that the orders of both the Board and Government are that these remissions should be granted not by investigation of individual cases, but by a general per centage for a particular District or Talook. Extract Minutes of Consultation February 6, 1858, No. 159, and paragraph 11 of Board's Proceedings, 8th August 1859. As far as he can remember, the principles on which he calculated the portions to be remitted were as follow:—

1st.—Number of years the tract had been retained waste.

2nd.—Facilities of irrigation, such as low or high sluices, &c.

3rd.—Amount of neglect perceptible.

4th.—Extraneous causes in Ryots' favor, such as partial loss of cattle, cholera in the village, houses burnt, &c.

5th.—The financial circumstances of the Ryots themselves, and the amount they would have to pay for this first year.

14. Mr. Banbury proceeds to urge that no season could have been more propitious than that of 1873 for introducing into the Madras District the measure now working so successfully in other Districts. "When (he remarks) will there be a season more propitious for its introduction, or to what greater extent can inquiries be instituted than were made by the two Covenanted Officers during the last settlement?" He supposes that the entire overthrow of his settlement must indeed have been a grand victory for the Yekabhogum Mirassidars and the Cutcherry employés over their late Acting Collector, though it was an ignoble victory as although close at hand he had no opportunity of defence or explanation. "It was in fact an appeal *ex-parte* without the respondent being allowed a reply, although he was literally brimful of facts and argument to support his case." (Paragraph 31.)

15. He then refers to the prosperous condition of the Ryots in the present day, and to the fact that "the poor oppressed Ryot" has nearly ceased to exist, and "would be forgotten with

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other by-gone institutions were he not annually resuscitated to be applied as a lure and a "bugbear to too easily yielding settlement officers;" and after making more remarks in the same strain, he in conclusion observes that the introduction of the measure was not altogether so much opposed as he had anticipated. "The Yekabhogum Mirassidars were naturally as averse to it as the old Tories were to the Reform Bill for it opened their close boroughs." The Mirassidars are clever disputants, of a legal turn of mind, and delight to argue about anything, but "the Payacaries were of course delighted. To them it appeared like the unexpected arrival of the Kritah Yugum, or Hindius millenium. They saw that, if carried out in its entirety, opportunities would be afforded them for obtaining land and independence. Portions of the now uselessly retained tracts would have to be relinquished by their surfeited owners, and would be at once snapped up by the only too happy and pains-taking Payacary." In the last paragraph he thanks the Government for having afforded him an opportunity of answering the objections that were raised against his procedure. He naturally felt hurt and disheartened that, without one word of explanation being vouchsafed to him, those measures which he believed to be just and beneficial should have been overthrown upon the recommendation of Mr. Fane, who was new to the District, and whose information could only have been obtained from "interested native officials ever ready to plead the necessity of remission."

16. Mr. Hutchins' report is dated 28th October 1864. He, as Mr. Banbury does, expresses regret that the Board should have disposed of the matter without giving Mr. Banbury or himself an opportunity for explanation. Having seen the draft of Mr. Banbury's reply, he does not think it necessary to repeat any of the arguments which he has set forth; but as to the precise orders or rules under which he acted, he observes that the standard authorities on the question of remissions are the orders of the 18th June and 25th July 1859. The principle laid down in these rules is that *all lands retained in the Puttah must be paid for*, and it is expressly stated when remissions are made in "few and unexceptional cases," the necessity for granting such "will be best met not by investigation of individual cases, a course open to very great objection, but by a general per centage for a particular tract of country." He considered that these orders were his sanction to every step to which exception had been taken by the Board, viz., (1) to the principle that at all events, in a good season like the last, waste should be charged for unless reasons for remission be clearly shewn; (2) to remissions being granted, when it was granted all, to all the claimants in a village, each village being treated separately on account of the great inequality of irrigation; (3) to a part-per centage being charged, and a part remitted. He adds that "the principle which the Board have adopted, (Proceedings 19th June 1863,) viz., "that when there is no crop, the demand, which is based upon a share of the crop, cannot be enforced, appears to be, if he may be excused the terms a retrogression;" that such a ruling is certainly opposed to the orders he has quoted, and that he readily joins issue upon it.

17. Mr. Hutchins also raises the question whether the existence of waste is to be taken as *prima facie* evidence of failure of water, or of negligence on the part of the Ryots. The Board, it is said, "have clearly assumed the former to be the case, but the orders of Government indicate the contrary." "The rule is to charge the exception to remit, and it is always the exception for which ground must be shewn."

18. He also enlarges on the alleged lax system hitherto followed in the Madras District "Under this lax management, the Mirassidars had been so accustomed to enjoy, or rather to retain, for it was but a barren enjoyment,) without payment, lands which they never cultivated, that they had come to consider themselves entitled to remission, &c." The Mirassidars are described as taking up land "just to exclude strangers," and as acting in this way in compliance with their "dog-in-the-manger nature." (paragraph 8.) Mr. Hutchins and Mr. Banbury, in order to reform this system, determined to presume negligence when there was not an obvious failure of water, and by a firm but judicious enforcement of the demand, or a portion of it, to obtain a recognition of the cardinal principle that all land retained in the Puttah is liable to assessment.

19. Before quitting this part of the subject, Mr. Hutchins wished (as he said) to notice "a very specious objection," which was referred to by Mr. Ellis last year. "It is said the Ryots will not neglect their own interest; it is their interest to cultivate; therefore if they do not cultivate it must be owing to a failure of water. But what are these proprietors' interests? I have already tried to shew that their chief object is to hold as much land as possible to the exclusion of strangers. It is a notorious fact that they have held acres of land for years, through good and bad seasons alike, without having once cleared it, or attempted to prepare it for cultivation, &c." (Paragraph 10).

20. At the conclusion of his letter, Mr. Hutchins briefly enumerates the considerations which influenced him in determining whether there had or had not been negligence on the part of the cultivators. These were (1) ratio of the supply received to the capacity of the tank, (2) amount of waste as compared with that in last season which was less favorable; (3) the number of years the land had laid waste; (4) whence the tank derives its supply, whether a river, jungle streams, or mere rain; (5) distance of the waste from the tank; (6) amount of Teervanjasty charged; (7) amount of Fasiljasty charged, which though, as Mr. Fane has observed, "is not of itself

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"conclusive evidence of there being water enough," is still a material circumstance for consideration. It is from such evidence as this that negligence must be inferred, for it is seldom susceptible of positive proof."

21. The Board will now state their own views on the questions discussed by Messrs Banbury and Hutchins. They would remark, in the first place, that both Officers express themselves as though the Ryots who were charged with the waste in their Puttahs had really sufficient water to cultivate the waste, if only they had chosen to do so; and that no further evidence was necessary on that point than the nature of the season afforded. In other Districts the usual course is to settle claims to remission for waste irrigated lands on this kind of data, and they could see no reason why the same rule should not be followed in the Madras District.

22. It might also be supposed, from the way in which this part of the case has been argued by both Officers, that none of their predecessors had ever questioned the correctness of the fact they assume, viz., that the irrigation works were adequate to furnish the required supply of water, or that no one before them had ever reported that the existence of so much waste in occupied land could not be fairly ascribed to laziness or negligence on the part of those who held the land. In fact, however, Messrs Banbury and Hutchins must have known that Mr. Cunliffe, who was Collector of the District for eight years, (from 1855 to 1863,) and at a later date Mr. Ellis, the Officer for whom Mr. Banbury was Officiating, entertained, and had recorded on these two points opinions entirely opposed to those Messrs. Banbury and Hutchins hold and have acted upon.

23. The Board observe that Mr. Cunliffe's views on this subject were thus expressed in 1861—"The fact is that cultivation is carried on to the full extent for which there is irrigation. The Ryot has no other wish or desire than to increase his farm, and of this we have ample proof in the increased demand which a good season invariably causes; and in the annual remissions which are given for withered produce, thus demonstrating that the Ryots are anxious to take full advantage of the hopes which the early season may encourage." In like manner, Mr. Ellis gave a similar opinion in his letter to the Board, dated the 8th May 1863, No. 149. Mr. Ellis writes, in paragraph 5 of that letter, "I think it very rarely happens that Nunjah land is waste through the neglect of the holders. Land is waste either from a partial failure of rain, whereby the tanks are only partially filled, or from the dilapidated condition of the works of irrigation in this District, by which a portion of the water is lost to the cultivator."

24. Mr. Ellis's object, when thus writing to the Board, was to ask their opinion whether, in his settlement for Fusly 1272, he ought to take as a precedent the course followed in 1271 by Mr. Cunliffe, as to charging the Ryots with a portion of the assessment on the waste in their Puttahs. He observed that Mr. Cunliffe had, in Fusly 1271, charged the Ryots 20 per cent. of the waste, "both Nunjah and Punjab," not, as it would seem, "from any idea that the land was waste from other than natural causes, but partly to prevent the Ryots retaining in their Puttahs from year to year waste which, from the condition of the tanks, and continued partial failure of rain, they could not bring under cultivation." Mr. Cunliffe had adopted these steps in seeming compliance with the Board's orders, dated 8th August 1859, on the subject of discontinuing annual remissions in the Ryots' holdings, and had intended to take a further step in the same direction in Fusly 1272, by charging the Ryots with 50 per cent. of the Nunjah waste.

25. Mr. Ellis thought that this mode of charging for the waste was an illogical measure, and that "to insist on exacting payment when the land could not be cultivated would only be to impoverish the Ryots, who are exceedingly willing to bring every field in their possession into cultivation whenever they are able to do so." He therefore requested that he might be allowed to grant full remission, as sanctioned for such cases in paragraph 3 of the Proceedings of Government dated 20th March 1860.

26. He also adverted to certain special circumstances as sufficient to account for the great disinclination shewn by the Mirassidars to give up the waste lands, though these lands were apparently of no use to them, viz., the uncertain state in which the Mirassidars are placed in regard to the rights or privileges which they claim in the land (paragraph 4). Mr. Ellis, in making this remark, was referring to the fact that the Mirassidars wished to retain the land, though seemingly useless to them, because if they gave it up it might be handed over to the Payakaries or non-Mirassidars to hold on terms inconsistent with their alleged rights as Mirassidars.

27. The Board remarked in reply* that the rule approved by Government, and now in force as to remission for Nunjah Shavi (or withered crops) and for Nunjah waste, when either resulted from causes beyond the Ryots' control, was contained in the Board's Circular orders dated 8th August 1859, and 12th March 1860; that under the circumstances supposed the Government demand, "which is based on its right to a share in the produce," should be wholly remitted in the cases of Nunjah waste, (there being no crop,) and that in the case of Nunjah Shavi, (where the loss might be partial only,) "the remission should be in proportion, but by a per centage either for a whole Talook, or for a set of villages, or for a particular crop throughout the District, or throughout defined locality, accord-

* Board's Proceedings dated 19th June 1863, No. 3,636, and Standing Circular No. LXIX.

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"ing, in fact, as the circumstances are identical and the reasons for the remission are equally applicable, and not by any attempt to estimate individual losses, although of course a sufficient number of individual cases will be carefully considered in detail before the per centage is determined."

28. The Board observe that formerly, when remissions were granted for withered crops, it was usual to make the amount of such remission depend on the out-turn of such Ryot's holding. Each separate field was examined, or was said to be examined, and a bargain was made, as it were, with each Ryot, based on a general estimate of his losses and profits in the same season. As this system led to much fraud and deceit, the Government directed, in the orders already quoted, that remissions under the head of Shavi, or withered crops, should in future be granted in the general manner described in the preceding paragraph. The orders which Messrs. Banbury and Hutchins quoted as justifying them in making a per centage charge for Nunjah waste refer to remissions under the head of Shavi, and not, as their explanation would imply, to remissions for Nunjah waste. In the latter case the Ryots may fairly claim to have the whole demand remitted, (supposing the waste to result from causes beyond the Ryots' control,) for, the Government undertake to supply the water as a condition to the lands being charged with Nunjah rates of assessment. Mr. Ellis must have had this fact in mind when he described Mr. Cunliffe's procedure as illogical. It was illogical, for if there was no water the Government had no right to any portion of the assessment. But if, on the other hand, there was water, the Government had a right (according to the existing orders) to levy the whole assessment, and not a part only.

29. It is also obvious that claims to remission of assessment under the head of Nunjah waste, (waste consequent on an alleged want of water,) ought to be tried each on its own merits, for the inquiry is a simple one involving only the one question whether the required means of irrigation existed or not. In order to settle that point it is sufficient, in most Districts, to refer, first, to the rain-fall reports; and secondly, to the cultivation accounts; the latter, in order to see whether the quantity of land usually cultivated by means of the tank has been cultivated or not. If the usual supply of water has not failed, and if the whole area cultivated in the year does not exceed the extent usually cultivated, it is fair to assume that any individual person holding a portion of such land but not cultivating it, was not prevented from so doing by mere want of water.

30. It is also true that in most Districts the average extent of land actually occupied under any tank is about equal to the entire area that the tank is capable of irrigating, the people not having (speaking generally) any object to serve in occupying more land than they can hope to irrigate. In the Madras District it is not so, for the Ryots (Mirassidars) of that District have, as stated by Mr. Ellis, special motives for retaining land in their Puttahs, though they may be precluded by the want of water from bringing it under cultivation. The fact therefore that in the Madras District a certain quantity of land is usually occupied, fails to afford any presumption that the same quantity might be cultivated if only the tank had received its usual supply of water; though in the Madras District, as in other Districts, the Collectors could always ascertain whether the whole area under cultivation was in any case equal to the area usually cultivated, and could apply that test when persons holding Nunjah waste accounted for their alleged neglect in having omitted to cultivate it, by pleading the legitimate excuse that the tank, or as they might fairly say, the Government, had failed to supply the required water.

31. Mr. Ellis, on receipt of the order referred to above, decided on making no charge for the Nunjah waste after the plan followed by Mr. Cunliffe in the preceding Fusly (1271,) and therefore made his settlement for Fusly 1272 exclusive of any per centage charge on account of Nunjah waste, having, as the Board believe,* previously satisfied himself that all the lands for which he granted remission was lying waste from causes beyond the Ryots' control. Or to put the same point in another form, that the people really had no means of irrigating the land, and that their retaining so much land in their Puttahs, when apparently of no use to them, was owing to the exceptional circumstances referred to in paragraph 4 of his letter.

* Vide paragraph 9 of his letter, dated 5th May 1863, No. 149.

32. Mr. Banbury, when Mr. Ellis made over charge to him in December 1863, was holding the appointment of Sub-Collector in the same District. He determined, as his present report proves, to disregard Mr. Ellis's views as to the reason why so much waste was retained in the Puttahs, and to signalize his accession to the chief office (though only a temporary arrangement) by making the Ryots pay for the waste a considerable proportion (about 50 per cent.) of the whole assessment. His motives, as explained by himself, and the kind of evidence on which he proposed to himself, at the commencement of the settlement, to infer "neglect" on the part of the Ryots, (as set forth in paragraph 10 of his report,) have been already stated at length in paragraph 9 of these Proceedings. He has enumerated four different grounds that would, each or all, justify him, as he considered, in assuming neglect; but in fact by far the larger portion of the waste has been charged for solely on the ground that the land had been retained waste "year after year," (the fourth ground on which he proposed to infer neglect)

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33. The Board are decidedly of opinion that the people who have retained all this waste in their Puttahs had no water, and therefore had not the means of cultivating it (admitting of course casual exceptions). They are satisfied that Messrs. Curlliffe and Ellis, both Officers of ability and repute, were correct in maintaining that the people did not fail to cultivate the land whenever they had the means of irrigation. Experience shews that in all parts of the country irrigated land is in the present days always cultivated, when the means of irrigation can be obtained. In the present case any inference that might be drawn from the people retaining the land when there was no means of irrigating it, and refusing to relinquish it, is met by certain special circumstances sufficient to account for the seeming anomaly that people should desire to retain land of apparently no utility or value to them. And lastly, the cultivation accounts of the Madras and the adjacent Districts exhibiting the increase or decrease in the gross cultivation each year, are alone sufficient to prove, when compared together, that the Ryots of the Madras District have been quite as active as the Ryots of the adjoining Districts in extending cultivation from the time when prices began to rise. To place this last point in a clear light, the Board have prepared the tabular Statement referred to in paragraph 13 above, shewing the extent of wet land cultivated, with the waste charged, in the four Districts of Madras, North Arcot, South Arcot, and Salem, from Fusly 1268 to Fusly 1272. This Statement proves that the Madras District has in reality done as much as South Arcot, with its far superior means, and more than any of the other three Districts in extending the area of wet cultivation, as compared with the actual cultivation in each in the first year entered in the Statement, viz., Fusly 1268 for the highest per centage increase in the Madras District amounted to 17 per cent. (in Fusly 1273) against 18 per cent in the District of South Arcot. In North Arcot there was a decrease in each of the years succeeding 1268, and in Salem a much smaller increase than in either South Arcot or Madras. The same kind of evidence will also refute the idea entertained by Mr. Banbury that the State has really lost in revenue by the alleged obstinacy of the Madras Mirassidars in refusing to give up the waste lands included in their Puttahs.

Paragraph 10 of his letter.

34. The Board have of course no wish to perpetuate the present anomalous state of the Madras District as it regards the Nunjah waste in the Ryots' Puttahs. They hope when the measures which Government sanctioned on the Board's recommendation, in Government Order dated 6th July 1864, No. 1,167, for revising the rates in the Madras District (both dry and wet) have been brought to a close, and it has been ascertained "by careful inquiry whether any land really without means of irrigation is still classed as Nunjah," that the holdings in the Madras District may be reduced to the "land really without means of irrigation is still classed as Nunjah," that the holdings in the Madras District may be reduced to the area usually cultivated. The Board adverted to the necessity for such an inquiry when commenting on the fact urged by Mr. Ellis, that people had not the means of irrigating the waste to which they so tenaciously hold. (Vide paragraph 3 of the Board's orders). But they do not think it just that the people who hold this waste should be required to pay for it on the plea that they have sufficient water at their command, and that they "neglect" to use that water, when such a plea is, as a question of fact, untenable.

Paragraph 18 of the Government Order.

35. They observe that in their Proceedings, dated 5th April 1864, No. 2,012, recommending that all the Nunjah assessed lands for which there was no water should be re-assessed as dry, they pointed out that in the Madras District, the proportion of waste land classed as Nunjah (immemorial waste) compared with land of the same class that had at some time been cultivated, was as much as sixty per cent. The Government remarked on this subject that they did not think the existence of so much waste could be mainly attributed "to the improper classification of land without means of irrigation under the head of Nunjah." They thought that the exclusive rights claimed by the Mirassidars, and the system hitherto in force of a lowering persons to retain lands which they do not choose to cultivate, without requiring payment of the assessment, may have helped, among other causes, viz., "over-assessment of the higher classes," and "neglect of the tanks," to prevent the cultivation of the Nunjah assessed lands. They also observed, with regard to the same point, that the District Officers "ought strictly to enforce the right of the State when Mirassidars assert their preferential claims merely to prevent others from acquiring land, and when land is retained and left waste from a similar motive, or merely for the consequence which the possession of land confers."

36. The Board refer to these remarks as bearing on the present subject, though they were not before Mr. Banbury when he laid down the principle on which he proposed to assume that the Ryots were able to cultivate the land if only they chose to do so.

37. The Board have already explained on what grounds they believe that the revenue has not suffered from the Mirassidars holding so much waste. If the means of irrigation do not exist, the land, even if the Mirassidars did not hold it, could not be cultivated; nor, a fortiori, could the revenue suffer by their retaining the land in their Puttahs.

With regard to the Mirassidars' motives in retaining possession of the waste land, the Board observe that the Mirassidars' real object in undertaking to hold land they are unable to

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cultivate, is to prevent the Government from giving the land to persons of the Payakari* class on terms inconsistent, as the Mirassidars consider, with their proprietary interest in the soil; for the Payakaris are placed in possession, when the land is made over to them by the Revenue Officers, precisely on the same term as land is given to the Mirassidars, so far as

* Cultivators who do not belong to the Mirassidars or original settlers in a Mirassi village.—Vide, for an account of this class, extract from the 5th Report of the Select Committee on the affairs of the East India Company, A. D. 1813, page 9 of the papers on Mirassi right.

the Government is concerned, and the Mirassidars, if they are to substantiate their rights as the proprietary class, must do so through the expensive process of a Civil suit. They are dissatisfied with this system, and no doubt have succeeded from the time when the Government first refused to recognize their Mirassi (or proprietary) claims on the land, except so far as to give them a preferential right of occupancy,† to evade the effect of that rule, by taking up the land when offered them, and securing a remission of the assessment at the annual settlement when

† Vide as to this phrase, Extract from Minutes of Consultation, dated 8th January 1796.

unable to cultivate it, or to get others to hold it of them.

33. The Payakar is, on the other hand, being allowed to hold the land from Government on the same terms as the Mirassidars, find encouragement from this system to resist all interference on the part of the Mirassidars, refusing to pay the "Mirassi fees" claimed by the latter, and in consequence the two classes are, and have been for many years past, placed in strong antagonism to each other. Thus, Mr. Banbury expressly states that the Payakaris were delighted at his proceeding to charge the waste, because, as they believed, this measure was calculated to promote their interest in freeing them from Mirassi claims. "To them it appeared like the unexpected arrival of the Kurtah Yugam, or Hindu millennium. They saw that, if carried out in its entirety, opportunities would be afforded them for obtaining land and independence. Portions of the now uselessly retained tracts would have to be relinquished by their surfeited owners, and would be at once snapped up by the only too happy and pains-taking Payakaris." This was in fact Mr. Banbury's view of the case, and it was obviously his wish to encourage the Payakaris in their avowed design to make themselves independent of the Mirassidars by taking up land direct from the Government Officers.

39. Mr. Banbury has not, in his present report, referred to the actual cause of contention between the Mirassidars and the Payakaris. He writes in this report as though the Mirassidars could have no reasonable object whatever in retaining land that they could not use. "I fairly argued, if you cannot cultivate and turn to account your land during such a season as this 'what use can it possibly be to you, &c.'—(Paragraph 10.) But Mr. Banbury, when writing more dispassionately, was able to explain very succinctly the real reason why the Mirassidars are unwilling to relinquish the waste when once they have possessed themselves of it. The Board refer to his Settlement Report as Sub-Collector of Madras in the preceding Fasly, in paragraph 10 of which he explained that "the Mirassidars naturally do not wish to relinquish to others the waste lands they claim as their own inheritance, and those persons anxious to become proprietors (meaning the Payakaris) are unwilling to pay the Mirassidars the small fees they demand in the event of their conceding portions of their waste to outsiders." The Mirassidars are here described as claiming a proprietary interest in the waste land, and the Payakaris as unwilling to acknowledge this right by paying the fees demanded by the Mirassidars in virtue of their alleged rights. The Mirassidars "naturally" object, &c., but, of course, if this be a correct statement of the case as it regards the two classes, neither Mr. Banbury nor Mr. Hutchins could fairly argue that the Mirassidars were prompted solely by a "dog-in-the-manger nature" (to use Mr. Hutchins's words) in their wish to prevent the Payakaris from getting the waste lands.

40. The truth is that the Mirassidars claim not only a preferential right to cultivate the lands belonging to their villages, but also a right to receive a certain portion of the produce (the fees referred to by Mr. Banbury) in all cultivated land, this latter claim being divisible into two items, (1) to a per centage deduction from the produce before it is divided between the Cirkar and the cultivator; (2) to a portion payable by the cultivators out of their share in the produce when the land is cultivated by Payakaris. The former claim (the preferential right) has always been conceded by the Government, but with regard to the latter claim, the Government have not admitted the existence of such a right, and the Mirassidars have been left to vindicate their claims in the Civil Court.

41. The Mirassidars object to the present practice as detrimental to them in two ways; (1) as drawing away the labouring classes from the Mirassidars' lands, the Payakaris hoping to obtain the land free of Mirassi claims, (to become proprietors, as Mr. Banbury puts it,) (2) as forcing them, if they are to maintain their rights, either to occupy the land when it is not their proper interest to do so, or to resort to the Civil Courts to make their claims good as against the Payakaris.

42. It also appears that the Mirassidars have of late years been required to enter into special agreements when taking up land (both wet and dry) binding themselves to pay the

and the orders of his predecessors or

assessment, though in the case of wet land there might be no water. Mr. Fane has referred to this point in paragraph 14 of his last report, and has described such a system as "harsh." The practice was doubtless resorted to as a check on the Mirassidars taking up the land for which Payakaris had applied, but to enforce payment of the assessment when there was no water was an indefensible proceeding, for the rule is that when there is no water, and consequently no crop, the Government should forego its claim to the assessment, the rates being formed on the assumption that the crops raised should be wet crops, and that the means of irrigation shall be supplied by the Government. The Board ordered some time since that the practice of taking special agreements from the Mirassidars should be discontinued.

43. As to the Mirassidars' preferential right to cultivate, the Board may explain that the Mirassidars are allowed the option of taking the land themselves when Payakaris apply for it; and that formerly, if they failed to cultivate the land, (whether dry or wet,) they were exempted at the annual settlement from paying the assessment simply on the ground that the land had yielded no crop, provided they had not entered into any special agreement binding themselves to pay though the land had not been cultivated. In the case, however, of dry land, the present rule is to charge for all the dry lands in the Puttah, both cultivated and waste. The Mirassidars can therefore no longer avoid paying for any of the dry land entered in their Puttahs, whether it be waste or not. The rule that all dry land entered in the Puttahs must be paid for has been enforced in the Madras District from Fusly 1272.

44. As to wet or irrigated land, the Mirassidars have followed the same course when the Payakaris have applied for such land, but in this case there is reason to believe that the land taken up, though assessed as irrigated, could not in many instances be supplied with water. In such cases therefore the Mirassidars were able to put forward that plea when they, in the usual course, were required to pay the assessment, and thus to shew a sufficient cause for not having cultivated the land, though they might have been induced to take it up in the first instance from motives which the Revenue authorities could not recognise as good.

45. The Board have entered so fully into this part of the case that the real position of the two classes, the Mirassidars and the Payakaris, in relation to each other may be fully understood. They do not believe that the former, as a class, are "apathetic" or indifferent to their interests as landowners. As a class they are superior to the ordinary class of Ryots; many educated persons, as public servants and men of superior station in Madras, being included in the number; nor do they believe that the Payakaris are, as a class, more "painstaking," "capable," or industrious than the Mirassidars, though, from the eagerness shewn by the Payakaris to take up the land under the peculiar circumstances explained above, they may seem to persons who are not fully informed on the subject to merit that character. The existence, however, of so much ill-will between the two classes is a serious evil. The Board have no doubt that their dissensions are injurious to the prosperity of the District, and they think it very advisable that the Government should at the present time consider whether the Mirassidars have, as they allege, just cause of complaint.

46. With regard to the three other grounds which Mr. Banbury thought would fairly indicate "neglect," the Board have no need to discuss any of these points at nearly the same length as the one already disposed of.

47. As to absenteeism, (the third ground,) the Board are far from wishing to see the cultivation of the land confined to persons who follow the plough themselves, or who make agriculture their own immediate pursuit. The proper course in the case of absent landholders was to charge them, if the means of irrigation existed, but not otherwise. It was quite possible that absent persons, or their agents, might be unable from want of water to cultivate the waste belonging to them, though other persons had been able to cultivate. The question, therefore, was not whether others had been able to cultivate, but whether the usually cultivated area (supposing the tank had received its usual supply) had been cultivated or not.—(Vide the Board's remarks on this point in paragraphs 28 and 29 above.)

48. As to the existence of much second crop cultivation indicating "neglect" when a portion of the land was uncultivated, (Mr. Banbury's second point,) the Board think that the remarks made by Mr. Fane on that subject, in paragraph 21 of his report, are well founded. Mr. Banbury's views, as he has explained them himself, (paragraph 10) pre-supposes that the tanks are filled at the commencement of the cultivation season, and that the water necessary for a second crop is retained in the tank from the first. If it were so, or if it were a rule that no land should be cultivated with a second crop, so long as any of the wet area had not borne a single crop, Mr. Banbury's reasoning on this point would have been more correct, but no such rule exists, nor do the tanks receive their supply of water at one and the same period.

49. With regard to the remaining ground, (the first in Mr. Banbury's list,) viz, that "where the waste was larger than last year," it would be proper to infer "neglect," the Board have explained above (paragraphs 28 and 29) the proper use to be made of past cultivation returns as evidence to support a charge of neglect. Under the special circumstances of the case, the proper

test was changes in the area usually cultivated (decrease or increase). When the Board apply this test to the whole District, they find that the gross wet cultivation in 1273 was in excess of the gross cultivation in the preceding year, and are satisfied by this fact that the people cultivated as much land, on the whole, as they had it in their power to irrigate.

50. As to all the several facts (four in number) on which Mr. Banbury determined with himself to raise a presumption that the people had water, and were therefore fairly chargeable with neglect for not having used it, the Board are of opinion that Mr. Banbury was carried away by his zeal against the "lax system," and by his feelings of antipathy against the Mirassidars, on account of their alleged "grasping and selfish tendencies." He was anxious to strike a blow at the "lax system," but knowing that the Board had already ruled that the holders of the wet waste could not be charged with the assessment if they had no water, he determined to raise a sort of artificial presumption that they really had water, (based on a fact which, when fairly considered, did not naturally warrant such a presumption,) and by that means to carry out his object. As he knew that the Board had objected to the people being charged with the waste solely on the ground that the land had been retained as waste "year after year," and as he knew that the Officer (Mr. Ellis) for whom he was acting, had decided in the previous year that the people had not the required means of irrigation, he ought, if he wished to take another course, to have written to the Board explaining his own views on these points, and requesting them to give him further instructions.

51. He also departed from the rules in charging a per centage only of the assessment, for the rule as to Nunjah waste is to charge the whole assessment or nothing; and in claiming a right to act on his own discretion in such a matter, he disregarded the orders passed by Government in Proceedings, dated 18th June 1859, No. 806, paragraph 9, warning Collectors that in making the annual settlement the local officers are "not permitted to act on their own changing opinions," and that "the orders of Government respecting the yearly settlement of the Land Revenue, are as positive and absolute as on any other subject." It was therefore Mr. Banbury's duty to make his settlement as to the Nunjah waste in accordance with the orders quoted in paragraph 26 of these Proceedings. The Board's Proceedings explaining those orders were, in the first instance, addressed to Mr. Ellis, the Officer for whom Mr. Banbury was acting, but, they were at the same time issued in the form of a Standing Circular (No. LXIX. for the information and guidance of all Collectors.

52. A discretion is certainly given to Collectors in regard to remissions, (vide paragraph 23 of Mr. Banbury's report,) but only within prescribed limits. It is not a general discretion to be exercised in disregard of the several orders explaining the principles and the circumstances under which remissions are permitted. The fact to which Mr. Banbury refers in the same paragraph as his excuse for having made only a per centage charge, viz., that the case was exceptional, the Ryots not being alone to blame, &c., was a good reason why he should have reported on the subject to the Board, and why he should have laid before them the new views he was disposed to entertain in regard to it, in opposition to those held by Mr. Ellis. It was no doubt better for the people that they should be charged half the assessment rather than the whole, (Rupees 40,000, rather than Rupees 80,000,) but Mr. Banbury, in attempting to regulate the per centage charge by "the financial circumstances of the Ryots themselves," (paragraph 29,) was returning to a practice which had been forbidden in the orders passed in 1859. It is also obvious to remark that Mr. Fane did not propose to "subvert" Mr. Banbury's settlement as to the waste charged, because Mr. Banbury had shewn some "forbearance," (the light in which Mr. Banbury seeks to put it in paragraph 23,) but because by the rules and orders relating to the case he was precluded from making any such charge. Mr. Banbury takes credit for his forbearance, but the Board remark that the actual charge made was in the gross not less than Rupees 40,000, a sum to be viewed as no small mulct to be paid by the people of a single District out of their stock or capital. The Board must remark, in connection with this point, that they hope no Revenue Officer will be led to impose such charges on the Ryots on the ground that they are no longer the "poor oppressed Ryots" of former days.—(Vide paragraph 32 of Mr. Banbury's letter.) Such charges being paid out of capital, they of course tend to impoverish the people, as remarked by Mr. Ellis, and should never be exacted, however rich the landowner may be, when, in equity, a remission can be fairly claimed.

53. In the foregoing remarks the Board have reviewed the main points in the case, as the orders of Government, dated 18th August 1864, paragraph 4, required. They do not think it necessary to follow Mr. Banbury in all the minor details, but will briefly notice two or three questions not yet disposed of.

54. Messrs. Banbury and Hutchins have made it a subject of complaint that the Board, before they accorded their sanction to Mr. Fane to revise the settlement, did not call upon them for an explanation. The Board remark, in reply, that it is not usual for them to call upon Officers who have left a District to explain their proceedings if their personal conduct is not impugned. The Board were satisfied, from the facts laid before them by Mr. Fane, that Mr. Banbury's settlement was not consistent with the Orders and Rules referred to in these Proceedings, and being

under the orders of his predecessors or

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quite unaware that Mr. Banbury had determined on following a procedure of his own, ("my procedure," as he described it,) in contradistinction to that followed by his predecessor, they saw no occasion to seek either for information or explanation at his hands. If the Board had been aware of the actual facts, as now explained by himself, they should certainly have required him to justify his unusual, and as they consider, improper proceedings.

55. With regard to the note books which each Officer kept, and to the remark each makes that he was not bound to record his reasons for the orders he passed, the Board observe that neither gentleman appears to know what official accounts ought to be kept. The account referred to in paragraph 9 of Mr. Fane's report is designed to shew the particulars of all remissions made at the settlement, and in that account the Settlement Officer is required to record his orders. It would have been far better if Messrs. Banbury and Hutchins had seen that the prescribed official account was duly prepared and used instead of entering their orders in note books of their own; but as it was, the Board could find in these note books nothing more that ought to have been recorded in Statement No. 8 of the Village Manual, nor in many cases as much. The note books were of no use to the Kurnums, nor of course could the people learn therefrom on what grounds they were charged. Both Officers are entirely in error in supposing that they were not required to record the grounds of their orders.

56. With regard to the attempt made by Mr. Banbury to place the agricultural industry of the Madras District in an unfavorable contrast with that of the adjoining Districts, by citing in support of that view instances in which but little waste was remitted in those Districts, the Board are of opinion that the Tabular Statement appended to these Proceedings affords full proof that the data by which Mr. Banbury sought to establish his position on that point was fallacious. Thus it might be true that the waste remitted in the District of South Arcot was very insignificant compared with the waste remitted in Madras, but that fact would not prove that each District had not made equal proportional progress in extending cultivation since the rise in prices commenced. The Board refer the Government to the Tabular Statement to shew how the case actually stands. The extent of Puttah waste remitted in the two Districts of Madras and South Arcot in Fusly 1273 was, according to the Tabular Statement, Acres 24,111 in Madras against Acres 3,653 in South Arcot, but the per centage increase in the actual cultivation in the same two Districts in 1273, compared with the area under cultivation in each in Fusly 1268, approximated so closely as to be within one per cent. of each other, the increase in Madras being 17 per cent., and the increase in South Arcot 18 per cent. The truth is, as shewn throughout these Proceedings, special reasons can be brought forward to account for the Madras Ryots retaining so much of the land in their Puttahs waste, and thus the presumption, which might otherwise be founded on their having more of the land in their Puttahs lying waste than their neighbours have, is shewn to have no proper foundation. The case would be precisely the same, if instead of having 24,000 acres waste, they had five times, or fifty times that quantity waste.

57. The Board observe that the charge in South Arcot for wet land left waste was larger than the charge made by Mr. Banbury in the Madras District, and that the Board have remarked on the indefensible nature of this charge in paragraph 18 of their Proceedings, dated 21st February 1865, No. 1,133, reporting on the settlement and collection of the revenues of the Madras Presidency for Fusly 1273 (A. D. 1833-64).

58. In the case Saravana Mudaliar, the Mirassidar of Mangot, and other villages, the Board requested Mr. Fane to send up a Memorandum shewing the extent of land held by this person during the last five years, and the amount remitted each year. This Statement forms an enclosure to Mr. Fane's letter, dated 12th November 1864, No. 516. Saravana Mudaliar is the sole Mirassidar of the villages entered in this Statement, and as the holder of so much cultivated land, is no doubt a man of great local influence. He is described as holding much so waste that he could not cultivate, and will not relinquish. He, it is said, had more of his land waste in Fusly 1273, than in Fusly 1272, and had nothing to urge in extenuation of his neglect. (Paragraph 34.) Mr. Banbury also adverts to the large quantity of water used in the irrigation of certain Betel gardens included in the land held by Saravana Mudaliar. It is said that the persons who rent these gardens obtain, by a private arrangement, the water available for 3 or 4 Cawuies of adjoining Nunjah, which is consequently left waste.

59. Mr. Fane argues that this Mirassidar ought not to have been charged the whole of the waste, solely on the ground that an undue quantity of water had been used for the Betel gardens. He seems to think that Mr. Banbury charged the whole on this ground only, and that the Mirassidar had not sufficient water to irrigate the whole of his land.

60. The Board observe that the account of water supply given in the memorandum seems to justify Mr. Fane's view on the latter point; and secondly, they find from the memorandum that the Mirassidar does not always keep a large portion of his land waste, as Mr. Banbury supposed, for in Fusly 1269, when the tank received a full supply of water, the Mirassidar supposed to cultivate very nearly the whole of his land, leaving only Acres 11 waste out of Acres 784. The Board, therefore, think that Mr. Banbury was hasty in assuming that the Mirassidar might always cultivate the waste in his Puttah if he chose to do so, and further that his charging for the whole

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waste in Fusly 1273, was against the evidence which the official account of water supply afforded. They cannot suppose that the Mirassidar did not on this occasion shew, that the water supply, as

• It appears that the tank in question supplies water to fifty-four villages.

proved by the official report, was not a full one, nor that he did not find in that fact an "extenuation" for this having left a portion of his land waste.

61. They must also notice that Mr. Banbury was apparently in error on a preliminary question of fact, for according to his report, the Mirassidar left more land waste in 1273, than in the preceding year, whereas, according to the Memorandum, the waste in Fusly 1273, in the Mirassidar's eleven villages, was only Acres 190 against Acres 245 waste in the previous year.

62. The Board bring this case prominently forward as the case of an extensive land owner, who at the same time is a Yekbogu Mirassidar, (one in whose single person all the Mirass rights vest,) and also as a case shewing that Mr. Banbury, owing to his strong prejudices against the Mirassidars as a class, was ill-qualified to consider their claims in an impartial spirit.

63. With regard to Mr. Banbury's remark that the Mirassidar was practically holding his villages on a sort of Inam tenure, paying really less for his Government land than a Shrotriendar would pay for a similar tract in the shape of Jodi, the Board observe that the difference between the two cases is obvious and great. The Mirassidar is charged full rates of assessment for every productive acre, and is unable to use the waste land in his Puttah, if he has such, without paying the full rate at which it is assessed. In the other case, Jodi or quit-rent, though paid whether the land included in the grant be cultivated or not, is in amount a considerable less sum than the land covered by it would yield if charged with full rates.

64. The Board will now request the Government to determine what orders shall be issued to Mr. Fane. The precise nature of the orders at first issued by the Board is explained in Board's Proceedings, dated 28th September 1864, No. 6,327, paragraph 7. They held that the Ryots were entitled to remission of the whole assessment when the means of irrigation failed, and seeing in Mr. Banbury's decisions, as explained in his note book, reason to believe that he had deviated from this rule in different cases, they authorized Mr. Fane to revise the settlement in all such cases. They are now of opinion that the best course Mr. Fane could follow, would be to remit the whole charge in each village in which the cultivation was equal to the area usually cultivated, and to make a charge for waste only in those villages in which the cultivation did not come up to that point. In the case of such villages, the holders of the waste may in some instances be justly liable to the charge, but even in those cases, the persons to be charged should be allowed an opportunity of proving, if they can, that the water received into their tank was only sufficient for the land actually cultivated. As the total area cultivated and brought to account was larger in Fusly 1273, than in any preceding Fusly, the Board do not think that the number of persons who could have cultivated, but did not, can be large, nor do they believe that the loss of revenue on their account could be serious if such persons were allowed to escape the charge.

65. Mr. Fane has explained in paragraph 1 of his letter, dated 12th November 1864, No. 516, on what ground he was unable to make a personal inquiry in each separate village.—(In reply to paragraph 4 of the Government Order, dated 28th October 1864, No. 1,997.) He did not assume charge of the District till May 1864, when, as he considered, it was impossible for him to obtain, by personal inquiry on the spot, any proof that a remission was necessary. The Board are of opinion that he acted hastily in remitting the whole charge for the waste at once, but they coincide with him in thinking that he had good grounds for questioning the correctness of the principles on which Mr. Banbury's settlement was made, and for requesting the Board's sanction to his proposed revision of this settlement.

66. The Board trust that Government will be pleased to express an opinion on the course which Mr. Banbury thought fit to take on this occasion, in opposition to the Board's orders and the rules laid down for his guidance; for proceedings of this kind are irreconcilable with the due maintenance of the Board's authority, and are the cause of much needless labour and loss of valuable time to all concerned.

R.

*could not make up on
the orders of his predecessors*

67. The Board must also notice the unusual style in which Mr. Banbury has expressed himself in paragraph 8 of his report. There is an obvious impropriety in a public servant thus lamenting that he has performed what he supposed was his duty, and Mr. Banbury, by begging the question at issue after the manner followed in this paragraph, could not of course alter the merits of the case. The Board fear that he was led to write in such terms (exhibiting himself as an injured person, and a kind of martyr to the disinterested performance of his duty,) by the unusual step taken by Government, in expressing an adverse opinion as to the Board's proceedings, before the Board had been permitted to explain or to reply.

68. The Board of course disclaim having any wish or intention to maintain what is termed the lax system of the Madras District. In Madras, as in the other Districts, the practice of charging the waste in the case of unirrigated lands is already in force, the waste on unirrigated land having been charged, as shewn in the margin, during the three last years. * This charge was in itself heavy, and taken by itself, was calculated to convince the landowners how necessary it was for them to part with land they could not cultivate. With regard to the wet lands, the Board was prepared to sanction the same course as soon as the classification and assessment should be revised, and the areas under the tanks reduced to their proper size, when the land being charged with only dry rates, the people would have it in their power to cultivate the land with dry crops. Till then, they thought it unfair, and equally impolitic even in a revenue point of view, to insist on the people paying for the land the wet rates. At the same time, the Mirassidars are not without special excuse for seeking to hold the land, as explained in these Proceedings, and doubtless it is very desirable, for the credit of the Revenue administration, that the cause of their complaints and dissatisfaction should, if possible, be removed.

69. Resolved that the note books submitted by Messrs. Banbury and Hutchins be forwarded for the consideration of Government with the foregoing Proceedings.

No. 218. ORDER THEREON, 11th May 1865, No. 994.

Land Revenue.

1. The papers above recorded relate to the remission by the Collector of Madras, Mr. Fane, of the assessment partially imposed by the Acting Collector, Mr. Banbury and the Acting Sub-Collector, Mr. P. P. Hutchins, in their settlement of the District for Fusly 1273, on Nunjah lands left waste under circumstances which, in their opinion, did not entitle the holders to exemption from payment.

2. The Governor in Council observes that the settlement of Messrs. Banbury and Hutchins was conducted by those gentlemen with much care and after personal and local investigation into the claims of the Ryots to remission. When therefore Mr. Fane, within six weeks of his arrival in the District and without having visited a single village, proposed to remit the entire charge on Nunjah waste, or rather reported erroneously, as he subsequently explained that he had remitted it in toto; the Board, very properly declined to confirm his proceedings without further information. Mr. Fane again addressed the Board stating various reasons in support of his proposal, and the Board then permitted him to revise Mr. Banbury's settlement, and remit the charge in every case in which he was satisfied that the land was left waste from want of water. Mr. Fane hereupon carried out his original proposal, and at once remitted the entire charge.

3. The Governor in Council must express his entire disapproval of Mr. Fane's proceedings in this matter. Whatever doubts he may have entertained of the correctness of the settlement of his predecessor, he must have known that that Officer, as well as the then Sub-Collector had opportunities of knowing the real state of matters which he, owing to his late arrival in the District, had not; that both officers were better acquainted with the District than he was; and that they acted on personal inspection and enquiry, while he was necessarily dependent on the reports of subordinates, whose opinions were equally within the reach of Messrs. Banbury and Hutchins. Even had other inducements to caution been wanting, the Board's warning that in this respect there had been much laxity in the past administration of the District, ought to have put him on his guard.

4. The Governor in Council is also constrained to add that the Board of Revenue did not exercise that close supervision over the Collector's acts, which the nature of his proposals shewed to be requisite. Their first Order was perfectly correct, but their second Order was more general than it should have been, seeing that it was addressed to an Officer who, though quite new to the District, proposed to upset the entire work of his predecessor on a very important point. Not only ought the Board's Order to have been more guarded, but they ought to have required the Collector to enquire into the claims before him, and report his proceedings for their confirmation. So far from doing this, the Board were evidently ignorant in September 1864, of what the Collector had done; for in their Proceedings of the 28th idem, they remarked that they "did not sanction a remission in the general way proposed by Mr. Fane" as believed by Government, and they directed Mr. Fane to prosecute any enquiries he might have commenced under their previous Order of the 28th July, but "not to make any actual alteration in the settlement," pending further instructions; whereas Mr. Fane had already remitted the whole charge.

5. The Government cannot follow the Board throughout their lengthy, and in many parts irrelevant, proceedings. It is enough for them to say that they cannot acquiesce in the conclusion which those proceedings seem designed to lead them to, viz., that Messrs. Banbury and Hutchins were not right even in a single case, for Mr. Fane himself now admits several instances in which their charge was correct. If this be not the conclusion arrived at, the Board should have explicitly stated in what cases the settlement of Messrs. Banbury and Hutchins should be upheld. As it is, Government are left much in the same position as when they first called upon the Board to report on the subject.

6. The Government cannot admit that where there is "no crop" there shall also be "no assessment," and that the onus of proving that water was available rests wholly on the Collector. The standing rule is that a Ryot pays for all the land he retains in his occupation, and it is for him, not the Collector, to prove his title to

could not have been upon
the orders of his predecessor

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retain it and yet not pay for it; more especially is this the case in a particularly favorable season, such as Fusly 1273 is stated to have been.

7. Nor do the Government see any thing wrong in the mode of assessing waste adopted by Messrs. Banbury and Hutchins. Entire remission was granted by them in many instances, and there was nothing wrong in their being content with levying only a part of the assessment rightly chargeable in consideration of the laxity which, as the Board themselves declare, existed in this respect. Where Messrs. Banbury and Hutchins erred was in not obtaining the Board's previous permission to be content with demanding only a portion, instead of the whole of what they believed to be justly due to Government. A Collector's discretionary power does not extend so far as to warrant his remitting a part of the dues of the State on grounds of general policy.

8. The course which the Board recommend for adoption, viz., that only the Nunjah waste in excess of that of Fusly 1272, should be charged for, does not commend itself to Government, as it ignores the fact that Fusly 1273 was a more than ordinarily favorable season.

9. The Government believe that on the whole the settlement of Messrs. Banbury and Hutchins was just; but as it is now impossible to make enquiries into each particular case, they are willing to be content with the levy of only a moiety on this occasion, in order to prove that the principle involved will be strictly upheld.

10. The Board will issue the necessary orders to the Collector, and they will adopt measures for the ensuing Jummabandy being conducted in the manner usual with such operation in other Districts. The Board will also cause timely notice to be given to the Ryots that if they retain lands waste for which irrigation is available, they will be charged full assessment for the same.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

STANDING CIRCULAR, No. LXIX.

Board No. 3,636.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th June 1863.

Read the following letter from the Honorable R. S. ELLIS, C. B., Acting Collector of Madras, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Saidapet, 5th May 1863, No. 149:—

1. I have the honor to request the instructions of the Board on the subject of remissions on account of Nunjah Dittam Bunjer in this District for the current Fasli 1272.

2. The Orders of the Board dated 8th August 1859, on the subject of discontinuing annual remissions in Ryots' holdings, were not enforced in this District, until last year, when 20 per cent of the Bunjer, both Nunjah and Punnah, was included in the Ryots' Puttahs. This amount was charged, not, it would seem, from any idea the land was waste from other than natural causes, but partly to prevent Ryots retaining in their Puttahs from year to year waste, which, from the condition of the tanks and the continued partial failure of rains, they could not bring under cultivation, and also from the difficulty of ensuring the correctness of the Dittam Bunjer Returns.

3. It had been the intention of Mr. Cunliffe to have this year taken a further step in this direction by including 50 per cent of the Bunjer in the Ryots' Puttahs, and this higher rate was fixed at a time when Mr. Cunliffe hoped that the season would be generally favorable throughout the District.

4. The Ryots have been repeatedly warned that, they will be liable to be charged for the entire amount of land held in their Puttahs; but neither these warnings, nor the fact that 20 per cent of Bunjer was included in their Puttahs last year, has had the effect of inducing them to relinquish their lands. As the Board are aware the Mirassidars in this District claim special privileges over waste land, and as this right is in an uncertain state, they are the more unwilling to relinquish any portion of their holdings.

5. I think that it very rarely happens that Nunjah land is waste through the neglect of the holders. Land is waste, either from a partial failure of rain whereby the tanks are only partially filled, or from the dilapidated condition of the works of irrigation in this District by which a portion of the water is lost to the cultivator.

6. Under these circumstances, it would seem inexpedient to make the Ryots pay for any portion of the Nunjah Bunjer, where the land, although retained year by year in a Ryot's Puttah, is clearly waste from natural causes.

7. The charging a per centage, as was done last year on Nunjah Bunjer, seems to me an illogical measure, but I have been unwilling to grant this remission, without bringing to the Board's notice what was done during the last year, and what has been also continued at the Jamabundi of the present year in most of the Taluks, prior to my taking charge of the District.

8. In conducting the Jamabundi of the Saidapet Taluk, I have informed the Ryots that I should refer the matter for the Board's orders, before deciding on the subject of remission on account of Nunjah Bunjer.

9. I would propose, that in all cases where I am satisfied that Nunjah land is waste from natural causes, to allow the full remission, as permitted in paragraph 5 of the Proceedings of Government dated 10th March 1860. I do not think that it will be advisable in this District to enforce the relinquishment of Nunjah lands, which at present are retained in the Mirassidars' Puttahs, although the Puttadars are well aware that in the present condition of their tanks, and except in a more than usually favorable season, there is little chance of such lands being cultivated.

10. It is very doubtful if under the present state of the irrigation works in this District, these lands, if thrown up by their present holders, would be cultivated by others, and to insist upon exacting payment would only be to impoverish the Ryots, who are exceedingly willing to bring every field in their possession into cultivation whenever they are able to do so.

could not have been up on

Remissions granted on account of Nunjah Bunjer in Fasli 1271 amount to Rupees 1,23,426.

and the remissions on account of Nunjah Bunjer may be roughly estimated at Rupees 1,46,000.

12. Should the Board concur in the views I have expressed, they may rest assured that no trouble will be spared in exercising a strict scrutiny into the cases of applications for remission. In conclusion, I would solicit the Board's orders at their earliest convenience.

1. The rule approved by Government, and now in force under the Board's Circular Orders dated 8th August 1859, and 12th March 1860, is that remission is to be granted for Nunjah Shavi and Nunjah waste *resulting from natural causes beyond the Ryots' control, and in no degree caused by their act or neglect.* Where there is no crop the Government demand, which is based on its right to a share in the produce, must be wholly remitted. Where the loss is partial, the remission should be in proportion, but by a per centage either for a whole Taluk, or for a set of villages, or for a particular crop throughout the District, or throughout a defined locality, according, in fact, as the circumstances are identical and the reasons for the remission are equally applicable; and not by any attempt to estimate individual losses, although of course a sufficient number of individual cases will be carefully considered in detail before the per centage is determined.

2. It would seem that this rule will meet the cases referred to by Mr. Ellis; and if so, no special sanction is necessary for acting upon it, although the facts should of course be ultimately reported.

3. Where the ordinary state of the irrigation works is such as to throw lands classed as Nunjah out of cultivation, steps should without needless delay be taken, either to expedite the repair or improvement of the works, or to re-classify the lands and reduce the assessment from Nunjah to Punjab rates.

1. The foregoing orders are passed without any reference to the alleged Mirasi right to which the Collector adverts, but which are not necessarily involved in the present question, and may form the subject of future discussion.

2. The above rules are applicable to all lands under Ryotwary Settlement throughout the

(A true copy of the original.)

(Signed) W. HUDLESTON,

Secretary.

(True Copy.)

(Signed) W. SCHARLIER,

First Assistant.

To Honorable R. S. Ellis, C. B., Collector of Madras.

Copy to All Collectors for information and guidance.

Edw. J. Wright :

Issuing certain orders on the subject of Remissions.

Board No. 3,636.

Received
Dated 19th June 1863.

PROCEEDINGS OF THE BOARD OF REVENUE.
To All Collectors, &c.

Rev. 996/85

STANDING CIRCULAR, No. LXIX.

Enclosed in this copy of the Circular is a copy of the order of the Board of Revenue dated 10th April 1863.

only not take up on
the orders of his predecessors

STATEMENT showing the Extent and Assessment of wet land occupied, and of waste charged in the four Districts of Madras, North Arcot, South Arcot and Salem, during the last six years from Fasli 1268 to Fasli 1273.

Districts.	Faslis.	HOLDINGS.		WASTE REMITTED.		REMAINDER.				DEDUCT REMISSION.			Remaining Assessment.	Per centage increase or decrease in the cultivated area compared with the cultivated area in 1268.	Remarks.		
		Extent.	Assessment.	Extent.	Assessment.	Actual cultivation.		Waste charged.		Total.		Stalacummy.				Shavi.	Total.
						Extent.	Assessment.	Extent.	Assessment.	Extent.	Assessment.						
		Acres.	Rupees.	Acres.	Rupees.	Acres.	Rupees.	Acres.	Rupees.	Acres.	Rupees.	Rupees.	Rupees.	Rupees.	Rupees.		
Madras.	1268...	2,13,639	9,64,609	19,829	70,606	1,93,485	8,93,072	325	931	1,93,410	8,94,003	12,035	1,503	13,538	8,80,465		
	1269...	2,21,886	10,03,588	16,828	59,566	2,06,665	9,40,541	1,393	3,481	2,08,658	9,44,022	360	7,787	8,147	9,35,875	+ 7	
	1270...	2,30,254	10,21,136	33,798	1,54,949	1,90,670	8,64,023	786	2,164	1,91,456	8,66,187	305	80,641	80,946	7,85,241	- 1	
	1271...	2,38,598	10,42,536	37,316	1,28,426	1,99,540	8,90,566	1,742	23,544	2,01,282	9,14,110	171	6,737	6,908	9,07,202	+ 3	
	1272...	2,46,072	10,66,450	34,019	1,28,142	2,09,899	9,31,698	2,154	6,610	2,12,653	9,38,308	183	1,742	1,925	9,36,383	+ 8	
	1273...	2,51,291	9,93,009	24,111	83,566	2,25,518	8,96,273	4,667	13,168	2,30,280	9,09,443	327	47	374	9,09,069	+ 17	
North Arcot.	1268...	1,94,901	11,00,896	4,423	21,497	1,88,695	10,71,145	1,783	8,254	1,90,478	10,79,399	.....	.....	.....	10,79,399		
	1269...	1,99,331	11,23,621	2,817	13,781	1,89,092	10,75,692	7,422	36,118	1,96,514	11,11,810	.....	1,658	1,658	11,10,182	+ 1	
	1270...	2,01,282	11,35,511	24,242	1,07,082	1,64,121	10,03,244	12,619	25,185	1,77,040	10,28,429	2,066	58,450	60,516	9,67,913	- 13	
	1271...	2,03,109	11,53,061	20,325	1,03,204	1,79,551	10,32,955	3,230	16,902	1,82,781	10,49,857	4,915	53,358	58,273	9,91,584	- 5	
	1272...	2,06,991	11,72,071	20,039	1,05,217	1,83,821	10,49,290	3,128	17,534	1,86,952	10,66,824	3,876	30,090	33,966	10,32,858	- 3	
	1273...	2,08,851	11,77,131	22,256	1,12,485	1,83,044	10,57,301	1,554	7,347	1,86,598	10,64,618	5,592	57,162	62,754	10,01,894	- 2	
South Arcot.	1268...	2,48,072	15,24,719	67	410	2,30,169	14,34,738	17,836	89,571	2,48,085	15,24,309	.....	130	130	15,24,179		
	1269...	2,45,324	14,59,501	...	1,985	2,33,943	14,03,021	11,481	54,495	2,45,324	14,57,516	.....	8,900	8,900	14,48,616	+ 2	
	1270...	2,47,651	14,71,140	9,336	43,135	2,32,016	13,55,216	6,302	32,789	2,38,318	14,28,045	12,283	69,404	81,687	13,46,318	+ 1	
	1271...	2,50,838	16,83,953	3,407	7,683	2,68,595	16,26,509	9,036	49,961	2,77,431	16,76,270	.....	926	926	16,75,344	+ 17	
	1272...	2,86,204	15,53,188	1,517	6,521	2,70,174	15,07,804	14,513	69,163	2,84,687	15,76,967	.....	1,635	1,635	15,75,332	+ 17	
	1273...	2,88,551	15,94,619	3,653	17,632	2,71,279	15,17,030	13,622	59,987	2,84,901	15,77,017	.....	25,762	25,762	15,51,255	+ 18	
Salem.	1268...	61,264	4,63,943	442	11,314	58,650	4,47,751	2,192	4,878	60,822	4,52,629	.....	1,991	1,991	4,50,638		
	1269...	61,572	4,82,992	...	22,002	59,636	4,55,228	4,936	5,762	64,572	4,60,990	.....	5,642	5,642	4,55,348	+ 2	
	1270...	65,170	4,82,935	2,502	12,839	58,482	4,46,797	4,186	23,299	62,668	4,70,096	.....	14,383	14,383	4,55,713	- 1	
	1271...	65,765	4,85,871	4,687	21,752	60,203	4,56,481	875	4,638	61,078	4,61,119	.....	2,654	2,654	4,58,465	+ 3	
	1272...	67,173	4,94,421	1,590	8,326	64,672	4,81,613	911	4,452	65,583	4,86,095	.....	1,320	1,320	4,84,775	+ 10	
	1273...	67,813	4,41,885	5,616	28,123	61,127	4,11,213	1,060	5,519	62,187	4,16,762	.....	7,893	7,893	4,08,869	+ 4	

made in Feb. 1870 viz. from North Arcot to Madras, 80 villages.

N. B.—This account has been adjusted with reference to the transfer of villages made in Fasli 1270, viz., from North Arcot to Madras, 80 villages.
 " South Arcot to North Arcot, 158 villages.

only not taken up in the orders of his predecessors

No. 7,232.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 5th November 1864.

Read the following letter from G. BANBURY, Esq., Acting Collector of North Arcot; to W. HUDESTON, Esq., Secretary to the Board of Revenue, dated Chittoor, 18th October 1864:—

1. I have the honor to reply to the Board's Proceedings, dated 28th September last.
2. Before commencing an explanation of my measures with regard to the settlement of last Fasli in the Madras District, I must observe that my position is somewhat a peculiar one. My procedure has, to a certain extent, been disapproved of by the Board. Government have asked my explanation, so that in endeavouring to maintain my position, I cannot avoid differing from and reasoning against what has been already recorded by the Board. If therefore, in the course of this explanation, anything should occur that might by any possibility wear the appearance of presumption or discourtesy, I beg to state that nothing could be further from my real intentions. The same with regard to Mr. Fane, I must necessarily differ from his views very considerably; but in thus differing, I have no wish to express any thing harsh or unfriendly.

3. I may divide my subject into three portions:—
First.—The reasons and grounds for the settlement made.
Second.—Answers to Mr. Fane's and the Board's objections.
Third.—Concluding remarks.

4. Fortunately as regards the first point my task is considerably facilitated by the fact of the lax revenue system in favor of the grasping and selfish tendencies of the Madras landholders being well known to and admitted by both the Board and Government. I need not therefore dilate upon the large extent of available Nunjah waste, retained idly in the Puttahs year after year without any attempt on the part of the possessor even to prepare the ground for cultivation; nor upon the anxiety there is on the part of hundreds of only too willing applicants to take up and expend capital upon these now waste but yet unobtainable tracts; nor upon the fact that this system encourages the Ryot to hold more than he has capital to manage; and that consequently his cultivation is carried on meagrely and to a certain extent unprofitably; nor upon the hindrance and obstruction which any attempt to break through this system would encounter from the native subordinates, to whose hearts I verily believe these remissions are far dearer than they are to the Ryots who are innocently supposed to obtain the full benefits of our concessions.

* NOTE.—Since this sentence was penned, a singular illustration of its truth has come before me. In the village of Pakala, North Arcot, there was not apparently enough actual waste to suit the Cutcherry servants' purposes, so they deducted land assessed at Rupees 116 from the Cultivation account placed it under the head of "waste" and got it remitted. This was certainly polite and considerate on the part of the Government officials, as the Ryots could never have expected this remission on what was actually cultivated and even examined.

5. Upon joining the District the enormous remissions for Puttah waste at once struck me, and upon comparing these items with similar concessions granted in the neighbouring District of South Arcot I was literally startled. The following short statement, taken from the printed Jammabundy Reports, will show that I had good reasons for surprize, and for subsequently endeavouring to ameliorate this lax system when the District was temporarily placed under my control.

	Fasli.	Land Revenue Ryotwary.	Waste remitted.
Madras...	1271	12,24,257	2,02,670
South Arcot...	"	27,45,735	9,352
Madras...	1272	12,05,586	1,68,863
South Arcot...	"	28,13,953	6,543

Examined the original
of the letter to the
Board of Revenue dated
18th Oct. 1864.
19th Nov. 1864.
Rev. 996/85

Madras District
Revenue Department
No. 996/85
19th Nov. 1864
C. 996/85
19th Nov. 1864

only not made up on

Thus in South Arcot with a Beriz considerably more than double that of Madras the remissions for waste were actually only $\frac{1}{27}$ part of those granted to the Madras Ryots, the seasons being I doubt not tolerably similar.

6. A still more striking instance came to my notice. The Board are aware that the Madarantakam Taluk in Madras and Tindivanam Taluk in South Arcot are contiguous, and greatly similar in their natural characteristics; but I found that while in Madarantakam, with a revenue of Rupees 3,62,339, the remissions for waste were nearly 60,000 Rupees in Tindivanam, with a larger revenue of Rupees 4,35,087, similar remissions amounted to only Rupees 1,353. This difference in these sister Taluks is most remarkable. No doubt Varagoo is grown to a large extent in Madarantakam, for which fallow remissions are given, but there is also similar cultivation in Tindivanam.

7. It may be urged by those unacquainted with the subject that such measures must have an unsalutary effect upon the Ryots; but the Land Revenue of South Arcot has gone on steadily increasing. The average of ten Faslis up to 1263 was 22,36,121, its net settlement amounts now to nearly 30,00,000, notwithstanding that late transfers of villages to other Districts, and Mr. Newill's recent remissions in Chillambur and Manargudy must, I should say, have decreased this branch of the District revenue at least one lac.

	Wet per Canl.	Dry per Canl.
South Arcot	7 1 6	2 1 6
Madras	4 14 0	1 12 0
† Vide Mr. Fane's letter dated 29th July 1864, paragraph 12.		
‡ Tindivanam Taluk.		
Fasli.	Rs.	
1271	4,22,401	
1272	4,35,087	
1273	4,62,619	

The revision has doubtless wonderfully benefited this Province; but still the revised rates* are considerably higher than those at present ruling in Madras. With regard to the Tindivanam Taluk, so far from the system adopted by South Arcot† Collector's "crippling" the Ryot's future resources" and causing "a diminution of cultivation" this Taluk has uniformly with the whole District gone on yearly increasing in prosperity as thus shown. I must however acknowledge with regard to South Arcot, that the necessity for remissions seems to have been upheld by one Collector—Mr. Ratliff; his views, and Mr. Fane's appear to have been identical, as during the year of Mr. Ratliff's administration I think about 2½ lacs were remitted under "Nunjah Bunjer;" but his policy was exceptional.

8. Surely these facts coming to my observation simultaneously with all the condemnatory and blighting elements already discussed in paragraph 4 warranted, or rather morally compelled me to take steps for amelioration. As the Government justly observe I had much opposition to contend with. I may almost say I stood alone, except that I had a most active and efficient auxiliary in Mr. Hutchins, who, I have no doubt, carried out his share of the task with his usual accuracy and ability. I well nigh wish now I had followed the beaten track; kept no English note book; left all to the Serishatadar; and remitted wholesale. It is true much revenue would have been sacrificed, and a pernicious system perpetuated; but I should have saved myself much toil and care; should not have had my measures even canvassed, much less upset; should have been smiled on approvingly by the native subordinates; have become doubtless a popular character—in fact a "Dharma Prebhu."

9. In connection with this portion of the subject I may mention that it was not a mere desire to augment the revenue returns of this Province which induced me to adopt this course. Had such been my object I should have charged the waste fully, instead of which the entire demand was very rarely allowed to hold good against the Ryot, and in some instances as small a portion as one-eighth was brought to the Government credit. My intention was to show that the Ryots could not gratuitously retain in their Puttahs, to the total exclusion of all applicants, lands which they never attempted to cultivate, and which they would neither relinquish by Razinamah, nor pay for.

10. Fortunately the season proved a remarkably favorable one for the introduction of these measures; the early rains were abundant and continuous, and as the Board are aware the monsoon was far above the average. Before commencing the settlement I had considered that when the following characteristics were observable with regard to the waste in a village, their presence would indicate neglect, and consequent rejection of claims to remission.

1st. *Where the waste was larger than last year.*—The season was admitted on all hands to have been vastly superior to its predecessor, so certainly a diminished breadth of waste should have been the result had there been no neglect.

2nd. *Where there was much second crop cultivation.*—In these cases it may fairly be conjectured that they had purposely left the lands waste, in order subsequently to appropriate the water for a second crop, for which they would only pay half assessment—much absorption, evaporation and loss of water naturally arises from this unfair arrangement of not cultivating when the supply is abundant and available. Mr. Fane would urge* that this was not a valid ground, as

* See paragraph 7 of Mr. Fane's letter.

the early crops are sometimes raised with private well water, and the Government supply is only available for the second crop. But as I remitted in all such cases where private wells were used, these exceptional instances to my theory all came under my personal notice, and thus Mr. Fane's argument against this conclusion vanishes.

3rd. *Absenteeism.*—Where owing to residents in Madras, or in localities distant from the landed property the owner had left waste when others had cultivated.

4th. *Retaining the waste year after year without any attempt to cultivate or even to clear.*—In these cases I fairly argued, if you cannot cultivate and turn to account your land during such a season as this, what use can it possibly be to you? You however decline to relinquish it in favor of more capable and industrious applicants, so it is only just that the State should not lose its demand thereon by your obstinacy. Such were the considerations under which I commenced the settlement; and I subsequently found by personal inspection, local inquiry, and experience, that they were very good grounds to work upon.

11. Finally, in connection with this portion of the subject, I may mention one circumstance which came to my notice during the settlement, and showed prominently that my impressions regarding the wilful neglect of opportunities on the part of the Madras Ryots was well founded. Sutivaide was lately transferred from North Arcot to the Trivallloor Taluk, and is consequently at present comparatively uncontaminated with the laxity of the Madras system. The consequence was, that although the rain-fall was confessedly smaller, and the irrigation works less efficient than in the Trivallur Taluk, the claims for remission for waste in this unfavorably situated Division were as nothing compared to those on the part of their really more fortunate fellow cultivators in Trivallur Proper. The difference between an industrious population making the best use of their resources, and between apathetic land owners neglecting far more favorable opportunities, was singularly shown in the contiguous and now united Taluks.

Part 2nd.—Answers to Mr. Fane's objections.

12. I now come to the second part of my subject. From Mr. Fane's first letter to the Board it would clearly appear that he is under a misapprehension as to the mode in which the yearly settlement in a southern District is conducted. Mr. Fane seems to think that my charge was some thing extraneous and unauthorized, and that "the demand could not be eventually enforced." The demand is legally made and entered in the Puttahs, and unless the Collector at the settlement indulgently elects to remit the whole, or a portion, there it remains, and can of course be realized like any other item in the Puttah. As to the "downright refusal to pay," I do not apprehend there would have been much difficulty in realizing, had it been known the Collector was determined to abide by the settlement made. The Yekbhogam Mirasidars might possibly have been slightly obstinate; but a very little display of firmness would have set matters right. I believe the majority of the Ryots would have paid willingly enough if the native employes had only allowed them to do so. Mr. Fane states: "The

could not have been up on
the orders of his predecessors or

Tahsildars without exception have demurred to them; but I hear that a considerable amount has already been paid up. Apparently therefore, against the Tahsildar's wishes I must say I wonder at these officers daring to make such an utterly ridiculous assertion as, "that the demand could not be enforced." Should the Government eventually order my settlement to stand good, I think Mr. Fane will find that a very moderate application of Act II of 1864 will cause the balances under this head to be realized without much difficulty.

13. Mr. Fane then states: "that it is not contended the lands were cultivated, but only that "water could have been obtained had the Ryots been more energetic." Here again is a misapprehension; no body ever supposed the land was cultivated, the term Bunjer itself means waste, and the neglect on the part of the Ryots is the very reason it is charged. To let the demand hold good when the "Ryots neglect," or "Kussori" is observable is one of the very elementary principles in the annual settlement of a southern District. In Tanjore I see this charge is termed "Kussori Bunjer."

14. Mr. Fane appears to think "good season" was not a sufficient reason. It seems to me the very ground of all others. Nobody has ever urged that it was a bad one. It was not so favourable in Conjevaram as in other parts of the District, and consequently as Mr. Fane will see the remissions were there larger. Moreover Mr. Fane does not, I think, set out upon a correct hypothesis. In an acknowledged favorable season, like the last, it is for the Ryots to prove they could not cultivate; not for the settling officer to prove they could; the *onus probandi* rests clearly with the Ryots.

Mangad.

15. I cannot go through all the villages Mr. Fane takes exception to, as my letter has already begun to assume far larger proportions than I had ever intended; but I will select two. I visited Mangad myself, and made much inquiry about it. It is the most favorably situated of any village under the Chembrambakam tank; it receives the earliest, most continuous, and latest supply; there is a Tamil proverb which points out how this large tank bestows its enormous benefits mainly upon Mangad. It belongs to an influential Yekbhogam Mirasidar, who holds other villages under this tank; and year by year he receives large remissions averaging I may say Rupees 1,800 per annum for lands he retains in his Puttals, but which he will neither cultivate nor relinquish. Tracts of the richest Nunjah surrounded by cultivation I found untilled; but neither he, nor his agents, ever ventured to aver that want of water was the sole cause. The tank had a larger supply by three months than last year, and yet there was actually more waste; they had in reality nothing to urge in extenuation of the patent fact of their neglect. There are very extensive betel gardens in this village rented usually to Mussulmen at most profitable rates; these remunerative rents are I learned not unfrequently still enhanced by a private arrangement between landholder and tenant; that the latter shall have the water available for three or four carnies of adjoining Nunjah which will consequently be left waste. The Board are aware what a quantity of water the deep ditches in a betel garden consume. Saravana Mudali was naturally dreadfully opposed to my investigations and orders regarding his retention of waste; he viewed them as a terrible blow to what he regards as his "vested rights," and as likely eventually to admit outsiders into the sanctuary of his hitherto close borough. Let the Board alter, reverse, and overthrow my settlement as they please, I only beg they will let it hold good as regards this Mirasidar. I am as convinced of the justice of my orders passed, after due consideration and personal inspection, as I am that he was one of the chief promoters of the movement against my procedure.

Saravana Mudali's Nunjah waste remitted.	Rupees.
Fasli.	
1271	1,835
1272	1,746

Ranganathapooram.

16. Next as regards Ranganathapooram, my reasons recorded are thus: "No reason to remit; there is far more waste than last season and 54 Rupees second crop, which plainly shows

"there was water enough for first crop had they wished to use it" cannot remit, "second crop own wells remit Rupees 20-4-3." And very sound I think the Board will admit they are. The final remark stating that the portion of second crop raised by own wells, viz., Rupees 20-4-3, was remitted shows clearly that the remainder of the second crop was irrigated with the Government water, and not by private sources therefore as before-mentioned Mr. Fane's argument goes for nothing. These two examples will, I think, convince the Government that I might thus go on demolishing objections, village after village but as I have neither the necessity; nor the time for so doing, I trust the above two instances, and those I have hereafter to mention with reference to the Board's objections, will be quite sufficient to establish my case.

17. The Collector says in paragraph 12: "From inquiries I have since made, I feel convinced that the waste was owing to a deficiency of water." Had Mr. Fane known more personally of the season, or the subject, he would not have said this. Mr. Fane may not perhaps be aware of it; but apart from other causes which rendered my measures for improvement unpopular was the important consideration that they were in direct antagonism to the withering Mira-i system to which all the Cutcherry servants and the so-called Mirasidars are alike wedded so that any information furnished in "Enquiries" regarding these unpopular proceedings of mine would naturally be biased. All I can say is, I never witnessed a better monsoon, or a better early cultivating season.

18. Next, with regard to the Shavi, Mr. Fane says the presence of "Shavi clearly proves the supply was deficient." It shows no doubt that the supply was deficient for the second crop upon which the Shavi is nearly always claimed, but is by no means conclusive as regards the supply for the first. The presence of Shavi proves that certain Ryots hold more than they can cultivate simultaneously when proper opportunities are offered. They admitted this to me frequently; and one result of my measures would have been to cause the holdings to assume proportions more in accordance with the means of the cultivator. Shavi remissions are however such ticklish* things that I should be sorry to have to rely on them as evidence of any thing.

* E. G. Suspension of late Serishtadar with regard to Vylloor Shavi.

19. Lastly, Mr. Fane says that the increase in the revenue shows the Ryots cultivated as much as they were possibly enabled. Doubtless much of this increase was owing to the exceptionally good season; but I think I may fairly state that a considerable portion thereof was due to my exertions in promoting the disposal of Durkhasts, and steady opposition to the idle retention of available waste by the so-called Mirasidars. Similarly I may fairly say the large increase† in the collections up to date was owing to the exertions made to observe the Kistbundy which had nearly fallen into desuetude.

† Rupees 2,57,893. Vide Madras Administration Report for present year, paragraph 8.

Part 2nd (continued).—Answers to Board's objections.

20. I now come to the Board's objections to my Settlement, and I must begin by saying a few words about this note book which has attained for itself a celebrity I certainly never anticipated. I found that it was frequently very difficult in cases that came before me to discover what had really been done at past settlements. Some remissions were granted, I was told, "upon Collector's verbal order," others "upon Serishtadar's verbal orders," this was unsatisfactory to say the least of it; so, during the last settlement, I allowed nothing to be remitted that I had not myself entered in this book (forwarded by Banghy). It answered excellently. I found the Serishtadar took it as the basis of his Takids, alterations in the puttals and every thing else, it was in fact the standard authority for remissions; both Mr. Fane and the Board leave out the figures, the primary object of the book and entered in every case; this unintentionally gives rather a different impression of the purpose for which the book was kept.

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Extract from Government Proceedings, dated 8th June 1859, No. 806.

"All land taken should be paid for without question. This custom has been introduced by Mr. Hall in South Arcot, and no reason appears why it should not be enforced in Bellary also. This and all remissions are a fruitful source of corrupt gain to the Revenue Officers, and consequently their abolition is always opposed, but for this very reason, and to free the Ryot from such demands, it should be insisted on."

"The rule will be that all land in the Puttah is to be paid for and generally speaking this rule is to be strictly enforced." Government also state in their opinion that the following "is sound," and "the sentiments then advocated by the Board are a retrogression."

"The Government on the other hand claim the right to know from him (the Ryot) what land he desires to give up, and to levy Teerwah on those he will not give up, whether they be cultivated or not."

* Modifications dated 12th March 1860, paragraph 5. "Nunjah waste will be dealt with under the general rule above set forth in paragraph 2, viz., where it is clearly waste from natural causes remissions will be allowed, but not where it is waste through the neglect of the holder."

+ Whole Nunjah waste charged and remitted by Messrs. Banbury and Hutchins.

charged	...	Rupees 43,471
Remitted	...	" 40,094

really done their best, the charge was fully remitted. *Vide* the following two examples taken consecutively which will I presume suffice.

165.—"Mepur—Tahsildar and Deputy Tahsildar and all say there was no water; that the tank supply never reached the village at all; and that the whole cultivation was by wells. Rupees 718-9-6 fully remitted."

166.—"Agaram—Worked hard at wells; remit Bungee (i. e. all) 160-12-2."

23. As to portions being charged and portions remitted I beg to state as follows: Former laxity in the administration of the Madras District has already been acknowledged; the Ryots are not therefore wholly to blame for this unfortunate system; I did not consequently desire to be harsh and relentless the first year; my object was as before stated to show that this practice of gratuitous retention was drawing to a close. Surely forbearance was not an adequate ground for the total subversion of my settlement! The authority to remit and charge portions of claims to alleviation has, as the Board must be well aware, always been inherent in the office of Collector, and is universally exercised. This authority is in fact the panoply with which he sets out on his settlement. This discretionary latitude has been exercised in every District I have been in, and the practice has been clearly recognized and approved of by Government. I am quite prepared to admit that I did act too leniently; and because I did not exact the utmost penalty Mr. Fane suggests my settlement should be reversed "in toto" This is I think singularly illogical. Admitting I was too lenient, it was no reason the negligent Ryot should escape unscathed. The more reasonable course would have been to recommend he should be charged all.

24. Next with regard to the charge being made when there was apparently an "admitted want" of water. § The Board do not mention any particular village in which this is observable, so I cannot tell to which they refer. I presume however the question applies to the twelve villages which Mr. Fane has so sedulously but so unsuccessfully collated from the whole number comprising the Collector's three Taluks. I say unsuccessfully because in the first place the want of water is

21. I am asked the "orders" or "rules upon which I acted." As to the "orders," all the instructions that have ever been issued say that if negligence is apparent, the charge must hold good, it is as I said before one of the elementary principles of the Jannabundy. It is true the orders quoted in the margin say the waste is to be almost universally charged, and the spirit of those orders, Government, I presume, still intend should hold good, although they have been subsequently modified* to the extent upon which the present settlement was conducted.

22. With regard to paragraph 9 where-ever the waste was shown to have arisen *bona fide* from want of means, or that the Ryots had

* No. of villages selected by Mr. Fane.

Extracts from my remarks.

149. "Muslimen say there was no water but seems doubtful."

116. "A tolerable supply and now 1½ months' water."

9. "Cannot say there was not enough rain."

19. "But supply was sufficient to enable them to cultivate."

105. "Done what they could to a certain extent" "although the season was favourable they plead," &c

94. "There is however second crop cultivation," i. e., one of my reasons for charging.

151. "Remit 1 ditto Banjer 6-5-7 as favor."

109. "They however cultivated some of the present waste last year," i. e., in a worse season than this.

96. "Large amount of Karamamah Banjer," i. e., they take up more than they can cultivate to keep others out.

by no means clearly "admitted" in nine* cases out of the twelve; and secondly, because the whole remission involved in these carefully selected instances amounts only to Rupees 309 and odd.

The forbearance which I exercised, as before stated, during the first year has also to answer for the impression which has been created, that having in a few instances recorded so favorably to the Ryots I ought in such cases to have granted full remissions. I have said I did not wish to be harsh, and was often too glad to find some grounds for foregoing a portion of

the just demand the State had against the Ryots, and consequently to enter in my record of remissions any averments that could be construed to entitle the claimants to consideration, and thus I have very probably in some few cases recorded more indulgently than strict justice demanded. This has doubtless caused the entries to assume, in a few instances, an unduly favorable appearance to the Ryots, and which the Board take exception to as "admitted want of water." Had any explanation been vouchsafed me, this apparently vulnerable point could have thus been satisfactorily cleared up, and the "evidence upon which the Board acted" might, I trust, have assumed a different phase. After all, these remarks in my note book were more for my own satisfaction than anything else. I was not bound to record any reasons at all.

25. I am next asked why I charged, because the Ryots "were a quarrelsome set and doubt- less negligent," and why in another village I did not remit, because "wells could be easily sunk." I must say this is hardly fair either upon me or my note book. One reason, apparently the weakest, is selected, nothing is said about its more potent associates, and I am asked why I acted upon such a ground as that. An uttered threat is often an important link in a chain of evidence in a murder case; but it would be rather unfair to ask the judge why he convicted upon a mere threat. The reasons recorded for Vulloor are:—

First.—Waste retained year after year.

Second.—River channel.

Third.—They cultivate portions in one year, and leave it waste the next; organizing in fact a system of Nunjah fallows both novel and inadmissible.

Fourth.—They had ample warning either to cultivate or relinquish.

Fifth.—Quarrelsome set. I had good reason for this last remark. I am afraid to say how

† Commenced I find in 1859, and was settled in June 1864 by finally letting none of them have it.

much time was spent over this village. There is a Durkhast† case still pending which began years back, and which I imagine is not settled

yet; they quarrelled about it so desperately that neither Mr. Cunliffe, myself, nor the Tahsildar, could bring it to any settlement, here then is one instance of waste owing to their feuds; besides, broils and contentions are not generally compatible with assiduity and industry, qualifications necessary to be shown when remissions of this sort are claimed on the grounds of no "neglect" or (Kussoori). Mr. Fane says "one portion is annually inundated by salt water, and consequently unfit for cultivation." If such is really the case why retain such worthless land in their Puttahs; there is no compulsion about it, it is perfectly optional, as even at the last moment I remitted fully wherever lands were relinquished. I remember however in connection with this village that an employé in the Sea Custom house was only too glad to obtain a portion of waste on Durkhast after considerable opposition on the part of the other villagers. On the opposite side of the canal, in the village of Poojadyvak, I saw the cultivation was carried on to the very water's edge, so I have no doubt might be the case with Vulloor. A little manuring and culture soon eradicates the saline particles and efflorescence from soil like the waste in Vulloor.

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26. Next as regards Mulliappooram (167) the more cogent reasons are.—

First.—“More waste than last year, but larger supply of water; four months in the tank last year, seven months this.”

Second.—“Neglect apparent.”

Third.—“The waste was idly retained year after year,” and then comes the last reason, or rather remark, “wells could be easily sunk.” I am not prepared to admit that this is such a weak ground as the Board appear to deem it.

* Note.—Extract from Conjevaram Tahsillar's report upon the waste lands.

“They (the Madras Ryots) are not even willing to sink wells, no not even where feasible, by those who can afford to lay out some money for such a purpose. Their apathy to such pursuits, and for improving their lands is very remarkable.”

saying “Here is land possessing natural advantages which many are anxious to avail themselves of but which you neglect; you still however elect to retain the land in your Putiah do so if you wish, but you must bear the assessment which others would gladly pay if they could only get the chance.”

27. The Board then ask why I did not dispose of each individual case separately. The

† Note.—The orders of both the Board and Government are that these remissions should be granted “not by investigation of individual cases, but by a general per centage for a particular District or Taluk.”

Extract Minutes of Consultation February 6th 1858 No 159, paragraph 5 and paragraph 11 of Board's Proceedings, 8th August 1859.

Had Mr. Fane ever read the Extracts contained in this and the preceding paragraphs, which authorize every step taken, I do not think he would have recorded “That the spirit of all the Board's and Government Orders on the subject is directly opposed to proceedings like Mr. Banbury's.”

Board will see from my book that individual cases were frequently disposed of; even if I had not done so I had grounds for my procedure. The remissions had always been given village by village, and no exception taken to this course. By analogy I was therefore justified in charging village by village. But there is also this difficulty that all the Ryots do not attend at the settlement. Moreover similarity in local characteristics, equally effect-

ing several Ryots, would naturally cause similar orders to be passed regarding all the claimants. The following two extracts however show I did inquire into individual cases.

1. No. 26 “Madaveram.—Tank filled. Ditum Bunjer Rupees 290-2-5; in this 85-4-2 belongs to one Soobramy Shastri, he is a merchant, does not live in the village, trades; and is at Western Coast, has kept this waste for the last nine years, and it appears could have cultivated had he chosen to do so, there is no reason to remit.”

2. No. 87 “Tirunirmalay.—Appasawmy must pay, he does merchant's business in Madras, and has left his land waste ten years. Others did all they could and large increase, worked hard, remit 49-7-0 (i. e., the whole).” And such evidently just demands as the above have been since ordered by Mr. Fane to be remitted “in toto.”

28. The Note Book will show Government what inquiries I made, and this letter, written I may say entirely from memory, will prove to the Board (from its length I fear somewhat unpalat-ably) that I carefully considered and executed this task. I beg both my book and my letter may be laid before Government. When I now think over it, I only wonder I made so much inquiry, and took so much pains, knowing that I was then on the verge of losing my acting appointment, and that the benefits of my labors would be reaped during my successor's administration.

29. I have no accounts, and nothing to refer to, but as far as I can remember the principles upon which I calculated the portions to be remitted were as follows:—

1. Number of years the tract had been retained waste.
2. Facilities of irrigation, such as low or high sluices, &c.
3. Amount of neglect perceptible.

4. Extraneous causes in Ryots' favor, such as partial loss of cattle, cholera in the village, houses burnt, &c.

5. The financial circumstances of the Ryots themselves, and the amount of waste they would have to pay for this first year. I do not pretend to say that my settlement was perfect, but I think I may fairly say it was as correct as more than ordinary pains and inquiry could make it, and that it was made too upon far better and more reliable data than Mr. Fane can ever possibly obtain now, whatever efforts he may use.

30. Finally, with regard to this part of my subject, should the Board think proper to record that my arguments have failed to induce them to alter their opinions already expressed, I would beg to ask if this measure now working so successfully in other Districts, is ever to be introduced into Madras; when will there be a season more propitious for its introduction? or to what greater extent can inquiries be instituted than were made by the two Covenanted officers during the last settlement? The Board may not be aware of it, but the modifying orders they have issued have been tantamount to an entire reversal of the previous settlement. Practically it cannot well be otherwise. All inquiries would lead to one result. The native officials are banded together against what to them seems a most prejudicial innovation; so the replies to all inquiries would be “no water, you must remit.” Personal inspection was at so late a date useless. Mr. Fane therefore, I presume, seeing these difficulties ordered the whole to be remitted, the consequent alterations in the amount of Merahs, Road Fund, and changes in the Putiahs, must have rendered the execution of these orders something equivalent to a second Jannabundy, to say nothing of the refunds to be made to those who had already paid this demand.

31. The entire overthrow of my settlement must indeed have been a grand triumph for the Yekbhogam Mirasildars and the Cutcherry employes over their late Acting Collector; it was nevertheless somewhat an ignoble victory, as although close at hand I had no opportunity of defence or explanation. It was in fact an appeal decided *ex parte* without the Respondent being allowed a reply, although he was literally brimful of facts and arguments to support his case.

Part 3rd.—Concluding Remarks.

32. I have now I think answered every objection that the Board and Mr. Fane have urged against my settlement, and it only remains for me to say a few words regarding this charge for waste with reference to the assessment of the Madras District. In paragraph 7 of this letter I have stated that the mean rate for Nunjah was 4-14 per cawny. It is less than that, as the Government have conceded very liberal permanent reductions on all the higher rates. Admitting that the soil of the District is not first rate, no one can urge that something below Rupees 4-14-0 per cawny is a high average for Nunjah lands. I remember in the Oodiarpolium Taluk of Trichinopoly the Ryots were paying 7 Rupees per cawny for cumboo growing on a very ordinary dry land. Moreover the extraor-

NOTE.—Straw is now 8 Annas a bundle in this District on the threshing floor. Mr. Bourdillon in his report on the revision calculates the same sized bundle at 1 Anna, the straw therefore now pays the assessment over and over again.

dinary rise in the price of grain, in addition to the Government permanent concessions, have placed the Ryots in a far more prosperous condition than in former days; in fact “the poor oppressed Ryot” has nearly ceased to exist, and would be forgotten with other by-gone institutions were he not annually resuscitated to be applied as a lure and a bugbear to two easily yielding settlement officers. One of the chief objects of the revised assessments was to sweep away remissions. When the rates were Rupees

28, 35 and even 42 Rupees* a cawny these remissions were a necessity, but they are so no longer. Torture and Tuccavy† the offsprings

of a high assessment have disappeared with the cause that gave rise to them, and the wholesale remissions which owe their origin to this same now obsolete, source are in most Districts fast

could not have been upon
the orders of his predecessors

following these now departed reproaches to our Revenue system. Why then should Madras
* Government Orders, dated 21st December 1859, No 1,733. with its admitted* light assessment still retain
this old fashioned and Moribund policy of
wholesale remissions, and thus exhibit a melancholy example of acknowledged "lavity," and
weak submission to the williness and greed of native officials?

33. It may be said that these remissions in the Madras District will cease with the
introduction of the survey and settlement, the panacea for all existing imperfections. But if
30 per cent. of the gross is taken as the Circar demand; if the commutation price is obtained
by the settling Officer, after taking into calculation the high prices ruling during the last ten
years, and if the results thus obtained are not manipulated to suit some pre-conceived standard,
the Madras Ryots will find undoubtedly that their mean rate of Nunjah assessment is at least
doubled. Minabaf and Stulla Cummee† have
been consigned to the grave, why should not
under the existing favorable circumstances
the "Dittum Bunjer" also follow? After all it is only an extended form of "Stulla Cummee,"
one is portions of fields, the other portions of
Puttahs left waste. "No crop, no assessment"
is I would submit a dangerous doctrine; we
should under this tenet have to resuscitate remission on "Stulla Cummee" and "Punjab waste,"
which are now charged even in the Madras District.

34. Finally, the introduction of the measure
was not altogether so much opposed as I had
anticipated, the Yekbhogam Mirasidars were
naturally as averse to it as the old Tories
were to the Reform Bill; it opened up their close boroughs. Seruvanah Mudelly for instance,
with his Rupees 1,800 annually remitted on Nunjah waste, is practically holding his villages on
a sort of Inam tenure, paying really less for his Government land than a Shrotriendard would
pay for a similar tract in the shape of Jodi. Seruvanah Mudelly's Puttah waste, say Cawnies 350,
is of course perfectly proof against all Durkhastdars. Any system therefore which tended to
upset this snug arrangement he would naturally oppose. The Iyengar Brahmins spoke
considerably against it, but then they are clever disputants, of a legal turn of mind, and delight
to argue about anything. The Payacaries were of course delighted; to them it appeared like
the unexpected arrival of the "Kritah Yugam," or Hindoo millennium, they saw that if carried
out in its entirety, opportunities would be afforded them for obtaining land and independence.
Portions of the now uselessly retained tracts would have to be relinquished by their surfeited
owners, and would be at once snapped up by the only too happy and painstaking Payacary. In
my opinion the erasure of the term Mirasi was generally speaking the more unpopular measure
of the two; and the Board are aware that Petitions against it abundantly streamed into their
Office, but this had the Board's support, having emanated from them, and as it mattered not to
the pockets of the Cutcherry servants whether the designation was retained or not, the former
practice has now quietly become obsolete.

35. In conclusion, I beg respectfully to thank Government, for the opportunity they have
afforded me of answering the objections that were raised against my procedure. I naturally felt
hurt and disheartened that, without one word of explanation being vouchsafed me, those
measures which I still believe to be just and beneficial should have been overthrown upon the
recommendation of Mr. Fane, who was new to the District, its defects and its antecedent, and
whose information could only have been obtain-
ed from "interested native subordinates ever
"ready to plead the necessity of remission."

Vide orders of Government, dated 18th June 1859, para-
graph 11.

1. Ordered that the foregoing letter be sent to Mr. Fane, Collector of Madras, and that
Mr. Fane be requested to send up a statement showing the extent of land held by Saravana
Mudeli, the person referred to in paragraph 15, during the last five years, with the extent of
waste remitted during the same period, and a Memorandum of the water supply in each year.

2. Mr. Fane will also explain in what respects the system hitherto observed in the Madras
District in remitting for waste in Puttahs and for allowing the Ryots to retain waste without
charge, has differed from the practice adopted in similar cases in other Districts; and with
reference to paragraph 20, whether no official statements have been kept in the Madras District
exhibiting the amount of remissions claimed, the grounds of such claims, &c. The Board
observe that the Statement in which these matters ought to be recorded is Statement No. 8 in
the Village Manual.

3. Mr. Fane will be at liberty to submit any explanation he may wish to offer in reply to
the remarks made by Mr. Banbury on Mr. Fane's reasons for proposing to remit the waste
charged.

4. The Board desire to receive a tabular Statement showing for each village the demand
as settled by Messrs. Banbury and Hutchins; the waste charged by them; the waste remitted by
Mr. Fane; and the reasons for his proceedings.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,

Secretary.

To E. G. R. Fane, Esq., Collector of Madras.

Exd. R. H. Lee.

only not make up on
all the orders of his predecessors

No. 7,234.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 5th November 1864.

Read the following letter from P. P. HUTCHINS, Esq., to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 28th October 1864 :—

1. I have the honor to acknowledge the receipt of the Board's Proceedings, No. 6,327 of the 28th ultimo, requesting me to explain certain points in the recent settlement of the Sub-division of the Madras District.

2. I must admit that I felt both surprise and regret that the Board should have disposed of the matter without giving Mr. Banbury or myself an opportunity for explanation. Mr. Banbury was away on leave, it is true, but I was perfectly acquainted with the grounds upon which he proceeded. I believe, if the Board had done me the honor to refer to me, even I should have been able to make out a sufficiently good case to induce them to pause before issuing an order for the wholesale remission of Nunjah waste; for that is what the order practically comes to, though, as the Board have shown, it was not stated in express terms. If now, in the course of this explanation, I take up a position in any way opposed to the Board, I trust they will ascribe my apparent presumption to the awkward situation in which I am placed, and not to intentional disrespect.

3. My reply has been unavoidably delayed by my absence at Bangalore. Since my return I have been favored with a copy of the rough draft of Mr. Banbury's explanation. I need not therefore repeat any of the arguments which he has so clearly set forth. If the Board had not required me to point out the precise "orders or rules" under which I acted, I might have written from Bangalore; but it was impossible for me to give chapter and verse from memory.

4. With reference to the note book (returned), the Board seem displeased that I should not have recorded in it my reasons for having granted or refused remission, but they have misunderstood the object for which I kept it. It was part of a system which Mr. Banbury and myself introduced, and not before it was needed, into the Madras District, of having an authority in our own handwriting for every order that left any doubt. I believe I shall be able to justify every order the book contains, but it was to show the order, and not my reasons, that the book was kept.

5. I have now to show the orders upon which I proceeded. The standard authorities on the question of remissions are the orders of 18th June and 25th July 1859, which set forth the deliberate views of Government on the whole subject. It is true the very positive tone of these proceedings was slightly modified in March 1860, but the Government took care even then to declare that they adhered entirely to the principle before enunciated, and what was that? After referring to the mischievous effects of the old fashion of remissions on waste, they went on to lay it down as a cardinal rule, that *all land retained in the Puttaks must be paid for*. A departure from this principle, they continued, was only permissible when there was an indubitable failure of water, and no reason to suspect the Ryots of neglect. Where irrigation was precarious, they assumed that the land had been assessed with reference to that disadvantage. All ordinary risk was, therefore, to be borne by the Ryots: unusual or extraordinary floods or failure of water alone being held to be good ground of remission. Finally, these remissions are termed by the Government themselves "discretionary remissions," and it is expressly stated that the "few and exceptional cases" in which they appear necessary, "will be best met, not by investigation of individual cases, a course open to very great objection, but by a general per centage for a particular tract of country."

6. Thus I have here a sanction for every step to which exception is taken by the Board, viz., (1) to the principle that, at all events in a good season like the last, waste should be charged for unless good reason for remission be clearly shown; (2) to remission being granted, when it was granted at all, to all the claimants in a village, each village being treated separately on

*Examined the Board of Revenue
of the Madras District
for the 28th October 1864.*

1864. Department

Rev-996/65.

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 5th November 1864.

No. 7,232.

*Forwarding letter from Mr. Banbury on the
subject of the settlement of the Madras District
made by himself and Mr. Hutchins, and request-
ing information on certain points connected with
it.*

1/10

*only not more up on
the orders of his predecessors*

account of the great inequality of irrigation; (3) to a part or per centage being charged, and a part remitted. The principle which the Board have adopted (Proceedings 19th June 1863), viz., that where there is no crop, the demand, which is based upon a share of the crop, cannot be enforced, appears to me, if I may be excused the term, a retrogression. It is certainly opposed to the orders quoted above, and I readily join issue upon it. If the old idea of "no crop no payment," which was well enough in the days of heavy assessment, and cheap prices, is to be followed at all, it must be followed in the case of Poonjah as well as Nunjah, and we must call again into existence all those ancient and exploded items of remission, the very names of which have been so happily consigned to oblivion.

7. But there is another point at issue, and this, I submit, is the only question about which there can be any real doubt. It is this; whether the existence of waste is to be taken as *prima facie* evidence of a failure of water, or of negligence on the part of the Ryots: in other words, whether the *onus probandi* lies upon the settling officer or the Ryots. The Board in their Proceedings have clearly assumed the latter to be the case; but the orders of Government indicate the contrary. The rule is to charge, the exception to remit; and it is always the exception for which ground must be shown. It is only when the failure without fault of the Ryots is "indubitable," i. e., placed beyond a doubt, that any indulgence is to be granted. I submit, however, that the answer must depend entirely upon circumstances. In one District the presumption would be one way; in another the other; and in the same District it would vary in different seasons. The circumstances of the Madras District and of last season, however, all tend one way.

8. I need not go into these at length, for most of them are beyond dispute. Under lax management the Mirassidars had been so accustomed to enjoy, or rather to retain, (for it was but a barren enjoyment,) without payment lands which they never cultivated, that they had come to consider themselves entitled to remission. The notion appears even to have extended itself to the Collector's office, for Mr. Fane says that the Ryots *knew* the demand could not be enforced. Holding this view, it was but natural that the Ryots should take up and retain more land than they could by any possibility make use of, just to exclude strangers. On the other hand, we found crowds of applicants, eager and able to bring this land into cultivation. If the Board would be pleased to call up a few of the Ryots that it fell to my lot to settle when at Chingleput, they would understand at once the dog-in-the-manger-nature of the Madras proprietors, and the necessity of at once putting an end to the pernicious practice which they now wish to conserve. The last season was undeniably good, and offered a favorable opportunity of reform. A good season, I submit, would shift the *onus probandi* on the Ryot, even if generally it is held to rest with the Collector. With present prices and so low a wet assessment as that prevailing in the Madras District, it is idle to talk of the Ryots' resources being crippled, but some risk must be run in every reform; the reform was worth risk, and by our leniency we reduced the risk to a minimum. Under all these circumstances we determined to presume negligence where there was not an obvious failure of water, and by a firm but judicious enforcement of the demand, or a portion of it, to obtain a recognition of the cardinal principle that all land retained in the Puttah is liable to assessment. Due notice of our intention was published in the District Gazette, and in several instances I allowed cultivators, who were unwilling to pay, to relinquish such land as they did not require even at the time of the settlement. In this I may have been unduly lenient, but leniency is not the charge to which I am pleading.

9. Where the waste was large, and there was no particular reason to suspect negligence, we remitted the whole assessment. This was especially the case in the western villages of the Conjeveram Taluk. In other cases the per centage charged varied according to circumstances, which I shall briefly refer to hereafter.

10. Before quitting this part of my subject, there is a very specious objection which was referred to, I believe, by Mr. Ellis last year, and which I wish to notice. It is said, the Ryots will not neglect their own interests: it is to their interest to cultivate; therefore if they do not cultivate it must be owing to a failure of water. But what are these proprietors' interests? I have

already tried to show that their chief object is to hold as much land as possible to the exclusion of strangers. It is a notorious fact that they have held acres of land for years, through good and bad seasons alike, without having once cleared it, or attempted to prepare it for cultivation. In other Districts, when the supply of water is slightly deficient, raghy is grown on the wet lands least favorably situated; but no such attempt is made here. Even in South Arcot, where the Ryots are daily increasing in prosperity, under a system the very opposite of that which the Board advocate, as much as a lac and a quarter was charged last year for waste. Why, if the Ryots are held never to neglect their own interests?

11. At Chingleput, I had the advantage of being placed in charge of the three Taluks contiguous to my old charge when formerly in the South Arcot District. After settling the Madrantikam Taluk, I went to Tindevanum purposely to compare notes with my successor, Mr. Grose. I found that out of four and a half lacs, forming the revenue of the Tindevanum Taluk, Mr. Grose had remitted on account of waste last year, (Fasli 1272,) Rupees 1,350, and this year, (Fasli 1273,) Rupees 335. The remissions on the same account in Madrantikam, with a revenue smaller by nearly a lac, were last year 60,000, and this year, (the year of the settlement alleged to have "crippled the Ryots' resources,") about a third of that sum.*

* N. B.—I have not the figures by me.

12. South Arcot, it is true, has had the advantage of a revised assessment, but the rates in Madras though unequal are no where excessive, and very often ridiculously low. As a proof of this, I may allude to the Board's recent order authorizing Collectors to make over lands, classed as Nunjah, under ruined tanks at a favorable (?) rate of 2½ Rupees an acre. I received several applications under this order, but as it invariably turned out that the old Nunjah assessment was less than the rate offered, the Board's concession was of course inoperative. There can be no doubt that these lands were so lightly assessed on account of the precarious nature of the irrigation afforded.

13. What I have said above will be sufficient, I hope, to show the Board the principles upon which I proceeded. How I acted practically will be best seen by an example. I will select the villages by which the claim to remission on account of waste was first brought forward, viz., those under the Tannery tank in the Conjeveram Taluk. These villages are numerous, and the tank is a large one with several sluices. As the remission claimed was considerable, and the tank one of importance, I paid a personal visit to the place. I found the tank had been about two-thirds full; that scarcely any water had run through the sluice of the highest level; and that two or three other high sluices had received a very deficient supply. After making inquiries in the neighbourhood, and collecting all available information, I remitted the whole of the waste dependent on the high sluices. The supply through the low sluices was so abundant that I felt convinced that all the land dependent on them, that ever could have been cultivated, might have been cultivated last year. As, however, the amount was considerable, and it was not desirable in the first year of reform to be too strict, I let off half the assessment on the waste under low sluices also. I may have erred towards leniency, certainly not on the side of hardness.

14. I have not selected this instance as the one most favorable to my side of the question, for I followed the same plan in the case of all other tanks with several sluices under which there was a large area of waste, but because it was perhaps the most important case that came under my notice, and because it clearly shows I did not overlook those material considerations to which Mr. Fane has alluded in paragraphs 5 and 6 of his letter dated 19th July. I shall now proceed to mention certain other considerations which influenced me in determining whether there had, or had not been, negligence on the part of the cultivators. I need only allude to them briefly, for their application is obvious, and this letter has already grown far longer than I wished. Briefly then they were, (1) ratio of the supply received to the capacity of the tank; (2) amount of waste as compared with that in last season which was far less favorable; (3) the number of years the land had laid waste; (4) source whence the tank derives its supply, whether a river, jungle stream, or mere rain; (5) distance of the waste from the tank; (6) amount of Teervajasty charged; (7)

could not take up on...
the orders of his predecessors or?

amount of Fasljasty charged which though, as Mr. Fane has observed, "not of itself conclusive evidence of there being water enough," is still a material circumstance for consideration. It is from such evidence as this that negligence must be inferred, for it is seldom susceptible of positive proof. Lastly, I paid less attention to the claims of a proprietor, who by himself, or with one or two others insisted on retaining the whole village, and I was more lenient when I found that the enforcement of the demand, in full or in part, would bear heavily on the claimant's pocket. I may mention that I endeavoured to make a settlement with some of these Ekabhoga proprietors for the whole village at a lump sum, or on progressive cowle, but the only terms they would accept were preposterously favorable. Perhaps they were prepared for my demand of rent for waste being overruled, knowing that the same had been done last year, and perhaps they thought the free hold of as much land as they chose to keep waste better terms than the regular payment of a fraction of the assessment.

15. To conclude, although I am not to be understood as making any insinuation unfavorable to Mr. Fane, who has doubtless been led to believe our settlement a monstrous hardship, and has merely assumed the part of protector of the oppressed as in duty bound, I trust I may be permitted to ask upon whose information he has acted, seeing he had no personal experience of the season, no opportunity of personal investigation, and but very little acquaintance with the District. It must be upon the representations of those "interested native subordinates" who, for obvious reasons, are ever "ready to plead the necessity of remission."

Ordered that the foregoing letter be forwarded to Mr. Fane, Collector of Madras, that Mr. Fane may offer any explanations he may wish to submit in reply to paragraphs 13 to 15 of Mr. Hutchins's letter.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To E. G. R. Fane, Esq., Collector of Madras.

Exd J. Wright.

Forwarding for explanation letter from Mr. P. P. Hutchins explaining certain points connected with the recent settlement of the subdivision of the Madras district.

No. 7,234.

Dated 5th November 1864.

PROCEEDINGS OF THE BOARD OF REVENUE.

No.

1864.

Department

Rev: 996/65.

Enclosed are 10 copies of the letter of Mr. Fane dated 10th April 1865.

26

Re: 996/65. 10 April 1865: 8:996.

The extraordinary indication of the heretofore (Mr. Fane) in at once proceeding to suspect the settlement of his predecessor and the heretofore, has been broken by noticed in a minute of the meeting. I am quite at a loss to comprehend why he rushed into this sea of difficulty, for he does not seem, even now, to have any very strong convictions on any of the points raised by his own work proceeding. As to the influence of the Cutcherry people about him, who had been disappointed of their usual price on a limited amount, and owing to the subsequent action of the Govt., has been driven into a corner to find reasons for a perpetuation of what he never would have done - I do not remember a single instance where a succeeding collector has ventured to pull to pieces or break

2

The weight of the Cutcherry influence working against the settlement may be calculated by the fact that it was able to induce Mr. Fane to adopt this most unusual course he has taken. I refer to "Cutcherry influence" as the cause of this, because it is obvious from the papers, that Mr. Fane made no personal enquiry into them and that he knew little of what he was doing; for in his first letter he distinctly reports that "he has taken on himself to remit." Whereas in his later course he writes that this statement that he had remitted, "is a mistake," in his order to Mr. Mauldani were simply to suspend!!!! the collection of the charge!

I cannot imagine it possible that on a matter of this important character, where thousands of rupees were at stake, a person should deliberately report in such contradictory terms of so important a step, if his order had been passed spontaneously and on his own knowledge, Cutcherry influence & suppression of the subject of his orders. Another reason for my belief is, that as the settlement officer's order on their resolutions as shown in their hole books, would, as a matter of course have been signed by himself, there was no reason

at the orders of his predecessor

26

Whence they Mr. Fane Thores have had
the books under his notice. The orders, as copied
in the Cutchung order book, or have been referred
to on the occasion of the Caruktadas meeting
before Mr. Fane any difficulty arising out of
the execution of those orders.

It appears to me that the Board have
failed in showing that the communications
received from Mr. Fane, founded as they are
on knowledge & information assumed from
people about him in his settlement, is more trust-
worthy and credible than the results obtained
at the settlement village by his predecessor
and that officer's subcollection. The Board then
have to determine whether the most unusual
step of a new collection, in a matter of yearly
settlement, is to demolish the decisions of his
predecessor. I am sure it will be most
unwise to do this and would therefore
doubt Mr. Baubury & Mr. Hatchum's orders
be enforced. There may be some hardship
to individuals in this course; but it will
always be in the collector's power specially
to report individual cases, if he had the power
to make himself fully acquainted with their
needs, and in such reports no unfair way be
shown — 1.5.65. W.D.

These papers refer to the system of commissions for Gangah waste adopted by Messrs Bancroft & Hutchins in the settlement of the Madras District for fiscal 73.

The whole assessment on Gangah waste amounted to Rs 83,515. Messrs B. & H. charged Rs 43,471 of this on the ground that the land lay waste through the negligence of the puttahdars.

Mr. Fane took over charge of the district at the end of May soon after the settlement was completed & Messrs B. & H. took up appointments elsewhere about the same time.

On the 8th of July Mr. Fane told the Board he had remitted the whole charge on Gangah waste in accordance with their decision that where there is no crop the govt. demand which is founded on a share in the produce cannot be enforced.

The Board told Mr. Fane that he could not take up on himself to cancel the orders of his predecessors or

Ms. 3636 19th June 1863

Ms. 13th July 1864, 4366

2 refused to confirm his proceedings without further information.

Mr. Fane then took up a new point. In his first letter he had argued that where there was no crop there should be no charge whether the absence of crop was due to want of water or neglect. In his second letter he tries to show that Mr. B's proceedings were altogether arbitrary & that he had charged when absence of crop was really the result of want of water - because

1. The Board's orders are for either full remission or no remission
2. In 24 villages where Mr. B had charged the waste in whole or part, no sufficient reason was recorded in a Note Book kept by him during the summer months

In 12 of the 24 villages the Note Book admits that the water supply was bad

In the rest he only gives "Good Season" as his reason

Whilst subsequent inquiries show that in 4 of these good seasons villages there was no show supply, that in one

Pro. 2875 July 1854, No 476

Pro. B. 1854
this - see Pro. 24 of the letter
Pro. 575 Pro. 7282

made in the district
in the letter to the committee
in the letter to the committee

Yallah. Mr. Fane's opinion is from did on a report which was before Mr. B at the time of attempt

Mr. B's letter
Para 2 & 4

Mr. B did admit that the entire waste to the amount of 43,000 R - which does not look as though he was in a hurry to be made

Letter to C. Pro. 2875 Oct 1854
No 373 Para 1

of them, the waste resulted from natural causes, & that in 2 of them there was not necessarily a full supply. 3. That the waste was not necessarily a full supply. Mr. Fane further states that Mr. B's settlement was made on the same ground as Mr. Bamber's

Thus Mr. Fane gave percentages & the hastily written notes in the case of a few villages out of many as good reasons for overturning the settlement, a course which he had at first adopted on ~~admittedly~~ bad reasons. The principle of percentages will be considered below. With regard to the charge made in the few cases (Kunling) where the water supply was ^{would} bad, it is only fair to remark that Mr. B considered that a ~~poor~~ poor was water enough to have supplied a portion of the waste. These few charged a portion of the waste

The Board were satisfied with Mr. Fane's explanation & empowered him to make the charge in every case in which he considered the land lay waste for want of water.

Mr. Fane being thus left free to act according to his convictions remitted the whole charge throughout the district, thus without holding further inquiries or visiting any villages personally.

4 Govt. ^{had meanwhile} ~~was~~ ^{interfered} ~~reporting~~ ^{that} the Board had not given warmer support to Messrs B. & Co. when under a notoriously lax system, & directed the Board to call in those officers for an explanation before they upset the settlement. The Board then called in Messrs B. & Co. for their explanation, referring particularly to the following points:

1. Under what orders were percentages remission given?
2. How was the percentage remission calculated?
3. Why were full remissions not given when there was an admitted want of water?
4. Why in the case of Vallur remission was refused because the ryots were a troublesome set & doubtless negligent?
5. And in another case because private wells had not been sunk.
6. Why the remission was settled at village & not individual by individual.

They abridged some extracts from the Note Book for the information of Govt. These show that in 30 cases a portion of the water was charged for (in percentage) when the water was insufficient for the whole. Mr. B. explains that he was always desirous to be as lenient as possible, so that when on inquiry he found a reason which could justify him in remitting a portion

G. Pro. 1871
1864, 1496

At the same time they gave orders for the charge "not to be collected," for issuing full orders as to the then it should be remitted or not.

certainly

Letter in G. Pro.
18th June 1864
7933

para 5

5 of the charge he always remitted if Mr. Fane & the Board both reason from the Note Books as if they were intended to contain regularly written decrees. This is not fair as the notes are only intended only as a voucher for orders given & a reminder to the writer of the principal facts that came out on his inquiry.

Before Messrs B. & Co. in their explanations Mr. Fane submitted a third statement of his reasons for advocating a revision of the settlement: viz:

1. That numerous petitions had been received against it.
2. That the rainfall according to the tuly register was unequal & unreasonable.
3. That tanks & irrigation services throughout the district are out of repair as noticed by Messrs Cunliffe & Ellis.
4. That deficiency of water was admitted in many cases in Mr. B's note books.

Mr. Fane went on to say that even if the whole charge under discussion be remitted the revenue of the district will be higher than it has ever been except was in 71269, one of the most favourable seasons on record. This remark seems to disprove of Mr. Fane's 3rd reason.

I believe that the season was, as
urged by the officers who were in the
district at the time, "most favourable."

Mr. Bamberg in explanation
of his settlement says that taking ad-
vantage of a most favourable sea-
son he determined to charge for waste
when ever he considered it was the re-
sult of neglect & not of want of water,
so as to convince the misas class that
they would no longer be permitted to
retain land in their pottahs merely
to keep others out of it. He distinctly
asserts that wherever the waste was
shown to have arisen from want of means
or that the ryots had really done their
best the charge was fully remitted. Thus
the question between Mr. B & the Board on
the one hand & the Board & Mr. Fane
on the other is narrowed to this one
point — Who made the fullest &
fairest inquiry?

In reply to the questions of the Board
Mr. B. says

1. I gave percentage remission be-
cause I was told that I ought
strictly to have charged all
2. I calculated the percentage after
full inquiry into the circumstances

B. Pro. 5th Nov
1884 7232

para 22

See page 47
this memo

para 29

carefully & the dis-
cretion always entrusted to a
settlement officer.

3. The want of water was only admit-
ted in a few trifling cases, & in those
cases as well as in others I always
tried to make out reasons favourable
to the ryots, so as to be justified in
remitting a portion of the charge.
4. I made full inquiry in the case
of Valpore & the weakest out of
several reasons chosen by the
Board.

5. The state of the case is the same
with respect to Malliaporam.

6. I did dispose of a great many
individual cases when I charge
village by village & acted in
accordance with precedent.

Mr. Bamberg also says that he resolved at
the outset of the year a bundle that when
the following characteristics were observed
their presence would indicate neglect:

- a. The waste being larger than in the pre-
ceding year (as the season was so favourable)
- b. Much second crop cultivation
- c. Absenteeism
- d. Retention of waste in pottah
year after year without attempt
to cultivate or clear

Mr. B refers to the case of Caravur & Nindih

para

Am 11

d. - That before charging for returned waste it should be shown the waste is reusable

Mr. Fane goes on to notice the Chiefy arguments & two or three individual cases mentioned by Mr. Banbury, & one little matter in which he thinks the charge may be upheld.

With reference to Mr. Kitchin's letter Mr. Fane says he has discovered that (contrary to what he had thought before) he had found that ~~the~~ ^{the} ~~give~~ ^{give} full surrenders when the waste was more than 25% of the cultivated, & none if it was less.

He also found that Mr. Kitchin gave partial surrenders in a great many cases. In 11 cases he disposed of the question with respect to individual, & in 2 of them Mr. Fane thinks the charge may be upheld.

Mr. Fane found with respect to a tabular statement showing supply of water in the tanks of each village for the year &c as the only evidence he could obtain to prove that in each separate village a necessity existed for meeting the charge.

The Board in reviewing the whole question discusses the following topics.

The irrigation works of the district are in a deplorable state & the funds & efforts of the village were

35

39

Why not settle the land alone all that the Board or Mr. Fane presents as necessary in these cases? order of the Board para 6.

22 & 23

24 - 28
31 - 32

+ Where the land was partially only but partial was shared in day. Stage for a taluk or a set of villages all round in some cases. 29 in some cases. 30 for some of complete share?

I cannot find out the S.W.B. says nothing - say that Mr. B. has numerous & dis of the sort. His firm & grounds that would discharge words are given or all justify him in assuming neglect at page 7.

I cannot discover on what date either in the note book or in Mr. Fane's letter this assertion is based. but the Bd. Proc. 28 July 62 p. 3 33 - 34 rely on Mr. Fane's statement & accordingly settling his face against the point in question.

of opinion that cultivation is carried out to the full extent for which there is irrigation & that it very rarely happens that Nungah has waste through the neglect of the holder.

In answer to a reference from Mr. Elms on 7/72 the Board ruled that the 50% claim should be wholly submitted in the case of Nungah waste & that in the case of Nungah Chavy the surrender should be by percent stage for a taluk or a set of villages with sitting no service or other although claims of to surrender for Nungah waste ought each to be tried in its own merits.

With reference to Mr. Banbury's signs of neglect (vide page 7) the Board says nothing - say that Mr. B. has numerous & dis of the sort. His firm & grounds that would discharge words are given or all justify him in assuming neglect at page 7.

The Board believe that the people who returned this waste had no water. They returned the waste because they had peculiar reasons for wishing to keep land in their puttahs. Experience shows that all the irrigable land will be cultivated, so that the revenue does not suffer for the return of waste land in puttahs (i.e. 9).

31 17

12
 Assume the Board supposed that if the
 mirasdars relinquish this useless
 waste none will take it up & culti- If this would
 vate it or pay assessment for it. In the case of the
 The Poy carries must therefore be la- ^{to be the case}
 - If you are a delusion when they ^{to be the case}
 think they would be better off if this ^{to be the case}
 mirasdar preference system were ^{to be the case}
 relaxed!

When the Board pointed out ³⁵
 the extraordinarily high proportion of
 unencumbered waste Mangak land
 to cultivated Mangak land in the dis-
 trict, Mr. B. remarked that this was a
 tributary not so much to the proper
 classification of land as to the ex- ^{Why the Board}
 clusive rights claimed by mirasdars ^{only the Board}
 of poy carriers & mirasdars. ^{don't mind}

The Board then go on to the question ³⁷⁻⁵
 of poy carriers & mirasdars & show
 that the latter are a much maligned
 race.

All this is done with a view to refute
 Mr. Bamberg's first sign of neglect &
 they then go on to

Q. The Board do not object to the
 the land should have been ⁴⁷
 charged for if there was a sup-
 ply of water, not the

8. Presence of 2nd Crop cultivated ⁴⁸
 inconclusive
 a. The proper test was changes

32 13
 in the area usually cultivated. This
 area in the whole district had in-
 creased & the Board are therefore
 satisfied that the people culti-
 vated as much land as they could.

50 The Board say that Mr. Bamberg
 made an artificial presumption
 that there was water by these signs
 of neglect, & ought to have applied
 to the Board if he wished to do so (But
 this is very unfair. Mr. B. considered
 certain things as characteristic of
 neglect, but this did not preclude
 him from inquiring, & he doubtless
 found that whilst his signs were
 generally true they were sometimes
 fallacious.)

51 The Board next point out that
 percentage remissions are contrary
 52 to rules, & that the discretion given to
 Collectors with regard to them can only
 be exercised within those rules.

54 They explain that it is not usual
 for them to call on an officer who has
 left the district to explain his proceedings.
 Statement No 8 of the Village
 Manual with regard to remission
 ought to have been kept
 - Panarona Mudela - seems

31
be cultivated all the land
he can 58-63

The Board recommend that Mr. 64
Faine be authorized to remit the whole
charge in each village in which
the cultivation was equal to the area
usually cultivated

but 71273 was
above an acre
20/2

They ask for an expression of 66
opinion as to the conduct of Mr.
Brambury on this occasion, & notice
the unusual style in which he expres-
ses himself in his report - as if he
were a martyr to duty

Resumé

The question as to whether Mr. Faine
or Messrs Brambury & Hutchins are right
depends on who has made the best
inquiry. Messrs B & H say they inquired
carefully & gave full remission when
want of water was shown & partial
remission when neglect was proved
There is nothing in their note books
or reports to show that they raised
artificial presumptions of neglect
They required neglect to be disproved
But this is done at every jummatandi
in every district in the presidency.
The question as to percentage

33
remissions for Nanyah waste de-
pends on the meaning of the order
of govt. to which all parties refer.
In the order of the 18th June 1859, Govt.
say that the rule that all land in the
puttuh shall be paid for is to be strictly
enforced except in disastrous seasons
when application must be made
to govt. beforehand. With respect to
Nanyah land some relaxation may be
necessary in less disastrous years
but it will be only allowed when there
is an undoubted want of water,
not the result of neglect, & even then
remission will be granted not by
investigation of individual cases
but by a general percentage for a
taluk or tract of country.
The order of the 25th July
does not affect the point under dis-
cussion.

71273
1859/2

The order of the 18th June 1859 was
modified on the 10th Mar 1860. Loss
of Nanyah crops either as a heavy or by
floods will be regarded as far enough
for remission. In individual cases of
such loss where of importance may
be inquired into. Nanyah waste will
be dealt with exactly as Nanyah
Charj.

Note.

Mr Fair - under color of an order of the 18th having remitted in toto the charge for Kunjah waste imposed by Messrs Banbury & Hutchins, the real question at issue is whether he was justified in doing so - and whether the 18th of April did then duty in permitting him to do so. In the first place the 18th of April has distinctly declared that he sent beyond the intention of the order - yet there is nothing to show that

There is nothing in these orders to establish the difference of procedure between Remitting for Kunjah Charge & Remitting for Kunjah waste that the Board try to make out. In both cases discretionary remissions are allowed. In both cases the want of water not resulting from neglect is to be held a fair ground for remission, & there is nothing to show but what the rule in para 3 about individual claims applies to both.

The Board must be well aware that especially in districts where puttochdars are beginning to be charged for waste in their puttochs it is usual to begin by charging a percentage. I have seen it done in Tanjore. The orders above quoted show that it has been done in Bellary & Arcot. The percentage system with regard to "Taris" is still followed in Tanjore.

Finally the principle urged by the Board that puttochdars may be allowed to retain any quantity of Kunjah in their puttochs from year to year without attempting to clear or cultivate as long as there is cannot be shown their is water enough, is almost dangerous in its application to districts where there is no mirasry as well as to Madras.

Claims & remissions for Shani - in best districts - and on a general principle that does not permit that charging for Kunjah may be settled in the same way - or that either the Board must be charged on all remitted cases.

It was done by Mr. Campbell in Chempur in Feb 12. See Mr. Fines letter 26 Jan 65 p 4

It would be strange therefore to require Mr. B. for following summary procedure.

no doubt

if the put had not intervened, they might have been cognizant of the put, till too late to remedy it. -

Examine these papers. The mere fact that an officer entirely new to the Dist. took within six weeks of his arrival, & before he had visited a single village, & before he was in toto, the decision arrived at by his predecessor as the personal acquiescence right to have led. The Bd not only to lay down precise instructions, but to see that those proceedings in. Instructions were carefully attended to, & especially as they themselves declared that in this respect much

On the contrary the Bd proc^d 28 July 62 left coming thing to Mr Fane who made a very summary and sweeping use of the discretion allowed him -

... I feel confident that Mr Fane has acted in a completely proper manner. JP

Mr Fane first said that he had committed all the blunders - but that he had made a mistake in so doing - viz for he had only seen - from the collection of the money - again he states that acting on the Bd's sanction he had remitted the whole demand, and after all we find that in some few cases he did not do so. JP

continued JP

35
society of procedure he sailed in the District. I think that in this matter the Bd did not ~~disapprove~~ ^{possibly} disapprove the Bd's act in superintending the put out a very important matter. ~~considered this matter~~ In the next place as Mr Fane remitted the waste charge in toto, the put must conclude that he considered Messrs. Bannister & Hutchinson's decisions as wrong in every case - In other words, the put are refused to believe that ^{the} these officers were not right, even by accident in a single instance - Mr Fane however has admitted some cases in which he thinks their charge

I should be upheld.
The H^{on} declare that
Mr. Fane "noted
his testimony in committing
the whole charge for
the waste at once"
put their proceedings
under no censure
for such conduct
and rightly put
with no means of
deciding in what
cases Mr. Fane was
wrong. Their final
recommendation
is that no change sh^d.
be made for waste
where the area of
cultivation equals
that of the preceding
year, overlooks the
admitted fact that
the season was more
favorable than the
preceding one. It seems

The morning was very
 warm and the sun was
 shining brightly. I
 had a very good
 breakfast and then
 went out for a walk.
 The weather was
 very pleasant and
 I enjoyed it very
 much. I had a very
 good lunch and then
 went out for a walk.
 The weather was
 very pleasant and
 I enjoyed it very
 much. I had a very
 good dinner and then
 went out for a walk.
 The weather was
 very pleasant and
 I enjoyed it very
 much. I had a very
 good night's sleep.

Sept 1902

1/2 1

36
have been none to
the point of the
1st. had investigated
at least to the chief
instances in which
the little men of
Hess & Co. had been
shut out, had been
set aside, instead
of discussing her-
-racy and other matters
having no direct bearing
on the question at
issue. - Nine months
have elapsed since
the first drew the public
attention to this
matter and it is
impossible to as-
-ertain from their
press: how they are
they are - in what
particular instances

They can ride that
Mr. Fane's proceedings
should be upheld
or reversed. They do
not even give the
financial results
of the measure they
suggest. In the only
case which the Bd.
specifically notice
is that of Mought
Mr. Bonbury's note
is to this effect. "I
have personally in-
spected this village
and the channel.
The sluice is the most
favorably situated
of all belonging to
the Chumbrakum
Tank. It was a
few more favorable
season than last
year and yet there
is actually more

(Note 37)
ditto Mr. Fane than
last July - tracts
have been left waste
close to cultivation
and there is no doubt
that the Mr. Meratti-
dar keeps large tracts
waste which hun-
dreds would be glad
to cultivate, if he
would allow them a
footing in the village
as a proof of the supply
of water. There was
Rs 640 odd second
crop". Mr. Bonbury
according charged
for half the waste -
remitting Rs 393 &
charging the same
amount. In his
letter Mr. Bonbury
declares in still
stronger terms the
justice of his charge
and alludes to the
valuable texture

Betel gardens &
which are under
share of the water
of the Tan K is de-
voted - Mr Fane at-
tests that there is
much truth in what
Mr Banbury says
regarding the large
consumption of water
in these gardens and
"the consequent waste
around" them and
that it would have
been quite fair, if
Mr Banbury had
charged for this
waste - Yet this
charge was of course
never remitted by
him - The R^t allude
to the whole of the villages
held by the same free-
holders - including
Kerwood - and their
remarks are very

Heaven knows how much
waste is done by
the freeholders

38
few at ^{any} it is un-
possible whether they
can to do Mr Ban-
bury although wrong
or right so far as Mr
Fane can cure with
him - But it was
expressly to ascertain
how far Mr Fane's
or Mr Banbury mea-
sure should be ob-
served, that Mr. referred
the matter to the R^t
The R^t desired them
to review the whole R^t
pet and to "allow
no deviation" from
the settlement of
Messrs Banbury &
Stutchins "except
on satisfactory proof
in the case of each
village" It seems
true that in these

respect also the
 Bd have not per-
 formed the duty
 assigned to them
 As regards the
 rule which governs
 the point of re-
 mission from him-
 self waste, the Bd
 are correct in holding
 that if the means
 of irrigation fail
 the right has a
 just claim to
 remission in full.
 On the other hand
 however there is no-
 thing to prevent
 the settling officer
 from charging only
 a portion of the as-
 sessment payable
 on land left waste
 by the default of
 the holder - if he is

no doubt a just claim
 but a portion right - remis-
 sion is of piece in only one
 not of right. The principle is
 that a right has for all that he
 has in his power - when he
 could not cultivate himself
 land from adverse would
 if we remission would be
 more & generally would be
 given - but it is from the
 moving the claim really
 was no water lies on it
 as it is in the hands
 of the holder - it is not for him to
 pay the assessment.

clearly not

satisfied ³⁵ that the
 levy of the whole is
 expedient and
 where such remission
 are extensive; has
 obtained the Bd
 sanction for the
 concession - In the
 present instance
 Mr. Bairey should
 have charged full
 assessment on all
 land which he
 has satisfied on
 left waste by the
 neglect of the right
 and as the amount
 has ~~the~~ large, should
 have obtained the
 sanction to remit
 half or at a lesser
 other proportion he
 deemed eligible to be.
 Looking at the law
 hitherto permitted
 in the Madras District

hardly necessary
 I think. It was a
 matter in the Bd
 - being most for
 convenience here
 it is hardly
 dispositive

the fact I apprehend
would readily have
sanctioned the pa-
-rental enforcement
of the rule of requiring
full payment
for land to be
waste. His rules
can be laid down
to guide the settling
officer in forming
his judgments but
such circumstances
as Messrs B. & H.
& Hutchins mention
seem to be very fair
indications. When
checked by personal
enquiries & inspection.
The 18th complaint
is the first trace of
the general tone
of some parts of Mr
B. & H.'s letter

What do
you

40
But in the latter
part of the same
paragraph they
seem to be
guilty of still pa-
-rental impropriety
in charging fault
on the condemning
them unheard. The
order of fact and
passed on the 18th
are proceedings &
then report expressed
is I think, fully
borne out by the
tone of these pro-
ceedings where Messrs B. &
H. are ^{rather} arraigned
as culprits than
regarded as officers
who to the best of
their judgment & at

much person and
Execution did what
they considered to
be their duty. It
is rather hard that
they B. & H. should
catch it because for
right fit to meddle
but surely the B. & H.
supervision could
not have been very
close if they could
play such pranks
almost under the
B. & H. nose without de-
tection. The fact is
that but for the
order of the
whole matter would
have passed un-
noticed!

But what is
now to be done?

The plan pro-
posed by the B. & H. seems

to me neither one
thing nor the other -
either ~~the~~ I should
enforce the charge
or waive - and
seeing how many
now the have passed
I should say self
recommend the
latter course - noti-
fying however that
in future all Mun-
jah land left with
them means of
irrigation are avail-
able will be charge
for in full - and
reprising the B. & H.
to see that the rule
is duly enforced
and that the settle-
ment is properly
conducted by the
Cm. & his Assoc.
Private - July 12/73

closed on the 30th
June last - & per-
haps there would
be some difficulty
in how to raise
the money - Hence
this can be done no
doubt if not think
fit - or - Or to think
the principle - part
of the charge might
be collected - say
50 per cent.

When deposited

Ed

~~Ed~~
~~Ed~~
~~Ed~~
C. J. 1845 R. 2. May

I concern myself in the
basis on this question of per-
son by the Atty. Ad Phil.
-lips and in the means
by the Council Secretary.
It was a most improper
and unusual course
on the part of Mr. Fair
to report the ~~the~~ ^{the} man
made by his predecessor
and by the Sub Collector.
Mr. Hanbury & Mr. Ant.
-chies were poor &
experienced officers,
well acquainted with
the district and
their settlements of
1273 was the result of
much personal in-
-quiry & exertion. Mr. Fair
was just then to the
Province. he made
no local investigation,
and must have depen-
-ded for his informa-
-tion on his butchery
servants' word of

who are probably inter-
ested in mislending
him - and from whom
work in all respects
must wait -

In para 2 of this proc^s
of 13 July 2nd the Board
say "When cultivation is
impeded or prevented by
causes beyond a ryot's
control he is entitled to
remission, and if he
could not get water for
his land, he would
be entitled to full remis-
sion."

I cannot think that
remissions in such cases
are claimable as of right
or as that to which the ryot
is entitled, but as a mat-
ter of grace & indulgence.
In the standard order
of the 10th of June 1859 it is laid
down that "the rule will
be that all land in the
pottah is to be paid for &
generally speaking this
rule is to be strictly enforced."
The fin^l is an answer however
that in extreme cases
it must be relaxed. -

respect to irrigated land
then with occasional^{ly}
- but not as in Chumphone
year after year - "to a
necessity for some relaxa-
tion even in years of less
general failure; but it
will be clearly understood
that that it is to be ^{allowed}
- ~~allowed~~ only in cases of
extraordinary failure of
water and when the
failure of the supply has
not been at all occasion-
ed by any act or neglect
of the body of the ryots of
the village or any of
them. Then cases will
be few & exceptional."
This order seems to me
quite in compliance with
the idea that the ryot is
entitled to remission for
want of irrigated land - left
want for years running -
or for loss of irrigated pro-
duce. Remissions are
to be given only occasionally
as the exception rather
than the rule - when there is a
necessity - and the bur-
den of proving that there
is such necessity must
fall upon the ryot and not
upon the settlement
officer. In the present

case the Board seem to act on the
prima facie the right had such a
right - that the fact of his not cultiva-
-ting proved that there was no water
and that it was for the Collection to
show cause against it.

Still more stipulation is the dictum
attributed to the Board in the Collection
letter of 8 July 62, that "when there is
no such the free demand which
is based on its right to a share in
the produce must be wholly exempted
from any assessment on land on
account of produce & prices - When
being at land has been valued
low it has been presumably because
the imposition was precarious. It
would not continue only in very poor
years - perhaps once in three or four
seasons - If it is to be charged for
only in such seasons it must be
contingent in all others the principle
of all settlement will have
been departed from.

The Board have brought
in the question of free demand but
as it seems to me most unrea-
-sonably - The free have always
objected to rights holding ^{free of tax} land
which they cannot cultivate &
the Board themselves "why not"
Mr Fane's steadily setting his
face against the practice "no
doubt Mr. Hambury & Mr. Fane

in charging for waste land & land
in some cases this property on the
part of the Chamberlain right in view -
It could only be checked by the means
which they adopted, and which a
previous Com. Mr. Curwiff had in
fact resorted to, and their efforts
on that behalf should have had
the support of the Board.

The fact of free demand being
obliged under penalty of paying
full assessment, to allow Por-
-caries to occupy so much of
their alleged free demand lands
as they cannot themselves cul-
-tivate, is not to deprive the free
-man of any right which they
may have in such lands. It
is quite open to them to sue
such Porcaries in the Civil
Court for their asserted wrong-
-doing - Trespass or what-
-ever they may be - If they can
get a decree in their favor it
will be sustained by a High
Court in appeal that will
settle the free demand question.

We have however now to
consider what course shall
be taken in respect to Mr
Hambury & Mr. Fane's charges

Dec 28 Inf

for himself was to amount to
R 4,800. On the whole it seems
to me best as suggested with
end of Mr Davis means to be
for a payment of 50% or
about R 2150. by way of
indicating the principle. This
policy should I think be ex-
-ecuted in every case for it seems
impossible to rely on any opinion
which Mr Fane may have
formed or may hereafter
form in any particular
cases.

For future settlement
it should I think be clearly
made known to the people
of Champsford, ^{that} they will
be required to pay in full for
all land borne in their
particular and that all their
claims to remission for
borne hide further of produce
or actual & non present
& borne of water will be libe-
-rally considered, but if
it indulgence not of right,
when a report may come
to hold land which had
been shown to be

be beyond his ability to
-with, the full assessment will
be charged upon it to the
extent which it may - 45

Nov 28 July
1862 p 2

His very dear mother
I should say that the revision
of the classification of the
municipal land in the
Municipal District should
be proceeded with as soon
as possible

h/5/65

JP

ment
of

Revenue Department.

No. 994

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 11th May 1865.

M.

G.

W.

The papers above recorded relate to the remission by the Collector of Madras Mr. Lane, of the assessment partially imposed by the Acting Collector Mr. Brambury & the Acting Sub Collector Mr. P. L. Hutchins, in their settlement of

of the District for July
1273, on bungalab lands left
waste under circumstances
which in their opinion did
not entitle the holders to
exemption from payment.

The Governor-in-Coun-
cil observes that the settle-
ment of Messrs. Brambury
and Hutchins was conducted
by those gentlemen with
much care and after per-
sonal ^{local} investigation into
the claims of the ryots to
remission. When therefore Mr.
Fane, within 6 weeks of his
arrival in the District and
without having visited a
single village proposed to
remit the entire charge on
bungalab waste, or rather
reported erroneously as he
subsequently

51
subsequently explained
that he had remitted it
to the Board, very pro-
perly declined to confirm
his proceedings without fur-
ther information. Mr. Fane
again addressed stating
various reasons in support
of his proposal and the Board
then permitted him to revise
Mr. Brambury's settlement
and remit the charge in
every case in which he was
satisfied that the land
was left waste from want
of water. Mr. Fane hereupon
carried out his original
proposal and remitted the
entire charge.

The Governor-in-
Council must express his
entire

entire disapproval of Mr.
James' proceedings in this
matter. Whatever doubts
he may have entertained of
the correctness of the settle-
ment of his predecessor
he must have known that
that officer, as well as the
then Sub-Collector had op-
portunities of knowing the
real state of matters which
he, owing to his late arrival
in the District had not that
both officers were better
acquainted with the
District than he was,
and that they acted
on personal inspection
and enquiry, while
he was necessarily de-
pendent on the
reports

48
reports of subordinates,
whose opinions were en-
equally within the reach
of Messrs. Branbury and
Butchins. Even had other
inducements to caution
been wanting the Board's
warning that in this respect
there had been much laxity
in the past administration
of the District ought to
have put him on his guard.

The Governor in Coun-
cil is also constrained to
add that the Board of
Revenue did not exercise that
close supervision over the
Collector's acts, which the na-
ture of his proposals showed
to be requisite. Their first
order

order was perfectly correct
but their second order was
more general than it
should have been, seeing
that it was addressed to
an officer who though
quite new to the District,
proposed to upset the en-
tire work of his predecessor
on a very important point.
Not only ought the
Board's order to have
been more guarded in
but they ought to
have required the Col-
lector to enquire into
the claims, before
him and report
his proceedings
for

49
for their confirma-
tion. So far from
doing this, the Bd.
were evidently ignorant
in Sept. 1864 of
what the Col. had
done - for in their pro-
ceedings of the 28th
^{they remarked that}
idem, they did not
sanction a remission
in the general way pro-
posed by Mr. Lane
as believed by Govt.
and ^{they} directed Mr.
Lane to prosecute
any enquiries he might
have commenced under
their previous order of
the 28th July - but
"not to make any
actual attention
in the settlement of
any further instanc-
es - whereas Mr. Lane
had already remitted
the whole charge."
The

The Govt cannot follow the Bd through-
out their lengthy and
in many parts irre-
levant proceedings. It
is enough for them to
say that they cannot
acquiesce in the con-
clusion which those
proceedings seem de-
signed to lead them
to - viz that Messrs
Banhury and Hutchins
were not right even
in a single case, for
Mr. Lane himself
now admits several
instances in which
their charge was cor-
rect. If this be not
the conclusion arrived
at, the Board should
have explicitly stated
in what cases the at-
tachment of Messrs
Banhury

57
Banhury and Hutchins
should be upheld -
As it is, Govt are left
much in the same
position as when they
first called upon
the Bd to report on
the subject. -
The Govt can-
not admit that where
there is "no crop" there
shall also be "no
assessment" and that
the onus of proving
that water was avail-
able rests wholly
on the follos. The
standing rule is that
a ripet pays for all the
land he retains in
his occupation and it
is for him not the
Cells, to prove his
title to retain it and
yet not pay for it -
more ^{especially} ~~particularly~~
is this the case in

a particularly favorable season - such as H. 12th 43 is stated to have been. -

Nor do the Govt see anything wrong in the mode of assessing waste adopted by Messrs. Bamberg and Hutchins. Entire remission was granted by them in many instances and there was nothing wrong in their being content with levying only a part of the assessment rightly chargeable in consideration of the poverty which, as the Bd. themselves declare, existed in this respect. Where Messrs. Bamberg and

57
and Hutchins ever was in not obtaining the Bd's previous permission to be content with demanding only a portion - instead of the whole, of what they believed to be justly due to Govt. - A Collector's discretionary power does not extend so far as to warrant his systematically remitting a part of the dues of the State on grounds of general policy. -

The course which the Bd. recommend for adoption - viz that only the Punjab waste in excess of that of H. 12th 42 - should be charged for does not commend itself to Govt.

Govt, as it ignores
the fact that 1273
was a more favorable
season.

The Govt be-
lieve that on the whole
the settlement of the
Bamboo Watchmen
was just; but with
is now impossible to
make enquiries into
each particular case
they are willing to be
content with the
levy of only a moiety
on this occasion - in
order to prove that the
principle involved
will be strictly up-
held.

The Bd will
issue the necessary
orders to the Coll^y and
they will adopt mea-
sures for the ensuing

Junmabundy

and die of these
- for the
- for the

52
Junmabundy being
conducted in the
manner usual with
such operation in
other Districts. The
Bd will also care-
fully notice the
price to the Govt
that if they re-
tain lands under
for which irrigation
is available, they
will be charged
full assessments
for the same

14 To the Board of Revenue
Des 13 May

RD

Pro. 80.

Pro. 8 January 1796 no.

Pro. no. 29-30
6-2-1858

1
18-6-1859

364

10-3-60

94599

1-7-64

275

18-8-64

66-67

8-10-64

373-374

28-10-64

162-163

18-1-65

Revenue 1865 Sept.
Pro. of Grants May

No. 994.

Pro. of the Madras Govt.
of 11th May 1865.

Pro. B. of Revenue dated
26th May 1865 No 23

Passing Orders on the
Commission granted by Mr.
Hume relative to the appor-
portionment imposed by Messrs.
Rumbold and Butcher.

15th 1865

217-218-