M.R.O. 14—5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3080 - 308/ Press ~~Mis.~~

280.283

Dated 13 — 11 — 1866.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
13th November 1866.

Read the following:—

No. 280. From the Secretary to the Government of India, (Home Department), to the Secretary to the Government of Fort Saint George, Revenue Department, dated Simla, the 19th October 1866, No. 5,628:—

1. I am directed to acknowledge the receipt of your telegraphic message of the 8th instant, referring to your letter No. 635, dated the 14th March, and to the Despatch of the Secretary of State, No. 23, dated the 16th June, and enquiring whether the Patent applied for by Mr. McIvor has been granted to him.

2. In reply, I am directed to state, for the information of His Excellency the Governor in Council, that the Advocate General of Bengal, on a reference of the case to him, gave it as his opinion that, when the "specification" submitted by Mr. McIvor had once been filed under Section 4 of the Patents Act (XV. of 1859), the applicant had obtained his exclusive right, and that he could not afterwards be deprived of it by Government except by an order in Council declaring, under Section 16 of the Act, that the exclusive privilege, or the mode in which it was exercised, was "mischievous to the State, or generally prejudicial to the public."

3. As Mr. McIvor's specification was unfortunately filed before the letter from the Madras Government of 21st December, No. 3,084, was laid before the Governor General in Council, the exclusive privilege can, therefore, be now withdrawn by Government, only on one of the grounds specified in Section 16 of the Act, as above cited; and the Governor General in Council will be prepared to take this step if the Government of Madras, on full consideration, is clearly and decidedly of opinion that the continuance of the exclusive privilege will be practically injurious to the State or to the public.

No. 281. MINUTE BY THE HONORABLE SIR T. PYCROFT.

1. I do not see that I can say more on this point than I have already said in my Minute of the 3rd March last, paragraph 21.

2. If Mr. McIvor's plan of mossing Chinchona trees has any practical value, and does, as he avers, increase manyfold the produce of the alkaloids, it seems to me that to permit him by means of a Patent to prevent others from mossing, which after all is a mere gardening process, unless on payment of such royalty as he thinks fit to demand, must be injurious to the State now engaged in the experimental cultivation of Chinchona for the general benefit, and must be injurious to the public as tending to keep up the price of Quinine and its kindred alkaloids.

See Sir W. Denison's Minute, 8th March 1866.

3. This is the view taken by the Right Honorable the Secretary of State for India in Council, as shewn by his Despatch of 16th June last, Public Department, No. 23, wherein he writes, paragraph 3, that "the operation of a Patent in the case "would tend most materially to restrict the benefits which the introduction of the "Chinchona into India by Government, at a great expense, were intended to produce."

4. I therefore consider that the continuance of the exclusive privilege conveyed in Mr. McIvor's Patent will be practically injurious to the State and to the public, and consequently that the privilege should be withdrawn.

10*th November* 1866. (Signed) T. PYCROFT.

Mr. M: has a Servant of the Govt. — or he could

Proceedings of the Madras Government, Revenue Department,
13th November 1866.

No. 282. MINUTE BY THE HONORABLE H. D. PHILLIPS.

The letter from the Government of India, No. 5,628, 19th October last, seems to shew that Mr. McIvor's success in securing the mossing Patent, is mainly due to the declared effect of Section 4 of the Patent Act. It is, therefore, unnecessary again to go over the bearings of this question, which have been carefully considered by this Government, whose views are adopted by the Secretary of State. I will now simply add, that I have no doubt that the concession granted to Mr. McIvor is of the "mischievous to the State" and "generally prejudicial to the public" character, to which Section 16, Act XV. of 1859, has reference, and I shall be glad to see that the Government of India determine that the privilege shall cease, for which Mr. McIvor, a servant of this Government, ought not, in my opinion, to have applied without the knowledge and consent of his employers.

10th November 1866. (Signed) H. D. PHILLIPS.

No. 283. ORDER THEREON, 13th November 1866, No. 3,080.

Miscellaneous. Ordered that the following letters be despatched.

(True Extract.)

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

Exd. S. T. Augustin.

REVENUE DEPARTMENT.
FORT SAINT GEORGE,
13th November 1866.

No. 3,031.

No. 284.
To
THE SECRETARY TO THE GOVERNMENT OF INDIA.

SIR,

Miscellaneous.

1. I am directed to acknowledge the receipt of your letter dated 19th ultimo, No. 5,628, regarding the Patent for mossing Chinchona trees applied for by Mr. McIvor, Superintendent of the Government Chinchona Plantations.

2. I am to state that, on full consideration, the Government of Madras remains clearly and decidedly of opinion, for the reasons stated in the Minutes which accompanied my letter of the 14th March last, No. 635, and which, I am to point out, have received the unqualified concurrence of the Secretary of State, that the continuance of the exclusive privilege will be mischievous to the State and generally prejudicial to the public, and therefore recommends that it be at once withdrawn under Section XVI. of the Patent Act XV. of 1859.

Despatch from Secretary of State, 16th June 1866, No. 23.

3. I am directed to point out, with reference to Section X. of the Patent Act, that no copy of the specification has yet reached this Government.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) J. D. SIM,
Secretary to Government.

Exd. S. T. Augustin.

No 3540/66

Memo

The Madras pats became aware, for the first time, that Mr McLeod had applied for a patent for this plan of moving chinchona trees at the end of Nov. 1865.

On the 21 Dec. pats having intimated to the pats and their attorneys drawn to it

On the 25 Jan 66 the pats presented to the Madras pats objected to the patent to Mr McLeod his servant of the pats - or to Caude

it was not material
for a patentee or
because it should
be generally pre-
judicial to the
public "
"On the 14th March
the first recommended
that the patentee
should be entitled
for reasons stated
in the minutes of
the several members
of Govt.
The subject was
on this occasion
brought to the notice
of the Home Govt
& finally referred to
the India Govt.
On the 11th Augt
the Secy of State
addressed the

recommendations
of this Govt adding
"as the observations of
of a patentee would
tend most materially
to restrict the benefits
which the introduc-
tion of the Chinchona
into India by Govt at
a great Expence
was intended to
produce" - i.e. to
a public injury.
The Govt of India
now state that
"Our Mr Lords ap-
prehension was
unfortunately fully
before the letter
~~from the letter~~ of
the Madras Govt of
21 Dec. was laid be-
fore the Govt"
and consequently
the patentee can no

be cancelled only on this ground that it is "Mischievous to the State or generally prejudicial to the public." This Slich the Sol. is stated to be ready to take "if the fact of Making, on full consideration is clearly & decidedly of opinion that the Continuance of the Exclusive privilege will be practically injurious to the State or to the public."

It will be remarked that the letter of the Ld. Jst. of 25 June / 66. does not give the slightest hint of the Specification having been filed!

And strange to say, the copy of the Specification has reached us - in shite of Sect x Act xv of 1859.'

I do not see that I can add any thing to what is contained in the Memorandum of the Members of Jst. & the Sec.y of State's dispatch -

The present number of trees planted out in the Jst. Gs. Estates is 4,01,211 - of trees sold & distributed 125,679 - & of plants for hospital 15,10,371.

L. D.

In this letter Mr
Mr Lyon states
that he has received
an offer for his
Working. Valentine
but this has first
to be put the de-
-final -
He is to have
knowledge of Lebon
of the Parliamentary
Blue Book, & that
contains the mi-
nutes of the meet-
ing of 1st of and
the Patent - the
Despatch of the
Lieut of State Con-
curring in the
views of this Act &

Let me
know

Ans

Rec'd 13th March/66
Q 3080

C8 Nov/66

the letter of this
post to the petition
post to commencing
that the Patent
should not be
granted -
I think it likely
that the offer to
purchase is for
the Money - at
least sometime
ago, he mentioned
in a private letter
that he was
thinking of taking
out a license
from Mr McLoon.
To this I have
given no reply
further than

probably the whole story
communicated to by Lieutt
Respectfully &c Mr. McLoon was
probably likely to entertain
benefit - &c.

If Mr. McLoon be really a partner
in the "Devastation" his conduct has
been hostile enough; for (written from
recollection) he has been corresponding
with post offices of the Forest Department
and he owes a more decent regard for
money. On the part of a co-tenant
to pursue the post such a course
would never be tolerated. &c

Patent has still
not settled I fully
because he made
no mention of the
circumstance -
openly avowed to
Mr. Hunt by him
self & to Mr.
Robertson by Mr.
Warwicke - that
Mr. McLoon has
a partner in the
Devastation which
Concern & the fact
being left unnoticed
rendered as I look
like by a letter the
receipt ~~of~~ which
was shewn to Mr.
Chater, Mr McLoon

must have, since
same, be set at rest
yet have recommended the Sub: yet to annul the Patent — it has
by a strange series of mistakes on their part, they had allowed to issue to Mr McLoor
a Patent for what has yet been made of the Patent there is no injury yet inflicted.

A Telegram must be also sent to the Sub: yet urging immediate action

there may be done — best if the patent had passed with the seals of 20 purchasers unexceptionable, the right of annulment would not be affected

true -

I seems reason for more than an ordinary letter to Mr McLoor and more terms — he is entitled to no special consideration at the hands of the Post —

N.

Mosping proceeds without —

in the matter —

I subjoin drafts on these subjects.

To Mr McLoor

Mr McLoor is informed that the Sub: has recommended the annulment of all patent rights in the "invention" to which he alludes —

To Sub: yet

Telegram.

My letter of 13th ult. No 3081 2 year duty Mr.

Mr McIvor Pinching
Patents.

Mr McIvor says
he has had an
offer to purchase
it. Immediate
decision requested.
Reply
by Telegraph

Read —
— Minute of the Board
— to J. Prescott.
— the Board to do what is
— 3080.
Ordered that the
following letter be
dispatched.
J. D.
13 hours

I do not see that I can
say more on this point
~~just~~ than I have already
said in my remarks
of M 3d. March last
Law 21

2. If Dr McLoon's
plan of treating
Chin convulsions by
any practical other,
and how, as he
does, without previous
test the alkaloids,
it seems to me that
to pronounce him
guilty of a patent
to present them for
~~solicitation~~ notice -
which after due
inquiry proves - unless in

Scotch Decisions
Print Stand/66

payment of such
royalty as he thinks
fit to demand, must
be ~~basis~~ injurious to
the State now engaged
in the experimental
cultivation of Chincho-
-na for the general
benefit, and must
be injurious to the
patentee as tending
to ~~Cause~~ [keep up] the price of
quinine and its
kindred alkaloids.

3. This is the view
taken by the Rt Hble
the Secretary of State
for India in Council
as shown by his
Despatch of 10 Decem-
ber (Public Despatch No 23,

para 3, that the opera-
-tion of a patent in
the case would tend
most materially
to restrict the bene-
-fits which the
introduction of the
Chinchona into India
by Government at
a great expense
was intended to
produce."

4. I therefore consider that

~~[illegible]~~ the con-
-tinuance of the
[illegible] conveyed in ~~[illegible]~~ Mr
Ross's patent
will be practically
injurious to the
State and to the concurrence

public and com-
-municate that the
printing Records
with Dawn.-

Nov. 10-1866

The letter from the Govt. of India: No 5628. 19 October last. seems to show that Mr. McIvor succeeds in securing the Monopoly Patent is mainly due to the declared effect of Section IV of the Patent act. It is, therefore, unnecessary at present to go over the pleadings of the parties which have been carefully considered by this Govt. whose views are adopted by the Sec of State. I will now simply add, that I have no doubt that this concession granted to Mr McIvor is of this "mischievous character to which Section XVI Act XV of 1859 has reference and I shall be glad to see that the Govt of India determine #

R Qa. 13 Nov. 1866
No 280 @ 283

that the privilege shall cease for which Mr McIvor's servant of the Govt ought not, in my opinion, to have obtained without the Consent of his employers

W Denison

10 Nov. 1866

Reported to England
by 13th Mail in No 5104 of 1866
(Mis.)

Revenue 1866. Oct.
Pro. of Govt for November
No 3840.
15

From the Secty to the Govt of India

Dated 19th Oct.
Received 30th " 1866.
No 5628.

Replying to the enquiry made by this Govt whether the Patent applied for by Mr McIvor has been granted to him.—

No 280 @ 283

No 280 — 13th November

W Mansergh

8 Nov 66.

Revenue Depart.

№ 3081.

13th Novr 66

By the Secy. to the Govt of such a=

Sir,

I am directed to acknowledge the receipt of your letter dated 19th ultimo No 5,628 regarding the patent for processing Cinchona trees applied for by Mr. Mc Ivor, Superintendent of the Govt Cinchona Plantations=

I am to state that on full consideration, the Govt of Madras remain clearly and decidedly of opinion, for the reasons stated in the minutes which accompanied my letter of the 4th Nov last № 635 and which, I am to point out, have received the unqualified concurrence

Dep Superintendent Jungle Tracts of State Lands
4 Cum/66 № 23-

concurrence of the Secy. of State, that the continuance of the exclusive privilege will be mischievous to the State & generally prejudicial to the public - and therefore recommends that it be at once withdrawn under Section XVI of the Patent Act, XV of 1859.

I am directed to request that the date of the Inventor's letter applying for the Patent may be communicated to this Court and to point out, with reference to Section 8 of the Patent that no copy of the specification has yet reached this office -