Proceedings of the Madras Government, Revenue Department, 28th May 1873.

No. 195. Read the following Proceedings of the Board of Revenue, dated 6th May 1873, No. 723 :—

Read the following letter from W. S. FOSTER, Esq., Acting Collector of the Godavery District, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Narsapur, 26th March 1873, No. 65 :—

I HAVE the honour to acknowledge the Proceedings of the Board of Revenue, No. 1,479, dated March 13th, 1873, calling on me for a report on the collection of the grass-rents on lands rented out by the officers of the Public Works Department.

2. These officers rent out the land, and, then, call on the Tahsildar to collect the rents if the ryots do not pay. The Revenue Department have nothing to do with renting out the land.

3. Papers called puttas are given to these renters ; but I do not consider that this will allow the Collector to put the Revenue Arrears Act in force against them.

4. It must be remembered that, if the Collector enforces by this Act an illegal contract, a suit can be brought against him, and he would be liable to damages. The Public Works officers would not be so liable, though they had made the illegal contract, and though the Collector had no power or opportunity to decide whether the contract is legal or illegal. This may be of force only in theory, not in practice ; but, in considering whether a matter is legal or not, it is not always advisable to wait till we can commit an illegality.

5. I would refer the Board to their Proceedings No. 5,052, dated July 15th, 1869, in which the Government Pleader gives an opinion that forest rents cannot be collected by Collectors under the Revenue Arrears Act ; and I think the grass-rents are just in the same position.

6. I think it would be better than the present course if such matters as renting out this land should be given up to the Revenue authorities ; and, then, the rents could be collected under the Act. These lands are situated on the banks of the river and canals, and the Public Works Department might point out what can be rented out and what should not.

7. But, on the whole, I consider that it would be best that these lands should be rented out by the Public Works officers under special contracts, to be enforced by the Collector, under Madras Act VIII. of 1865, or by a Civil Court. In cases of emergency, it might be necessary to turn the people off these lands, and a special agreement to that effect would have to be inserted in the Contract bond ; and such an agreement could not find a place in a Revenue putta.

8. A Tahsildar remarked to me once that the officers of the Public Works Department had very little means of finding out themselves whether the people who took these lands on rent had or had not any property ; and they never asked the advice of the Tahsildar, but they rented out the land to a man who had nothing, and then expected the Tahsildar to recover the money.

9. Whether this is strictly true or not, it is worth consideration. Certainly, the Revenue authorities know more about the people than others. I would, also, mention that, if the Department Public Works are relieved of the work of letting out these lands, they might have more time for their own legitimate work.

Proceedings of the Madras Government, Revenue Department,
23th May 1873.

SUBMITTED to Government, with reference to G. O. dated 10th March 1873, No. 284.

2. The District Engineer of the Godavery District has requested that the Revenue authorities may be instructed to collect grass-rents on puttas issued by the Department Public Works, under Madras Act II. of 1864.

3. The Government Pleader has advised that such contracts cannot be enforced under Act II. of 1864, and the Board concur in this view.

Board's Pro., dated 15th July 1869, No. 5,052.

4. The Board are of opinion that the leases, puttas, or contracts, should be issued by the Revenue Department, and that, if this course is pursued, arrears can be recovered under Act II. of 1864.

5. The Range Officer should send notice to the Tahsildar of the land to be leased, with such particulars as may be necessary, and leave him to do the rest.

No. 196. ORDER THEREON, 28th May 1873, No. 536.

Miscellaneous.

THE Government resolve to request the Board of Revenue to report full particulars in regard to the lands referred to; *i.e.*, the circumstances under which they came under the control of the Public Works Department, their extent and assessment, whether they have been hitherto leased temporarily only, and, if so, whether the whole or any portion may not now be permanently disposed of; to what head in the accounts the receipts from them have been credited, etc.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

No. 1242.

Kistna District
Collector's Office
Masulipatam
5th August 1873

From

The Collector, Kistna District.

To

The District Engineer, Kistnah.

Sir,

I have the honor to forward copy of the Board's Proceedings dated 6th May 1873 No. 723 and to request that you will adopt the course therein pointed out in regard to the sale of the pasture lands in Charmel lunkas, if you wish the collection to be made by my subordinates.

2. The Government Pleader advises that the puttahs issued by the Officers of your Department cannot be enforced under Act II of 1864.

3. Should you consider it better to realize your own rents, that course remains open to you.

I have the honor &c
Sir
Your most obedient Servant
/Signed/ G. D. Leman
Collector.

/True Copy/
For actg. Major R.E.
District Engineer, Kistnah

Enclosure in letter
No 60 of 13th August/73
from the District Engr
Krishna to the Chief
Engr for Irrigation.

Chs 1/1384/73.

P.W. 4887/73.

R 2/2764/73

No 60. District Engrs Office Tirhut
Camp Nurseatpore
13th August 1873.

From

Dispd 18th August 1873.

Major J. C. Haslett R.E
District Engineer Tirhut

To,

Lieut Colonel J. Mullins R.E
Chief Engineer for Irrigation
Superintendent Public Works.

Sir,

Enclosures 2

I have the honor to forward copy of a letter received from the Collector on the subject of renting out channel bunhas in the Delta.

2. The practice hitherto has been for the Range officer to rent out the bunhas, to issue puttas to the renters and in some cases to receive a portion of the rent at the sale, and then to forward the puttahs to the Tahsildar for the collection of the rent, with the sum already received from the renter.

3. The Board of the Revenue in their Proceedings no 7 23 dated 6 May 7 18th March 1873, has stated that the Revenue Department cannot legally enforce contracts made by officers of this Department, and that in their

opinion

opinion the puttahs should be issued by the Revenue Department, to which end Range Officers should send notice to the Tahsildar of the land to be leased with such particulars as may be necessary and leave him to do the rest.

4. The lunkas having already been leased out by Range Officers for this season, I have informed the Collector that to carry out the arrangements proposed by the Board of Revenue now, will cause great inconvenience and that I propose to let matters remain as they are till next season.

5. In the meantime, I think it will be advisable for the subject to be considered with reference to the practice existing in other Districts, and that some steps should be taken for assimilating the practice at all events in Delta Districts.

6. I am of opinion that the best arrangements will be for the Revenue Department to issue the leases on instructions from this Department and collect the rents, as suggested by the Board of Revenue, the Range Officers would send a list yearly to the Tahsildar detailing the channel lunkas to be let for grazing and specifying the lengths to be deducted for each crossing to prevent the renter from pounding the village cattle crossing the channel, and would have nothing more to do with the matter. All that would be necessary would be to state clearly in the lease the right of the Range Officer to remove earth and grass from the lunkas if required for Government works, and that no fences for herding cattle or obstructions are to be put up under any circumstances. The conditions in fact, on which the right of grazing would be let, would be drawn up by the Range officer and should be embodied in the lease granted by the Revenue Department.

7. If the Range officers were empowered to enforce the Collection of these rents, I think it would be better that the leases should be granted by this Department. The amount realized would in either case be credited to Irrigation Revenue and there is no reason to suppose that it would be larger

larger if the sales were made by the Public Works, than the Revenue Department; but it would be better that the matter should be in the hands of the officer who is continually visiting the channels and sees more of them than any one else. This power however I imagine would not be given to Range officers, and as it is stated that the Revenue Department cannot enforce contracts entered into by this Department, I see no better arrangement than to let the Revenue Department issue permits on which they can collect the sums due.

I have the honor to be
Sir
your most obedient servant

Lt Colonel. Major R.E.
District Engineer Thibet

P. W. 4884/73. No 69
P. C. No 1384
From The District Engineer Thibet
To The Chief Engineer for Irrigation
Dated 13th August 1873.
Received 25th August 1873.
enclosure (two)
Reports the existing practice and makes certain suggestions on the subject of renting out channel Lavees in the Delta and also requests orders for future procedure.

Col M
on this subject
Papers in connection with the Govt Dist but Dft on 8 July Lett No 40 -

Received 11
Entered & returned 14 } Acts

A

Ag

No 572.

Submitted to Government with reference to G.O. No 76 of the 13th June 1873.

R.D. No 536
20th May 1873.

Enclosure
1 Letter with
2 Enclosures.

2. This reference from the District Engineer Kistna, like that from the Godavery, to which the above order relates, is on the subject of the arrangements under which grass rents from lands occupied by irrigation works have hitherto been collected.

2. The grass lands are the for the most part, with, in some cases, river margins, narrow strips between rivers, and similar places which for conservancy or other purposes are necessarily in charge of P.W. officers.

3 It is in my opinion of importance that the entire control over such lands should rest with the officers in charge of the irrigation works. The rents derived from the sale of grass, or the letting of the lands for grazing purposes,

purposes, are of very secondary importance, and the first consideration is the preservation of the works from injury. Were the letting of the lands made over to the Revenue officers, the lessees would very naturally look to them for orders, and the Canal officers' orders would receive no attention. Under the opinion expressed by the Board of Revenue of course the collection of rents by the Revenue officers is no longer practicable, but there is no necessity whatever for letting them to make the collection. A principal reason for renting out grass is to prevent the Canal subordinates from disposing of it themselves.

4. It is necessary to notice that grazing on Canal banks should never be allowed: terms should never be allowed: in wet weather cattle do a great deal of injury to banks, if allowed to graze on them; and at all times they do more

or less damage. In such situations therefore the right to cut grass should alone be rented out, and moreover rooting up grass should be strictly prohibited. In some few situations, other than on Canals, grazing may be permitted, and these can be determined by District Engineers.

5. With regard to the realization of the rents, and to the enforcement of the conditions attached to the renting, the simplest plan is to require the payment in advance of say 1½ months rent, and the further payment at the beginning of each subsequent month, except the last, of another months rent; half a months rent only would be due at the beginning of the 12th month. The conditions would be that, failing the punctual payment of the rent, the right to cut grass or to graze cattle

as the case might be, would be at once stopped, with the loss of the half months rent which had been paid in advance: also that the breach of any of the rules entered in the agreement of rental owned render the lessee liable to have the agreement cancelled, with the forfeiture of any advance of rent which might have been paid. It is very probable that these arrangements might lead to a reduction of the amounts realized as gross rent, but this, in my opinion, does not matter at all. The essentials are perfect control over the lessee, and absence of trouble involving waste of time. In San Jose somewhat similar arrangements to those suggested have long been in existence, and they

can

C.O. 10 March 73 No 88-89
28 May — 195-96

B-2 195-196.

Dft. 1873 Department
Fuse No. 4887.
The Chief Engineer for
No. 2766. Irrigation
To, The Secretary to
Govt. 28 Aug 1873
Government
P.W.D.

Date 30th August
Despo 5th September
Rec. 5 " — 1873
Recd. 10 Sept.br
Enc. 3. No 572.

Note on the subject
of grass rents from
lands in charge of
Public Works Officers.

Referred
195-196

Referred for consideration &c
the Revenue Department, &c
with reference to correspondence
Department No 2766 of 30th
ult. & 28th inst. and No 5372
of 10th inst. and No 536
Dated 6 Oct. 73.

Secretary to Govt.

Answd 6 Oct. 6 Sept. 73

C. No. 1313

No 536

Pre forwarding to
request the Board of
Revenue to report, &c
particulars as regards
to the lands referred
to. 2. The circumstances
under which the
same were
control of the P.W.D.,
their extent & annual
value. They have

G.O.
Grass rents on portion of
roads Sep. 12th Sept. on No
Galway &c — 1

223 Jan 74 R. 20 Sur

touched

Lt. 195-198

been hitherto leased
temporarily only, and
if so, whether the
whole, or any portion,
may not ~~hereafter~~ now
be permanently disposed
of - to what head
in the accounts the
receipts from them
have been credited &c.

PPD. 28 May 73.

14 To the Board of Revenues 4 June 73
21 " Public Works Dept " "

Govt. of {1873} Madras.

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated May 28th.

Recd. Encl.

G. O., 28th May 1873, No. 536.

MAY.
Nos. 195-196.

Grass-rents on Puttas issued by Department Public Works in Godavery.—Board of Revenue to report full particulars in regard to them on the points specified.

Ver 2766/73.
Further No 3813/73