M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 107

(2) Date of repair 2-4-69

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. / ~~B.P. No.~~	579	Press / ~~Mis.~~
Dated	5-5-1876	~~196~~ .

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

Read the following papers :—

No. 41. Proceedings of the Board of Revenue, dated 22nd March 1876, No. 816.

Read the following letter from J. R. COCKERELL, Esq., Commissioner of the Nilgiris, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Ootacamund, 2nd March 1876, No. 12 :—

PARAGRAPH 7 of G.O., Revenue Department, dated 18th February 1876, No. 240, runs : "The Government resolve to consider whether a system can be framed to admit of the abandonment of the auction system, vesting in the Commissioner authority to dispose of individual applications subject to an appeal to the Board of Revenue, who will, therefore, with all practicable despatch, draw up a scheme of rules for this purpose."

2. Mr. E. C. Fraser-Tytler, a Retired Officer of the Bombay Civil Service, was recently on the Hills, looking out for land for his two sons who accompanied him. The latter await the result of an application for a block which Mr. E. C. Tytler made before leaving for England and which I have now the honor to submit for favorable consideration.

3. The land is forest land situated in the Mekenad Division and comprises 100 acres, which the Messrs. Tytler, junior, wish to open for tea. Their object is to secure the land at once in order that they may settle and build a house before the monsoon begins.

4. Mr. E. C. Tytler is a capitalist, and it seems very desirable that his sons should receive inducement to remain; and, as Government in the paragraph of the Government Order quoted above appear to have abandoned the auction system, I venture to suggest that the present application should be treated under Rule XXIII of the existing rules, which runs, "Nothing contained in these rules shall be held to debar the Government from granting waste land on putta, cowle, or otherwise at their discretion as heretofore," and that I should be authorized to hand over the land to Messrs. Tytler without delay on putta at the usual rate charged for estates.

5. The Deputy Conservator of Forests has visited the land and sees no objection to its alienation. I enclose Mr. Tytler's application with sketch, Major Jago's report, and the report of the Revenue Inspector.

6. In the Government Order above quoted it is stated, "The Committee apparently attribute the tardy occupation of the extensive waste lands on the Nilgiri plateau to the action of the present rules for their acquisition, and overlook the hindrance arising from unfavorable climatic conditions and the prevailing poverty of soil, which limit the field for planting operations and enhance the expenses of cultivating and maintaining estates."

7. With reference to this paragraph, I deem it important to inform the Government that there are ninety applications in my office, involving an approximate area of 7,000 acres, awaiting disposal under the new rules, and there are three applications in which areas are not stated. I am aware, moreover, that several other gentlemen are merely waiting for the abolition of auctions to apply for blocks of land.

No. 324.

THE Conservator of Forests sees no objection to the tract in question being sold.

MANANTODDY,
7th March 1876. (Signed) R. H. BEDDOME, Lieut.-Col.,
Conservator of Forests.

ENCLOSURES Nos. 1 and 2.—Mr. Tytler's application.

ENCLOSURES No. 3.—Major Jago's report.

ENCLOSURE No. 4.—Report of Revenue Inspector.

SUBMITTED for the favorable consideration of Government.

2. The Board see no objection to the grant of a putta as proposed, provided the applicant consents to abide by the conditions of the new Rules when determined on and to accept a Title-Deed under them. The revision of the Rules is now under consideration, and will be reported on shortly, but Mr. Fraser Tytler is anxious for a speedy disposal of his application, and the Board will not, therefore, defer its submission.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 42. Proceedings of the Board of Revenue, dated 1st April 1876, No. 902.

Read the following letter from J. R. COCKERELL, Esq., Commissioner of the Nilgiris, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, through the Conservator of Forests, dated Ootacamund, 13th March 1876, No. 13:—

I HAVE the honor to submit, for favorable consideration, an application from Mr. Richard Shubrick for a block of land at Nedivattum of 500 acres more or less in extent.

2. Mr. Knox, the Acting Assistant, has inspected the land. I know the spot. The land is almost entirely grass, and, under the existing rules, I could put it up to sale and hold an auction after three months' notice.

3. Mr. Shubrick, however, is anxious to secure the land at once under rules to be framed with reference to G.O., No. 240, dated 18th February 1876, Revenue Department.

4. I may state here that Mr. Shubrick is the only son of General Shubrick, who for a short time held the office of Commander-in-Chief of the Madras Army. He is possessed of capital, and is a desirable tenant for the Government to locate on the Hills.

5. If the land is not granted, Mr. Shubrick will lose a season as the southern monsoon is already near at hand. I need not remark on the evils of enforced idleness on a young gentleman desiring to settle on land in India.

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

6. There is a small hanging sholah on the land covering a few acres, but Mr. Shubrick will forego its acquisition at present, in order to obtain possession of the grass at once.

7. I would, however, suggest that he be granted the whole block under Rule XXIII of the Waste Land Rules, which runs:—

"Nothing contained in these rules shall be held to debar the Government from granting waste land on putta, cowle, or otherwise at their discretion as heretofore."

No. 394.

THE Conservator of Forests sees no objection to the land in question being granted.

OOTACAMUND,
24th March 1876. (Signed) R. H. BEDDOME, Lieut.-Colonel,
Conservator of Forests.

ENCLOSURE No. 1.—Application of Mr. Shubrick.

ENCLOSURE No. 2.—Plan.

SUBMITTED for the favorable consideration of Government with the Board's recommendation that a putta be granted, as proposed by the Commissioner, on the distinct understanding that the applicant agrees to be bound by any modification of the rules which may be determined upon.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 43. Proceedings of the Board of Revenue, dated 10th April 1876, No. 968.

Read the following Proceedings of the Madras Government, dated 18th February 1876, No. 240, Revenue Department:—

ABSTRACT.—*Waste Lands on the Nilgiris.*—Passing orders on Proceedings, Board of Revenue, on the change of system in connection with the sale of —; requesting them to revise the Waste Land Rules generally with reference to this order; and desiring the Commissioner to convey the thanks of Government to the gentlemen who rendered assistance in the discussion of this subject.

IN the foregoing Order Government direct the Board to draw up and submit for consideration a scheme of rules somewhat on the model of those proposed in their Proceedings, dated 18th March 1870, No. 1,861, with a view to the abandonment of the auction system for the disposal of applications for waste lands on the Nilgiris. Two points are specially indicated as requiring consideration in connection with this reference, *viz.*, the propriety of placing a limit on the amount of land acquired by a single individual by requiring the planting of a certain pro-

portion of each original holding before the submission of a fresh application, and the advisability of restricting applications, by which term it is presumed individual grants are meant, to an area less than 500 acres. The Board are also required to revise the Waste Land Rules generally with reference to the order.

2. The Board have revised the rules as directed, but before noticing in detail the points which call for settlement in connection with the revision, they venture to solicit the attention of Government to the correspondence which passed prior to the promulgation of the rules for the sale of waste land in this Presidency as they now stand, as it seems to them open to question whether such a departure from the principles laid down in the Secretary of State's Despatch, dated 9th July 1862, No. 14, as is now proposed, can be carried out without the sanction of the Secretary of State. The letter quoted at paragraph 6 of the Order of Government, dated 24th September 1862, No. 2,080, as excepting the Nilgiris from the operation of the rules, appears to have related exclusively to the rates at which land on the Nilgiris was to be disposed of, and would seem not to have authorized a departure from the principles laid down in the Secretary of State's despatch in other respects.

G.O., 24th September 1862, No. 2,080.

3. The superiority of the auction system for the settlement of conflicting claims has been repeatedly recognized, and the Board would call attention to the marginally-noted passages from communications addressed by this Government to the Government of India advocating its adoption in all cases. The late Commissioner in his letter of the 7th May 1870, recorded in G.O., dated 22nd September 1871, strongly urged the retention of the system as fairest to all concerned, and the Board appear to have been led by his arguments to modify the opinion they had previously expressed in their Proceedings of the 18th March 1870 as to the feasibility of the change of system they had proposed. The Committee have not noticed the difficulties in the way of the settlement of rival claims and of securing that the preferential claims of neighbouring landholders shall be duly considered in the disposal of applications for land contiguous to their holdings, and the Board question whether it would not be advisable to retain auction sale for the settlement of rival claims as was originally proposed in the Resolution of the Government of India even should the abandonment of the auction system in ordinary cases where no rival claimant appears be decided upon; competition being, however, limited to rival claimants and not being open to the general public.

Paragraph 4, Clause 3, letter dated 25th February 1862, No. 395.
Paragraph 2, letter dated 22nd July 1862, No. 1,572.

Paragraph 30.

4. As regards the vexatious delay which is laid to the charge of the auction system, the Board observe that the fact that by Section 1, Act XXIII of 1863, three months' clear notice must be given in advertising the sale or other disposition of waste lands on account of Government has been overlooked. The Act is general in its terms, and, though the Bill was originally framed with reference to the rules for the sale of unassessed waste in fee simple, the Nilgiris have not, as far as the Board are aware, been exempted from its operation. The only papers relating to

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

the Bill when under discussion traceable in the Board's Office are G.O., dated 27th September 1862, No. 2,109, communicating copy of the Bill and letter from the Supreme Government relating thereto, and the Board's reply, dated 2nd October 1862, No. 6,646. The Board took exception to Section 17 of the Bill, and suggested that an order should be passed excepting the Nilgiris from the operation of the recently prescribed rules and of the law passed in furtherance of those rules. The Bill was considerably modified and Section 17 struck out, but no order excepting the Nilgiris from the operation of the rules and Act was issued as far as the Board are aware, and they, therefore, conclude that the Act does apply to the Nilgiris. The abandonment of the auction system will consequently not obviate the necessity for deferring the disposal of applications until the lapse of the time fixed by the Act, and the Board believe that a period of three months suffices for all the preliminaries under an auction system as pointed out at paragraph 15 of their Proceedings of 13th October 1875.

5. The Board will now proceed to notice the points calling for settlement in the revision of the rules. The direction to "revise the Waste Land Rules generally" with reference to the Government Order under reply has been understood to apply only to the Nilgiri Rules, as the order does not affect the system for the disposal of land elsewhere.

The following points seem to require notice:—

1*st.*—Whether any price should be charged additional to the cost of demarcation and survey.

2*nd.*—The advisability of a limitation of the area of grants.

3*rd.*—The question of placing a limit on the extent of holdings by requiring a certain proportion to be planted up before the acquisition of fresh land.

4*th.*—The extent to which adjacent landholders should be held to have a preferential claim.

5*th.*—The disposal of timber on land granted under the rules.

6*th.*—The mode of disposal of applications for building lots within the limits of the settlements of Ootacamund, Coonoor, and Kotagherry.

7*th.*—The disposal of auriferous tracts.

6. As regards price, the Committee propose that the cost of demarcation and survey at a uniform rate of Rupees 2 per acre should be the only charge. In paragraph 16 of their Proceedings of the 13th October, the Board took this proposal as contemplating that the deposit should be made at a fixed rate, but should be subject to subsequent adjustment of any excess or deficiency on ascertainment of the actual cost. The meaning of the rule is not very clear, but it is apparently intended to provide for a charge or refund only in the event of a discovery of a difference between the estimated and actual areas by survey, the acreable cost not being taken into consideration. In their Proceedings of the 18th March 1870, the Board proposed that a fixed rate of Rupees 5 per acre, or Rupees 6 for forest and Rupees 4 for grass, should be charged, including cost of demarcation and survey. The Board are not aware what the average of the prices realized and of the survey charges has been, the Commissioner not having as yet submitted the statement

called for in paragraph 11 of the Proceedings of the 13th October 1875, but the fixed rate proposed in 1870 is probably considerably in excess of the average; and as the Board have every desire to lighten the burden upon the planters, and heavy charges imposed at the outset press more severely than those which descend only after the lapse of some time, in that they curtail the means available for clearing and cultivation, they think it will be sufficient to charge the actual cost of demarcation and survey, the estimated cost, say at the rate of Rupees 2 per acre, being deposited at the time of application. There is no objection to a fixed rate for deposits, but a uniform charge of Rupees 2 per acre would not be fair, as the cost of survey varies so greatly according to the nature of the locality—*vide* paragraph 8 of Mr. Breeks' letter of the 7th May 1870.

7. The second question, *viz.*, the advisability of a limitation of the area of the grants, must be considered in connection with the third, *viz.*, the propriety of requiring that a certain proportion of each original holding be planted up before a fresh application can be entertained. Under the existing rules blocks of 500 acres are prescribed, and several contiguous blocks, each not exceeding that limit, may be applied for. The Committee proposed the abolition of this restriction as to the size of the blocks, but the Board pointed out that, if the system of auction is to be retained, the size of the lots must be limited. Now that the abolition of the auction system is proposed, it becomes necessary to consider whether land-jobbing can best be checked by a limitation of the aggregate area to be assigned to each individual, or by requiring that a certain proportion of each holding shall be planted up within a definite period. The present limit to the size of the blocks seems suitable; any reduction would only increase the acreable cost of demarcation and survey where several contiguous lots are applied for, and as long as it is open to an applicant to take up as many lots as he pleases, a mere alteration of this limit would not be effectual. The limitation of the aggregate extent of land which each individual may acquire, with a view to check speculation, is open to the objection that any such regulation can be easily evaded by putting in applications in the names of relatives and friends. Moreover, it would be difficult to fix a limit suitable to the varying means of intending settlers so as not to check unduly legitimate enterprise. The only feasible plan, therefore, appears to be to require that a certain proportion of each holding shall be planted up within a certain period as a guarantee of *bona fides*. The proposal to require compliance with this condition in respect of previous grants before the submission of fresh applications does not commend itself to the Board, as it would debar planters in a position to extend their operations from doing so.

8. At paragraph 18 of his letter, recorded in Board's Proceedings, dated 18th March 1870, the late Commissioner recommended that the postponement of the Government demand should be conceded subject to a proviso that at least a third of each estate should be planted up with 500 plants to the acre within the first four years, and in default that the whole estate should be liable to payment of the full assessment from the date of purchase. It appears from paragraph 7 of the same letter that a similar condition is imposed in Travancore, and the Board consider that some such stipulation is fair and necessary in the interests of Government. To prevent, as far as possible, land being taken up for purposes of speculation

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

and abandoned before the assessment falls due, the grantee should bind himself to cultivate a specific portion, say one-fourth of each grant, within the first five years, failing which the full assessment should be levied from the date of the grant. Of course, this stipulation will not absolutely secure Government against all risk of loss, but, coupled with the proviso that no refund of the deposit will be made in the event of the application being withdrawn as proposed by the Committee, the risk will be as small as circumstances will admit of. The prohibition of the Government of India at paragraph 14 of the Resolution of the 17th October 1861 against the imposition of any such condition had reference to sales of land in fee simple, and the objections to the restriction have not the same force in respect of land held subject to annual assessment. The Board consider that some stipulation of the sort is absolutely necessary if auction sale is to be abandoned.

9. The Board cannot support the Committee's proposal that the assessment should be levied only on the cultivated area; the assessment should be levied in the sixth year on the entire holding. The Committee's proposal involves the necessity for periodical inspections, to which there are great objections, and the system was disapproved of by the Secretary of State in his despatch embodied in G.O., dated 5th October 1863, No. 1,810. General and local taxes should be payable from the date of the grant, notwithstanding the postponement of payment of the assessment.

10. 4*th*.—As regards the extent to which adjacent landholders should be held to have a preferential claim, and the mode in which this right is to be secured. This point presents one of the chief difficulties in the way of the abolition of auction. The Government of India originally directed the reservation of blocks of land adjoining grants at the grantee's request for future occupation, but the auction system was prescribed and secured the rights of adjacent landholders by enabling them to secure land adjoining their properties by outbidding the applicant. In their Proceedings of March 1870, the Board suggested the following general rule for the settlement of claims preferred by the holders of adjacent estates, *viz.*, that they were to have the option of taking the land applied for "should it be so situated with reference to communications, water, &c., as seriously to affect their plantations." The late Commissioner, in his letter of the 7th May 1870, pointed out the difficulties in the way of deciding how far the interests of existing estate owners will be affected by the grant of particular sites to others, but they have not been noticed by the Committee, who apparently ignore the claims of adjacent landholders. On a full consideration of the whole subject, the Board are of opinion that the instructions proposed in 1870 were too general and virtually left the decision of a very difficult matter to the Commissioner. Whilst admitting that cases may arise in which a neighbouring landholder should have the preference, the Board do not see their way to laying down any definite rule on the subject, and they do not consider it fair to throw the whole responsibility on the Commissioner. They are therefore of opinion that priority of application should decide rival claims; in the event of two or more simultaneous applications, *i.e.*, during the same day, the decision should be left to the discretion of the Commissioner and a neighbouring landholder should have the preference. The

rights of the hill tribes must of course be respected; but with the present favorable rules as to payment of assessment, there is no hindrance to the acquirement by estate owners of adjoining lots which they are likely to require in the future and they must be left to protect themselves. To vest the Commissioner with discretionary power for the decision of conflicting claims subject only to the broad rule for his guidance already adverted to would, the Board fear, lead to as much disappointment and dissatisfaction as has resulted from the auction system in other respects.

11. *5thly.*—As regards woodlands, the Government have decided that where such are granted the seigniorage is to be paid on the wood and peat removed *for sale*; the seigniorage on the latter being, it is presumed, the rate leviable on firewood. In their Order, dated 14th July 1869, No. 2,041, the Government approved certain rules* framed with the view of securing that the Forest Department should receive the value of timber standing on all grants of land. These rules are not noticed by the Committee, but the Board understand that they have rarely been acted on. As the Commissioner is, in communication with the Conservator, to have all necessary reservations defined, there is sufficient security that land containing timber having a saleable value will not be alienated, and as no charge is to be made for wood consumed by the planter himself, the rules contained in Standing Order No. XXVIII. of 1869 will not be embodied in the revised rules for the Nilgiris. The Board consider that seigniorage should also be charged on wood and peat removed for consumption beyond the limits of the estate, for other than *bonâ fide* estate purposes.

* Board's Standing Order No. XXVIII of 1869.

12. The question of sale of building lots within the stations next demands consideration. The Committee's revised rules are not to be held applicable to building lots within the settlements as laid down in the Revenue Survey Maps. The auction system must of course be retained for the disposal of applications of this nature, and to obviate the necessity for two different sets of rules and forms of deed, the Board suggest that building lots be put up in freehold under the general waste land rules at an upset price equal to 25 years' purchase of the assessment, *viz.*, Rupees 25 per acre, in addition of course to the cost of demarcation and survey. This is in accordance with the rules of 1859, when building sites were sold at an upset price of Rupees 20 per acre, *i.e.*, 20 years' purchase of the assessment, not Rupees 2 as twice stated in the Committee's report. As the area of the lots is trifling, the requirement to pay the capitalized value of the land will not be burdensome. The Board understand that G.O., dated 22nd September 1871, reducing the rent of grazing land from Rupee 1 to Annas 8 per acre, has been applied to building lots within the stations. The Board consider that from the wording of the order in question the concession was intended clearly to apply only to grazing land, and no more lots should be sold at the lower rate until the orders of Government on this point are issued.

Vide paragraph 3, G. O., dated 6th December 1862, No. 2,554.

13. The next point is the disposal of auriferous tracts. As one or two applications to prospect on the Nilgiris have been made and the revision of the rules is

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

under consideration, the question of modifying the form of deed under which land is held so as to secure the rights of Government requires notice. The Board have already submitted their views in reply to a reference regarding such tracts in the Wynaad, and suggested that a special maximum limit of 100 acres should be prescribed, and that provision for the levy of a royalty should be made in the deed. In reporting on the question, the Board overlooked the fact that the Government of India originally intended that the deed should convey all rights of mines, and that they subsequently expressly ruled that waste lands believed to contain mineral wealth should not be either sold or leased as waste land for agricultural purposes, but should form the subject of special agreement. The draft Rules, therefore, will contain a clause that applications for lands supposed to contain mineral wealth should not be disposed of under the Waste Land Rules, but reported for orders.

Board's Proceedings, dated 20th December 1875, No. 3,384.

Paragraph 12, Resolution, dated 12th October 1861.

Resolution embodied in G.O., dated 3rd April 1867, No. 779.

14. The Board have now noticed all the points which appear to call for settlement in connection with the revision of the rules, and have modified them in accordance with the conclusions at which they have arrived. The forms of deed should, the Board consider, be redrawn by the Law Officers of Government. Forms X and Z must be altered to suit the new conditions. Forms U, V, and Y may be dispensed with, and a simple advertisement of the particulars of land applied for substituted for Form W. Form T embodied in Board's Proceedings, dated 6th October 1864, No. 6,562, which was drawn up to meet a difficulty experienced at the outset in getting lots surveyed, in consequence of which the sale of waste before survey was permitted under certain conditions, and which may still be required in the event of the alteration of the rules leading to a great increase in the number of applications, must be redrawn.

G.O., dated 28th February 1863, No. 439.

15. With reference to paragraph 8 of the order, the Commissioner will, as directed by Government, take immediate steps in communication with the Conservator of Forests, to have all necessary reservations of woodlands, grazing lands, and swamps defined and marked on a map. With reference to the Board's proposal to retain special report in the case of applications for forest land on the slopes, they gather it to be the intention of Government that the Commissioner should decide, subject to such future revision as may from time to time appear necessary, what portions of the slopes are to be reserved, and that the remainder is to be open for allotment without further reference to the Board or Government. Until the map has been approved by Government special report in the case of woodlands must of course be retained. The Commissioner will note that the main direction of necessary roads and water channels should, as far as possible, be settled at the time of survey.

16. As regards the introduction of Tope Rules suitable to the requirements of the district and the rapid growth of Australian trees, the Commissioner will report, with as little delay as possible, on the working of the rules sanctioned in

G. O., dated 30th July 1869, No. 2,228, providing for the grant for firewood plantations of blocks not exceeding 50 acres, rent-free for seven years, subject to confirmation at the expiration of that period by the issue of a title-deed on payment for the future of an annual assessment of Rupee 1 per acre, or to resumption, if not fully planted up. The Board believe that advantage has not generally been taken of the concession then made, and consider that the rules now proposed render the introduction of any special Tope Rules quite unnecessary.

(A true Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

RULES

For the disposal of Waste Land on the Nilgiri Hills passed by His Grace the Governor in Council on the

I.—Waste lands in which no rights of private proprietorship or exclusive occupancy exist, and which may not be reserved as hereinafter* provided, may until further notice be granted under the following rules.

* Rules 16 and 17.

II.—Applications for land under these rules shall be addressed to the Commissioner of the Nilgiris and shall comprise the following particulars :—

(*a*). The estimated area of the land applied for.

(*b*). The situation of the land and its boundaries as accurately as can be stated.

III.—No lot shall exceed 500 acres unless otherwise specially ordered by Government ; but any person may apply for several contiguous lots, each not exceeding the above limits.

IV.—Every lot shall be compact and as nearly as possible a parallelogram. When the land touches any road or river the length of the road or water frontage shall not exceed one-half of the depth of the lot, and in all other cases the blocks will be so laid out that, as far as practicable, their length shall not exceed half their depth, provided that the Board of Revenue may, on special cause shown, permit a relaxation of these restrictions— *Vide* G.O., dated 22nd September 1871, No. 1,656.

V.—No lot shall ordinarily be granted until it has been surveyed and durable boundary marks have been erected at the expense of the applicant.

VI.—If on receipt of an application under Rule II the Commissioner has reason to believe that no objections exist to the grant of the land he shall call upon the applicant to deposit with him the estimated cost of surveying the land and of marking it out with durable boundary marks, calculated at the rate of Rupees 2 per acre on the area applied for. The Commissioner will refund to the depositor any portion of his deposit which may not be actually expended in the survey and demarcation, and the depositor shall pay any deficiency.

VII.—If the applicant fail to deposit the sum required under Rule VI within one month from the date of demand, his application shall be null and void.

VIII.—On receipt of the deposit required under Rule VI the Commissioner shall, as soon as possible, cause the land applied for to be surveyed and marked out, and shall exclude from the lot all excess which may be found on survey beyond the limits prescribed in Rule III, and shall issue a notification of the intended grant in the Form W prescribed, so as to admit of the notice required in Rule IX being given.

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

IX.—The notification, which shall be in English, Canarese, and Tamil, and shall specify the locality, extent, and boundaries of the lot, shall be posted for three clear months on the land itself as well as in the neighbouring villages, in the offices of the Commissioner, Joint Magistrates and Deputy Tahsildar, and at the nearest Police office ; a copy shall also be inserted in the District Gazette, and no allotment shall be made until the intended grant has been advertised as aforesaid for three full months.

X.—On receipt of an application for land under these rules the Commissioner shall hold a preliminary inquiry, and if he sees reason to believe that claims will be put forward for the land applied for, or if any claim of private proprietorship or of exclusive occupancy, or of any other right incompatible with the grant of the land under these rules be preferred to the land or any part of it he will hold the application in abeyance pending the result of such inquiry and the disposal of the counter-claims in due course of law, and the applicant will at once be informed of the objections to the immediate disposal of his application. Should the applicant, however, prefer that the survey should be proceeded with at his risk, the same will be done, and if after the survey it should prove that the lands cannot be granted under these rules the applicant must pay the expense of surveying them, as well as of surveying any excess beyond the limits prescribed in Rule III. If no such warning be given, and the land should eventually prove not to be available, the survey will be at the expense of Government.

XI.—An applicant withdrawing his application after the deposit has been made shall not be entitled to a refund of any portion thereof, and another applicant applying for the same land shall be liable to pay the cost of demarcation and survey and shall make the requisite deposit on account thereof, notwithstanding that the survey and demarcation may have already been performed partly or wholly at the expense of the former applicant.

XII.—The first applicant shall ordinarily be the grantee. In the event of two or more simultaneous applications for the same land (*i.e.*, during the same day) being preferred, the Commissioner shall exercise his discretion in making the allotment, the holder of an adjacent estate, if one of the rival claimants, being entitled to the preference, and his decision shall be accepted subject, however, to the appeal allowed by Act XXIII of 1863, of which notice must be given within one week, whereupon effect will not be given to the Commissioner's award until a final decision has been passed on the claim in due course of law.

XIII.—If there be no objection to the grant of the lot applied for, or when final orders on any rival claims which may be preferred have been passed as aforesaid, the Commissioner shall, as soon as the period of notice prescribed by Rule IX has expired, proceed to put the successful claimant in possession by furnishing him with a written declaration of the grant in the Form U annexed, and the grantee shall, as soon after possession is given as possible, be furnished with a title-deed in the Form X annexed to these rules, provided that possession shall not be given until completion of demarcation and survey except under the following circumstances :—Should the Survey Department be unable to undertake the survey within a reasonable time the Commissioner may, with the previous permission of the Board, give possession on the applicant binding himself by a written deed in the Form T annexed to these rules to conform thereto, to pay any survey expenses incurred in excess of the deposit and to abide by the decision of Government as to any excess which may be found in his lot on survey, whether that decision be the absolute resumption of the excess without any refund or reduction of survey deposit, or whether it be the inclusion of the excess in the lot. The assessment payable on the land will in all cases be regulated by the extent of land made over to the applicant. No lot shall be made over until durable boundary marks have been set up. On completion of the survey a title-deed in Form X shall be issued in lieu of that in Form T.

G. O. 28th February 1863.

XIV.—Land disposed of under these rules shall be free of assessment for the first five years from the date on which possession is given by a declaration in writing of the grant, and the land

shall thereafter be subject to an annual assessment payable on or before the 30th June of each and every year at the rate of Rupees 2 for each acre of forest land and 8 Annas for each acre of grass land, provided the grantee binds himself to plant out, before the expiration of the fifth year, at least one-fourth of the whole extent of each and every grant, failing which the assessment will be leviable from the date of the grant. The system of planting adopted, the number of trees to the acre, and their position in relation to each other, must be such as will satisfy the Commissioner that the land has been obtained *bonâ fide* for the purpose of cultivation.

XV.—A grantee under these rules shall not be at liberty to dispute the correctness of the survey after it has been completed on any grounds whatsoever, as, by accepting the declaration of grant, he shall be considered to have waived all objections to the description of the premises or other error in the particulars of the property as exhibited in the map.

XVI.—Reserves of grazing and forest land, of land for the growth of firewood, for building sites, parks recreation grounds and the like, and of land required for other special purposes, shall not be granted under these rules without the express sanction of Government. A register and map of such reserves will be maintained in the Commissioner's office, and will be open to inspection by intending applicants at such times and under such rules as the Commissioner may prescribe by notification in the District Gazette. It shall be open to Government to revise the register and map at any time and to add to the reserved tracts such lands as it may deem desirable so to deal with.

XVII.—Grants of forest land under these rules shall be subject to the reservation of a belt of wood fifty yards wide round the sources of springs and streams and along both banks of all streams, and of a band 100 yards wide on either side of all ridges clothed with forest. In case of dispute as to the necessity for retention of a belt the Commissioner's decision shall be final.

XVIII.—All timber or firewood from natural wood cut on land granted under these rules removed for sale, or for use beyond the limits of the estate for other than *bonâ fide* estate purposes, shall be charged the usual rates of seigniorage payable on similar timber or firewood removed from forests under conservancy and shall be removed only under a Forest pass. Similarly seigniorage will be charged on peat removed from the land for sale or for consumption beyond the limits of the estate for other than *bonâ fide* estate purposes.

XIX.—The annual assessment on lands granted under these rules may at any time be redeemed by the owner on payment of a sum equal to twenty-five times the said annual assessment, and the lands so redeemed shall thereafter be for ever free from all demands on the part of the State on account of land revenue. On payment of the redemption money the owner of the land shall be furnished with a deed in the Form Z annexed to these rules.

XX.—Arrears of annual assessment shall be recoverable in the same manner as arrears of Ryotwari Land Revenue are, or may be recoverable by the law for the time being in force in the Madras Presidency.

XXI.—Lands granted or redeemed under these rules shall nevertheless become from date of grant and continue subject to all general taxes and local rates payable by law or custom, and the postponement of the demand of land assessment shall not be held to include exemption from general taxes and local rates.

XXII.—The existing and customary rights of Government, of other proprietors, and of the public in existing roads and paths, and in streams running through or bounding lands granted under these rules, are reserved and in no way affected by the assignment of such lands under these rules. The main direction of necessary roads and water channels shall, so far as possible, be settled at the time of survey and the land will then be made over subject to the maintenance of existing rights of way and water.

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

XXIII.—Nothing contained in these rules shall be held to debar the Government from granting waste land on putta, cowle, or otherwise at their discretion as heretofore.

XXIV.—These rules do not apply to lands situated within the limits of the settlements of Ootacamund, Coonoor, and Kotagherry, or to the Wellington Cantonment as defined on the Revenue Survey map. Building lots within those stations not exceeding ten acres in extent, to the alienation of which there may be no objection, shall be sold in freehold under the general rules for the sale of waste lands passed by the Honorable the Governor in Council under date the 5th March 1863, and numbered 476, at an upset price of Rupees 25 per acre *plus* the cost of demarcation and survey.

XXV.—When waste lands contain, or are believed to contain mineral wealth, they shall not be disposed of under the Waste Land Rules nor leased, but must form the subject of special agreement. On the receipt of applications of this nature the Commissioner will report to the Board for orders instead of proceeding under the Waste Land Rules. Nothing in these rules shall be held to debar Government from levying any royalty on the produce of mines to which they may be legally entitled.

Standing Order No. 151-2.

Subsidiary Instructions relating to the disposal of Waste Lands on the Nilgiris under the Rules dated

THE Commissioner shall carefully and punctually maintain a register and map of tracts reserved from the operation of these rules as being required for forest purposes, for grazing or firewood reserves, for building sites or for any other public object. The register and map shall be available for reference by intending applicants for waste land on application at the office of the Commissioner. The Conservator of Forests will be consulted by the Commissioner in regard to forest tracts which it may be desirable to reserve, and the orders of the Supreme Government on this point as contained in paragraph 4* of Standing Order No. 151 will be kept carefully in view.

* Under orders from the Secretary of State, if forests contain valuable timber, more especially teak, such forests must not be disposed of under the Waste Land Rules, but must be worked by Government under the Forest Rules. Great caution should be exercised by Collectors in the disposal of all Forest lands, and they should bear in mind the want of sleepers for Railways hereafter to be constructed, and the demand for firewood by the general public.

2. Immediately on receipt of an application for waste land, the Commissioner shall ascertain whether there is any objection to the grant, or whether any special limitation is necessary by reason of the land being required for public purposes.

3. Where no such objections are known to exist, the Commissioner shall give instructions for the demarcation and survey of the land without delay, and shall simultaneously issue the prescribed notification, *carefully observing Rules* 8 *and* 9. All notices of the intended grant of lands described as lying 'contiguous to,' 'or in the vicinity of,' other lands, the property of individuals named should be transmitted to each of those individuals or to the reputed proprietors of such adjacent lands to afford them an opportunity of objecting to the grant and to guard against any inadvertent encroachments on their property.

4. Should any objection or counter-claim be made, the Commissioner should proceed at once to inquire into the merits of the case. Rival claims shall be decided by priority of application, and in the event of two or more simultaneous applications for the same land, *i.e.*, during the same day, the decision will be left to the discretion of the Commissioner. Should one of the rival claimants be the holder of a contiguous estate, he shall be held entitled to the preference. Where objections are raised by Badagas, Todas or Hillmen, land should not be granted to planters if it is in such close proximity to the villages of the former as injuriously to affect their convenience as regards cultivation or pasturage.

6. A separate register of all grants under the rules shall be kept in the Commissioner's Office in English in the following form :—

Number of Lot.	Name of Grantee (*in full*).	Division and Village in which Land is situated.	Name and Boundaries of Lot.	Area of Lot.	Annual Assessment.	Date and Number of Deed of Grant.	Special Reservations, if any.	Subsequent registered Transfers or Successions.

The original maps or plans and survey records of all such lands shall be kept in a series corresponding with the number in this register, and shall be signed by the Commissioner.

7. The deeds are to be executed in duplicate, and, after being properly filled up and signed, submitted through the Board for the seal of Government. When returned, one copy is to be delivered to the grantee, and the other carefully preserved by the Commissioner in a safe provided for the purpose.

8. The receipts at the foot of the several deeds are to be signed by the Commissioner.

9. The lots must be consecutively numbered in the order of the grants, without reference to locality, and the deeds must bear corresponding numbers.

10. The plans to accompany the deeds must be signed by the Commissioner and securely attached to the deeds; they must be numbered to correspond with the deeds, and all plans, whether attached to the deeds or upon it, are to be attested by the Commissioner separately.

11. All reserves, whether of streams, roads, rights of way, wood or any other rights, should be clearly shown in the survey plan, being therein detailed and exhibited in some distinctive color. The Commissioner should furnish the Survey Officer with the necessary information on these points, and the area occupied by the reserves should be distinctly excluded from the blocks assigned, the assessment on the area reserved being in all cases deducted from the aggregate assessment of the entire block. As it is essential that grantees should know exactly what their rights will be (the general reservations in the deeds being applicable only to reserves which from any cause cannot be declared at the time of grant), the Commissioner will be careful to see that all reserves, such as those described above, are clearly entered on the maps before submitting them to the Board.

12. Copies of the rules should be kept at the Commissioner's Office and supplied to the Deputy Tahsildar, Coonoor, for sale to the public at 4 Annas per copy.

13. All grants of waste land made under the rules on the Nilgiris shall be reported quarterly to the Board of Revenue.

(Signed) C. A. GALTON,
Acting Secretary.

FORM W.

(Form of Notification.)

NOTICE No.

District of Nilgiris.

NOTICE is hereby given that application has been made for the grant of the lands hereunder specified (under the Government Rules for the disposal of Waste Lands, dated), and that they will be allotted to the applicant, subject to an annual payment of the assessment specified below if no valid objection to the assignment be advanced within three months from the date of this notice.

2. All parties having claims on the said lands, incompatible with the proposed allotment herein notified, are hereby required to prefer their claims on or before the* to the undersigned.

Schedule of Lands to be allotted.

District.	Division.	Village.	Number of Lot.	Name (if any) and Boundaries.	Estimated Extent.	Annual Assessment.

* Here enter date of expiration of notice time.

Dated

Commissioner of Nilgiris.

FORM U.

Declaration of Grant.

UNDER the authority vested in me by the Rules for the disposal of Waste Lands, dated No. , I hereby assign to A. B. the land specified in the subjoined Schedule, subject to payment of the annual assessment therein mentioned under the provisions of Rule XIV :—

Schedule of Lands assigned.

District.	Division.	Village.	Number of Lot.	Name (if any) and Boundaries.	Extent.	Annual Assessment.

Dated

Commissioner of Nilgiris.

Proceedings of the Madras Government, Revenue Department,
5th May 1876.

No. 44. ORDER THEREON, 5th ~~April~~ May 1876, No. 579.

Miscellaneous.

THE Board of Revenue will be informed that any modifications of the present rules which His Grace the Governor in Council may determine to be advisable will probably demand a reference to the Secretary of State; and cannot, in any case, be promulgated for some considerable time. The Commissioner of the Nilgiris should therefore be instructed to call upon Messrs. Fraser-Tytler and Shubrick and other applicants for lands to state whether they are content to have their applications treated as if made under the existing rules. If they decline doing so, their applications will be returned to them. The Governor in Council entirely declines to give them the lands applied for, on the understanding that they will abide by some future new rules, whatever they may be; and he further desires it may be clearly explained to these gentlemen that the fact of their having lodged their applications in anticipation of the appearance of some possibly more favorable rules does not place them in a better position than applicants who may come forward on any change of rules.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
„ the Commissioner of the Nilgiris.

Exd. J. W. Fischer.

17-7-11

Revenue Depart. No. 10

Proceedings of the Board of Revenue
Dated 22nd March 1876.
110-810
Read the following

No. 12.

From J. R. Cockerell Esquire
Commissioner - Nilgiris.

To the Secretary to the Board of Revenue
Madras.

Sir,

Para 7 of Government Order, Revenue Department, dated 18 February 1876, No 220, runs "The Government resolve to consider whether a system can be framed to admit of the abandonment of the auction system, vesting in the Commissioner authority to dispose of individual applications, subject to an appeal to the Board of Revenue, who will, therefore, with all practicable despatch, draw up a scheme of rules for this purpose".

2. Mr. C. B. Fraser Tytler, a retired officer of the Bombay Civil Service, was recently on the Hills, looking out for lands for his

15/1876

Govt. of {1876} Madras.

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated May, 5th.

Read.

Encl.

G.O., 6th May 1876, No. 579.

MAY.

Nos. 41—44.

Waste Lands on the Nilgiris.—Directing the Board of Revenue, with reference to their Proceedings regarding—, to instruct the Commissioner to call upon Messrs. Fraser-Tytler and Shubrick and other applicants for lands, to state whether they are content to have their applications treated as made under the existing rules, as the Government decline to give them the lands applied for on the understanding that they will abide by some future new rules, whatever they may be.

two sons, who accompanied him. The latter await the result of an application for a block, which Mr. E.C. Dyster made before leaving for England and which I have now the honor to submit for favorable consideration.

3. The land is forest land situated in the Kotagiri Division and comprises one hundred acres, which the Messrs Dyster junior wish to open for tea. Their object is to secure the land at once, in order that they may settle and build a house before the Monsoon begins.

4. Mr E.C. Dyster is a capitalist and it seems very desirable that his sons should receive inducement to remain and as Government in the para of the Government Order quoted above, appear to have abandoned the auction system, I venture to suggest that the present application should be treated under Rule XXIII of the existing Rules, which runs "Nothing contained in these Rules shall be

be held to debar the Government from granting waste land on pattas, cowle or otherwise at their discretion, as heretofore." and that I should be authorized to hand over the land to Messrs Dyster without delay, on pattah, at the usual rate charged for Estates.

5. The Deputy Conservator of Forests has visited the land and sees no objection to its alienation. I enclose Mr. Dyster's application with sketch, Major Jago's report and the report of the Revenue Inspector.

6. In the Government Order above quoted, it is stated "The Committee apparently attribute the hardy occupation of the extensive waste lands on the Nilgiri plateau to the action of the present rules for their acquisition, and overlook the hindrance arising from unfavorable climatic conditions and the prevailing poverty of soil, which limit the field

for

or planting operations, and enhance the expenses of cultivating and maintaining estates."

7. With reference to this para, I deem it important to inform the Government that there are 90 applications in my office, involving an approximate area of 7000 acres, awaiting disposal under the New Rules, and there are three applications, in which areas are not stated. I am aware, moreover, that several other gentlemen are merely waiting for the abolition of sanctions, to apply for blocks of land.

I have &c
(Signed) H. F. Knox
for Commissioner

Commissioner's office
Cotacamund
2nd March 1863

No 324.

The Conservator of Forests sees no objection to the tract in question being sold.

(Signed) R. H. Beddome. Lt Col.
Conservator of Forests.

Camp Coonamboddy
7th March 1863.

Submitted for the favorable consideration of Government

2. The Board see no objection to the grant of a puttah, as proposed, provided the applicant consents to abide by the conditions of the New Rules, when determined on, and to accept a Title Deed under them. The revision of the Rules is now under consideration and will be reported on shortly, but Mr Fraser Tytler is anxious for a speedy disposal of his application and the Board will not therefore defer its submission.

(Two leaves Extract)

Acting Secretary

To

The Secretary to Government
Revenue Department with 4
Enclosures to be returned

E. H. Murphy
Esqr &c.

Proceedings of the Board of Revenue.

Dated 1st April 1876.
No. 90.
Read the following.

No. 13.

From J. R. Cockerell Esqr
Commissioner — Nilgiris

To The Secretary to the
Board of Revenue, Madras
through Conservator of Forests — Ootty

Sir

I have the honor to submit for favorable consideration an application from Mr. Richard Shubrick for a block of land at Neddivattam, of 500 acres more or less in extent.

2. Mr. Knox, the Ag. assistant has inspected the land. I know the spot. The land is almost entirely grass and under the existing Rules, I could put it up to sale and hold an auction after three months notice.

3. Mr. Shubrick, however, is anxious to secure the land at once under Rules to be framed with reference to

2 Enclosures
Sheet

Revenue 1876 Oct 105
Proceedings of the
Board of Revenue
Dated 22nd March 1876
Read 22nd April 1876
No. 43
Submitting for favorable consideration a Petition of Lieut. Cockerell with certain remarks (letter from the Commissioner of Nilgiris) submitting an application from Richard Shubrick Esq. for a block of land at Neddivattam containing 500 acres more or less.

No. 47
Ootacamund 7th April 1876

Government Order, No: 240, dated 18th February 1876, R. D.

4. I may state here that Mr. Shubrick is the only son of General Shubrick who for a short time held the office of the Commander-in-Chief of the Madras Army. He is possessed of capital and is a desirable tenant for the Government to locate on the Hills.

5. If the land is not granted, Mr. Shubrick will lose a season as Southern Monsoon is already near at hand. I need not remark on the evils of enforced idleness on a young gentleman to settle in land in India

6. There is a small hanging Shola on the land, covering a few acres but Mr. Shubrick will forgo its acquisition at present in order to obtain possession of the grass at once.

7. I would however suggest that he be granted the whole block under Rule XXIII of the Waste Land Rules which pro-

A moral consideration

Lawley

"Nothing contained in these Rules, shall be held to debar the Government from granting waste land on puttah, cowle, or otherwise at their discretion as heretofore"

Commr's office
Ooty
13th March 1876

Yours &c
(Sd) J. R. Cockerell
Commissioner

No: 394.

The Conservator of Forests sees no objection to the land in question being granted.

Office of Conr. of Forests
Coimbatore
24th March 1876

(Sd) R. H. Beddome Lt Col.
Conservator of Forests.

Submitted for the favorable consideration of Government with the Board's recommendation that a Puttah be granted as proposed by the Commissioner, on the distinct understanding that the applicant agrees to be bound by any modification of the Rules which may be determined upon.

(True copy & extract)

C. A. Oakeley
Ag. Secretary.

To
The Secretary to Government, R. D.
with 2 encls: & rtd.

E. L. Murphy
Asst Secretary

RULES

For the disposal of Waste Land on the Nilgiri Hills, passed by His Grace the Governor in Council on the

I.—Waste lands in which no rights of private proprietorship or exclusive occupancy exist, and which may not be reserved as hereinafter* provided, may until further notice be granted under the following rules.

* Rules 16 and 17.

II.—Applications for land under these rules shall be addressed to the Commissioner of the Nilgiris and shall comprise the following particulars :—

(*a*). The estimated area of the land applied for.

(*b*). The situation of the land and its boundaries as accurately as can be stated.

III.—No lot shall exceed 500 acres unless otherwise specially ordered by Government ; but any person may apply for several contiguous lots, each not exceeding the above limits.

IV.—Every lot shall be compact and as nearly as possible a parallelogram. When the land touches any road or river the length of the road or water frontage shall not exceed one-half of the depth of the lot, and in all other cases the blocks will be so laid out that, as far as practicable, their length shall not exceed half their depth, provided that the Board of Revenue may, on special cause shown, permit a relaxation of these restrictions—*Vide* G.O., dated 22nd September 1871, No. 1,656.

V.—No lot shall ordinarily be granted until it has been surveyed and durable boundary marks have been erected at the expense of the applicant.

VI.—If on receipt of an application under Rule II. the Commissioner has reason to believe that no objections exist to the grant of the land he shall call upon the applicant to deposit with him the estimated cost of surveying the land and of marking it out with durable boundary marks, calculated at the rate of Rupees 2 per acre on the area applied for. The Commissioner will refund to the depositor any portion of his deposit which may not be actually expended in the survey and demarcation, and the depositor shall pay any deficiency.

VII.—If the applicant fails to deposit the sum required under Rule VI. within one month from the date of demand his application shall be null and void.

VIII.—On receipt of the deposit required under Rule VI. the Commissioner shall, as soon as possible, cause the land applied for to be surveyed and marked out, and shall exclude from the lot all excess which may be found on survey beyond the limits prescribed in Rule III., and shall issue a notification of the intended grant, in the Form W. prescribed, so as to admit of the notice required in Rule IX. being given.

IX.—The notification, which shall be in English, Canarese, and Tamil, and shall specify the locality, extent, and boundaries of the lot, shall be posted for three clear months on the land itself as well as in the neighbouring villages, in the offices of the Commissioner, Joint Magistrates and Deputy Tahsildar, and at the nearest Police office ; a copy shall also be inserted in the District Gazette, and no allotment shall be made until the intended grant has been advertised as aforesaid for three full months.

X.—On receipt of an application for land under these rules the Commissioner shall hold a preliminary inquiry, and if he sees reason to believe that claims will be put forward for the land applied for, or if any claim of private proprietorship or of exclusive occupancy, or of any other right incompatible with the grant of the land under these rules be preferred to the land or any part of it he will hold the application in abeyance pending the result of such inquiry and the disposal of the counter claims in due course of law, and the applicant will at once be informed of the objections to the immediate disposal of his application. Should the applicant, however, prefer that the survey should be proceeded with at his risk the same will be done, and if after the survey it should prove that the lands cannot be granted under these rules the applicant must pay the expense of surveying them, as well as of surveying any excess beyond the limits prescribed in Rule III. If no such warning be given, and the land should eventually prove not to be available, the survey will be at the expense of Government.

XI.—An applicant withdrawing his application after the deposit has been made shall not be entitled to a refund of any portion thereof, and another applicant applying for the same land shall be liable to pay the cost of demarcation and survey and shall make the requisite deposit on account thereof, notwithstanding that the survey and demarcation may have already been performed partly or wholly at the expense of the former applicant.

XII.—The first applicant shall ordinarily be the grantee. In the event of two or more simultaneous applications for the same land (*i.e.*, during the same day) being preferred the Commissioner shall exercise his discretion in making the allotment, the holder of an adjacent estate, if one of the rival claimants, being entitled to the preference, and his decision shall be accepted subject, however, to the appeal allowed by Act XXIII. of 1863, of which notice must be given within one week, whereupon effect will not be given to the Commissioner's award until a final decision has been passed on the claim in due course of law.

XIII.—If there be no objection to the grant of the lot applied for, or when final orders on any rival claims which may be preferred have been passed as aforesaid, the Commissioner shall, as soon as the period of notice prescribed by Rule IX. has expired, proceed to put the successful claimant in possession by furnishing him with a written declaration of the grant in the Form U annexed, and the grantee shall, as soon after possession is given as possible, be furnished with a title-deed in the Form X. annexed to these rules, provided that possession shall not be given until completion of demarcation and survey except under the following circumstances :—Should

the Survey Department be unable to undertake the survey within a reasonable time the Commissioner may, with the previous permission of the Board, give possession on the applicant binding himself by a written deed in the Form T. annexed to these rules to conform thereto, to pay any survey expenses incurred in excess of the deposit and to abide by the decision of Government as to the excess which may be found in his lot on survey, whether that decision be the absolute resumption of the excess without any return of survey deposit, or whether it be the inclusion of the excess in the lot. The assessment payable on the land will in all cases be regulated by the extent of land made over to the applicant. No lot shall be made over until durable boundary marks have been set up. On completion of the survey a title-deed in Form X. shall be issued in lieu of that in Form T.

XIV.—Land disposed of under these rules shall be free of assessment for the first five years from the date on which possession is given by a declaration in writing of the grant, and the land shall thereafter be subject to an annual assessment payable on or before the 30th June of each and every year at the rate of Rupees 2 for each acre of forest land and 8 Annas for each acre of grass land, provided the grantee binds himself to plant out, before the expiration of the fifth year, at least one-fourth of the whole extent of each and every grant, failing which the assessment will be leviable from the date of the grant. The system of planting adopted, the number of trees to the acre, and their position in relation to each other, must be such as will satisfy the Commissioner that the land has been obtained *bonâ fide* for the purpose of cultivation.

XV.—A grantee under these rules shall not be at liberty to dispute the correctness of the survey after it has been completed on any grounds whatsoever, as, by accepting the declaration of grant, he shall be considered to have waived all objections to the description of the premises or other error in the particulars of the property as exhibited in the map.

XVI.—Reserves of grazing and forest land, of land for the growth of firewood, for building sites, parks, recreation grounds and the like, and of land required for other special purposes, shall not be granted under these rules without the express sanction of Government. A register and map of such reserves will be maintained in the Commissioner's office, and will be open to inspection by intending applicants at such times and under such rules as the Commissioner may prescribe by notification in the District Gazette. It shall be open to Government to revise the register and map at any time and to add to the reserved tracts such lands as it may deem desirable so to deal with.

XVII.—Grants of forest land under these rules shall be subject to the reservation of a belt of wood fifty yards wide round the sources of springs and streams and along both banks of all streams, and of a band 100 yards wide on either side of all ridges clothed with forest. In case of dispute as to the necessity for retention of a belt the Commissioner's decision shall be final.

XVIII.—All timber or firewood from natural wood cut on land granted under these rules removed for sale, or for use beyond the limits of the estate for other than *bonâ fide* estate purposes, shall be charged the usual rates of seigniorage payable on similar timber or firewood removed from forests under conservancy and shall be removed only under a Forest pass. Similarly seigniorage will be charged on peat removed from the land for sale or for consumption beyond the limits of the estate for other than *bonâ fide* estate purposes.

XIX.—The annual assessment on lands granted under these rules may at any time be redeemed by the owner on payment of a sum equal to twenty-five times the said annual assessment, and the lands so redeemed shall thereafter be for ever free from all demands on the part of the State on account of land revenue. On payment of the redemption money the owner of the land shall be furnished with a deed in the Form Z. annexed to these rules.

XX.—Arrears of annual assessment shall be recoverable in the same manner as arrears of Ryotwari Land Revenue are, or may be recoverable by the law for the time being in force in the Madras Presidency.

XXI.—Lands granted or redeemed under these rules shall nevertheless become from date of grant and continue subject to all general taxes and local rates payable by law or custom, and the postponement of the demand of land assessment shall not be held to include exemption from general taxes and local rates.

XXII.—The existing and customary rights of Government, of other proprietors, and of the public in existing roads and paths, and in streams running through or bounding lands granted under these rules, are reserved and in no way affected by the assignment of such lands under these rules. The main direction of necessary roads and water channels shall, so far as possible, be settled at the time of survey and the land will then be made over subject to the maintenance of existing rights of way and water.

XXIII.—Nothing contained in these rules shall be held to debar the Government from granting waste land on putta, cowle, or otherwise at their discretion as heretofore.

XXIV.—These rules do not apply to lands situated within the limits of the settlements of Ootacamund, Coonoor, and Kotagherry, or to the Wellington Cantonment as defined on the Revenue Survey map. Building lots within those stations not exceeding ten acres in extent, to the alienation of which there may be no objection, shall be sold in free-hold under the general rules for the sale of waste lands passed by the Honorable the Governor in Council under date the 5th March 1863, and numbered 476, at an upset price of Rupees 25 per acre, *plus* the cost of demarcation and survey.

XXV.—When waste lands contain, or are believed to contain mineral wealth, they shall not be disposed of under the Waste Land Rules nor leased, but must form the subject of special agreement. On the receipt of applications of this nature the Commissioner will report to the Board for orders instead of proceeding under the Waste Land Rules. Nothing in these rules shall be held to debar Government from levying any royalty on the produce of mines to which they may be legally entitled.

Subsidiary Instructions relating to the disposal of Waste-lands on the Nilgiris under the Rules dated

The Commissioner shall carefully and punctually maintain a register and map of tracts reserved from the operation of these rules as being required for forest purposes, for grazing or firewood reserves, for building sites or for any other public object. The register and map shall be available for reference by intending applicants for waste land on application at the office of the Commissioner. The Conservator of Forests will be consulted by the Commissioner in regard to forest tracts which it may be desirable to reserve, and the orders of the Supreme Government on this point as contained in paragraph 4* of Standing Order, No. 151, will be kept carefully in view.

* Under orders from the Secretary of State, if forests contain valuable timber, more especially teak, such forests must not be disposed of under the Waste Land Rules, but must be worked by Government under the Forest Rules. Great caution should be exercised by Collectors in the disposal of all Forest lands, and they should bear in mind the want of sleepers for Railways hereafter to be constructed, and the demand for firewood by the general public.

2. Immediately on receipt of an application for waste land, the Commissioner shall ascertain whether there is any objection to the grant, or whether any special limitation is necessary by reason of the land being required for public purposes.

3. Where no such objections are known to exist, the Commissioner shall give instructions for the demarcation and survey of the land without delay, and shall simultaneously issue the prescribed notification, *carefully observing Rules* 8 *and* 9. All notices of the intended grant of lands described as lying 'contiguous to,' or 'in the vicinity of,' other lands, the property of individuals named should be transmitted to each of those individuals or to the reputed proprietors of such adjacent lands to afford them an opportunity of objecting to the grant and to guard against any inadvertent encroachments on their property.

4. Should any objection or counter claim be made, the Commissioner should proceed at once to inquire into the merits of the case. Rival claims shall be decided by priority of application, and in the event of two or more simultaneous applications for the same land, *i.e.*, during the same day, the decision will be left to the discretion of the Commissioner. Should one of the rival claimants be the holder of a contiguous estate, he shall be held entitled to the preference. Where objections are raised by Badagas, Todas or Hill men, land should not be granted to planters if it is in such close proximity to the villages of the former as injuriously to affect their convenience as regards cultivation or pasturage.

6. A separate register of all grants under the rules shall be kept in the Commissioner's Office in English in the following form :—

Number of Lot.	Name of Grantee *(in full.)*	Division and Village in which Land is situated.	Name and Boundaries of Lot.	Area of Lot.	Annual Assessment.	Date and Number of Deed of Grant.	Special Reservations, if any.	Subsequent registered Transfers or Successions.

The original maps or plans and survey records of all such lands shall be kept in a series corresponding with the number in this register, and shall be signed by the Commissioner.

7. The deeds are to be executed in duplicate, and, after being properly filled up and signed, submitted through the Board for the seal of Government. When returned, one copy is to be delivered to the grantee, and the other carefully preserved by the Commissioner in a safe provided for the purpose.

8. The receipts at the foot of the several deeds are to be signed by the Commissioner.

9. The lots must be consecutively numbered in the order of the grants, without reference to locality, and the deeds must bear corresponding numbers.

10. The plans to accompany the deeds must be signed by the Commissioner and securely attached to the deeds; they must be numbered to correspond with the deeds, and all plans, whether attached to the deeds or upon it, are to be attested by the Commissioner separately.

11. All reserves, whether of streams, roads, rights of way, wood or any other rights, should be clearly shown in the survey plan, being therein detailed and exhibited in some distinctive color, The Commissioner should furnish the Survey Officer with the necessary information on these points, and the area occupied by the reserves should be distinctly excluded from the blocks assigned, the assessment on the area reserved being in all cases deducted from the aggregate assessment of the entire block. As it is essential that grantees should know exactly what their rights will be, (the general reservations in the deeds being applicable only to reserves which from any cause cannot be declared at the time of grant) the Commissioner will be careful to see that all reserves, such as those described above, are clearly entered on the maps before submitting them to the Board.

12. Copies of the rules should be kept at the Commissioner's Office and supplied to the Deputy Tahsildar, Coonoor, for sale to the public at 4 Annas per copy.

13. All grants of waste land made under the rules on the Nilgiris shall be reported quarterly to the Board of Revenue.

(Signed) C. A. GALTON,
Acting Secretary.

FORM W.

(Form of Notification.)

NOTICE No.

District of Nilgiris.

NOTICE is hereby given that application has been made for the grant of the lands hereunder specified, (under the Government Rules for the disposal of Waste Lands, dated ,) and that they will be allotted to the applicant, subject to an annual payment of the assessment specified below, if no valid objection to the assignment be advanced within three months from the date of this notice.

2. All parties having claims on the said lands, incompatible with the proposed allotment herein notified, are hereby required to prefer their claims on or before the* to the undersigned.

Schedule of Lands to be allotted.

District.	Division.	Village.	Number of Lot.	Name (if any) and Boundaries.	Estimated Extent.	Annual Assessment.

* Here enter date of expiration of notice time.

Dated Commissioner of Nilgiris.

FORM U.

Declaration of Grant.

UNDER the authority vested in me by the Rules for the disposal of Waste Lands, dated No. I hereby assign to A. B. the land specified in the subjoined Schedule, subject to payment of the annual assessment therein mentioned under the provisions of Rule XIV.:—

Schedule of Lands assigned.

District.	Division.	Village.	Number of Lot.	Name (if any) and Boundaries.	Extent.	Annual Assessment.

Dated Commissioner of Nilgiris.

No. 968.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th April 1876.

Read the following Proceedings of the Madras Government, dated 18th February 1876, No. 240, Revenue Department:—

ABSTRACT.—*Waste Lands on the Nilgiris.*—Passing orders on Proceedings, Board of Revenue, on the change of system in connection with the sale of —; requesting them to revise the Waste Land Rules generally with reference to this order; and desiring the Commissioner to convey the thanks of Government to the gentlemen who rendered assistance in the discussion of this subject.

IN the foregoing order, Government direct the Board to draw up and submit for consideration a scheme of rules somewhat on the model of those proposed in their Proceedings, dated 18th March 1870, No. 1,861, with a view to the abandonment of the auction system for the disposal of applications for waste lands on the Nilgiris. Two points are specially indicated as requiring consideration in connection with this reference, *viz.*, the propriety of placing a limit on the amount of land acquired by a single individual by requiring the planting of a certain proportion of each original holding before the submission of a fresh application, and the advisability of restricting applications, by which term it is presumed individual grants are meant, to an area less than 500 acres. The Board are also required to revise the Waste Land Rules generally with reference to the order.

2. The Board have revised the rules as directed, but before noticing in detail the points which call for settlement in connection with the revision, they venture to solicit the attention of Government to the correspondence which passed prior to the promulgation of the rules for the sale of waste land in this Presidency as they now stand, as it seems to them open to question whether such a departure from the principles laid down in the Secretary of State's Despatch, dated 9th July 1862, No. 14, as is now proposed, can be carried out without the sanction of the Secretary of State. The letter quoted at paragraph 6 of the Order of Government, dated 24th September 1862, No. 2,080, as excepting the Nilgiris from the operation of the rules, appears to have related exclusively to the rates at which land on the Nilgiris was to be disposed of, and would seem not to have authorized a departure from the principles laid down in the Secretary of State's despatch in other respects.

G.O., 24th September 1862, No. 2,080.

3. The superiority of the auction system for the settlement of conflicting claims has been repeatedly recognized, and the Board would call attention to the marginally-noted passages from communications addressed by this Government to the Government of India advocating its adoption in all cases. The late Commissioner in his letter of the 7th May 1870, recorded in G.O., dated 22nd September 1871, strongly urged the retention of the system as fairest to all concerned, and the Board appear to have been led by his arguments to modify the opinion they had previously expressed in their Proceedings of the 18th March

Paragraph 4, Clause 3, letter dated 25th February 1862, No. 395.
Paragraph 2, letter dated 22nd July 1862, No. 1,572.

1870 as to the feasibility of the change of system they had proposed. The Committee have not noticed the difficulties in the way of the settlement of rival claims and of securing that the preferential claims of neighbouring landholders shall be duly considered in the disposal of applications for land contiguous to their holdings, and the Board question whether it would not be advisable to retain auction sale for the settlement of rival claims as was originally proposed in the Resolution of the Government of India even should the abandonment of the auction system in ordinary cases where no rival claimant appears be decided upon; competition being, however, limited to rival claimants and not being open to the general public.

Paragraph 30.

4. As regards the vexatious delay which is laid to the charge of the auction system, the Board observe that the fact that by Section 1, Act XXIII. of 1863, three months' clear notice must be given in advertising the sale or other disposition of waste lands on account of Government has been overlooked. The Act is general in its terms, and, though the Bill was originally framed with reference to the rules for the sale of unassessed waste in fee simple, the Nilgiris have not, as far as the Board are aware, been exempted from its operation. The only papers relating to the Bill when under discussion traceable in the Board's Office are G.O., dated 27th September 1862, No. 2,109, communicating copy of the Bill and letter from the Supreme Government relating thereto, and the Board's reply, dated 2nd October 1862, No. 6,646. The Board took exception to Section 17 of the Bill, and suggested that an order should be passed excepting the Nilgiris from the operation of the recently prescribed rules and of the law passed in furtherance of those rules. The Bill was considerably modified and Section 17 struck out, but no order excepting the Nilgiris from the operation of the rules and Act was issued as far as the Board are aware, and they, therefore, conclude that the Act does apply to the Nilgiris. The abandonment of the auction system will consequently not obviate the necessity for deferring the disposal of applications until the lapse of the time fixed by the Act, and the Board believe that a period of three months suffices for all the preliminaries under an auction system, as pointed out at paragraph 15 of their Proceedings of 13th October 1875.

5. The Board will now proceed to notice the points calling for settlement in the revision of the rules. The direction to "revise the Waste Land Rules generally" with reference to the Government Order under reply has been understood to apply only to the Nilgiri Rules, as the order does not affect the system for the disposal of land elsewhere.

The following points seem to require notice:—

1*st*.—Whether any price should be charged additional to the cost of demarcation and survey.

2*nd*.—The advisability of a limitation of the area of grants.

3*rd*.—The question of placing a limit on the extent of holdings by requiring a certain proportion to be planted up before the acquisition of fresh land.

4*th*.—The extent to which adjacent landholders should be held to have a preferential claim.

5*th*.—The disposal of timber on land granted under the rules.

6*th*.—The mode of disposal of applications for building lots within the limits of the settlements of Ootacamund, Coonoor, and Kotagherry.

7*th*.—The disposal of auriferous tracts.

6. As regards price, the Committee propose that the cost of demarcation and survey at a uniform rate of Rupees 2 per acre should be the only charge. In paragraph 16 of their Proceedings of the 13th October, the Board took this proposal as contemplating that the deposit should be made at a fixed rate, but should be subject to subsequent adjustment of any excess or deficiency on ascertainment of the actual cost. The meaning of the rule is not very clear, but it is apparently intended to provide for a charge or refund only in the event of a discovery of a difference between the estimated and actual areas by survey, the acreable cost not being taken into consideration. In their Proceedings of the 18th March 1870, the Board proposed that a fixed rate of Rupees 5 per acre, or Rupees 6 for forest and Rupees 4 for grass, should be charged, including cost of demarcation and survey. The Board are not aware what the average of the prices realized and of the survey charges has been, the Commissioner not having as yet submitted the statement called for in paragraph 11 of the Proceedings of the 13th October 1875, but the fixed rate proposed in 1870 is probably considerably in excess of the average; and as the Board have every desire to lighten the burden upon the planters, and heavy charges imposed at the outset press more severely than those which descend only after the lapse of some time, in that they curtail the means available for clearing and cultivation, they think it will be sufficient to charge the actual cost of demarcation and survey, the estimated cost, say at the rate of Rupees 2 per acre, being deposited at the time of application. There is no objection to a fixed rate for deposits, but a uniform charge of Rupees 2 per acre would not be fair, as the cost of survey varies so greatly according to the nature of the locality—*vide* paragraph 8 of Mr. Breeks' letter of the 7th May 1870.

7. The second question, *viz*., the advisability of a limitation of the area of the grants, must be considered in connection with the third, *viz*., the propriety of requiring that a certain proportion of each original holding be planted up before a fresh application can be entertained. Under the existing rules blocks of 500 acres are prescribed, and several contiguous blocks, each not exceeding that limit, may be applied for. The Committee proposed the abolition of this restriction as to the size of the blocks, but the Board pointed out that, if the system of auction is to be retained, the size of the lots must be limited. Now that the abolition of the auction system is proposed, it becomes necessary to consider whether land-jobbing can best be checked by a limitation of the aggregate area to be assigned to each individual, or by requiring that a certain proportion of each holding shall be planted up within a definite period. The present limit to the size of the blocks seems suitable; any reduction would only increase the acreable cost of demarcation and survey where several contiguous lots are applied for, and as long as it is open to an applicant to take up as many lots as he pleases, a mere alteration of this limit would not be effectual. The limitation of the aggregate extent of land which each individual may acquire, with a view to check speculation, is open to the objection that any such regulation can be easily evaded by putting in applications in the names of relatives and friends. Moreover, it would

be difficult to fix a limit suitable to the varying means of intending settlers so as not to check unduly legitimate enterprise. The only feasible plan, therefore, appears to be to require that a certain proportion of each holding shall be planted up within a certain period as a guarantee of *bona fides*. The proposal to require compliance with this condition in respect of previous grants before the submission of fresh applications does not commend itself to the Board, as it would debar planters in a position to extend their operations from doing so.

8. At paragraph 18 of his letter, recorded in Board's Proceedings, dated 18th March 1870, the late Commissioner recommended that the postponement of the Government demand should be conceded subject to a proviso that at least a third of each estate should be planted up with 500 plants to the acre within the first four years, and in default that the whole estate should be liable to payment of the full assessment from the date of purchase. It appears from paragraph 7 of the same letter that a similar condition is imposed in Travancore, and the Board consider that some such stipulation is fair and necessary in the interests of Government. To prevent, as far as possible, land being taken up for purposes of speculation and abandoned before the assessment falls due, the grantee should bind himself to cultivate a specific portion, say one-fourth of each grant, within the first five years, failing which the full assessment should be levied from the date of the grant. Of course, this stipulation will not absolutely secure Government against all risk of loss, but, coupled with the proviso that no refund of the deposit will be made in the event of the application being withdrawn as proposed by the Committee, the risk will be as small as circumstances will admit of. The prohibition of the Government of India at paragraph 14 of the Resolution of the 17th October 1861 against the imposition of any such condition had reference to sales of land in fee simple, and the objections to the restriction have not the same force in respect of land held subject to annual assessment. The Board consider that some stipulation of the sort is absolutely necessary if auction sale is to be abandoned.

9. The Board cannot support the Committee's proposal that the assessment should be levied only on the cultivated area; the assessment should be levied in the sixth year on the entire holding. The Committee's proposal involves the necessity for periodical inspections, to which there are great objections, and the system was disapproved of by the Secretary of State in his despatch embodied in G.O., dated 5th October 1863, No. 1,810. General and local taxes should be payable from the date of the grant, notwithstanding the postponement of payment of the assessment.

10. *4th.*—As regards the extent to which adjacent landholders should be held to have a preferential claim, and the mode in which this right is to be secured. This point presents one of the chief difficulties in the way of the abolition of auction. The Government of India originally directed the reservation of blocks of land adjoining grants at the grantee's request for future occupation, but the auction system was prescribed and secured the rights of adjacent landholders by enabling them to secure land adjoining their properties by outbidding the applicant. In their Proceedings of March 1870, the Board suggested the following general rule for the settlement of claims preferred by the holders of adjacent estates, *viz.*, that they were to have the option of taking the land applied for "should it be so situated with reference to communications, water, &c., as seriously to affect their plantations." The late Commissioner, in his letter of the 7th May 1870, pointed out the difficulties in the way of deciding how far the interests of existing estate owners will be affected by the grant of particular sites to others, but they have not been noticed by the Committee, who apparently ignore the claims of adjacent landholders. On a full consideration of the whole subject, the Board are of opinion that the instructions proposed in 1870 were too general and virtually left the decision of a very difficult matter to the Commissioner. Whilst admitting that cases may arise in which a neighbouring landholder should have the preference, the Board do not see their way to laying down any definite rule on the subject, and they do not consider it fair to throw the whole responsibility on the Commissioner. They are therefore of opinion that priority of application should decide rival claims; in the event of two or more simultaneous applications, *i.e.*, during the same day, the decision should be left to the discretion of the Commissioner and a neighbouring landholder should have the preference. The rights of the hill tribes must of course be respected; but with the present favorable rules as to payment of assessment, there is no hindrance to the acquirement by estate owners of adjoining lots which they are likely to require in the future and they must be left to protect themselves. To vest the Commissioner with discretionary power for the decision of conflicting claims subject only to the broad rule for his guidance already adverted to would, the Board fear, lead to as much disappointment and dissatisfaction as has resulted from the auction system in other respects.

11. *5thly.*—As regards woodlands, the Government have decided that where such are granted the seigniorage is to be paid on the wood and peat removed *for sale*; the seigniorage on the latter being, it is presumed, the rate leviable on firewood. In their Order, dated 14th July 1869, No. 2,041, the Government approved certain rules* framed with the view of securing that the Forest Department should receive the value of timber standing on all grants of land. These rules are not noticed by the Committee, but the Board understand that they have rarely been acted on. As the Commissioner is, in communication with the Conservator, to have all necessary reservations defined, there is sufficient security that land containing timber having a saleable value will not be alienated, and as no charge is to be made for wood consumed by the planter himself, the rules contained in Standing Order No. XXVIII. of 1869 will not be embodied in the revised rules for the Nilgiris. The Board consider that seigniorage should also be charged on wood and peat removed for consumption beyond the limits of the estate, for other than *bonâ fide* estate purposes.

* Board's Standing Order No. XXVIII. of 1869.

12. The question of sale of building lots within the stations next demands consideration. The Committee's revised rules are not to be held applicable to building lots within the settlements as laid down in the Revenue Survey Maps. The auction system must of course be retained for the disposal of applications of this nature, and to obviate the necessity for two different sets of rules and forms of deed, the Board suggest that building lots be put up in freehold under the general waste land rules at an upset price equal to 25 years' purchase of the assessment,

viz., Rupees 25 per acre, in addition of course to the cost of demarcation and survey. This is in accordance with the rules of 1859, when building sites were sold at an upset price of Rupees 20 per acre, *i.e.*, 20 years' purchase of the assessment, not Rupees 2 as twice stated in the Committee's report. As the area of the lots is trifling, the requirement to pay the capitalized value of the land will not be burdensome. The Board understand that G.O., dated 22nd September 1871, reducing the rent of grazing land from Rupee 1 to Annas 8 per acre, has been applied to building lots within the stations. The Board consider that from the wording of the order in question the concession was intended clearly to apply only to grazing land, and no more lots should be sold at the lower rate until the orders of Government on this point are issued.

Vide paragraph 3, G. O., dated 6th December 1862, No. 2,554.

13. The next point is the disposal of auriferous tracts. As one or two applications to prospect on the Nilgiris have been made and the revision of the rules is under consideration, the question of modifying the form of deed under which land is held so as to secure the rights of Government requires notice. The Board have already submitted their views in reply to a reference regarding such tracts in the Wynaad, and suggested that a special maximum limit of 100 acres should be prescribed, and that provision for the levy of a royalty should be made in the deed. In reporting on the question, the Board overlooked the fact that the Government of India originally intended that the deed should convey all rights of mines, and that they subsequently expressly ruled that waste lands believed to contain mineral wealth should not be either sold or leased as waste land for agricultural purposes, but should form the subject of special agreement. The draft Rules, therefore, will contain a clause that applications for lands supposed to contain mineral wealth should not be disposed of under the Waste Land Rules, but reported for orders.

Board's Proceedings, dated 20th December 1875, No. 3,384.

Paragraph 12, Resolution, dated 12th October 1861.

Resolution embodied in G.O., dated 3rd April 1867, No. 779.

14. The Board have now noticed all the points which appear to call for settlement in connection with the revision of the rules, and have modified them in accordance with the conclusions at which they have arrived. The forms of deed should, the Board consider, be redrawn by the Law Officers of Government. Forms X and Z must be altered to suit the new conditions. Forms U, V, and Y, may be dispensed with, and a simple advertisement of the particulars of land applied for substituted for Form W. Form T embodied in Board's Proceedings, dated 6th October 1864, No. 6,562, which was drawn up to meet a difficulty experienced at the outset in getting lots surveyed, in consequence of which the sale of waste before survey was permitted under certain conditions, and which may still be required in the event of the alteration of the rules leading to a great increase in the number of applications, must be redrawn.

G.O., dated 28th February 1863, No. 439.

15. With reference to paragraph 8 of the order, the Commissioner will, as directed by Government, take immediate steps in communication with the Conservator of Forests, to have all necessary reservations of woodlands, grazing lands and swamps defined and marked on a map. With reference to the Board's proposal to retain special report in the case of applications for forest land on the slopes, they gather it to be the intention of Government that the Commissioner should decide, subject to such future revision as may from time to time appear necessary, what portions of the slopes are to be reserved, and that the remainder is to be open for allotment without further reference to the Board or Government. Until the map has been approved by Government special report in the case of woodlands must of course be retained. The Commissioner will note that the main direction of necessary roads and water channels should, as far as possible, be settled at the time of survey.

16. As regards the introduction of Tope Rules suitable to the requirements of the district and the rapid growth of Australian trees, the Commissioner will report, with as little delay as possible, on the working of the rules sanctioned in G. O., dated 30th July 1869, No. 2,228, providing for the grant for firewood plantations of blocks not exceeding 50 acres, rent-free for seven years, subject to confirmation at the expiration of that period by the issue of a title-deed on payment for the future of an annual assessment of Rupee 1 per acre, or to resumption, if not fully planted up. The Board believe that advantage has not generally been taken of the concession then made, and consider that the rules now proposed render the introduction of any special Tope Rules quite unnecessary.

(A true Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,
with Revised Rules, Subsidiary Instructions, and a Form.
,, the Commissioner of the Nilgiris, with do.
Copy to the Conservator of Forests, with do.
,, to the Superintendent of Revenue Survey, with do.,
and copy of Government Order.

Exd. W. H. French.

Revenue 1876. Dept

Board of Revenue,

MADRAS.

No. 1452.

PROCEEDINGS, 10TH APRIL 1876, No. 968.

Dated 10 April 1876.

Encl.

Letter No. 679 dated 5th May 1876

Received 10 April.

APRIL.

No. 968.

Waste Lands on the Nilgiris.—Submitting to Government Board's views regarding modification of rules for the disposal of —.

443

which the present law prescribes before any
Sale can be made —

It is suggested that it might be
sold subject to agreement by applicants
to abide by new rules — and it is possible
that a purchaser might be willing to agree
to pay an unknown price at some future date
for the occupation of an unknown
quantity of land — which (in the event of the
State not concurring in abolition of auction
sales — which is of course not an impossibility —)
he might have after improvement to purchase
at an auction competition —

I say an unknown quantity because I
observe that while it is described by Mr T. as
100 acres — it is described by Govt as 50 or 60
acres — a difference of more than 2/5 — of
the whole —

Inquire It is most desirable that

this matter of the mode of
disposal of land should be conclusively
settled — but I think it will only
be embarrassed instead of facilitated
by attempting to forestall in special
cases the changes which may ultimately
be decided on —

There are a few principal salient
points in the land question which
when just in the power of draft rules
will probably be readily agreed on —
but 1st improvement before new rules
can be carried out — must be
decided what this is to be

i.e. What shall be reserved
for what purposes—
This point arises in the present case
for just 12 months before the
present application the same land
was refused to Col. Moresford because
it was sort. even wished not be
granted to any one—

I do not see why this question
of reserves may not be discussed
& settled — while the proposed alteration
of rule are under discussion —
as it is equally essential. for working
either the new or the existing or any

new rules that it should be previously
known what land may be applied
for & what is reserved either for
Government purposes. water supply
or pasturage &c.

The only clear way of doing this
will probably be by a general
with a coloured map —
I would suggest that such a map
showing existing reservations be at
once prepared in the proper department
that the expediency of any further or
any less reservations be then decided
& the map adjusted accordingly —
The business of the Govt. in this matter

on the spot - will give great facility for the speedy settlement of both this & the amendments of the rules - but with regard to the latter it will probably be found incumbent to give the same notice of an altered system which is now given for the auction otherwise the interests of present holders may be prejudiced unfairly -

It seems to me on all these considerations quite impossible to finish out the 7 lots by application - and they must all either apply under existing rules or await the amended ones. It is worth notice that if Mr T. had applied under existing rules. He would have been entitled to possession early in May taking the risk of auction -

B.H.

26

So far as the Law is concerned there is nothing to prevent Government from applying the ordinary Dharkast rules and Pattah Conditions to the disposal of waste land on the Hills for European Enterprise - rules in fact which

which doubtless regulate or at least long regulated the Extension of native agriculture on the Hills. Act XXIII of 1863 does not restrict the disposition of Govt. or prescribe any special kind of disposition or procedure in regard to those dispositions beyond apparently giving 3 months' notice by public advertisement of the proposal to dispose of land. There is therefore no legal objection to abrogating the auction system in favor of the Pattah system on the Hills although we cannot now question the intention of the Legislature that Act XXIII of 1863 shall apply to the Hills. Nor can we, I fear, get rid of the fact that the rules which have applied

applied to the Hills
since 1863 came under
the sanction of the
Secretary of State, which
gives that sanction
and the intervention
of the Home Government
special prominence
& significance. The
Secretary of State is
Endorsed the views
of this Govt: in regard
to action in a —
measure in opposition
to the proposals of the
Govt: of India. And
I must add that
after

after reading the
debate in the House
of Commons of 12th May
1863 (to which my
attention has been
drawn by Mr. Forbes
note) I do not think
that the local Govt:
could without —
previous intimation
to the Home Govt: —
abrogate the rules
in this important respect.
Under any circumstances,
deference & courtesy
would require a —,
reference as it now
seems

seems to me.

I think therefore that we should in submit the correspondence to the Secretary of State through the Govt: of India and request permission to change the rules in this respect, and add that if the Home Govt: do not see their way to abandon the auction rules, sanction may be given to devote any proceeds realized by such sales to local purposes such as Communications. This would make locally useful, an impost which is most unpopular in the Country.

In the meantime the Survey of the Hills already far advanced should be pressed forward to completion and the definition & maps of all reserves should be carried out most vigorously and completed - the requisite special aid

aid being afforded
by the Commissioner.

I would instruct
the Commissioner that
it will be necessary
to refer to the Home
Govt: before passing
any orders on the
report & submitted
by him & desire
him to deal with
all existing applic-
=ations under rules
now applicable or
otherwise as desired
by the applicants.

27/4 [illegible]

3D

I agree with Sir W. Robinson
that if we decide, as I hope
we shall, to do away with
the auction of land on
the Nilgiris we must
ask the amended Rules
of Secy of State thro'
the Govt of India -
The subjects to be debated
at the proposed meeting
would seem to be -
1st Whether the Rules
as now prepared by
the Board should be
approved by Govt or

they require amendment

2ly The steps to be taken to accelerate the preparation of a Map showing the land in the Nilgiris reserved by Govt or already occupied — to serve as a guide to applicants and

3ly The formation of a special Survey Establ.t for the rapid survey of lands applied for. —

3ly The propriety of issuing a Notification informing the public of the intentions of Govt. regarding the revision of the Land Rules — leaving it to the public to continue their applications under the existing Rules or to wait for the decision of the Secy of State on the proposed New Rules. For this purpose, the proposed New Rules should I think be made public.

Land Rules
Nilgiri Hills

to determine, pending the decision of the Secy of State, what steps can be taken to shorten the present procedure, for granting lands. There is great delay which chiefly owing to the time taken up in the enquiries made by the Collr and the reference to the Forest department & to the Board of Revenue.

Until the Map showing the Reserves is constructed, it might be possible to issue instructions to the Collr based on the principles wh will govern the preparation of the Map, which would render reference to the Forest dept unnecessary. and then may be other means of reducing the time now required before dispersion is given.

The three months notice required by Law ought to be sufficient for all purposes—

RK

30 April 76

His Grace the Governor

raises the question,

whether or not the

auction system can

be abandoned, without

the sanction of the

Secretary of State.—

From the following

narrative it appears

that such sanction is

requisite—

Lord Stanley in

Despatch 31st December

1858 directed the re

Consideration

4

Land Rules
Nilgiri Hills

To determine, pending the decision of the Secy of State, what steps can be taken to shorten the present procedure, for granting lands. There is great delay chiefly owing to the time taken in the Enquiries made by the Collr and the reference to the Forest department & to the Board of Revenue.

Until the Map showing the Reserves is constructed, it might be possible to issue instructions to the Collr based on the principles wh will govern the preparation of the Map, which would render reference to the Forest dept unnecessary. and then may be other means of reducing the time now required before dispersion is given.

The three months notice required by Law. ought to be sufficient for all purposes—

W.K

30 April 76

His Grace the Governor raises the question, whether or not the auction system can be abandoned, without the sanction of the Secretary of State.—

From the following narrative it appears that such sanction is requisite—

Lord Stanley in Despatch 31st December 1858 directed the re-consideration

consideration of the
Government of India
to two points (1) the
redemption of the land-
tax (2) generally the
question of disposing of
Waste Lands in perpetuity
free of all prospective
charge for land revenue.
The 1st formed the subject
of letter from Madras Govt.
to Govt. of India 25th Augt.
1859.

In the same year this Govt.
passed Land Rules for the Bulgaum
which provided for sales by
auction

On the 17 Oct 1861 Lord Canning issued the Resolution regarding Waste Lands - It provided among other things for the re-: demption of the Land tax at 20 years purchase or a sum equal in value to the Revenue redeemed; that the price for the unassessed land should not exceed 2½ Rupees per acre for uncleared land, & 5 Rupees per acre for Land unincumbered with Jungle - & that Land should only be put up to auction in the event of there being more than one applicant. This Resolution was communicated to the Govt of Madras with a request that they would prepare

d

a draft Bill to give legal
effect to the measures laid
down in the Resolution -
Rules were accordingly prepared
& submitted for sanction to
the Govt of India with letter
25 Feb 1862 No 395. & pending
the sanction of the Rules, Collect-
ors were ordered to register
applications only. Proceedings
Madras Govt 27 Feb 1862 2/433
The Govt of India, however,
on the 20 June following
at the request of the
Madras Govt exempted the
Nilgiris from the operation
of these Rules.

The Resolution of the Govt of
India caused considerable agitation in
England & the matter was brought
before the House of Commons on the
23 May 1862 by Mr Smollett Hansard
No 166 page 2136

On the 9: July 1862, Sir Charles Wood, forwarded a Despatch to the Government of India. This Despatch directed (1) that all sales of waste land should be by public auction (2) that the land tax should be redeemed at 25 years purchase. Para 10 runs "In regard to the mode of sale, I am of opinion that the course adopted in many of our Colonies should be pursued; and that the lands applied for should be put up to auction at a minimum or upset price and sold to the "highest bidder". This plan has been followed in the Madras Presidency under the Rules promulgated in August 1859." the Govt. of

of India in their letter to the Govt of Madras, 15 Augt: 1862 No 4206, requested this Govt to revise the draft rules submitted in 1862, in accordance with the orders of the Secretary of State. They remark that "it is ordered that in every case land on shall be put up to auction at an upset price and sold to the highest bidder." In their order 24: Septr 1862 No 2080 this Govt directed the Board of Rev: to revise the rules of July 62 and as the system of sale by auction was already in force on the Nilgiris Govt resolved to alter at once the terms upon which land should be had on the Hills (para 6 – 12), & directed that the course to be pursued should be that laid down

in the Secretary of State's
Despatch para: 11. Subsequen
-ly in their letter dated
20th May 1863. No 877, the
Govt submitted the
unassessed waste land
Rules, and the Rules for
the Nilgiris, Shevaroys,
and Wynaad, for the
sanction of the Govt of
India- observing that
these Districts were
excepted from the
operation of the
unassessed waste Land
Rules. This was after
the Waste Lands Bill
became Law, which
was on the 10th March
1863. It is noted
however

however that Govt in
Order 6th March 1863,
No 478A when approving
the Nilgiri Rules stated
that they would not
be issued until the
Waste Land Bill was
passed. The Nilgiri
Rules were submitted
to the Secretary of
State with other
Rules in Despatch
No 46. 1863 (paras 11-
12-13). They were
generally approved
in Secretary of
State's Despatch
No 63, 8th August
1863, but he took
objection

objection to Rule XI regarding the responsibilities of applicants. This matter formed subject of Despatch No 1 to Secretary of State 5 October 1863, No 105, but he insisted on their amendment and the rules as amended were finally sanctioned in Despatch No 82, 9th October 1863. (G.O 4 February 1864, No 216) para 2.

10 + 2 H

Besides the fact that the Nilgiri Rules were passed subsidiary to Act XXIII of 1863, it is remarked that the Madras Government, in their letter to the Govt. of India 13. Oct: 1862 N. 2203 para 5, merely requested that the Nilgiri might be exempted from the operation of the unassessed waste Rules.

The Govt. of India did not reply — The Act contains no exemption, but this, it is submitted, was not necessary, as the Nilgiri Rules, with the exception of the upset price, are in principle identical

identical with the
Unassessed Waste Rules

Attention is also drawn
to the preamble of the Act
which indicates that the Act
does not merely embrace
sales by auction, or
otherwise, but any
"other disposition" of
waste lands.

The Secretary of State's
Despatch of 1st July 1862
raised much discussion
in England. A
motion was made in
the House of Commons
12: May 1863 to procure
the cancelment of
this Despatch. It was
moved by Mr. Henry Seymour
Mr. Scudlette, Mr. Paxton,
Lord

Lord Stanley and Sir
C. Wood took part
in the debate. The two
main points raised were
(1) the making an election
also compulsory. Thompson-
Ludri
(2) adoption of land tax -

Lord Stanley finally
supported Sir C. Wood's
views on these matters
and the motion had to be
withdrawn - Sir
C. Wood stated that
"whilst the Resolution
said that if there are
more than one applicant
the land should be put
up to auction he said that
this should always be
done".

Hansard p. 170 & 1610-1657

The

the question of land sales
as the Despatch was
expressly referred to by Sir
C. Wood —

I would also remark that
in consequence of Sir Charles
Wood's Despatch and the passing
of Act XXIII of 1863 auction
sales were introduced also at
Lucia - and an Otill in
force. Recently an American
in Nepal recommended the
introduction of a lease
system side by side with
auction sales, but the
Govt. of Lucia instructed
the alienation of Land
to take by auction

Vide G.O. 5 May 1876
No 579.

NOTE ON THE HISTORY OF THE LAND RULES.

THE question has been raised whether or not the auction-system for permanent alienation of land can be abandoned without the sanction of the Secretary of State. From the following narrative it is submitted that such sanction is necessary,

Printed with the Proceedings of the Madras Government; Revenue Department, 26th August 1859.

Lord Stanley, in his despatch, 31st December 1858, raised two questions—

(1.) The redemption of the land-tax generally; but more especially the policy of permitting "grantees of waste lands, under existing rules, to commute the annual payments stipulated under the rules by a single payment at the time of receiving possession of the grant."

(2.) The expediency of disposing of waste lands in perpetuity, free of all prospective charge of land-revenue.

Again on the 16th March 1859, Lord Stanley addressed another despatch to the Government of India regarding certain grants of waste lands, and, in paragraph 4 of that letter, called for a statement of the extent of land capable of cultivation at the disposal of Government throughout British India. In submitting this information, the Government of India were required to state "the conditions which, having regard to the difference in Revenue Administration prevailing in the respective localities, they would recommend for disposing of such lands, either for a term of years or in perpetuity, to persons desirous of bringing them into cultivation."

Papers regarding Cultivation of waste lands, page 1.

The question of the redemption of the land-tax formed the subject of this Government's letter to the Government of India (dated 25th August 1859), communicating G.O., 5th August 1859, No. 1,053; whilst the information called for in the second despatch was forwarded with letter, No. 1,490, November 2nd, 1859.

* *Vide* Collection of papers regarding cultivable waste lands containing reports from the several Administrations.

In their order of August 5th, this Government, whilst deprecating the redemption of the land-tax generally, resolved to deal with certain lands in accordance with the policy indicated by the Secretary of State. They decided (1) to put up to auction all lands required for building purposes at an upset price of twenty times the amount of the assessment of the land; (2) to allow lands occupied wholly or in part by buildings to be converted into freehold on payment of twenty times the annual assessment; (3) to give a fee simple title in certain cases* without payment. It was further resolved (paragraph 8) to make the orders applicable to the whole of the land in the Nilgiris, the Shervaroys, and the Pulney Hills, and to Coffee land in the Wynaad Taluq.

* *e.g.*, Gramanatham (village-sites).

Long prior to this, however, the system of auction sales had been in force in the Nilgiris. These sales, however, did not extend to the fee simple property in the land (Manual, paragraph vii), but to leases only, which for land required for agriculture were not to exceed thirty years, for building purposes ninty-nine years (paragraph viii). The upset price was to be eight or ten years' assessment of the land to be sold. This Manual whilst somewhat illiberal to the European settler, was very liberal to the Natives, whether resident or immigrant (p. 5).

Vide Manual for disposal of applications for waste lands in the Nilgiris sanctioned 1849. Maskell's Circular Orders, page 583, Appendix.

The disposal of waste lands gave rise to a great deal of discussion during the two years following Lord Stanley's despatches. Finally, on the 17th October 1861, Lord Canning issued his celebrated Resolution on the subject which, in several vital points, was subsequently disallowed by Sir Charles Wood. This Resolution is divided into two parts: paragraphs 8—37 dealing with the sale of unassessed waste; paragraphs 38—54 with the redemption of the land-revenue.

These rules have been called Lord Canning's Fee Simple Rules, but if by that term is understood that land was to be sold invariably free of all land-revenue assessment, the title seems to be a misnomer; for there is nothing in the Resolution that prohibits the various Governments from selling land outright, subject to the payment of assessment, as is the case now in the Nilgiris, though there is no doubt that Lord Canning's Government favored fee-simple sales, and that the rules framed under the Resolution generally provided for such sales. That an assessment might be fixed seems evident—paragraphs 9, 10, and 37. Paragraph 9 sets forth that land shall be granted *in perpetuity*, "subject to no *enhancement* of land-revenue assessment;" paragraph 10 states, "all prospective land-revenue will be redeemable at the grantee's option by a payment in full when the grant is made;" and paragraph 37 lays down that "the tenure of all waste lands granted under this Resolution will be that of an heritable and transferable property, held in perpetuity, free *from all claims*, either of the Government or of third persons prior to or *inconsistent with the grant*." The freedom left to the different Administrations was in accordance with the views of Lord Stanley (despatch, 16th March, already quoted). It is noted that the term "fee-simple" does not occur in the Resolution. This Resolution provided, among other things, that land might be granted after thirty days' notice (paragraph 17); that it should only be put up to auction in the event of there being more than one applicant, the upset price to be that of an ordinary grant (30); that the price for unassessed land should not exceed Rs. 2½ per acre for uncleared land, and Rs. 5 per acre for land unencumbered with jungle (29); that possession of unsurveyed land might be given before survey (paragraph 25). The land-tax was to be redeemed at twenty years' purchase (paragraph 41).

This Resolution was communicated* to the Government of Madras for information and guidance. They were also requested to prepare the draft of a law "for giving legal effect to the measures laid down in the Resolution."

* Letter from Government of India, 19th October 1861, No. 2,092, printed with the Proceedings of Government, 25th July 1862, No. 399.

With their reply (25th February 1862, No. 395; Proceedings of Government, 25th February 1862) to this letter, the Madras Government submitted a draft of Rules prepared in accordance with the Resolution, but no Bill. In this letter it was pointed out (paragraph 3) that the "Freehold Rules" in force in this Presidency provided for sales by auction of land, but that such land was subject to assessment. Consequently, this Government stated that they had no objection "to the *extension of the system as proposed in the Resolution*," though "in some respects the rules proposed in that Resolution seemed to need careful consideration."

The criticism which the Resolution received from this Government was effective, and was subsequently endorsed, in the main, by the Secretary of State. They pointed out that the upset price of Rs. 2½ and Rs. 5 was much too low for Coffee and Tea lands, and that the price of land was not the real obstacle to the introduction of European capital and skill; adding that the Government did not "advocate any immoderate price on land, but one bearing a fair proportion to the profits derivable from it, and sufficient to enable them (Government) to perform their obligations."

After remarking that Government could not afford to sacrifice the land-tax, they suggested "the advisability of selling lots by auction at an upset price, or subject to the yearly assessment at the option of the applicant." "The sale by auction," it is argued, "removes all possibility of favoritism; it is fair toall concerned, and the Government would make it the rule in all cases."

The draft rules were accordingly submitted to the Government of India for sanction, pending which Collectors (Proceedings of Government, 27th February 1862, No. 433) were ordered to register applications only. The Government (Proceedings of Government, 24th May 1862, No. 455), however, at the instance of the Collector of Coimbatore, pointed out to the Government of India that the provisions of the Resolution were quite unsuited to Coimbatore, especially the Nilgiri Taluq. The Government of India replied (Proceedings of Government, 22nd July 1862, No. 1,572) on 20th June that the provisions of paragraphs 23-24 of the Resolution, as well as paragraph 30, regarding sales by auction would enable the Madras Government "to prevent any undue sacrifice of the public interests." The Madras Government pointed out, in their letter of July 22nd, 1862, that the provisions of these paragraphs were inadequate; but, at the same time, they chose to regard the Government of India's letter of 20th June as excepting "the Nilgiris from the operation of the rules of October" (the Resolutions), (paragraph 6, Proceedings of Government, Revenue Department, 24th September 1862).

Lord Canning's Resolution caused considerable agitation in England, and the matter was brought before the House of Commons by Mr. Mallett in May 23rd, 1862, when Sir C. Wood promised papers and explanation (Hansard, No. 166, p. 2136).

On the 9th July 1862. Sir. C. Wood forwarded the celebrated despatch to the Government of India, disallowing some of the most important provisions of the Resolution. It directed (1) that waste lands should invariably be put up to public auction (paragraph 10), remarking that "this plan had been followed in the Madras Presidency under the rules promulgated in August 1859; (2) that in every case the boundaries should be marked out before sale (paragraph 11); (3) that instead of an upset price of Rs. 2½ and Rs. 5 the various Governments should fix the upset price suited to various descriptions of land in each district (paragraph 9); (4) in no case should possession be given before survey (paragraph 11); (5) that the time to be allowed for third parties to prefer claims should be fixed by law (paragraphs 12-17); (6) the price of redemption should be variable according to the actual value at the time of the 4 p. c. stocks.

The Government of India, in a letter to the Madras Government (August 15th, 1862, No. 4,206), requested them to revise the draft rules submitted in 1861, in accordance with the orders of the Secretary of State. Subsequently, on the 9th September the Government of India (letter No. 4,881, printed with Proceedings of Government, 27th September 1862, No. 523) forwarded the draft of a Bill for giving effect to paragraphs 19 and 56 of the Resolution (claims to waste lands and investment of sale-proceeds). It is here to be observed that although the Resolution of October and Sir C. Wood's despatch generally contemplate sales by auction at a fixed upset price the land sold to be free of assessment,

(Paragraph 22.)

yet it is evident that the sale of freeholds subject to a fixed assessment is not inconsistent with the Resolution, nor with the terms of the despatch as already stated, for Sir C. Wood (paragraphs 20 and 25) quotes the land rules prevailing at that time in the planting districts of this Presidency,—rules which provided for sales by auction with assessment, without raising the objection that such an arrangement was anomalous, and should be altered. In fact, as will be hereafter seen, the Secretary of State sanctioned the special rules of 1863 without remarking upon them as inconsistent with his policy, though the same provision, as regards assessment, was contained in them. In their order, 24th September 1862, No. 2,080, this Government directed the Board of Revenue to revise the draft rules of February 1862 in accordance with the instructions of the Secretary of State, and as the system of sales by auction was already in force on the Nilgiris, they resolved to settle at once the terms upon which land should be had on the Hills (paragraphs 6-12), and directed that the course to be pursued should be that laid down by the Secretary of State in paragraph 11 of his despatch, *viz.*, "If the land should be unsurveyed, the first step will be to survey it, the applicant, of course, depositing the estimated cost of that proceeding. On the completion of the survey, and at once in the case of surveyed land, the boundaries of the plot should be marked out and an advertisement should be issued, describing the land to be sold by auction, stating the upset price, and specifying the place and date of sale. At the sale, the land will be assigned to the person offering the highest price, or, in the event of no competition, to the applicant at the upset price, the cost of survey (if made) being added in both cases. The advertisement should be posted on the land itself, as well as in the neighbouring villages, and, in other usual places."

At the same time, the Government resolved "to fix the assessment at Rs. 2 per acre for all wooded land, and Rs. 1 per acre for open or grass land." "This is, of course," they observed, "distinct from, and in addition to, the price at which land may be bought at auction."

These Proceedings were communicated to the Government of India.

Before submitting the draft rules, this Government dealt with the draft Bill. Special attention is asked to the Proceedings of the Board of Revenue, 2nd October, and Sir W. Denison's Minute. In paragraph 10, the Board expressed an opinion that "the Bill might be made far more useful by rendering it applicable not only to waste land ordered to be sold, but to all waste land with which Government may desire to deal." The Government supported the suggestion, and it was ultimately acted on by the Legislature as is seen by the preamble of the Act XXIII of 1863, which states that the

Procs. of Government, 27th September 1862, No. 2,109.
" " 15th October " " 165.
" " 29th November " " 362.

Act does not merely embrace claims to waste land sold by auction or otherwise, but "any other disposition" of waste lands.

It, also, declares that "the advertisement to be issued for the sale or other disposition of such land * * * * *shall not be less than three months.* Section 17 of the Bill contemplated that the waste land sold should be free from the Government demand on account of land-tax. It was pointed out (paragraph 5, letter to Government of India, 13th October 1862, No. 2,203) that this would not work with the order regarding land sales in force in the Nilgiris, and it was suggested that an order should be passed exempting the Nilgiris from the operation of the rules prescribed by the Supreme Government and of the law passed in furtherance of these rules. But, instead of this, the objectionable section was omitted from the Bill. Consequently, no exemption was necessary, and no provision of the Act exempts the Nilgiris.

That the Act is applicable to the Nilgiris was admitted by the Madras Government (G.O., 11th May 1863, No. 812) when they "resolved that the RULES and forms of deeds for sale of waste lands in the Nilgiris * * * be *modified with reference* to the provisions of the said Act (*vide* also G.O., 6th March 1863, No. 478A).

It is to be noted that the Act provides only for claims to waste lands; the provisions of the Bill regarding the investment of sale proceeds having been omitted.

The Waste Lands Bill became law on the 10th March 1863. Subsequently, in their letter, dated 28th May, No. 877, this Government submitted the Unassessed Waste Land Rules, and the Rules for the Nilgiris, Shervaroys, and Wynaad, for the sanction of the Government of India, observing that these tracts were exempted from the Unassessed Waste Land Rules. The Nilgiri Rules were submitted to the Secretary of State, with the other rules, in despatch, 22nd May, No. 46, 1863, paragraphs 11-15. The Government explained that the rules for the excepted tracts differed only from the others "in the reservation of assessment and the absence of a minimum upset price." The rules were generally approved in Sir C. Wood's despatch, No. 63, 8th August 1863, as "in *conformity with the instructions contained in the despatch* of July 9th, 1862; but he took objection to Rule XI regarding the responsibilities of applicants. This matter formed the subject of despatch to the Secretary of State, 5th October 1863, No. 105. He, however, insisted on the amendment, and the rules were finally sanctioned in despatch, No. 82, October 9th, 1863 (G.O., 4th February 1864, No. 216, paragraph 2). The Secretary of State observed that as the lands on the Nilgiris were subjected to *an average general assessment*, they did not fall within the scope of the RULES for sale of *unassessed waste*, but though he put the case thus, it is hardly pertinent, for sholah lands on the Hills have never, it is submitted, been regarded as other than unassessed waste. Nor would, it is opined, this position be applicable to Coorg, where the rules for sale of waste land provide for an assessment,—though prepared with reference to the Resolution of October,—

Vide Collection of Rules for sale in fee simple of waste lands in India 1868.

nor to Bombay, the rules of which provide for a water-rate.

The despatch of July raised some discussion in England, and on the 12th May 1863 a motion was made by Mr. Henry Seymour with the object of procuring its cancelment. Among those who took part in the debate were Mr. Smollett, Mr. Buxton, Lord Stanley, and Sir C. Wood.

The debate is reported in Hansard, Volume 170, p. 1610-1659. The main points raised were—

(1.) The redemption of the land-tax.
(2.) The making auction sales compulsory throughout India.
(3.) The necessity of a law of limitation connected with the occupation of land.

Lord Stanley generally supported Sir C. Wood's despatch, declaring that he was not only justified in passing judgment on the rules, but was bound to do so. He observed that the difference between the despatch and the Resolution was mainly on two points, "one relating to the granting of an indefeasible title, and the other to the manner of sale." As regards auction sales, he thought that the system should be confined to localities where land was in demand. In such cases he considered that to grant land to the first applicant was simply to give it away. Sir C. Wood dealt with the questions raised at considerable length, insisting on the expediency of the amendments he had made in the October Resolution. In discussing the rates of Rs. 2½ and 5 proposed in the Resolution, he drew especial attention to the Nilgiris, quoting an

instance of 45 acres of land having realised 1,310 Rs., which, with the assessment on the description sold at Rs. 2 per acre, and the privilege of redeeming the land-tax, at 25 years' purchase, gave a total of Rs. 80 per acre, and added that he could not conceive why land that would fetch this price should be sold for 5*s.* per acre. He considered that Government was entitled to a fair price for its land, and that it was no hardship to anybody if it took the best means of securing such a price. It is manifest from this speech that the fact that certain sale rules provided for an assessment did not place them beyond the operation of the Resolution of October and the July Despatch.

It is also to be recollected that the final sanction to the special rules were given shortly after this debate. In consequence of the Resolution and Despatch, auction sales were established in one form or other throughout British India and Burma.

In 1871, a Commission was appointed in Bengal to consider the existing rules for the sale of waste lands and grant of leases. They submitted their report, recommending a lease-system as well as amended auction sale rules.

Vide Proceedings, Government of Bengal, April 1873, No. 1.

The Government of India only sanctioned the latter, and the Government of Bengal directed that they were to "supersede all previous rules issued for the regulation of the sale or lease of waste lands in any part of the territories of Bengal." From the Bengal Administration Report, 1873-74, however, it appears that these rules were to have especial reference to Assam, but that, as that province was made independent just at the time of their promulgation, Sir R. Temple considers it is questionable whether they should be retained for the rest of Bengal, especially the Sunderbunds, where it appears the Government are no longer desirous of alienating land. But this does not affect the question that, if land is to be *permanently alienated*, it can only be so treated by the system of auction sales; this system having been fixed for the whole of British India. If land is to be alienated permanently in any other way, it is submitted on the strength of the foregoing facts that no system for effecting this object can be introduced without the approval of the Secretary of State.

Rules for sale of waste lands, 1874.

Pages 4 and 34-36.

Vide paragraph 8 of the Report on the Tea operations of Assam. The auction rules do not appear to be popular in Assam, the planters preferring long leases.

NOTE ON THE HISTORY OF THE LAND RULES.

Rev. Sept.

Prop. Std.
of 22-3-6.

I cannot see myself to allow exceptions under these rules until they are abrogated in due form. Nor to suspend the application of them from the 9th ultimo. See sep note

It seems this identical land, or a considerable portion of it, was lately applied for by another gentleman - see the Revenue Inspector's tabulated report - who was ready to take his chance at auction, but the late Commissr. negatived the application, on the ground that the Shola was Govt. Reserve -

How then can it be given to Mr. Tytler? let alone the general outcry there will be, if an exception is made before a change in the Rules -

I mean a general outcry from intending European planters - As to the native inhabitants, they will know nothing of what is going on, if the thing is done off hand in this way - but it be noted that the plot is bounded on one side by a native puttadar, a Ryot of the neighbouring village - he will be disturbed - so indeed will the whole village, from extending cultivation, without a chance of being a competitor for the occupation of the plot - to us perhaps the village Community has the best claim.

C.B.T. - 24/9/6

I am inclined to grant the land - there is no other applicant pending, & under the Rules I do not see how I can withdraw from the 28th

2nd grant subject to approval of Govt. Bd. of Revenue

Mr Tytler's appln.
Lands in Kilpatrick

No 579 R. 6 50
of 5th May 1876

Read the following papers.

Prop. Bd Rev. of 23d March /76

" " " 1st April /76

" " 10/4/76 No 968

submitting their views regarding modification of Rules for the disposal of Waste Lands in the Kilpatrick's.

The Bd. of Revenue will be informed that any modifications of the present Rules which His Grace in C. may determine to be advisable will probably demand a reference to the Secy of State; and cannot will, in any case, be formulated for some considerable time - The Commissioners for the Kilpatrick's should therefore be instructed to call upon Messrs Fraser Tytler and Shedrick and others applicants for lands, to state whether they have their applications stated as under the existing Rules. are content to await the decision of the Secy of State on the proposed modified Rules. If they decline doing so, their applications will be returned to them, the option of submitting fresh applications under the existing Rules being of course reserved. The Commrs entirely declines to give them the lands applied for, on the understanding

Sent to HS Office for 30/3/76 W 5 at 5/6.
C 25/3/76 Ref. 29/3/76.

Send Copy to the Board of Rev. Dr 15 May — the Colon. Dr 15 May
Do the Commissioners of the Navy Dr 15 May 3 Copies Dr 15 May

to keep will abide
some future
by the new rules, whatever they
may be; and he further desires it
may be clearly explained to here
gentlemen that the fact of their
having lodged their applications
in anticipation of the appearance
of some possibly more favorable Rules, does not
place them in a better position
than applicants who may come
forward on any change of
the date which shall
be fixed by the Notice promulgating
any new Rules, therefor.

2. Meanwhile to obviate the delays
at present so generally complained
of, in the disposal of applications
under the existing Rules, the Comm:
will - immediately on the receipt
of any application - send notice
thereof to the Survey Dept., in order
that the block may be
surveyed & boundaries set up:
subsequent time for the
application to be finally
disposed of at the
the time fixed for the survey
for the purpose
be granted until 15 days after
the receipt by the notice and will be

-8-65.

25-6-25

23-8-17

5-2-18

25-6-18

7/11/24 II

3-10-27 II

MADRAS RECORD OFFICE.

Government Records.

Revenue Department.

G. O. (Printed).

Dated 5-5-1

No. 579.