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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.
B.P. No.

268

Press
Mis.

Dated 23-2-1876 196 .

Not to be folded or roughly handled

No. 280. Read the following letter from A. O. HUME, Esq., c.B., Secretary to the Government of India, Department of Revenue, Agriculture, and Commerce, (Land-revenue and Settlement,) to the Secretary to the Government of Madras, Revenue Department, dated Calcutta, 11th January 1876, No. 1/19 :—

I AM directed to forward, for the information of His Grace the Governor in Council, a copy of the despatches noted in the margin on the subject of the sanction of settlements, and to draw particular attention to paragraph 24 of the despatch to the Secretary of State, which requires that the approval of the Government of India be obtained before any substantial alteration in the principle of the assessment of the land-revenue in any province is made.

ENCLOSURE No. 1.

Despatch from the Government of India, to Her Majesty's Secretary of State for India, dated 12th March 1875, No. 11.

WE have the honor to acknowledge the receipt of your Lordship's despatch of the 16th April last, No. 16 (Revenue), approving of our proceedings in confirming the settlement of the district of Mandla in the Central Provinces for the term of twenty years.

2. In the third paragraph of your Lordship's letter you request to be informed what is the practice relative to the sanction of settlements, especially with regard to the term; and you inquire whether such sanction rests entirely with the local Administration, or whether the approval of the Government of India in each case is necessary.

3. This inquiry apparently does not include local Governments as well as Administrations; but as our attention has recently been directed to the important question of the best means of regulating and enforcing the control of the Government of India over the assessment of the most important item of the imperial revenues, we desire to take the opportunity of reviewing the whole subject in the present letter.

4. In the Presidencies of Madras and Bombay the power of sanctioning all settlements of the land-revenue is vested in the local Government. The words of the Regulation (I. of 1803) in which this power is conferred on the Government of Madras are as follow :—"Section 36.—The Board of Revenue shall submit, as soon as may be practicable, to the consideration of the Governor in Council all settlements of the public revenue in cases where the revenue may not have been permanently fixed; and such settlements shall not be considered to be valid until confirmed by the authority of the Governor in Council." We do not interpret these words to be a bar to the interposition of the Governor-General in Council in questions affecting settlements of the land-revenue. We hold that in this, as in other matters affecting the public revenue, the acts of the Board of Revenue or other subordinate authorities are not valid until confirmed by the local Government, but that the latter is in its turn subject to the authority of the Supreme Government; though no doubt our power of control should be exercised only in cases of importance either with regard to the amount of revenue or the principles involved.

5. In 1872 our attention was attracted to the assessments levied on resettlement in some villages of the Tinnevely District which appeared to us to be inadequate, and we addressed the Madras Government recommending further inquiry previous to final confirmation of the settlement. That Government had; however, meanwhile passed final orders on the settlement after

inquiries instituted *suo motu*, and had reported its proceedings to Her Majesty's Government, by whom they were approved. We were informed, in reply to our letter, that the settlement had

Letter from C. Beadon, Esq., Secretary to the Government of India, to J. D. Bourdillon, Esq., Secretary to the Government of Fort St. George, No. 1,306, dated the 16th October 1856, paragraph 7. Considering the liberal spirit and earnestness with which the Government of Madras have applied themselves to the reform of the revenue system, the reduction of assessment to which they have already given effect, and the results which have followed this reduction, the Governor-General in Council is disposed to leave to their discretion, subject to the orders of the Honorable Court, the final disposal of the various questions discussed in connection with the present project. The foregoing observations, therefore, and those contained in the Honorable Mr. Grant's Minute, are communicated to the Government of Madras, more with the view of promoting discussion and bringing to bear the experience of the revenue system of other parts of India than with any intention of controlling the judgment to which the Right Honorable the Governor in Council may ultimately arrive.

* No. 7 (Revenue), dated the 24th February 1864.

duction into the Trichinopoly District of a revised settlement after it had received the approval of the Government of Madras and of the subordinate Revenue authorities. Your Lordship will find the correspondence on the subject recorded in our Proceedings in the Department of Revenue, Agriculture, and Commerce, marginally noted, but for convenience of reference we append an extract from the letter from the Government of Madras (No. 217, dated the 25th February 1873) in which the arguments against our interference were stated:—

Para. 4.—In conclusion, the Government of Madras instruct me to request that you will submit to the Viceroy and Governor-General in Council the following observations:—The Government of India is no doubt competent by law to control every executive act of the Governor in Council, but the reform of the revenue system at Madras is a matter which, together with all the various questions connected with it, was left by the Governor-General in Council to the discretion of this Government, subject to the orders of Her Majesty's Government; the reason assigned for this release from supervision arising out of a consideration of the liberal spirit and earnestness with which the Government of Madras had applied themselves to that reform, the reduction of assessment to which they had already, previous to the organisation of the Settlement Department, given effect, and the results which had followed that reduction. This is the first occasion on which the Governor-General in Council has intervened between the proceedings of this Government in the revision of existing settlements and the despatch of the Secretary of State, to whom these proceedings have been from time to time reported. In one instance, indeed, that of the Trichinopoly District, where the new settlement proposed showed a present loss of revenue amounting to four lakhs of rupees, the determination of the commutation rate (on which the whole question hinged) was postponed pending a reference to Her Majesty's Government; but the Secretary of State, while approving of the lower of the two amounts, directed this Government to refrain in future from calling on him to "pronounce a judgment on matters of detail which it certainly is not within his province, and which he consequently ought not to be called upon to decide." Such matters, he considered, should be disposed of and conclusively settled at the Council table of the Governor of the Presidency; and with this expression of opinion he desired that the settlement of other districts which were still in abeyance should be pushed forward as rapidly as possible. "I trust that no further time will be lost in coming to a final conclusion and in introducing into those districts a revised settlement which, while it shall be acceptable to the ryots, shall receive the approval of your Government and of the subordinate Revenue authorities."

6. In the particular case of the Tinnevely assessments, we were quite satisfied with the results of the further inquiries made by the local authorities, and we did not hesitate to convey our full approval of them. But we were unable to agree with the arguments urged against our interposition. The orders of 1856 clearly only applied to the particular questions then under discussion, and the same may be said of the Secretary of State's orders of 1864. It was impos-

been already confirmed, and that, moreover, the Government of Madras deprecated our interference on the ground that it was itself competent to settle such matters in direct communication with the Government in England without reference to us. We were referred, in support of this claim, to the marginal extract from orders issued in 1856 by the Government of India on the introduction of a new system of revenue survey in the Madras Presidency, and to a despatch* from Her Majesty's Government in England, written in 1864, objecting to the Secretary of State being called upon to judge in "matters of detail," and directing the intro-

duction into the Trichinopoly District of a revised settlement after it had received the approval of the Government of Madras and of the subordinate Revenue authorities. Your Lordship will find the correspondence on the subject recorded in our Proceedings in the Department of Revenue, Agriculture, and Commerce, marginally noted, but for convenience of reference we append an extract from the letter from the Government of Madras (No. 217, dated the 25th February 1873) in which the arguments against our interference were stated:—

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sible for us to consider that they bound the Government of India for all time not to interfere with the Government of Madras, or that they gave the latter unlimited authority to deal uncontrolled with the imperial revenue from the land. Nor could we consider that such questions as the incidence of assessments, affecting as they do most materially the interests alike of the State and of the people, were matters of detail not deserving the attention of the Government of India. Accordingly, we informed the Government of Madras that "His Excellency in Council is confident that the action of the Government of Madras in all revisions of land settlements will be guided by careful consideration for the welfare of the people, coupled with a due regard for the interests of the State, and that the Government of India have no desire to interfere unnecessarily in any details connected with these questions. At the same time, His Excellency in Council wishes it to be distinctly understood that the Government of India reserve to themselves the right of exercising a control over the land settlements in Madras as elsewhere, whenever such control may appear to them to be called for." (Letter dated 30th June 1873, No. 530.)

7. Before quitting the subject, it may be well to remark that the Tinnevely settlement was still under consideration by the Government of Madras when we intervened, and the fact that the amount of the assessments which attracted our attention was subsequently so largely increased that there was no loss but a moderate increase of revenue derived from the resettlement, amply justified our criticism of the proceedings.

8. In Bombay the local Government is empowered, under the Survey and Settlement Act of the Bombay Council (No. I. of 1865), to confirm all settlements. Section 25 of the Act runs thus: "It shall be lawful for an officer in charge of a survey to assess to the land-revenue, under such general and local rules as may be in force in the survey under his charge, all lands cultivated or uncultivated, and whether hitherto assessed or not, provided that such assessment shall not be levied for more than one year, until the sanction of the Governor in Council shall have been obtained thereto." Here, as in Madras, we consider that our power of interposing is undoubted, but that it should only be exercised on very rare occasions. A case has recently occurred in which it appeared to us to be necessary to instruct the Government of Bombay to modify some rules which they had issued for the assessment of a portion of the Bombay Presidency. The correspondence upon the subject has been separately reported in the despatches noted on the margin.

No. 30 (Land Revenue and Settlements), dated 25th December 1874.
No. 8 (Land Revenue and Settlements), dated 5th March 1875.

9. In Bengal the law in force is Regulation VII. of 1822. That Regulation, when passed, extended only to the ceded and conquered (now known as the North-Western) Provinces, the district of Cuttack and the pargana of Puttaspore and its dependencies, the last two of which alone are now included in the Lower Provinces of Bengal. But Regulation IX. of 1825 extended the greater portion of it "to all lands (including jagirs, mocreris, and other tenures held free of assessment or at a quit-rent under special grant) [in the Presidency of Bengal] not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation VII., 1793, and Regulations II. and XXII., 1795, as far as the same may be applicable;" also to all estates held *khas*, and "to the Sunderbuns, the hill-lands of Bhagulpore, and other extensive forests and wastes not included within the limits of parganas, mouzas, or other revenue divisions specified at the time of settlement as belonging to the mahals then assessed, as well as to all estates bordering on such forests and wastes." Regulation VII. of 1822, as extended by IX., 1825, therefore appears to cover the settlement of all land not permanently settled within the Lower Provinces of Bengal.

10. That Regulation (Section 2) extended the then existing settlement in Cuttack until the end of 1234 Umlee, and (Section 6) authorised "the Collectors, with the sanction of the Board of Commissioners [i.e., Board of Revenue], to enter at any time in the course of the extended period on a revision of the settlement." By Section 7 the Collector, when he has completed the revision of the settlement, is empowered, "subject to the orders of the Board of Commissioners and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed

*Proceedings of the Madras Government, Revenue Department,
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leases for such further term of years subsequent to the year 1234 Fuslee or Umlee as the Governor-General in Council may direct."

11. The powers of the Governor-General in Council in Bengal in these matters are now exercised by the Lieutenant-Governor.

12. Thus the effect of Section 7, Clause 1, Regulation VII. of 1822 is that the term of the renewed leases given in a settlement is made specially subject to the orders of the Government of Bengal, while the other particulars of the leases to be given, the amount to be specified, &c., are to be fixed by the Collector or other officer making the settlement, subject to the orders of the Board of Revenue and Government.

13. The office of "Commissioner of Revenue and Circuit" was created by Regulation I. of 1829. Section 4 of that Regulation declared that "the said Commissioners should, until otherwise specifically provided for by law, possess and exercise within their respective divisions the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sudder or Head Board; and to such restrictions and provisions as the Governor-General in Council, or the said Sudder Board, with his authority or sanction, may prescribe." In exercise of the powers conferred by this section, the Government of India, in its order No. 88, dated the 9th October 1837, vested Commissioners of divisions in Bengal with the authority to confirm settlements which they still possess.

14. In 1842 authority was given to Collectors and Commissioners to confirm all descriptions of settlements, i.e., the powers of Collectors were restricted to the confirmation of all temporary settlements of a jumma not exceeding Rs. 200 per annum; but Commissioners were empowered to confirm all temporary settlements above that limit, as well as all permanent settlements of any jumma whatsoever. In 1855 the authority of Collectors was extended to the case of estates assessed up to Rs. 500 per annum. But under orders issued by Sir George Campbell in 1871 these powers were withdrawn from local officers, and directions were given that all regular settlements and summary settlements or renewals of leases for one year pending regular settlement should be reported for sanction to the Board, who should report their proceedings once a-month to Government.

15. These monthly reports have now, by direction of Sir Richard Temple, been dispensed with, and under orders issued by the local Government last year the present practice in Bengal in regard to the assessment of land-revenue and the confirmation of summary and regular settlements is as follows:—

The power of sanctioning permanent settlements and all settlements of estates of which the annual jumma is above Rs. 25,000 is reserved to the Government.

The Board of Revenue is authorised to confirm all regular settlements the jumma of which does not exceed Rs. 25,000, and the term of which does not exceed the period fixed for ordinary settlements in the district.

Commissioners of divisions are authorised to sanction all settlements, the jumma of which does not exceed Rs. 2,000.

All summary settlements are reported to the Board of Revenue for confirmation.

16. The term of settlement has been fixed in accordance with law by a special order of Government (No. 5,255, dated 11th December 1872), settling a certain date for each division up to which the currency of settlements made therein should ordinarily extend, unless for special reasons it should be held advisable to limit the settlement to a less period. The years vary from 1890 in Patna and Gya to 1907 in Dacca. Permanent settlements are no longer made except with persons who have a statutory right to them (as in the case of resumed revenue-free holdings).

17. In the North-Western Provinces, Section 92 of Act XIX. of 1873 provides that "no settlement shall be considered final until it has been confirmed by the local Government," and

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leaves to that Government the determination of the term of period for which a settlement is to be made. This section was framed in accordance with existing practice. By Section 39 the previous sanction of the Governor-General in Council is required to the rules regarding the mode in which the revenue demand is to be assessed.

18. The Government of the Punjab is in the same position. Section 9 of Act XXXIII. of 1871 requires the previous sanction of the Governor-General in Council to the instructions stating the principles on which the revenue is to be assessed, and Sections 11 and 12 require the previous sanction of the Governor-General in Council to the notification of settlement and to any amendment of such notification; while Section 17 provides that "a settlement notified under Section 11 shall be deemed to be in progress until sanctioned by the local Government. Such sanction may be either (1) of the record of rights, or (2) of the assessment, or (3) of the record of rights and of the assessment." In the case of certain recent settlements in the Punjab the Government of India considered it necessary to give instructions to the Government of the Punjab. The correspondence is noted on the margin.

Despatch to Secy. of State, No. 16, dated 30th Oct. 1873.	
" from " " 15 " 16th April 1874.	
" to " " 18 " 22nd May "	
" from " " 41 " 30th July "	

19. It will thus be seen that the condition of things in the various provinces of British India administered by local Governments is essentially the same. The Local Governments in each case are entrusted by law or regulation with the duty of confirming revenue settlements. It is, however, not only within the power of the Government of India, but it is their duty to intervene in this as in all other matters of executive Government when the occasion seems to them to call for such intervention. Nothing can be more clear than the language used in this respect by the Honorable Court of Directors of the East India Company in their despatch, No. 44, of the 10th of December 1834, in which the Act 3 and 4 William IV., Cap. 85, was transmitted to the Government of India; and the duty of interfering wherever the necessity might arise in regard to questions of land-revenue was enjoined in the extract quoted below from the despatch of the Honorable Court of Directors No. 3 of 1838 (Separate Revenue Department), dated the 28th March:—

Para. 13. We have observed with dissatisfaction the tone adopted towards your Government in the letter from the Governor in Council of Bombay of the 1st March 1837, and which marks the extract which we have already cited. The Bombay Government not only remonstrated strongly against the exercise of any authority on your part in the case in question, but appear even to question your right of interference in matters which they deem to be "purely of territorial management." By the 65th clause of the Act 3 and 4 William IV., Cap. 85, the Governor-General in Council is invested with full power to superintend and control the subordinate Governments in all points relating to the civil and military administration of their respective presidencies, and those Governments are required to obey the orders and instructions of the Governor-General in Council in all cases whatsoever. And in order to enable you to exercise with effect the control and superintendence thus devolved on you, the subordinate Governments are required by the 68th Section to transmit regularly to the Governor-General in Council true and exact copies of all the orders and Acts of their respective Governments, and to give intelligence of all transactions which they may deem material to be communicated, or as the Governor-General in Council shall from time to time require. Although a minute interference on your part in the details of the local administration of the subordinate presidencies is neither desirable nor practicable, yet we should hold you but ill-acquitted towards those whose interests are committed to your charge if you should allow to pass without comment, and, if necessary, without effective interference, any measures having in your opinion an injurious tendency either to one presidency or to the empire at large.

We hold that no provision in any Indian Law or Regulation was ever intended to over-ride the executive authority of the Government of India conferred by statute, or to preclude their interposing in any case in which they may think it necessary to control and direct the local Governments in the exercise of any discretion conferred on them by Indian Law or Regulation.

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Even were the case otherwise, the authority we are now discussing is conferred by statutes which our Legislature has never had power to repeal or affect, and any attempt to limit it would be ineffectual.

20. As regards the local administrations, the practice hitherto has been to regard the Government of India as the local Government in settlement matters in Oudh, the Central Provinces, and British Burmah, and from these provinces reports of all regular settlements are submitted for the confirmation of the Government of India. The orders of the Foreign Department on the constitution of the Chief Commissionership of Oudh (No. 12, dated the 4th February 1856) provided (paragraph 96) that all questions connected with revenue, surveys, and settlement generally should lie in the Financial Commissioner's Department, the more important questions being submitted to the Chief Commissioner for decision or for reference to Government as the case might require. These orders were subsequently applied *mutatis mutandis*, to the Central Provinces and British Burma, and, as we have said, all regular settlements in these provinces are reported for our sanction. It must be confessed, however, that our liberty of action is somewhat impeded by the existing practice of giving leases to the land-holders before final sanction can be given; for though no doubt it is tolerably well understood that the settlement is not final until we have passed orders on it, the delay in reporting the proceedings makes it difficult for us usefully to modify measures and to cancel leases which have, in some cases, been in operation for years before they have been brought under our observation. The subject is now under our consideration, and we propose to address your Lordship again on the question hereafter.

21. In British Burma the system of settlement is at present under discussion, and if the draft Land Revenue Bill now before Council becomes law, the whole matter of the nature of the settlement to be offered, the principles of assessment and the period for which the settlement is to be made will be under the control of the Governor-General in Council. In the Central Provinces Revenue and Rent Bills are now under preparation, which, if passed by us, will make clear the powers of the Chief Commissioner in respect to land-revenue settlements. The Chief Commissioner of Assam has also asked us to define his powers in regard to settlements, and the matter is now under our consideration.

22. In Ajmere, Berar, and Coorg, settlement proceedings are reported to us, as in Oudh and the Central Provinces, for confirmation.

23. In Mysore the Bombay system of survey settlement prevails, and, as in that Presidency, the settlements, although subject to the executive control of the Government of India, are not referred to us for orders before assessments are sanctioned.

24. We consider that, while it is necessary that the approval of the Government of India should be obtained before any substantial alteration in the principle of the assessment of the land-revenue is introduced in any part of British India, it is not desirable that the Government of India should undertake the function of dealing with the details of the particular settlements carried out in accordance with the principles which have been established, and it will very rarely occur that it will be necessary to interpose to prevent the action of the local Governments with regard to such details.

ENCLOSURE No. 2.

From Her Majesty's Secretary of State for India, (Revenue), to the Government of India, dated 29th July 1875, No. 39.

The despatch of your Excellency in Council, dated 12th March, No. 11, of 1875, relative to the practice as to the sanction of settlements, has been considered by me in Council.

2. Your Excellency's despatch has much value and interest, and the principle stated in your 24th paragraph has my approval, and I fully concur in the views generally expressed in the despatch.

*Proceedings of the Madras Government, Revenue Department,
23rd February 1876.*

No. 281. ORDER THEREON, 23rd February 1876, No. 268.

Land Revenue, No. 13.

RECORDED.

(True Extract.)

(Signed)

D. F. CARMICHAEL,
Secretary to Government.

Exd. A. Raitt.

No. 11, dated the 12th March 1875.

From—The Government of India,

To—Her Majesty's Secretary of State for India.

WE have the honour to acknowledge the receipt of Your Lordship's despatch of the 16th April last, No. 16 (Revenue), approving of our proceedings in confirming the settlement of the district of Mandla in the Central Provinces for the term of twenty years.

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3. This enquiry apparently does not include Local Governments as well as Administrations; but as our attention has recently been directed to the important question of the best means of regulating and enforcing the control of the Government of India over the assessment of the most important item of the imperial revenues, we desire to take the opportunity of reviewing the whole subject in the present letter.

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5. In 1872 our attention was attracted to the assessments levied on re-settlement in some villages of the Tinnevely District which appeared to us to be inadequate, and we addressed the Madras Government recommending further enquiry previous to final confirmation of the settlement. That Government had, however, meanwhile passed final orders on the settlement after enquiries instituted *suo motu*, and had reported its proceedings to Her Majesty's Government, by whom they were approved. We were informed in reply to our letter that the settlement had been already confirmed and that, moreover the Government of Madras deprecated our interference on the ground that it was

Letter from C. Beadon, Esq., Secretary to the Government of India, to J. D. Bourdillon, Esq., Secretary to the Government of Fort St. George, No. 1306, dated the 16th October 1856, para. 7. Considering the liberal spirit and earnestness with which the Government of Madras have applied themselves to the reform of the revenue system, the reduction of assessment to which they have already given effect, and the results which have followed this reduction, the Governor General in Council is disposed to leave to their discretion, subject to the orders of the Hon'ble Court, the final disposal of the various questions discussed in connection with the present project. The foregoing observations therefore, and those contained in the Hon'ble Mr. Grant's Minute, are communicated to the Government of Madras, more with the view of promoting discussion and bringing to bear the experience of the revenue system of other parts of India than with any intention of controlling the judgment to which the Right Hon'ble the Governor in Council may ultimately arrive.

* No. 7 (Revenue), dated the 24th February 1864.

in England, written in 1864, objecting to the Secretary of State being called

Obt. of 1876
REVENUE.

Dated February, 23rd.

Recd.

Encl.

G.O., 23rd February 1876, No. 268.

FEBRUARY.
Nos. 280-281.

Attention in Principle of Assessment of Land Revenue.—Recording letter from the Government of India forwarding copies of despatches on the subject of obtaining the approval of the Government of India before any — is made.

upon to judge in "matters of detail," and directing the introduction into the Trichinopoly District of a revised settlement after it had received the approval of the Government of Madras and of the subordinate Revenue authorities. Your Lordship will find the correspondence on the subject recorded in our

Land Revenue and Settlements, October 1872, No. 11.
" " " June 1873, Nos. 40 to 43.

Proceedings in the Department
of Revenue, Agriculture and

Commerce marginally noted, but for convenience of reference we append an extract from the letter from the Government of Madras (No. 217, dated the 25th February 1873) in which the arguments against our interference were stated:—

Para. 4.—In conclusion the Government of Madras instruct me to request that you will submit to the Viceroy and Governor General in Council the following observations: The Government of India is no doubt competent by law to control every executive act of the Governor in Council, but the reform of the revenue system at Madras is a matter which, together with all the various questions connected with it, was left by the Governor General in Council to the discretion of this Government, subject to the orders of Her Majesty's Government; the reason assigned for this release from supervision arising out of a consideration of the liberal spirit and earnestness with which the Government of Madras had applied themselves to that reform, the reduction of assessment to which they had already, previous to the organisation of the Settlement Department, given effect, and the results which had followed that reduction. This is the first occasion on which the Governor General in Council has intervened between the proceedings of this Government in the revision of existing settlements and the despatch of the Secretary of State, to whom these proceedings have been from time to time reported. In one instance indeed, that of the Trichinopoly District, where the new settlement proposed showed a present loss of revenue amounting to four lakhs of rupees, the determination of the commutation rate (on which the whole question hinged) was postponed pending a reference to Her Majesty's Government; but the Secretary of State, while approving of the lower of the two amounts, directed this Government to refrain in future from calling on him to "pronounce a judgment on matters of detail which it certainly is not within his province, and which he consequently ought not to be called upon to decide." Such matters, he considered, should be disposed of and conclusively settled at the Council table of the Governor of the Presidency; and with this expression of opinion he desired that the settlement of other districts which were still in abeyance should be pushed forward as rapidly as possible. "I trust that no further time will be lost in coming to a final conclusion, and in introducing into those districts a revised settlement which, while it shall be acceptable to the ryots, shall receive the approval of your Government and of the subordinate Revenue authorities."

6. In the particular case of the Tinnevely assessments, we were quite satisfied with the results of the further enquiries made by the local authorities, and we did not hesitate to convey our full approval of them. But we were unable to agree with the arguments urged against our interposition. The orders of 1856 clearly only applied to the particular questions then under discussion, and the same may be said of the Secretary of State's orders of 1864. It was impossible for us to consider that they bound the Government of India for all time not to interfere with the Government of Madras, or that they gave the latter unlimited authority to deal uncontrolled with the imperial revenue from the land. Nor could we consider that such questions as the incidence of assessments, affecting as they do most materially the interests alike of the State and of the people, were matters of detail not deserving the attention of the Government of India. Accordingly we informed the Government of Madras that "His Excellency in Council is confident that the action of the Government of Madras in all revisions of land settlements will be guided by careful consideration for the welfare of the people, coupled with a due regard for the interests of the State, and that the Government of India have no desire to interfere unnecessarily in any details connected with these questions. At the same time His Excellency in Council wishes it to be distinctly understood that the Government of India reserve to themselves the right of exercising a control over the land settlements in Madras, as elsewhere, whenever such control may appear to them to be called for." (Letter dated 30th June 1873, No. 530.)

7. Before quitting the subject, it may be well to remark that the Tinnevely settlement was still under consideration by the Government of Madras when we intervened, and the fact that the amount of the assessments which attracted

our attention was subsequently so largely increased that there was no loss but a moderate increase of revenue derived from the re-settlement, amply justified our criticism of the proceedings.

8. In Bombay the Local Government is empowered, under the Survey and Settlement Act of the Bombay Council (No. I of 1865), to confirm all settlements. Section 25 of the Act runs thus: "It shall be lawful for an officer in charge of a survey to assess to the land revenue, under such general and local rules as may be in force in the survey under his charge, all lands cultivated or uncultivated, and whether hitherto assessed or not, provided that such assessment shall not be levied for more than one year, until the sanction of the Governor in Council shall have been obtained thereto." Here, as in Madras, we consider that our power of interposing is undoubted, but that it should only be exercised on very rare occasions. A case has recently occurred in which it appeared to us to be necessary to instruct the Government of Bombay to modify some rules which they had issued for the assessment of a portion of the Bombay Presidency. The correspondence upon the subject has been separately reported in the despatches noted on the margin.

No. 30 (Land Revenue and Settlements), dated 25th December 1874.

No. 8 (Land Revenue and Settlements), dated 5th March 1875.

9. In Bengal the law in force is Regulation VII of 1822. That Regulation, when passed, extended only to the Ceded and Conquered (now known as the North-Western) Provinces, the district of Cuttack and the pargana of Puttasore and its dependencies, the last two of which alone are now included in the Lower Provinces of Bengal. But Regulation IX of 1825 extended the greater portion of it "to all lands (including jagirs, mocurreris and other tenures held free of assessment or at a quit-rent under special grant) [in the Presidency of Bengal] not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation VII, 1793, and Regulations II and XXII, 1795, as far as the same may be applicable;" also to all estates held *khas*, and "to the Sunderbuns, the hill lands of Bhagulpore, and other extensive forests and wastes not included within the limits of parganas, mouzas or other revenue divisions specified at the time of settlement as belonging to the mahals then assessed, as well as to all estates bordering on such forests and wastes." Regulation VII of 1822, as extended by IX, 1825, therefore appears to cover the settlement of all land not permanently settled within the Lower Provinces of Bengal.

10. That Regulation (Section 2) extended the then existing settlement in Cuttack until the end of 1234 Umlee, and (Section 6) authorised "the Collectors, with the sanction of the Board of Commissioners [*i. e.*, Board of Revenue], to enter at any time in the course of the extended period on a revision of the settlement." By Section 7 the Collector, when he has completed the revision of the settlement, is empowered, "subject to the orders of the Board of Commissioners and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234 Fuslee or Umlee as the Governor General in Council may direct."

11. The powers of the Governor General in Council in Bengal in these matters are now exercised by the Lieutenant-Governor.

12. Thus the effect of Section 7, Clause 1, Regulation VII of 1822 is that the term of the renewed leases given in a settlement is made specially subject to the orders of the Government of Bengal, while the other particulars of the leases to be given, the amount to be specified, &c., are to be fixed by the Collector or other officer making the settlement, subject to the orders of the Board of Revenue and Government.

13. The office of "Commissioner of Revenue and Circuit" was created by Regulation I of 1829. Section 4 of that Regulation declared that "the said Commissioners should, until otherwise specifically provided for by law, possess and exercise within their respective divisions the powers and authority now

vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sudder or Head Board; and to such restrictions and provisions as the Governor General in Council, or the said Sudder Board with his authority or sanction, may prescribe." In exercise of the powers conferred by this section, the Government of India in its order No. 88, dated the 9th October 1837, vested Commissioners of divisions in Bengal with the authority to confirm settlements which they still possess.

14. In 1842 authority was given to Collectors and Commissioners to confirm all descriptions of settlements, *i. e.*, the powers of Collectors were restricted to the confirmation of all temporary settlements of a jumma not exceeding Rs. 200 per annum; but Commissioners were empowered to confirm all temporary settlements above that limit, as well as all permanent settlements of any jumma whatsoever. In 1855 the authority of Collectors was extended to the case of estates assessed up to Rs. 500 per annum. But under orders issued by Sir George Campbell in 1871 these powers were withdrawn from local officers, and directions were given that all regular settlements and summary settlements or renewals of leases for one year pending regular settlement should be reported for sanction to the Board, who should report their proceedings once a month to Government.

15. These monthly reports have now, by direction of Sir Richard Temple, been dispensed with, and under orders issued by the Local Government last year the present practice in Bengal in regard to the assessment of land revenue and the confirmation of summary and regular settlements is as follows:—

The power of sanctioning permanent settlements, and all settlements of estates of which the annual jumma is above Rs. 25,000, is reserved to the Government.

The Board of Revenue is authorised to confirm all regular settlements the jumma of which does not exceed Rs. 25,000, and the term of which does not exceed the period fixed for ordinary settlements in the district.

Commissioners of divisions are authorised to sanction all settlements the jumma of which does not exceed Rs. 2,000.

All summary settlements are reported to the Board of Revenue for confirmation.

16. The term of settlement has been fixed in accordance with law, by a special order of Government (No. 5255, dated 11th December 1872), settling a certain date for each division up to which the currency of settlements made therein should ordinarily extend, unless for special reasons it should be held advisable to limit the settlement to a less period. The years vary from 1890 in Patna and Gya to 1907 in Dacca. Permanent settlements are no longer made except with persons who have a statutory right to them (as in the case of resumed revenue-free holdings).

17. In the North-Western Provinces, Section 92 of Act XIX of 1873 provides that "no settlement shall be considered final until it has been confirmed by the Local Government," and leaves to that Government the determination of the term of period for which a settlement is to be made. This section was framed in accordance with existing practice. By section 39 the previous sanction of the Governor General in Council is required to the rules regarding the mode in which the revenue demand is to be assessed.

18. The Government of the Punjab is in the same position. Section 9 of Act XXXIII of 1871 requires the previous sanction of the Governor General in Council to the instructions stating the principles on which the revenue is to be assessed, and Sections 11 and 12 require the previous sanction of the Governor General in Council to the notification of settlement and to any amendment of such notification; while Section 17 provides that "a settlement notified under Section 11 shall be deemed to be in progress until sanctioned by the Local Government. Such sanction may be either (1) of the record of rights, or (2)

of the assessment, or (3) of the record of rights and of the assessment." In the case of certain recent settlements in the Punjab the Government of India considered it necessary to give instructions to

Despatch to Secretary of State,	No. 16,	dated	30th October 1873.
" from "	No. 15 "	"	16th April 1874.
" to "	No. 13 "	"	22nd May 1874.
" from "	No. 41 "	"	30th July 1874.

the Government of the Punjab. The correspondence is noted on the margin.

19. It will thus be seen that the condition of things in the various provinces of British India administered by Local Governments is essentially the same. The Local Governments in each case are entrusted by law or regulation with the duty of confirming revenue settlements. It is, however, not only within the power of the Government of India, but it is their duty, to intervene in this as in all other matters of executive government when the occasion seems to them to call for such intervention. Nothing can be more clear than the language used in this respect by the Hon'ble Court of Directors of the East India Company in their despatch No. 44 of the 10th of December 1834, in which the Act 3 and 4 William IV, Cap. 85, was transmitted to the Government of India; and the duty of interfering wherever the necessity might arise in regard to questions of land revenue was enjoined in the extract quoted below from the despatch of the Hon'ble Court of Directors No. 3 of 1838 (Separate Revenue Department), dated the 28th March:—

Para. 13.—We have observed with dissatisfaction the tone adopted towards your Government in the letter from the Governor in Council of Bombay of the 1st March 1837, and which marks the extract which we have already cited. The Bombay Government not only remonstrate strongly against the exercise of any authority on your part in the case in question, but appear even to question your right of interference in matters which they deem to be "purely of territorial management." By the 65th clause of the Act 3 and 4 William IV, Cap. 85, the Governor General in Council is invested with full power to superintend and control the subordinate Governments in all points relating to the civil and military administration of their respective presidencies, and those Governments are required to obey the orders and instructions of the Governor General in Council in all cases whatsoever. And in order to enable you to exercise with effect the control and superintendence thus devolved on you, the subordinate Governments are required by the 68th Section to transmit regularly to the Governor General in Council true and exact copies of all the orders and Acts of their respective Governments, and to give intelligence of all transactions which they may deem material to be communicated, or as the Governor General in Council shall from time to time require. Although a minute interference on your part in the details of the local Administration of the subordinate presidencies is neither desirable nor practicable, yet we should hold you but ill-acquitted towards those whose interests are committed to your charge if you should allow to pass without comment, and if necessary without effective interference, any measures having in your opinion an injurious tendency either to one presidency or to the empire at large.

We hold that no provision in any Indian Law or Regulation was ever intended to override the executive authority of the Government of India conferred by statute, or to preclude their interposing in any case in which they may think it necessary to control and direct the Local Governments in the exercise of any discretion conferred on them by Indian Law or Regulation. Even were the case otherwise, the authority we are now discussing is conferred by statutes which our Legislature has never had power to repeal or affect, and any attempt to limit it would be ineffectual.

20. As regards the local Administrations, the practice hitherto has been to regard the Government of India as the Local Government in settlement matters in Oudh, the Central Provinces, and British Burma, and from these provinces reports of all regular settlements are submitted for the confirmation of the Government of India. The orders of the Foreign Department on the constitution of the Chief Commissionership of Oudh (No. 12, dated the 4th February 1856) provided (*para. 96*) that all questions connected with revenue, surveys, and settlement generally should lie in the Financial Commissioner's Department, the more important questions being submitted to the Chief Commissioner for decision or for reference to Government as the case might require. These orders were subsequently applied, *mutatis mutandis*, to the Central Provinces and British Burma, and, as we have said, all regular settlements in these provinces are reported for our sanction. It must be confessed,

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however, that our liberty of action is somewhat impeded by the existing practice of giving leases to the landholders before final sanction can be given; for though no doubt it is tolerably well understood that the settlement is not final until we have passed orders on it, the delay in reporting the proceedings makes it difficult for us usefully to modify measures and to cancel leases which have in some cases been in operation for years before they have been brought under our observation. The subject is now under our consideration, and we propose to address Your Lordship again on the question hereafter.

21. In British Burma the system of settlement is at present under discussion, and if the draft Land Revenue Bill now before Council becomes law, the whole matter of the nature of the settlement to be offered, the principles of assessment and the period for which the settlement is to be made will be under the control of the Governor General in Council. In the Central Provinces Revenue and Rent Bills are now under preparation, which, if passed by us, will make clear the powers of the Chief Commissioner in respect to land revenue settlements. The Chief Commissioner of Assam has also asked us to define his powers in regard to settlements, and the matter is now under our consideration.

22. In Ajmere, Berar, and Coorg settlement proceedings are reported to us, as in Oudh and the Central Provinces, for confirmation.

23. In Mysore the Bombay system of survey settlement prevails, and, as in that presidency, the settlements, although subject to the executive control of the Government of India, are not referred to us for orders before assessments are sanctioned.

24. We consider that, while it is necessary that the approval of the Government of India should be obtained before any substantial alteration in the principle of the assessment of the land revenue is introduced in any part of British India, it is not desirable that the Government of India should undertake the function of dealing with the details of the particular settlements carried out in accordance with the principles which have been established, and it will very rarely occur that it will be necessary to interpose to prevent the action of the Local Governments with regard to such details.

1875

DEPARTMENT OF REVENUE,
AGRICULTURE, AND COMMERCE.

LAND REVENUE AND SETTLEMENTS.

To
H. M.'S SECY. OF STATE FOR INDIA.

No. 11.

Dated the 12th March 1875.

SUBJECT.

POWERS of the Government of India and of the
local authorities in connection with the assess-
ment of the land revenue.

No. 39 (Revenue), dated the 29th July 1875.

From—Her Majesty's Secretary of State for India,
To—The Government of India.

THE despatch of Your Excellency in Council dated 12th March, No. 11
of 1875, relative to the practice as to the sanction of settlements, has been
considered by me in Council.

2. Your Excellency's despatch has much value and interest, and the
principle stated in your 24th paragraph has my approval, and I fully concur
in the views generally expressed in the despatch.

1875

DEPARTMENT OF REVENUE,
AGRICULTURE, AND COMMERCE.

LAND REVENUE AND SETTLEMENTS.

FROM

H. M.'S SECY. OF STATE FOR INDIA.

No. 39.

Dated the 29th July 1875.

SUBJECT.

In reply to despatch No. 11 of 1875, relative to the practice as to the sanction of settlements, approves of the principle stated in paragraph 24 thereof, and concurs in the views generally expressed in the despatch.

No. 19

FROM

A. O. HUME, ESQUIRE, C. B.,

Secretary to the Government of India,
Department of Revenue, Agriculture
and Commerce,

To The Secretary to the Government of
Madras.

Land Revenue
and Settlement

Calcutta, dated 11th January 1875.

SIR,

I am directed to forward for the
Despatch to the Secretary of State No. 11, dated the 12th March 1875. information of His Grace
Despatch from the Secretary of State No. 39, dated the 29th July 1875. the Governor in Council
a copy of the despatches noted in the margin
on the subject of the sanction of settlements,
and to draw particular attention to paragraph
24 of the despatch to the Secretary of State,
which requires that the approval of the
Government of India be obtained before any
substantial alteration in the principle of the
assessment of the land revenue in any province
is made.

I have the honour
Sir,

Your Most Obedt

Secretary to the Government

Thank you for information,
 giving of disposition to and from the day's
 on the subject of the location of oilwells and
 having immediate attention to page 24 of the Journal
 paper which requires the approval of the Govt. with
 any substantial alterations in the principle of the
 map of the land reserved is very pertinent.

From the Govt of India
Office of Secy. Genl.
No 329.
Banswar 1976 Deptt

Radio 11: 20
Radio 27: 20
Radio 27: 20

222 ✓ 240 1/19

Thank you for information,
copying of description, & send from the day's site
on the subject of the location of oilwells and
bearing, bearing relation to page 24 of the journal
paper which requires the approval of the Govt. with
any substantial alterations in the principle of the
map of the land covered is very fair.

No 329

Præsum 1876 de fide

From

The Post of India

Office of Rev. Geo.

thru. for information

Editor of the Spectator, 8 and from the day of 5th
on the subject of the taxation of wills and

Shawbury, 17 June 24, the present
paper which requires the approval of the Secretary
and the Board of Directors in the presence of the
Board of Directors.

most of the land around is now forested.

Ms. 268

23 Feb 196

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