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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 121-122	Press Mis.
Dated 23-1-	1884.

Not to be folded or roughly handled

3/2/21

23RD JANUARY 1884, No. 121, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again G.O., dated 8th October 1883, No. 1248, Revenue:—

ABSTRACT.—Communicating to the Board of Revenue letter from Government of India forwarding copy of a despatch from the Secretary of State respecting ryots' rights to minerals, with intimation that, in the case of all lands held on ryotwari tenure, the holder is to have a right to subjacent minerals, subject to special assessment in the event of their being worked, and issuing instructions as to the form of putta to be adopted.

READ—also the following Proceedings of the Board of Revenue, dated 26th November 1883, No. 3587:—

Read—G.O., dated 8th October 1883, No. 1248, Revenue.

Resolution—dated 26th November 1883, No. 3587.

Communicated to the Director of Revenue Settlement and all Collectors, for information and guidance, with copies of Government Orders marginally noted. G.O., 21st September 1882, No. 1008, Revenue. G.O., 18th December „ „ 1451, „ The Board presume that paragraph 2 of the Order must be considered as cancelling paragraph 2 of G.O., dated 18th December 1882, No. 1451. The effect of present orders, the Board take to be, what is described in paragraph 3 of Board's Proceedings, dated 15th November 1882, Mis. No. 8803, printed in the Government Order above referred to.

3. With reference to paragraph 4 of the present Order, the Board submit that it is deserving of consideration whether lands sold under the Waste Land Rules should be placed in an inferior position as regards reservation of mineral rights to waste lands taken up on ryotwari puttas. It is doubtless true that, the former description of lands being at the absolute disposal of Government, it is open to Government to impose any conditions they please on the purchasers, but it was originally the intention to ensure to the purchasers under the Waste Land Rules a greater permanency of tenure than is accorded to lands under ryotwari settlements which are liable to be periodically revised.

4. Adverting to paragraph 5, the Board propose to make the following modifications in their Standing Orders, in view to defining the rights of ryotwari holders in respect of minerals:—

Clause (d) paragraph 1 of S.O. No. 1 will be altered as follows: "The assessment is to be fixed so as not to exceed half the net produce after deduction of expenses of cultivation, &c. It represents only the commuted value of the Government share of the surface cultivation, but if minerals are discovered and worked in the land, a separate assessment will be levied therefor."

The following will be added as paragraph 7 at the end of S.O. No. 25: "The registered puttadar is entitled to work minerals on his land, but is liable to pay therefor a separate assessment in addition to usual assessment for surface cultivation."

5. The Board agree with Government in considering that the putta should be as brief and free from technicalities as possible, and beg their attention to the remarks in paragraph 1 of Board's Proceedings, 13th August 1881, No. 1729. They consider that, if a note be inserted at the foot of every putta stating that "the assessment entered in the putta represents only the commuted value of the Government share of the produce on surface cultivation and that lands are liable to pay an additional assessment when minerals are discovered and worked in them," it would amply meet the requirements of the case.

(A true Extract.)

(Signed) E. GIBSON,
Acting Secretary.

To the Director of Revenue Settlement.
„ all Collectors.
„ the Secretary to Government, Revenue
Department.

ORDER—dated 23rd January 1884, No. 121, Revenue.

Land Revenue, No. 13.

The Board's presumption in paragraph 2 is correct.

2. The Government are not prepared at present to enter into a consideration of the waste land sale rules in their relation to the reservation of minerals.

3. The Board's suggestions in paragraphs 4 and 5 with respect to the modification to be made in their Standing Orders Nos. 1 and 25, and the clause to be inserted in the form of ryotwar putta are approved and sanctioned.

4. Ordered that the following letter be despatched:—

(Here enter No. 121 dated 23rd January 1884.)

(True Extract.)

(Signed) H. E. STOKES,
Secretary to Government.

To the Board of Revenue.

Exd. W. H. French.

50 Copies.

REVENUE DEPARTMENT.

LETTER—from

THE SECRETARY TO THE GOVERNMENT OF
FORT ST. GEORGE,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
REVENUE AND AGRICULTURAL DEPARTMENT.

SIR,

I am directed to acknowledge the receipt of Mr. Holderness's letter of the 14th August last, No. 27—9-3 M, giving cover to copy of a despatch from the Secretary of State respecting the rights of ryot proprietors to minerals under their holdings.

Land Revenue, No. 14.

2. In reply I am to say that in paras. 4 and 5 of the Despatch the views and intentions of this Government in respect of subjacent minerals in lands held on ryotwari tenure in this presidency are correctly stated; and readily accepting, therefore, the rule suggested, viz., that in the case of all such lands subjacent minerals belong to the holder of the land subject to special assessment in the event of their being worked, His Excellency in Council has issued orders in accordance therewith.

I have the honor to be,
Sir,

Your most obedient servant,

(Signed) H. E. STOKES,
Secretary to Government.

FORT ST. GEORGE,
23rd January 1884.

Exd. W. H. French.

70 Copies.

Original

1884.

REVENUE AND AGRICULTURAL
DEPARTMENT.

From the Government of
Fort St. George.

Issued

Recd.

Encl.

Letter, 23rd January 1884,
No. 122.

JANUARY.

Stating that orders have been issued in accordance with the rule suggested by the Secretary of State regarding the ryots' rights to minerals.

BOARD OF REVENUE, 26TH NOVEMBER 1883, No. 3587.

PROCEEDINGS OF THE BOARD OF REVENUE.

READ—the following G.O., dated 8th October 1883, No. 1248, Revenue:—

Read—again G.O., dated 28th May 1883, Mis. No. 2171, Revenue:—

Read—the following despatch from the Government of India, Revenue and Agricultural Department (Minerals), to the Right Honorable the EARL OF KIMBERLEY, Her Majesty's Secretary of State for India, dated Simla, the 15th May 1883, No. 2:—

In reply to paragraph 9 of Lord Cranbrook's Despatch, No. 35 (Revenue), dated the 25th March 1880, regarding the rights of ordinary Madras ryots in respect to the subjacent minerals of their holdings, we have the honor to forward, for your Lordship's information, a copy of the papers marginally noted, from which it will be seen that the Government of Madras considers that no *exclusive* right on the part of the State to the mineral products of the soil in the occupation of Madras ryots can be maintained. In the opinion of that Government the best practical solution of the question would be to require applicants for mining leases to make their own terms with the occupiers of land, and to limit the share of the Government in the mineral produce of the area to such royalty or rent per acre as is demanded from miners working in waste lands, the property of the State. Such royalty or rent would be in addition to the assessment already levied on the land in respect to its agricultural character. In the case of ryots extracting the minerals themselves, the State's share of the produce would be apparently determined in a similar manner.

2. We understand that the Government of Madras does not consider that legislation is required to secure the rights of the State as thus defined in lands already in occupation. A reference to the correspondence at pages 20—23 of the Proceedings Volume of the Government of Madras in the Revenue Department for January 1883, a copy of which has doubtless reached your Lordship, will explain more clearly the manner in which it is proposed to deal with the subject. Lands which have been occupied since the exclusive right of the State to minerals in Government waste lands was publicly notified, present no difficulty, and the Government of Madras has directed that the instruments under which such lands are leased shall expressly reserve the exclusive right of the State to the subjacent minerals. But in regard to lands previously occupied, a preliminary question was raised by the Board of Revenue as to whether during the currency of the existing land-revenue assessment the State was debarred from asserting its share to the mineral produce of the soil. The Government of Madras rightly, in our opinion, holds that as the revenue assessment neither referred to nor took into consideration the State's right to a share of the mineral produce, the State is quite free to impose, in addition to the current land-revenue assessment, a "sub-soil assessment," when minerals are worked for.

3. The Government of Madras has therefore directed the Board of Revenue to insert in every putta, or lease, of already occupied land a declaration that the State reserves to itself a right of assessing the subjacent minerals. When any such holding is increased by the addition of Government unoccupied lands, the exclusive right of the State to minerals found in the latter is separately reserved.

No. 22-M.

Copy forwarded to the Government of Madras for information.

(Signed) T. W. HOLDERNESS,
for Secretary to the Government of India.

Order—dated 28th May 1883, Mis. No. 2171, Revenue.

Recorded.

(True Extract.)

(Signed) E. F. WEBSTER,
Secy. to Govt., Rev. Dept.

Read—also the following letter from T. W. HOLDERNESS, Esq., Officiating Secretary to the Government of India, Revenue and Agricultural Department (Minerals), to the Secretary to the Government of Madras, dated Simla, the 14th August 1883, No. 27—9-3M:—

In continuation of this Department Endorsement No. 22, dated 15th May 1883, I am directed to forward a copy of a Despatch from the Secretary of State respecting the right of Government ryots in Madras to the minerals under their holdings, and with reference to paragraph 4 thereof, to inquire how the Government of Madras propose dealing with the question of the right of the State to minerals in Government waste lands hereafter taken up by private persons.

2. I am to mention that the remarks of the Government of India, in para. 3 of the Despatch of 15th May last, were based on the orders issued by the Madras Government in their Proceedings of 6th January 1883, No. 4. It is possible, however, that in the absence of the complete correspondence between the Board of Revenue and the Government of Madras, this Government may have misunderstood the intention of these orders.

ENCLOSURE.

Despatch from the Right Honorable the EARL OF KIMBERLEY, Her Majesty's Secretary of State for India, to His Excellency the Most Honorable the Governor-General of India in Council, dated India Office, London, 12th July 1883 (Revenue), No. 49:—
I have considered in Council your letter, No. 2, Revenue and Agriculture Department (Minerals), dated 15th May last, transmitting correspondence on the subject of the right of Government ryots in Madras to the minerals under their holdings.

2. The result of the further inquiries made by the Madras Government in accordance with the request made to them by the Government of India, and communicated to the Secretary of State in paragraph 6 of the India letter of 1st September 1879, No. 7, Home, Revenue and Agriculture, has been to convince that Government that the proprietary right in the occupied lands of the ryotwari districts of Madras belongs, independently of and antecedently to the settlement, to the ryot; that therefore any minerals which the soil may contain belong to him, and not to the State, but that the State has the same right to a share in the mineral produce as it has to a share in the agricultural produce of the soil. That, accordingly, the assessment of land should be calculated with reference to its mineral as well as to its agricultural value. But

as the settlement assessment did not, and indeed could not, take into account the mineral value, a rent or royalty should be levied, in addition to the fixed assessment, when minerals are actually worked. This royalty should be the same as that charged on the mining of Government waste land, or, at present, Rs. 5 per acre.

3. I am not disposed to question the practical conclusions at which the Government of Madras have arrived, which appear to be generally concurred in by the Government of your Excellency, and I therefore assent to the settlement of the question referred to in paragraph 9 of Lord Cranbrook's Despatch, No. 35, Revenue, of 25th March 1880, in the manner proposed.

4. I desire, however, to point out that on one point your Excellency's Despatch appears to be inconsistent with the views of the Madras Government. In the second paragraph of your letter you observed that "lands which have been occupied since the exclusive right of the State to minerals in Government waste lands was notified, present no difficulty, and the Government of Madras has directed that the instrument under which such lands are leased shall expressly reserve the exclusive right of the State to the subjacent minerals." But it is clear from paragraph 12, Clauses 5 and 6 of their Order of the 21st September 1882, that the Government of Madras disapprove of the instructions of the Board of Revenue (dated 4th August 1882) to the effect above mentioned. Their reasons are that the arrangement contemplated in those instructions will create two separate tenures of land under settlement, of the old lands, in which the minerals will belong to the ryot, subject to liability to assessment on account of them, and of the lands newly taken into occupation, in which the minerals will belong to the State, that this would be likely to create distrust in the minds of the ryots, and that it would lead to some confusion in the statistics of holdings.

5. These reasons appear to me to have much practical force, and, unless upon subsequent discussion, which is not before me, the Government of Madras have seen cause to alter their opinion, I am disposed to think that it would be better to adopt one rule for all occupied ryotwari lands in Madras, namely, that subjacent minerals belong to the holder of the land, subject to special assessment in the event of their being worked.

Order—dated 8th October 1883, No. 1248, Revenue.

Land Revenue, No. 176.

Communicated to the Board of Revenue with reference to G.O., 6th January 1883, No. 4.

2. In paragraphs 4 and 5 of the foregoing despatch from the Secretary of State, the views and intentions of this Government as to the incidents, in respect of subjacent minerals, of the ryotwari tenure of land are correctly stated; and His Excellency in Council therefore readily accepts the rule which it is proposed to apply to all such land, namely that subjacent minerals belong to the holder of the land subject to special assessment in the event of their being worked.

3. In future, therefore, there will be no distinction in regard to lands held on putta and falling under Clauses I and II (a) (b) (c) described in paragraph 3 of Board's Proceedings, 4th August 1882, No. 1931; * and a single form of putta should be adopted for all such land. The puttas already issued in revised forms for lands taken up since the orders † of Government directing the reservation of the State's rights to minerals, should be recalled and the lands should be added to the other and ordinary puttas of the holders.

4. The present orders do not touch the case of lands sold under the Waste Land Rules, which is provided for in the conditions of sale, according to the old or new forms.

5. The Board will submit a draft of a standing order embodying the present decision and defining the rights of ryotwari holders in respect of minerals. They will also consider and report their views whether, in addition to such general standing order, a clause upon the subject should be inserted in the putta; and if they think such necessary, they will submit a form for sanction. Such a clause should be as

brief and free from technicalities as possible, and should be a mere notification of the right of Government to share in mineral produce by the imposition of assessment thereon, if worked.

(True Extract.)

(Signed) H. E. STOKES,
Ag. Secy. to Gov., Rev. Dept.

To the Board of Revenue.

RESOLUTION—dated 26th November 1883, No. 3587.

Communicated to the Director of Revenue Settlement and all Collectors for information and guidance with copies of Government Orders marginally noted.

2. The Board presume that paragraph 2 of the Order must be considered as cancelling paragraph 2 of G.O., dated 18th December 1882, No. 1451. The effect of present orders, the Board take to be, what is described in paragraph 3 of Board's Proceedings, dated 15th November 1882, Mis. No. 8803, printed in the Government Order above referred to.

3. With reference to paragraph 4 of the present Order, the Board submit that it is deserving of consideration whether lands *sold* under the Waste Land Rules should be placed in an inferior position as regards reservation of mineral rights to waste lands taken up on ryotwari puttass. It is doubtless true that, the former description of lands being at the absolute disposal of Government, it is open to Government to impose any conditions they please on the purchasers, but it was originally the intention to ensure to the purchasers under the Waste Land Rules a greater permanency of tenure than is accorded to lands under ryotwari settlements which are liable to be periodically revised.

4. Adverting to paragraph 5, the Board propose to make the following modifications in their standing orders in view to defining the rights of ryotwari holders in respect of minerals:—

Clause (d) paragraph 1 of S.O. No. 1 will be altered as follows: "The assessment is to be fixed so as not to exceed half the net produce after deduction of expenses of cultivation, &c. It represents only the commuted value of the Government share of the surface cultivation, but if minerals are discovered and worked in the land, a separate assessment will be levied therefor."

The following will be added as paragraph 7 at the end of S.O. No. 25: "The registered puttadar is entitled to work minerals on his land, but is liable to pay therefor a separate assessment in addition to the usual assessment for surface cultivation."

5. The Board agree with Government in considering that the putta should be as brief and free from technicalities as possible, and beg their attention to the remarks in paragraph 1 of Board's Proceedings, 13th August 1881, No. 1729. They consider that if a note be inserted at the foot of every putta stating that "the assessment entered in the putta represents only the commuted value of the Government share of the produce on surface cultivation and that lands are liable to pay an additional assessment when minerals are discovered and worked in them," it would amply meet the requirements of the case.

APPENDIX.

G.O., dated 21st September 1882, No. 1008, Revenue.

READ—again paragraphs 4 and 5 of G.O., 7th October 1879, No. 2029:—

4. The Board will also cause further inquiry to be made as to the past history of the claims or rights of ordinary ryots to mines of metals and minerals found under their holdings, and report the result.

5. In all future settlements of land revenue the right of Government to minerals is to be asserted and reserved, or, where this is not possible, then the right of Government to put a separate assessment on mineral produce is to be so reserved.

READ—again paragraph 3 of G.O., 9th June 1880, No. 633:—

3. On the question of the rights of ordinary ryots in the minerals under their holdings, the views of the Board are awaited.*

* G.O.s., 7th October 1879, No. 2029, and 28th January 1880, No. 104.

READ—also the following Proceedings of the Board of Revenue, dated 12th September 1880, No. 1323:—

Read—the following replies:—

Letter from the Collector of Ganjam,	dated 19th Mar.	1880, No.	139.
" " of Vizagapatam,	" 12th July	" "	770.
" " of Godavari,	" 1st "	" "	214.
" " of Kistna,	" 25th May	" "	1158.
" " of Cuddapah,	" 15th Mar.	" "	72.
" " of Bellary,	" 21st April	" "	1380.
" " of Kurnool,	" 15th July	" "	283.
" " of Madras,	" 23rd Dec.	1879, "	435.
" " of Chingleput,	" 5th May	1880, "	224.
" " of North Arcot,	" 10th April	" "	127.
" " of South Arcot,	" 23rd July	" "	262.
" " of Tanjore,	" 17th April	" "	1720.
" " of Trichinopoly,	" 18th June	" "	587.
" " of Madura,	" 14th Aug.	" "	281.
" " of Tinnevely,	" 19th July	" "	439.
" " of Coimbatore,	" 11th Feb.	" "	19.
" Commr. of Nilgiris,	" 20th Aug.	" "	128.
" Collector of Salem,	" 26th June	" "	171.
" " of South Canara,	" 10th May	" "	886.
" " of Malabar,	" 26th April	" "	1033.

Resolution—dated 13th September 1880, No. 1323.

The foregoing papers are the replies of Collectors to paragraph 4 of G.O., dated 7th October 1879, No. 2029, directing further inquiry to be made as to the past history of the claims or rights of ordinary ryots to mines of metals and minerals found under their holdings. No fresh information of any value has been obtained, the universal reply being that no occasion has ever arisen for raising the question, no mines of any value having ever been discovered or worked on ryots' holdings. Several Collectors draw attention to the phrase usually employed in deeds of gift and conveyances of immoveable property executed by natives, under which the property in minerals and buried treasure is transferred, as indicating a general belief that such are not the property of the Sovereign. The Collector of Kurnool adverts to the terms used by former Governments in granting maniams, whereby the lands were made over with the eight sources of wealth including minerals, as showing that the State had always reserved to itself the right to minerals in Government lands, but this circumstance does not touch the question of the rights of ryots: the express grant of a right to minerals to an Inamdar does not necessarily imply a reservation in the case of land taken up by cultivators. The case of Malabar and Canara, where a proprietary right in the soil is conceded to the ryot, is different. The Collector of the latter District states that in some of the Mulpattas granted in respect of lapsed estates, minerals are distinctly mentioned in describing the rights conferred; as regards Malabar Jenmies, the Board have already in their Proceedings, dated 7th June 1880, expressed the opinion that they are entitled to such resources.

2. In reporting on the question in 1871, the Board submitted a précis of all the correspondence on record on the subject and remarked that "the Government of Madras have always acted upon the principle that except in Government waste, to which no classes of the community have, by custom or otherwise, any claim, the State has no right whatever to the produce of mines. The principle has always been affirmed that the grant of land, either under a Zemindari Sanad or an ordinary Ryotwari putta, conveys all the right, title, and interest which the Government was itself possessed of in such land, subject only to the payment of assessment." They were also of opinion that although there has been no understanding in this Presidency as to the Crown's exclusive ownership of all minerals below the surface, a legislative declaration to that effect would not be attended with any practical inconvenience. In again reporting on the subject in 1875 they remark that "the land-tax has essential reference to the occupation of the soil for agricultural purposes only and the right of Government to a share of the crop. Theoretically, therefore,

mineral wealth might be regarded as appertaining exclusively to the landlord, that is, to Government, but practically some arrangement of the nature of a division of the profits would probably commend itself as fair, and in accordance with the general feeling of the people."

3. The Secretary of State has now decided that as regards ryotwari tenures the State's rights to minerals should be presumed still to exist in the absence of any distinct judicial precedent or proof of established law or practice. There has been no judicial decision on the point, and there is no established custom as regards valuable ores, as they have not been worked to any extent in private holdings, but, on the other hand, no restriction has been placed on quarrying for stone and gravel, and this might be construed as a waiver of the State's claim to the products below the surface. On the whole, it would seem far preferable to take power to impose a royalty on all ores that may be worked instead of asserting an exclusive right to such products. The former course would secure all that the Board believe is desired for the State, while the uncertainty and distrust as regards putta tenures that would be created by the latter would be avoided.

4. With reference to paragraphs 7 and 8 of the letter from the Commissioner of the Nilgiris, the Board observe that, although the waste lands on the Nilgiris and in the Wynnad are not granted "in fee simple," the forms of indenture hitherto issued under the rules for the disposal of such lands expressly conveyed to the grantees "all products both above and below the surface" and their claim to any minerals which may be obtained cannot be disputed. Revised forms are now under the consideration of Government.

(A true Extract.)

(Signed) C. A. GALTON,
Secretary.

To the Secretary to Government, Revenue Department, with replies from twenty Collectors, in original, to be returned.

Copy to all Collectors.

" to the Government Solicitor.

" " Member of the Board of Revenue, in charge of Settlement Department.

Read—the following Proceedings of the Board of Revenue, dated 30th September 1880, Mis. No. 10623:—

Read—the following letter from J. GROSE, Esq., Collector of Nellore, to the Secretary to the Board of Revenue, dated Nellore, 14th September 1880, No. 3526:—

With reference to Board's Proceedings, December 11, 1879, No. 3309, I have the honor to report that the history of the district is devoid of any reference to the finding of mines and minerals in the holdings of ryots.

2. As no right over such mines has ever been asserted with respect to them by Government, it follows that the ryots have the full right at present, subject to the condition of the standing orders that remission or resignation shall not be allowed when the ryot has made a part of the land unfit for cultivation (as by digging quarries or mines).

3. On the other hand, I am aware of no instance in which an occasion for ryots to assert this right has arisen. There are disused copper mines at Garimanipenta (Udayagiri taluk) and Gogulapalli (Kanigiri taluk), but they belong to the zemindaris of Kalahasti and Venkatagiri; and iron sand used to be found and worked under the moturpha rules in various places, but always in waste and unoccupied land.

4. The tahsildar of Nellore informs me that when ryots transfer their land by sale or otherwise, they insert in the deed a stipulation to the effect that all minerals, hidden treasure, and water-sources found on the land shall be enjoyed by the transferee.

Resolution—dated 30th September 1880, Mis. No. 10623.

Submitted to Government in continuation of Board's Proceedings, dated September 13, 1880, No. 1323.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Secretary.

To the Secretary to Government, Revenue Department.

Read—Minute by the Hon'ble W. Hudleston, c.s.i., dated 7th June 1882.

Order—dated 21st September 1882, No. 1008, Revenue.

Miscellaneous.

Mr. Bernard's letter, No. 10, dated 1st September 1879, paragraph 5.
Mr. Bernard's letter, No. 1.39, dated 15th May 1880.

In the communications noted in the margin, the Government of India desire that further inquiry may be made concerning the past history of the claims or rights of ordinary ryots to mines and minerals found under their holdings, and that the same opportunity should be taken to consider and report upon the further question as to the terms on which mining privileges should be allowed in any cultivated or occupied lands wherein the mineral rights may be vested in Government.

2. The first of these questions came under the consideration of this Government in 1871, and in answer to an inquiry from the Government of India, they stated * that the Government did "not possess any exclusive right in minerals, and that no reservation of right of way over private lands as means of access to mines has been at any time made or claimed." They further recorded † the opinion that "any assertion of an exclusive right by Government in all minerals below the surface would be an invasion of the private rights of landholders, and would excite much dissatisfaction if it ever was acted on beyond the limits of what is termed Government waste."

3. In April 1875 this Government in passing orders on a report by Mr. King of the Geological Survey on gold-bearing rocks in the Wynaad, referred to the Board of Revenue, among other questions, that as to the claim of Government to any payment by ordinary ryots in respect of gold found on their lands.

4. In reply the Board stated that "the land-tax has essential reference to the occupation of the soil for agricultural purposes only and the right of Government to a share of the crop. Theoretically, therefore, mineral wealth might be regarded as appertaining exclusively to the landlord, that is, to Government; but practically some arrangement of the nature of a division of the profits would probably commend itself as fair and in accordance with the general feeling of the people."

5. In their letter of 23rd January 1877, No. 320, this Government forwarded the correspondence to the Government of India, with the remark that it seemed desirable that a distinct policy on the subject of mineral rights and the levy of a royalty, as regards the peculiar condition of this Presidency, should be laid down, and that ryots should not be disturbed, as it was doubtful whether the Courts would uphold "the right of Government," whilst resort to legislation, which would have a retrospective effect, did not commend itself to them.

6. From paragraphs 3 and 5 of the Government of India letter to this Government, dated the 1st September 1879, and paragraph 6 of their despatch to the Secretary of State therein quoted, this Government inferred that the supposed "paramount rights of the State" and "claims of the Crown and the public," to which the Government of India alluded, were the right that "when temporarily settled estates come under resettlement, the minerals, just like the other resources of such estates, constitute assets on which land revenue may fairly be assessed," and accordingly directed in the terms of paragraph 3 that "in all future settlements of land revenue, the right of Government to minerals is to be asserted and reserved, or, where this is not possible, then, the right of Government to put a separate assessment on mineral produce is to be reserved." Further, on a reference from the Board, this Government indicated ‡ their view that where no reservations of mineral rights has been made in the past (this is the case with lands held on ryotwari tenure in this Presidency) "the claim cannot be asserted against holders of land obtained under the waste land rules," in this last-mentioned case, it having been decided that the claim does not exist. They also expressed the opinion that the instruction of the Government of India, as to including minerals, in future resettlements, among the assets to be assessed to the revenue, included revision of assessment in ryotwari districts, and they added "all evidence seems to point to a right in the State to a share in the profits from minerals as much as from crops where not expressly ceded."

‡ G.O., 28th January 1880, No. 104.

7. In his reply to the Government of India, the Secretary of State has declared that in the absence of any distinct judicial precedent, or proof of established law or usage, the State has a right to minerals, except in permanently-settled estates, but has approved of the call by the Government of India, for further information from Madras, in regard to the rights of ordinary ryots to minerals in putta land. Further on, he observed that should gold be discovered in such land, he presumed that mining privileges would be granted, with due regard to the rights of cultivating proprietors, on terms similar to those now approved for Government lands.

8. In communicating this despatch, the Government of India put the second question noted in paragraph 1 *supra*, and remarked that the general ruling that grantees of waste lands, in the absence of any provision to the contrary, are entitled to minerals is "not to apply to ordinary cultivating leases made in the course of settlement operations or in the routine of district revenue work." * and that "where proprietors of temporarily settled lands have been judicially held to be owners of minerals contained therein, such mineral resources may be taken into account on resettlement;" * but that "in the absence of a judicial decision, the presumption will be that such landholders are not owners of the minerals underneath the surface of their lands."

9. The outcome of these instructions is that the mineral rights in zemindaris are to be left to the Zamindar, and in Malabar district to the Jemmies whom Mr. Logan considers equivalent to the Zamindar elsewhere; the Wargidars in South Canara, whose full proprietary rights were beheld with admiration by Sir Thomas Munro, not being mentioned; that ordinary ryots whom the Secretary of State designates "peasant proprietors" possessing "under ordinary terms of

* See—but in numerous cases 'formerly' would extend to hundreds and even thousands of years.

settlement the proprietary rights in lands formerly "waste and unoccupied," are to be held to have no rights to minerals; that mining privileges may be granted to third parties in the ryots' putta lands; that European planters and others who have obtained land under the waste land rules, prior to their recent modification, do possess the right to minerals; and that in future, in "waste land" deeds, and in pattas for extension of cultivation, the minerals shall be expressly reserved to Government.

10. In their report now under consideration, the Board point to "the phrase (to which attention has been called by several Collectors) usually employed in deeds of gift and conveyances of immovable property executed by natives, under which the property in minerals and buried treasure is transferred, as indicating a general belief that such are not the property of the Sovereign," i.e., that the landowners have at least some interest in them. As to "distinct judicial precedent or proof of established law or practice" (paragraph 7 *supra*), the Board say "there has been no judicial decision on the point, and there is no established custom as regards valuable ores, as they have not been worked to any extent in private holdings; but, on the other hand, no restriction has been placed on quarrying for stone and gravel, and this might be construed as a waiver of the State's claim to the products below the surface."

11. The Board's recommendation is:—"on the whole, it would seem far preferable to take power to impose a royalty on all ores that may be worked, instead of asserting an exclusive right to such products. The former course should secure all that, the Board believe, is desired for the State."

12. The Hon'ble Mr. Huddleston, in his able and exhaustive minute read at the head of these proceedings, shows by citation from the reports of numerous and weighty authorities—

- (1) that the State cannot, without violating the rule and practice dating from time immemorial, assert in this Presidency an exclusive right to minerals in occupied lands, but that it is fully entitled to a share in such products as in any other produce of the land;
- (2) that subject to the payment of a stated proportion of the produce to meet the necessities of the administration, the proprietary right of the ryot in the soil of his holding is absolute and complete;
- (3) that he is able to mortgage, sell, devise or otherwise alienate the land;
- (4) that on these principles property has been changing hands from time immemorial, and for the Government to put forward a claim now which has never been asserted and which does not rest on law, practice, or precedent, would undoubtedly raise a feeling of distrust and discontent which would take long to allay;
- (5) that it would be straining the State's privileges to attach the condition of recognition of any exclusive right to minerals to the terms on which land generally may be newly occupied, although in the interests of the general public, it may, in particular instances, be justifiable to do so, in view to the development of ascertained mineral resources; and
- (6) that as regards the vast bulk of the land occupied or likely to be required for cultivation, such reservation would be absolutely objectionable and would only have the effect of creating widespread distrust in the minds of the ryots.

13. In reviewing all that has been urged by the different authorities, the Right Honorable the Governor in Council can find nothing on record to show that the Government of this country, Native or British, have ever asserted an *exclusive* right on the part of the State to the mineral products of the soil in the occupation of the peasant proprietors. He is of opinion that the contention that the payment of assessment, i.e., the commuted value of the State's share in the produce, merely confers the right on the ryot to cultivate the surface, could only be upheld on the hypothesis that the State was the owner of the soil and the ryot its tenant; a supposition for which there is not sufficient foundation. There being a text in ancient Hindu law* defining the extent of the State's right in minerals, and the law of the Mahometan conquerors, who immediately preceded us, limiting that right to a double tithe, it follows that if the Government are to take action in the direction indicated by the Secretary of State, they must be prepared to show that the British Government have not recognized the law and practice and that the proprietary right of the State in the soil and its exclusive right to products below the surface, have been from time to time asserted and acted on. This does not seem to be possible, and, as pointed out by the Hon'ble Mr. Huddleston, there is, so far as it goes, some direct evidence to the contrary in the negotiations between this Government and the Indian Iron Company, dating 1833—37, as well as in more recent cases of applications† for mining privileges, where this Government has uniformly ruled that the applicants must make their own terms with the holders of occupied lands.

* Manu, chapter VIII, v. 39.
Do. do. VII, v. 130.

the law of the Mahometan conquerors, who immediately preceded us, limiting that right to a double tithe, it follows that if the Government are to take action in the direction indicated by the Secretary of State, they must be prepared to show that the British Government have not recognized the law and practice and that the proprietary right of the State in the soil and its exclusive right to products below the surface, have been from time to time asserted and acted on. This does not seem to be possible, and, as pointed out by the Hon'ble Mr. Huddleston, there is, so far as it goes, some direct evidence to the contrary in the negotiations between this Government and the Indian Iron Company, dating 1833—37, as well as in more recent cases of applications† for mining privileges, where this Government has uniformly ruled that the applicants must make their own terms with the holders of occupied lands.

† G.O., 14th June 1864, No. 1013, R.D.
" 23rd January 1863, No. 195, R.D.
" 28th April 1869, No. 1151, R.D.
" 22nd September 1878, No. 1325, R.D.
" 2nd January 1879, No. 2, R.D.

14. Fixity of tenures at beneficial rates is no doubt the Indian peasants' charter from the days of Manu, and their proprietary rights, so long as they pay the State's dues, are in no way inferior to those of Zamindars holding under the permanent settlement and of the purchasers of lands under the old waste land rules. The line of action proposed is, therefore, inequitable in the opinion of this Government, the only right that can be asserted being that of the State to share in the produce of the mineral resources in the occupied holdings. On the other hand, the Right Honorable the Governor in Council observes that the bulk of the ryots (two millions in number, one and a quarter millions paying 4 rupees per annum on the average, the remainder an average of Rs. 36) who might cultivate the surface of a gold mine, are hopelessly without resources, and it would not be reasonable to suppose that they would work or get worked the mines discovered to exist in their holdings.

15. But the alternative is of course open to the ryot of selling his land to the capitalist in search of a gold-mining speculation. The question would be commonly settled in this way, when the transferee would be required, before he commenced mining, to take the ordinary gold-mining lease from Government, the annual *reddendum* of 5 rupees an acre being payable in addition to the assessment of the land. The case may of course be imagined, though it would not be a common one, of a ryot, with an undeniable gold reef running through his fields, obstinately declining to part with his interest in it, while quite unable, as no ryot would be able, to work it himself. Should such cases become numerous or important, legislation might be resorted to to remedy the inconvenience. It is not, however, to be expected that a ryot will be long found to resist the potentiality of becoming rich beyond the wildest dreams of his ambition; and all that this Government have now to explain is that besides the assessment already paid for occupied land, they would limit their share of the mineral produce of such land to the rent per acre which they demand from miners working in waste lands, the property of Government.

(True Extract.)

(Signed) E. F. WEBSTER,
Secy. to Gov., Rev. Dept.

To the Board of Revenue, with twenty original enclosures.

APPENDIX.

G.O., dated 18th December 1882, No. 1451, Revenue.

Read—the following Proceedings of the Board of Revenue, dated 15th November 1882, No. 8803, Miscellaneous:—

Read—G.O., dated 21st September 1882, No. 1008, Revenue Department.

Resolution—dated 15th November 1882, No. 8803, Miscellaneous.

The Board beg to be informed whether the final orders of the Government of India should be awaited before issuing definite instructions to Collectors for giving effect to the views enunciated by Government in the foregoing order, or whether instructions may at once be issued to them.

2. The Board desire to take this opportunity also to inquire whether, having regard to the propositions 5 and 6 mentioned in paragraph 12 of the order, and the recognition of the principle that the exclusive right of Government in the soil of waste lands ceases the moment it is occupied, it is the intention of Government to claim in regard to waste lands granted hence-forward for cultivation only a right to a share in the minerals found in them instead of an exclusive right to them, which is now asserted with reference to the instructions in G.O., dated 28th January 1880, No. 104. If this be so the distinction made in the headings of columns 5 and 6 of the form of putta proposed in Board's Proceedings, 4th August 1882, No. 1931, September 1882, No. 2314, the latter portion alone will have to be retained. Lands dealt with under the waste land rules in the Nilgiris and elsewhere are not strictly entitled to the same concession, but it is a question whether they should be placed in an inferior position as regards mineral rights to lands granted under the durkhast rules. If the same concession is extended to the former class of lands also the clauses in the forms of title-deeds sanctioned in G.O., dated 7th June 1881, No. 895, reserving the exclusive right of Government to minerals found in such lands will have to be modified.

3. The Board presume that the conditions for leasing out for mining purposes alone waste lands for a limited term will still subsist, the difference being that if the lands are taken up for cultivation under the durkhast rules the durkhastdar acquires an indefeasible right to the land and its minerals on payment of the usual assessment *plus* the mining rate, whereas if he takes up the land for mining purposes alone he acquires no right to the land except for the term limited, and is not obliged to pay anything beyond the mining rate.

4. The Board request to be furnished, if Government see no objection, with a copy of the Hon'ble Mr. Hudleston's minute on the important question of the rights of ryots to the land in their occupation.

(A true Extract.)

(Signed)

E. GIBSON,
Acting Secretary.

To the Secretary to Government, Revenue Department.

Order—dated 18th December 1882, No. 1451, Revenue.

Miscellaneous.

The Board will defer issuing any detailed instructions to give effect to the principle laid down in G.O., 21st September 1882, No. 1003, until the Government of India have had an opportunity of expressing their views on the question of the ryots' right to minerals in lands which they held on putta before the Government notified their intention to reserve an exclusive right therein.

2. With reference to paragraphs 2 and 3 of the Board's Proceedings, it is observed that the conclusion arrived at by this Government is contained in paragraph 14 of their order and not in paragraph 12. It refers to "*occupied holdings*" only, and the rules and instructions previously issued with respect to waste lands at the disposal of Government remain unaffected.

3. A copy of the Hon'ble Mr. Hudleston's minute will be furnished to the Board as requested by them.

(True Extract.)

(Signed)

P. P. HUTCHINS,
Ag. Secy. to Gov., Rev. Dept.

To the Board of Revenue,
with minute by Hon'ble W. Hudleston.

(A true Copy and Extract.)

[Signature]
Acting Secretary.

To the Director of Revenue Settlement,
„ all Collectors,
„ the Secretary to Government, Revenue department.

Exd. C. Howarth.

Revenue Department

No. 1850

REVENUE DEPARTMENT.

1883.

Board of Revenue,

MADRAS.

Print

Printed December . th.

1883

(Proceedings, 26th Nov. 1883, No. 3587.)

Depd 8/12

1000/100

S. J. S. S. S.

100000

Communicating, with remarks, to the Director of Revenue Settlement and all Collectors Government Orders on the subject of ryots' rights to minerals.

NOTE FOR THE SECRETARY.

The words circled
by pencil in the
draft have been
omitted in copy

W

235

121. 121. 121.

121.

26-12-83. R.C. 31-12-83. R.C. 2-1-84. R.C. 3-1-84.
31-12-83. R.C. 22-1-84. R.C. 23-1-84. R.C. 24-1-84.
R.C. 25-1-84.

Ref. 121

个

Me

* Lyra but it is misleading
 to quote the despatches in
 this way without at the same
 time pointing out that the
 views of the Home Govt have since
 been modified to a very important
 extent. When that despatch
 was issued ^{more than 3 years ago} the Home Govt asserted
 the ^{absolute} right of the State to minerals
 throughout the Empire and
 in permanent settlements.

* Despatch to the Govt of India of ^{the} 11th Dec, and any modification
para 64 that Govt's letter-para, of the reservation seems
in No 9 of June 1880, to 633.

relates. His pretension to require the previous
has now been whittled down to the sanction of that authority.
until no claim is advanced.

anywhere else in the Empire 2. The Secretary of State's
office area purchased under the instructions on this subject
the waste land rules - The

proposed reservation in fact did not leave the question
 bound on the Indians is in
 the hands of the S. V. opinion - open for discussion. It

It is a fact that whilst we are with regard to lands
a shade of reason we have held on ryotwari tenure
the three systems

no less than three efforts. That a report was asked.
in force in regard to the rights of landed proprietors and was furnished, and

1. On the plains it has been (G.O. of 8. Oct. 1883 No. 1248)

26-12-83 R.C. 31-12-83 24-1-84. 34-1-84
31-12-83 R.C. 22-1-84, 23-1-84 R.C. 1-2-84

is, that subjacent minerals belong to the holder of the land subject to special assessment in the event of their being worked, and with the discretionary power conveyed in the Secretary of State's despatch on this subject, the right thus conceded to ryot proprietors in regard to land already occupied has been now extended (same go) to village waste to be hereafter occupied as well as that occupied since the Govt. notified their intention to reserve mineral rights.

3. The principle which underlies the concession to ryot proprietors is the recognition of a vested right as inherent in the institution of village communities, and for the purpose of the whole subject brings into

been finally decided that they belong to the subject as special assessment of worked 2. On the Nilgiris, the Theroor the same held land on putta previous 1877 is in the same position: but 3. He also got land on putta subsequent to that year in the above named localities, or he who purchased it under the Waste Land Rules is declared to have no right whatever therein. What end is likely to be served by this inconsistent & anomalous distinction? Why should the putthadar who acquired his land subsequent to 1877 on the Nilgiris be on a different footing to the putthadar before that date - Why should the purchaser of land under the Waste Land Rules have a right denied him which is conceded to the putthadar who got his land prior thereto and why should the exclusive right of the State & Minerals be enforced on the Nilgiris & not on the Palnis - The whole subject brings into

anomalies and shall anomalies serve no use but purpose they should go - The proposal to enforce the reservation in land held on putta in the Nilgiris is dead against the S.D. views who says that "one rule should be adopted for all occupied ryotwari land" - Having abandoned the idea of the exclusive right of the State & Minerals to the Empire I feel somewhat the more of the despatch that the Home Govt. would not come to reserve it in the putthadar area covered by the Waste Land Rules. I would gladly concede everything tending to simplify & uniformity of procedure. We require no prospective right for the holder under Waste Land Rules & a special arrangement as is the putthadar of the other works his minerals

21/11

Where, as in the hill tracts, such right does not exist, that the land is held to be at the absolute disposal of the Govt., and is sold in fee-simple under the rules for the sale of waste land. In the case of land thus sold, the purchaser can have no right but what is conveyed to him by the sale, and there seems, therefore, to be nothing inconsistent or anomalous in attaching to the sale such conditions as the Govt. deem proper.

4. An anomaly would appear, however, if waste land of the same class and at the same locality were both sold under the waste-land-sale rules and granted on putta, with

minerals when worked
for, and ^{the sales} they would
then naturally fetch
higher prices. The result
would necessarily be
that all land containing
auriferous rocks will
be bought under the
waste-land-sale rule,
and probably none
such will be left at
the disposal of Govt. to
be granted on mining
leases for a definite
term of years as is done
now, under instructions
from the Home Govt.

J.W.

* For form of mining
leases as finally settled
vide G.O. of 25 May 1882
No. 544.

15-11-83. RC-23-11-83. RC-10-12-83.
 R-23-11-83. R-22-12-83.
 R-17-12-83. R.C. 26-12-83.
 R-31-12-83.

[illegible]

The second ques-
tion is whether the
anomalous position
of West can be the

acquisition of which
after a certain date
leaves the purchaser
without any mineral
rights whatever
requires a remedy
in the direction of
placing such land
on a footing similar
to rights in lands
generally.

The Government
have lately ruled
that their recent
orders should not affect
such lands. I am
not prepared to
say that there is
no grievance but
I would leave the
Board or those
interested to bring
the matter forward
and say nothing
about it now.

21/12

C. No 7850 has been
now circulated as
bearing on the ques-
tion of the treatment

G.O. 8 Oct 83 No 1248
para 4

* Bd Pro 20 Nov 83
No 3587 - recd 10 Dec 83

17-11-83 17-11-83
R.C. 26-12-83
R. 31-12-83

of land sold under
the Waste Land Rules.

The Board here
submit that it is de-
serving of consideration
whether lands sold un-
der the Waste Land
Rules should be placed
in an inferior position
as regards reservation
of mineral rights to
waste lands taken
up in the future put-
ting. They had made
a similar remark
in a previous paper
at a time when it was
in prospect to confine
the concession of sharing
to holdings already
occupied.

Now that it has
been conceded that
not only as regards
lands already occu-
pied in the future to-
more but in all cases
of similar future oc-
cupancy the holder
is to have a right to
subjacent minerals
the argument in fa-
vor of relieving the pur-
chaser of waste land
under the Waste Land

Bd Pro 15 Nov 82 No 8803
in G.O. 18 Dec 82 No 1451

rules from the dis-
ability created only
in 1879 is decidedly
strengthened.

I agree with the
Honble Mr Sullivan
in thinking that
the Secretary of State
should be addressed
accordingly. The cir-
cumstances have
so changed since
the correspondence
commenced that
I don't suppose His
Lordship would
think the proposal
to put all classes
on the same footing
at all inequitable.

29/10

I hold to my opinion that
steps should be taken to get rid
of an anomaly which without
any reason whatever places
one class of taxpayers at a
disadvantage as compared
with the others. A raiyat is merely
a subject - one whom the State
is bound to protect and it is
for the rights of the subject that
I venture - I am sure the matter
has only to be brought before
R.C. 2-1884 R4-1-84
R.C. 31/12-83 R.C. 2-1884 R4-1-84
R.C. 31/12-83 R.C. 2-1884 R4-1-84
R.C. 31/12-83 R.C. 2-1884 R4-1-84

In Council
agreed to let
member submit
all these matters
to the Secretary
of State

I don't see why the
question need be raised.
Might it not be left
where the Sec of State has
left it? I should doubt
if they will blame us at the
India Office for storing it
again without manifest
reason. The "right" has been
recognized in the ryot of the
plains who may be supposed to
have had it when Alexander
was still the pupil of Aristotle. We
do not give it to the immigrant
population of the hills black-skin-
ned or white-skinned. They are
not ryots, why more than
to "Earth to further ryots' rights?"
Council - 29/10

The Right Honble the Sec of State
for perusal of officers
concerned by them
members. 29/10

When we talk of "rights" apart
from legal rights we get out of
politics into metaphysics. The
ryots' "rights" come from custom having
the force of law. Who gave the immigrants
into the hills the "rights" of which my hon
colleague speaks?

Dr J. G. O.

C. N. 6355

Board's Prop of 6th Octr
1883 N. 3050.

The Board will be
referred to G. O. of 8th
Octr 1883 N. 1248.

The form of pattern
approved in G. O. of 6th
Jan 1883 N. 4 is applicable
only to the Kitepin and
Shenaroy hills and to the
Higraad.

I approve this order.
We could not surrender
the privileges with respect
to minerals now recognized
in our Ryots without
giving again to the Secretary
of State & I doubt much
whether he would extend
them. Anomalies there
are no doubt but history
explains which policy I
think forbids their abolition
in the way suggested by
my hon. Colleague Mr Sullivan.

The form of pattern approved
in G. O. of the 6th Jan reserves
mineral rights absolutely in
the case of lands occupied
on pattern since the Govt intimated
in 1879 their intention to make
such reservation. In G. O.
of the 8th inst. the Govt concede
these rights to ryots subject
to a special assessment when
minerals may be worked for.

29/10/83

Rules from the dis-
ability created only
in 1879 is decidedly
strengthened.

I agree with the
Honble Mr Sullivan
in thinking that
the Secretary of State
sh^d be addressed
accordingly. The cir-
cumstances have
so changed since
the correspondence
commenced that
I don't suppose His
Lordship would
think the proposal
to put all classes
on the same footing
at all inequitable.

29/10

I hold to my opinion that
steps sh^d be taken to get rid
of an anomaly which involves
any reason whatever places
one class of taxpayers at a
disadvantage as compared
with the others conceded
to others. A raiyat is merely
a subject - one whom the State
is bound to protect and it is
for the rights of the subject that
Parliament - I am sure that matter
has only to be brought before
P.C. 2-1884 R 4-1-84
P.C. 31-12-83
11-12-83
31/12/83
12-12-83
R 31-12-83

In Council.
agreed to let
nothing stand
till there is a
decision of the
Council.

I don't see why the
question need be raised.
Might it not be left
where the Sec of State has
left it? I should doubt
if they will blame us as the
India Office for storing it
again without manifest
reason. The "right" has been
recognized in the ryot of the
plains who may be supposed to
have had it when Alexander
was still the pupil of Aristotle. We
do not give it to the immigrant
population of the hills black-skin-
ned or white-skinned. They are
not ryots, why more Heaven to
Earth to give them ryots' rights?
Council - 29/10

The Right Honble the Secy of State
for India
for perusal of opinions
recorded by Hon.
members.

When we talk of "rights" apart
from legal rights we get out of
politics into metaphysics. The
ryots' "rights" come from custom having
the force of law. Who gave the immigrants
into the hills the "rights" of which my hon
Colleague speaks?

Draft G. O.

C No 6353

Board's Prop of 6th Oct
1883 - No 3050.

The Board will be
referred to G. O. of 8th
Oct 1883 No 1248.

The form of pattern
approved in G. O. of 6th
1883. No 4 is applicable
only to the Kitepin and
Shenavoy hills and to the
Wiquead.

I approve this order.

We could not surrender
the privileges with respect
to minerals now reserved
in met given to Ryots without
going again to the Secretary
of State & I doubt much
whether he would act on
them. Anomalies there
are no doubt but history
explains ^{the anomalies} which policy I
think forbids their abolition
in the way suggested by
my hon Colleague Mr Sullivan.

The form of pattern approved
in G. O. of the 6th Jan reserves
mineral rights absolutely in
the case of lands occupied
on pattern since the Govt int^d
in 1879 their intention to make
such reservation. In G. O.
of the 8th inst. the Govt concede
these rights to ryots subject
to a special assessment when
minerals may be worked for.

29/10/83

Q. O. last mentioned makes no local distinction, and it would seem, therefore, that the concession is applicable to lands held on patte everywhere; but it is presumed that a local distinction is intended. vide Q. O. of 24th Sep 1883 N° 1166.

Moreover the extension of the concession to hill tracts must lead to anomalous results. — Mineral rights wholly and absolutely denied to purchasers under the waste land-sale rules, will be conceded to those holding on patte. Indeed no one will then purchase under the waste land rules and every one will ask for a patte. This anomaly may be prevented ^{for the future} by an absolute prohibition of grants of land on patte in the hill tracts but lands are ^{already} held to a considerable extent on

patte on the Nilgiris and in the Wynad, and in many cases by the same class. as those who have purchased under the waste land rules. The concession to patte in the plains does not lead to such anomaly, because there have been ^{few} ~~no~~ sales except for buildings and gardens, under those rules, in the plains.

If, however, it is intended to make the concession general, para 3 of Q. O. of 24th Sep 1883 N° 1166 must be recalled.

61x
= both for the
who have to pay for
the land. as those
as those who have purchased
under the waste land rules.
The concession to patte in the
plains does not lead to
such anomaly, because
there have been ^{few} ~~no~~ sales
except for buildings and
gardens, under those rules,
in the plains.
I think we should
have land purchase
under the same
rules as the waste
land sale.

But there is one more
a provision in the
the Q. O. is intended
that in all cases
the land is to be
subject to the
waste land sale
rules. The concession
to patte in the hill
tracts is intended
to be a special
provision for the
hill tracts. The
concession to patte
in the plains is
intended to be a
general provision.
The concession to
patte in the hill
tracts is intended
to be a special
provision for the
hill tracts. The
concession to patte
in the plains is
intended to be a
general provision.

Letter of Father from
Algeria dated 2, and
reception of mineral
rights. 1860

John W. Aldrich

Draft G.O.

No 121 of 23-1-84.

Read again G. O. 8th

October 1883 No. 1248.

Read also:—

Received September 17,

~~C. 6355 - Board's Pass & Violation - 3000~~

С № 7850

Bulls Pass
20 - 21 726 hours 1883
h. 358

The G.O. read above is not applicable to the Khyasad or the hit giro and Sherwaroy hills, where mineral rights will continue to be fully reserved in ^{the case of} regard to lands occupied on patta, as well as ^{of} those sold under the waste land sale rules, since the Govt. notified their intention to reserve such rights. As respects ~~them, in the case of~~ these tracts, therefore, the form of patta approved in G.O. of ³ 6th January

C22-10-83.
P24-10-83.
R2-31/2/83

January 1884¹³ he ¹³/₄
must be adopted.

2. In revising clause (d) para 1 of their S.O. he 1, the Board will accordingly except the said tracts from the terms of the proposed additional provision, and distinctly indicate exclusive reservation. Of course, the tracts above named will be excepted also from the para which the Board propose to add to S.O. he 25.

3. This disproves of paras 2-4 of the Board's Prop. of 26th Nov 1883.

4. The Govt approve the Board's suggestion in para 5 of their Prop last quoted, as regards the clause to be inserted in the ryotwar patta. Care must be taken

to the Board of Revenue
Dec 25-1-84
P.C. Dec-8-2-84
50 printed copies
Dec 8-2-84

* in 90 & 1000

taken that this clause is not printed in the form of patta for the Hill tracts above specified.

5. Ordered that the following letter be despatched to the Govt of India (H.S. 122723-1-84) To The Secretary to the Govt of India, Revenue and Agric. Dept.,

Sir,
I am directed to acknowledge the receipt of Mr. Holderness's letter of the 14 August last he 27-9-83 giving cover to copy of a despatch from the Secretary of State respecting the rights of ryot proprietors to minerals under their holdings.

2. In reply I am to say that in paras 4 & 5 of the despatch, the views and intentions of the Govt as to the incidents in respect of adjacent minerals

minerals, of the ryotwari
tenure of land in this
Presidency, are correctly
stated; and readily
accepting, therefore, the
rule suggested vizt,
that, in the case of all
such lands, subjacent
minerals belong to the
holder of the land subject
to special assessment
in the event of their
being worked, His Excellency
in Council has issued
orders in accordance
therewith.

3. From this general
Concessions however, have
been excepted the Hill
tracts, vizt the Wynad
and the Nilgiri and
Shervaroy hills, for the

Reason not only that the
defined village
no antecedent village
institutions such as
rights such as those as
are recognised in the
plains

plains ^{and also because} ~~exist in these~~
tracts, but that the
extension of the Concessions
thereto would ^{Conflict} ~~clash~~ with
the reservations which
is made there in the
case of lands sold under
the waste land sale rules
(~~the same~~ ^{Here all waste land} being held to
be at the absolute disposal
of Govt.), as well as
with the mining leases
now granted under
the instructions of the
Secretary of State - vide
despatch to the Govt. of
India, of 25th March 1880
No. 35 - paras 7 & 8, and
letter from the Govt. of
India to Madras, of 15th
May following No. 137 -
para 7.

2 P. 273 and 1880 No. 137
re Madras of 15 May 1880
No. 137.

M.S.

90

Long Roads 13
Draft G. O.

No 121 of 23.1.84.

Read again G. O. of 8th Oct
1883 No 1248.

No 7860 { Board's Progs of 26 Nov 1883
No 3587. —

The Board's presumption
in para 2 is correct.

2 The Govt are not
prepared to at present to
enter into a consideration
of the Waste Land sale
rules in their relation to
the preservation of minerals.

3 The Board's suggestion
in paras 4 and 5 with
respect to the modification
to be made in their S. O.
Nos 1 & 25, and the clause
to be inserted in the
form of notation pattern
are approved and sanction-
ed.

4 Ordered that the

Circulated to the Hon. Mr.
Lulliam again, the working
of para 2 of the letter to
the Govt. having been modi-
fied with reference to his
note. There is.

Printed to
MS 1/1
R. 20/1

ccc
4/13

following letter be despatched
in: - (H. S. No 122 of 23.1.84)

No 122.

to L.S. Nos. 7.3-84
to the Board of Revenue
P.C. No. 15-3-84
50
2

The Secretary to the

Govt of India,

Rev & Hon^{ble} Secy.

I am directed to
acknowledge the receipt
of Mr. Holderness's letter
of the 14th August last,
No. 27-7.3 M, giving
cover to copy of a Despatch
from the Secretary of
State respecting the
rights of ryot proprietors
to minerals under
their holdings.

2. In reply I am to
say that, in paragraphs
4 and 5 of the Despatch,
the views and intentions
of this Government
as

as to the incidents, in
respect of subjacent minerals,
of the ryotwari tenure
of land in this presidency,
are correctly stated; and
readily accepting, therefore,
the rule suggested, viz.,
that, in the case of all
such lands, subjacent
minerals belong to the
holder of the land subject
to special assessment
in the event of their
being worked, His
Excellency in Council
has issued orders in
accordance therewith.

Hd

23.1.84.

7/2

[Faint, mostly illegible handwritten text on the left page]

[Faint handwritten text at the top of the left page]

[Faint handwritten text in the middle of the left page]

[Faint handwritten text below the middle of the left page]

[Handwritten note in the lower right of the left page]
P. H. [unclear] 7850 in
[unclear] 5/3

19272

25/7/9

5-6-99 ✓

21-1-00 ✓

21-4-09 ✓

9-1-12 ✓

24-12-13 ✓

23-3-14 ✓

8-12-14 ✓

23.11.25 II ✓

13.11.26 ✓

Original

**Govt. of (1884) Madras.
REVENUE.**

Issued

Recd.

Encl.

G.O., 23rd January 1884, No. 121.-/22

JANUARY.

Ryots' Rights in Minerals.

Proposed revision of Standing Orders Nos. 1 and 25 with respect to — and the suggestion as regards the clause to be inserted in the putta, approved and sanctioned.

