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MADRAS RECORD OFFICE

Government of Madras

Revenue DEPARTMENT

G.O. No. ~~B.P.~~ No.	132	Press ~~Mis.~~
Dated	1 - 2	- 1882 ~~195-~~ .

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

1st February 1882, No. 132.

Read again—

G.O., dated 21st May 1881, No. 818,

Endorsement of the Officiating Under Secretary to the Government of India, dated 30th August 1881, No. 15.

Read the following :—

From the Government of India, Revenue and Agricultural Department (Minerals), to the Right Honorable the Marquis of Hartington, Her Majesty's Secretary of State for India, dated Simla, the 27th August 1881, No. 2.

My Lord Marquis,—In acknowledging the receipt of Mr. Brough Smyth's Report on the Wynaad Gold-fields, Your Lordship* expressed a wish to be informed of our conclusions as to the terms on which mining leases and licenses to prospect for gold should be granted in the Madras Presidency. We now have the honor to acquaint Your Lordship with the present state of our correspondence on this subject with the Government of Madras.

* No. 47, Revenue (Minerals), dated the 27th May 1880.

2. A draft form of indenture for mining leases in the Wynaad was framed several months ago by the Madras law officers, and received the concurrence of the Madras Government. When it came under our consideration in January last, only two points seemed to require special notice. Firstly, the Madras Government had intimated to us that they were not disposed to insist on the payment of rent in advance; and secondly, it left to our decision, without any specific recommendation, the question whether the Local Government should be declared to be the final arbiter in cases of dispute as to the fulfilment or otherwise of the conditions of the lease. On the first point, we agreed in the view that it was unnecessary to require the rent to be payable in advance. On the second point, our Advocate-General advised that a clause providing that the Local Government should be the final arbiter was not unusual in Government contracts, and might save expense and trouble. An addition to this effect was accordingly made to the indenture, which was sanctioned by our Government. A copy of the form is enclosed for Your Lordship's perusal; but, as we are about to explain, several questions, more or less affecting its substance, have since been reopened.

3. There was little difficulty in dealing with the indenture when it was before us, because all the more important conditions had already been accepted—partly in the correspondence with Your Lordship* of 1879-80, and partly in the discussion of a notification of the Madras Government,† which it issued on the 1st October 1880, and which we subsequently approved. We shall eventually furnish Your Lordship with a full print of the papers; but for the moment, to obviate delay, we would refer to the pages, noted in the margin,‡ of the May, November, February, and March volumes of our Proceedings in the Minerals Branch of the Home, Revenue and Agricultural Department for 1880 and 1881.

* Despatch of the Government of India, No. 7, dated the 1st September 1879.

Reply of the Secretary of State, No. 35, dated the 25th March 1880.

† *Vide* pages 473-74, *Fort St. George Gazette*, of October 12th, 1880, copy of Notification enclosed.

‡ Volume for May 1880, pages 37 and 38.
" Nov. 1880, pages 99 to 108.
" Feb. 1881, page 23.
" March 1881, pages 31 to 43.

4. We have now received a communication from the Government of Madras, No. 819, dated 21st May last, which necessitates the reconsideration of a good many

particulars in connection with these mining leases. We transmit a copy of this letter and of its accompaniments for Your Lordship's information and instructions. The Governor of Madras in Council holds that the existing rules tend unduly to restrict the gold-mining industry; and although we do not propose to comment in detail upon all the facts and arguments by which this conclusion is supported, we desire briefly to record our opinion both on the points which have been specially referred to us by the Madras Government, and upon one or two more with which it has dealt upon its own authority.

5. But before making any specific recommendations, we would briefly remind Your Lordship of the general objects which we have kept in view. The terms proposed for mining leases in paragraphs 9 and 10 of our despatch of the 1st September 1879 were settled after frequent personal conferences with Mr. Brough Smyth, who was called to Simla for the purpose. Our desire, as we stated at the time, was to render the mining leases as simple and as liberal as possible without encouraging undue speculation. The present proceedings of the Madras Government have originated in a memorial on the part of the Nílgiri and Kótagiri Planters' Associations and of others interested in mining in the Nílgiris and the Wynaad; and we think there is much in the character of the grievances asserted to suggest that the memorialists are at least as anxious for greater liberty to speculate with the concessions made to them as for the removal of any restraints which may have been found, in fact, to cramp the industry. In 1879 the report of Mr. Brough Smyth had led to the belief that the returns from gold-mining enterprise in the Wynaad would be rapid and large. This expectation has not been quickly fulfilled, but there are obvious inducements to seek immediate profits by the readier method of promoting companies and selling or otherwise transferring the lands ostensibly acquired for mining purposes. The 8th paragraph of the letter of the Government of Madras indicates the nature of this process, as it appears that individuals take up 30-acre grants in close proximity to each other and then transfer them to companies.

6. Nevertheless, in deference to the opinion of the Government of Madras, which possesses the advantage of dealing directly with the gold-mining companies and of knowing the local circumstances, we do not object to some wider discretion being conferred upon the Local Government in the matter of granting mining leases.

Looking at their proposals from this point of view, we would offer the suggestions contained in the subsequent paragraphs of this despatch on the following points in the order in which they are stated:—

(i.) the maximum limit of the area to be included in each grant;
(ii.) whether such maximum having been fixed, the lessee shall be prohibited from obtaining any further area;
(iii.) the labor requirement and the proposal to impose a royalty in lieu of it;
(iv.) whether the lessee shall be permitted to transfer or sub-let his grant without reference to Government.
(v.) the conditions on which prospecting for gold should be allowed;
(vi.) the character of the discretion to be left to the Local Government.

On the first three and on the last of these subjects the Madras Government has directly consulted us. The fourth point is one of particular importance as concerning the check of speculation; and on the fifth, Your Lordship called for a report in the despatch of the 27th May 1880, cited in the first paragraph.

7. (i.) It is urged that the 30-acre blocks give too small an area of reef in proportion to the cost of the machinery required for its working, and that the stone may be worked out before the expenditure can be recovered. The Madras Government would increase the size of the blocks to 100 or 150 acres. We consider that it is desirable to leave to the discretion of the Madras Government the determination of the question whether the maximum should be 100 or 150 acres, provided that it be understood that the maximum area is not to be given in cases where circumstances do not require the grant of so large an extent of land. At the same time, we would not rescind the offer made in paragraph 4 of the Notification of October 1880 to grant additional land for purposes subsidiary to mining.

8. (ii.) In the Madras Notification already mentioned it has been provided that more than 30 acres in all, in one or more blocks, shall not be given to one and the same applicant. The question now raised is whether an individual may hold blocks, up to the permissible maximum area, in each of more than one district. The Madras Government correctly describes the object which we would keep in view, *viz.*, to prevent the acquisition of large areas by individual applicants; and it would prefer to settle this point by some limit of distance. But it is not stated in what way this restriction would be practically enforced, and we think, on the whole, that our intention would be better carried out by the broad and clear rule that one and the same lessee shall not hold more than one mining lease in the same district. At the same time, we should not greatly object to a limit of distance, if it could be shown that it could be made to operate with certainty and without giving rise to disputes.

9. (iii.) We fully adhere to our original view that during the currency of the first leases for 20 years no royalty should be imposed. To exact a royalty would *pro tanto* burden the industry; and we cannot perceive that its imposition would in any way restrain speculation. The royalty would be payable only if gold were raised; but the object of the speculator is not to mine for gold, but to trade in land; and if he did not mine at all, he would be unaffected by the royalty. The papers certainly show that there may be some valid objection to insisting upon the continuous employment of five laborers per acre, as sufficient labor may not be procurable at certain seasons of the year. The Madras Government has (in our opinion very properly) extended the period within which this requirement shall be enforced from three to nine months: and we admit the force of the argument that the use of modern appliances, whilst in itself evidence of real industrial enterprise, must to some extent displace labor. At the same time, we do not forget that, as stated in our despatch of September 1879, conditions requiring a certain limit of available capital, or a certain quantity of machinery, were tried unsuccessfully in Australia; and we fully concur in the observation of the Right Honorable the late Mr. Adam that some guarantee for *bonâ fide* mining operations is indispensable, whether it take the form of a labor requirement or not. Having regard to these considerations, we would leave it to the discretion of the Madras Government to decide what form such guarantee should take; whether some labor test should still be applied, or a certain expenditure of money, or the maintenance of so much machinery, per acre, insisted on.

10. (iv.) In regard to the transfer of mining lots, we are of opinion that the argument justly urged against the system of speculation in land which follows unchecked license of transfer is more advisedly met by precautions made at the initial stage of the conferment of grants than by restrictions applied to the sale of grants at any period subsequent to their original conferment on grantees. Under this view we consider that the following conditions should in the conferment of leases be carefully prescribed:—

(1) a restriction of area to the limited extent of 100 or 150 acres, according to the discretion of the Madras Government;
(2) the requirement of a test sufficiently stringent to secure continuous proof of *bonâ fide* intention to carry out the objects for which the grant is made;
(3) the continuance to any transferee of the same obligations under which the original grantee was from the date of the original grant himself bound.

If these restrictions are carefully secured at the time of initial sale, we are of opinion that the clause in the Notification of October 1880, which was issued by the Madras Government itself without any reference to us and which prohibited the sub-lease or assignment of the grant without the previous consent of Government, may be cancelled.

11. (v.) The Madras Board of Revenue originally suggested that blocks should be made over to applicants for a period of twelve months, free of charge, for

prospecting purposes; and that if, before expiration of that period, no application were submitted for a mining lease within the limits of the area thus assigned, the right to prospect in such area should lapse, and the land should revert to the Govern- ment. But the Governor of Madras in Council, when considering the Notification of October last, thought that it would be superfluous to grant prospecting licenses, holding that they might delay the development of the industry by restricting the examination of the country by experts. We saw no reason to question the propriety of this view, because it was obvious that the grant of prospecting licenses to parti- cular companies or individuals might interfere with the systematic examination of considerable tracts of country, such as that undertaken by Mr. Brough Smyth, in the south-eastern portion of the Wynaad and the Carcoor Ghât. The Madras Govern- ment, however, has now changed its opinion, and whilst awaiting a report on the subject from the Board of Revenue, proposes, as at present advised, to grant pros- pecting leases for six months or more over half a square mile or some larger area. We do not understand that it is intended to prevent explorations by persons who do not take out such licenses; but the effect of the license will be to give the holder the preferential claim for an allotment within the area covered by it. No further investigation of the resources of the auriferous tracts at Government expense is now contemplated; and indeed when the Wynaad Planters' Association * recently urged that a Mining Engineer should be deputed by the Government to report on the whole of the South Wynaad, we agreed with the Government of Madras that further researches as to the character of the Wynaad gold-fields should be left to private enterprise. In these circum- stances, we consider that it is not unreasonable that some definite arrangement should exist for securing to private persons or companies who prospect for gold the reward of their labors. It thus seems to us that prospecting licenses might properly be granted for a term of six months over areas not exceeding half a square mile. Larger grants for longer periods might, we think, facilitate speculative proceedings.

12. (vi.) As regards the general question of the nature of the discretion which should be exercised by the Local Government, it will be seen that while we have pointed out the desirability of imposing stringent precautions at the time of the first conferment of grants, we have done so in terms which leave ample discretion and latitude in every requisite direction to the Madras Government.

We have the honor to be,
MY LORD MARQUIS,
Your Lordship's most obedient, humble Servants,

RIPON.
D. M. STEWART.
W. STOKES.
RIVERS THOMPSON.
J. GIBBS.
E. BARING.
T. F. WILSON.

COPY of the despatch forwarded to the Government of Madras for information, with reference to its telegram of the 26th ultimo.

(By order.)

C. L. TUPPER,
Offg. Under-Secy. to the Govt. of India.

Order thereon, 19th November 1881, Miscellaneous No. 3324, Revenue.

RECORDED.

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* Copy of correspondence enclosed:—
Letter from the Government of Madras, No. 195, dated 28th January 1881, and enclosure.
Letter to the Government of Madras, No. 14, dated 17th February 1881.

Read also the following papers :—

No. 16. From E. C. BUCK, Esq., C.S., Officiating Secretary to the Government of India, Revenue and Agricultural Department (Minerals), to the Secretary to the Government of Madras, dated Calcutta, the 30th December 1881, No. 40M.

IN continuation of the correspondence ending with Mr. Tupper's endorsement No. 15, dated the 30th August 1881, I am directed to forward, for the information of His Excellency the Governor in Council, copy of a despatch from Her Majesty's Secretary of State for India relative to the terms on which mining leases and licenses to prospect for gold should be granted in the Madras Presidency.

No. 98 (Revenue), dated the 10th November 1881.

2. From paragraph 5 it will be seen that, as the limit of 30 acres is considered too restricted, His Lordship has no objection to the area of single grants being extended at the discretion of the Local Government, provided that it is satisfactorily ascertained in each case that the applicant possesses the means for and has the intention of carrying out mining operations in a proper manner.

3. The stringency of the test to be imposed on the grantee in the first instance, and the continuance of the same obligation to any transferee, are, it will be observed, specially insisted on in the despatch. With regard to the nature of the test, the Secretary of State agrees with the Government of India that this may be best left to the decision of the Government of Madras. Special attention is invited to the remarks made in this connection in paragraph 6 of the despatch. It is possible that the same guarantee for *bonâ fide* mining operations would not be applicable in every case. Should the Government of Madras concur in this view, it may not be possible to express the obligation except in general terms in the deed of lease. The extent to which the form of Indenture sanctioned by the Government of India, in its letter No. 19 of the 11th March 1881, will require to be modified, should be considered; and the Governor-General in Council desires to be informed of the final conclusions of the Government of Madras on this subject.

4. Adverting to the concluding paragraph of the despatch, I am to request that the Government of India may be favored with the report on the questions mentioned in paragraph 6 of its letter No. 1—39 of 15th May 1880, to the Government of Madras, as the reply promised in your letter No. 1693 of the 11th December 1880 has not been received.

ENCLOSURE.

Despatch from 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, 10th November 1881, No. 98 (Revenue).

I HAVE considered in Council Your Excellency's letter No. 2 (Minerals) of the 27th August last, transmitting copies of correspondence with the Government of Madras relative to the terms on which mining leases and licenses to prospect for gold should be granted in the Madras Presidency.

2. In Lord Cranbrook's despatch No. 35 of the 25th March 1880, the rules recommended by you, based upon the system adopted in Australia, as explained by Mr. Brough Smith, were sanctioned. Owing, however, to differences in the circumstances of Wynaad, as compared with Australia, the terms which have proved well suited to the latter country do not appear to be altogether applicable to the Indian gold fields, and you consequently now, at the instance of the Madras Government, propose certain amendments to the instructions formerly issued on the subject.

3. Although it was the desire of your Government to make the terms of mining leases of State lands as simple and liberal as possible, it appears that, in the opinion of the Madras Government, the existing rules tend unduly to restrict the gold-mining industry, which has not developed so rapidly as it was hoped and expected would be the case. At the same time, the rule which limited the area of single grants to 30 acres each has, it is shown, been evaded by the combined action of lessees.

4. From the experience now obtained, the Madras Government consider that some extension of the terms hitherto offered is necessary in order to attract capital and industry for gold-mining in Wynaad, and, in laying down fresh rules for this purpose, care must be taken that, whilst adopting measures which may seem necessary with a view to prevent undue speculation, they shall not be such as to check proper commercial enterprise.

5. Since the limit of 30 acres is considered too restricted, I have no objection to the area of single grants being extended, provided a sufficiently stringent test be imposed to secure continuous proof of *bonâ fide* intention to carry out the objects for which the grant is made, and provision be included in the lease for the continuance of the same obligation to any transferee, there would appear to be no necessity for placing restrictions on its sub-lease or assignment. It has, however, evidently been overlooked by your Government that under the conditions proposed there will exist absolutely no more practical preventive to one person or company becoming possessed of an unlimited area for mining purposes, by the concerted action of several grantees, in consequence of the increase of the limit of each grant to 150 acres, than when it was restricted to 30 acres. The proposal, therefore, to prohibit a lessee from obtaining more than one grant of limited area in any district seems ineffective. It appears to me that the only precaution necessary with reference to the grant of mining leases is that the Madras Government should, in each case, satisfy itself that the applicant possesses the means for, and has the intention of, carrying out mining operations in a proper manner, in which case the area over which a mining license should be granted might be left to the discretion of that Government.

6. With regard to the obligation to be imposed in order to secure that the objects for which a grant is made are properly carried out, it is shown that the labor test is inapplicable in the present case. I would, however, point out to Your Excellency that the desired end would be equally well attained if an equivalent in machinery were required in the place of so much labor. I do not desire, neither do I think it was the intention of Lord Cranbrook to insist that five men per acre should invariably be employed on mining grants in addition to labor-saving machinery. On this subject I agree with your Government that it may, perhaps, best be left to the Madras Government to decide what form the guarantee for *bonâ fide* mining operations should take, whether it be that the means for carrying them out should be provided, that a certain minimum quantity of rock should be periodically crushed, or other mining work continuously performed.

7. The only other question for consideration referred to in Your Excellency's letter is relative to the conditions on which prospecting for gold should be allowed. The Madras Government very properly declined to accede to the request of the Wynaad Planters' Association that a mining engineer might be sent to report on the whole of South Wynaad, and I concur in the opinion you have expressed that enough has been already done by Government, and that it must be left to private enterprise to undertake any further operations in that direction. In these circumstances it is desirable that reasonable facilities should be afforded intending applicants for mining leases to examine portions of the country before applying for a grant, and I approve of the proposal by your Government that prospecting licenses, carrying with them preferential claims for a lease, be granted for a term of six months each over areas not exceeding half a square mile.

8. I notice that you have, on the advice of your Advocate General, decided that the Local Government is to be the final arbiter in cases of dispute as to the conditions of mining leases. You also state that, as regards the general question of the nature of the discretion which should be exercised by the Madras Government, ample discretion and latitude will be left to that authority in every requisite direction. Of this I approve, and I trust that the concessions now made to mining industry in India will be followed by the development of the gold resources in Government waste lands.

9. There yet remain for decision the questions raised in the concluding paragraph of Lord Cranbrook's despatch, above quoted, relative to the grant of mining leases in owned or occupied lands in Madras, where the mineral rights may be vested in Government, and also the manner in which it is proposed to deal with the rights of the cultivating proprietors in such lands.

No. 17. Proceedings of the Board of Revenue, dated 25th March 1881, No. 501.

Read the following letters:—

From MESSRS. PIERCE, LESLIE AND CO., to G. McWATTERS, Esq., Collector of Malabar, dated Calicut, 24th February 1881.

WE are, as Agents of various proprietors, interested in the action of Government with regard to the mining rights on escheat lands held from the State in

terms of the settlement notified publicly by Mr. Ballard in January 1863, a paragraph of which reads—"The title of persons who in ignorance of the rights of Government obtained land in these (Wynaad) forests from other pretending owners will be respected in every case where collusion or bad faith is not evident, &c., &c.,"—and beg you to be good enough to inform us whether Government proposes to restrict mining to 30 acres on each property occupied by one individual, though the recent Government Order on the subject (paragraph 3) says—"In the matter of mining within the leased area the Government are prepared to concede to the lessees the exclusive privilege, but the lessees must apply for and obtain a separate mining lease for a specified minor area under the conditions notified in the *Fort St. George Gazette* of the 12th instant."

What exercises the minds of the lessees and those of capitalists at Home who wish to assist in developing the mineral resources of the country is that apparently Government concedes to the tenant the exclusive privilege of mining on the leased area and at the same time restricts him to 30 acres. As this question is of vital importance to those concerned and to the general interest of the country, we beg you will be good enough to inform us if the restriction is really meant, and if so, must mining be considered as prohibited absolutely on the remainder of the leased area and not one single acre of the balance of the leased area touched except for cultivation, and if so, will you kindly give a reason for the restriction?

2. Other clients of ours have purchased land under the Waste Land Rules since Government notified that on such lands Government would in future reserve the minerals. These clients are in great fear that while they hold the surface for cultivation, the right to mine may be granted to others who might interfere in a disastrous manner with coffee, tea, and chinchona cultivation, as the interests of the miners might not coincide with those of the surface tenants. Under these circumstances we beg to invite your opinion as to the course Government will follow.

No. 586.

FORWARDED to the Board of Revenue for orders.

CALICUT,
25th February 1881.

(Signed) G. McWATTERS,
Acting Collector.

From N. A. ROUPELL, Esq., Acting Commissioner of Nilgiris, to Secretary to the Board of Revenue, dated Ootacamund, 28th February 1881, No. 26.

REFERRING to the rules relating to mining grants, I have the honor to request I may be favored with the early orders of the Board and Government as to the disposal of applications for permission to mine in lands held on putta and as to the extent to which it is intended to assert the claims of the State in such cases. The notification appended to G.O., dated 1st October 1880, No. 1263, Revenue Department, is silent on this point. The Proceedings marginally noted indicate that this point has been under the consideration of Government and definite orders are now awaited. As the proprietary title vests in Government, the course to be followed will probably be the same as in the case of escheat lands.

Paragraph 3 of Board's Proceedings, No. 863, of 28th June 1880. G.O., Revenue Department, No. 1263, of 1st October 1880.

2. In their Order, Revenue Department, No. 1341, dated 15th October 1880, the Government disposed of an application for permission to mine in escheat land by granting the exclusive privilege subject to certain conditions notified in the *Fort St. George Gazette* of 12th idem.

The order in question was passed on a special reference, but as the course sanctioned was one of general applicability, I have dealt with other similar urgent applications as laid down in the said Government Order.

3. I would also request instructions as to the interpretation to be put upon the wording of the notification—"nor will more than 30 acres in all be granted to one and the same applicant."

The Government Order to which the notification was appended was communicated to the Collector of Malabar and to the Commissioner of Nílgiris. It was, I presume, intended that the 30-acre limit should apply to *each* district, as otherwise the officers above named would be in constant communication regarding the holding of their respective applicants. According to this interpretation the same applicant can hold 60 acres in two adjoining blocks on the border line of Nílgiri and Malabar-Wynaad.

4. Again, as to the meaning of the expression "one and the same applicant." Is a man debarred from applying for grants in the name of his wife or in those of each of his children in addition to one in his own name? Is the expression to be taken to include all who are dependent upon the "one and the same applicant?" The latter desires to make investments on behalf of his children. Is this not allowable? Is wife precluded, in respect of mining grants, from holding a separate estate from that of her husband? I put these questions as I have received such applications as those alluded to.

It would, I think, be best to place the most liberal interpretation on the rule and admit the application of a wife and of any child made by a parent or authorized guardian. This, I learn, was the course adopted in Australia, where a man in the name of his wife and children held numerous mining blocks under a rule similar to that now under reference.

5. No definition is given in the rules of mining *limits*, the allusions being to superficial areas merely. I have heard of cases in America in which it was the rule that a reef once found might be followed and worked, although thereby the perpendicular division between two adjoining properties was over-stepped. The English rule as to such prependicular division is, I believe, clear; but it might lead to the saving of disputes and litigation if any possible doubt as to the boundaries of mining rights were set at rest once for all by some formal declaration thereon.

6. During a recent tour in South-East Wynaad, in the course of which I visited most of the chief mining properties and met most of those at present engaged in mining enterprise, I heard many and various opinions expressed regarding the rules. Upon these I will now only say that the opinions were conflicting except as to Clause (3) of Rule 2, as to the impracticability of which all were unanimous. Upon this clause I would beg leave to offer the following observations.

7. The amount of labor required is, I believe, without parallel elsewhere. I consider that it will be impossible to procure so large a supply as the industry developes and mining extends. So large a number of coolies cannot be profitably employed at one time on tunnelling or shaft-sinking, the working space being limited. In many cases the hard character of the rock to be pierced will require the use of compressed air-drills and other machinery, hand-work for this purpose being virtually of no value. There is a further serious objection which has force in many parts of South-East Wynaad. From such tracts partly to keep some festival to which much importance is attached, partly to cultivate their lands and visit their relatives, but especially to avoid the exceedingly feverish season, the Mysore coolies, who form the laboring class, go to their own homes at the beginning of March, not returning until the end of June. At that season the work in the plantation estates is light and is fitfully carried out by Kurumbers and other tribes from the hill slopes, who may and do any day absent themselves or leave altogether without notice. There is then in fact no cooly labor worthy of the name. It will thus be seen that the present labor condition will be impossible of fulfilment over a considerable area, and if it is relaxed in one portion of the district it must be relaxed altogether. In my opinion so large a supply of regular labor cannot be procured anywhere in this district.

8. I would venture to suggest that the amount of cooly labor required be reduced from five coolies to not more than one cooly per acre of mining grant. One cooly per acre would represent an expenditure of Rs. 7 × 30 = 210 over a 30-acre grant, equivalent to Rs. 2,520 per annum for manual labor alone. I submit that this is ample if not too much. It is not intended that the condition should be oppressive to the lessee, but fair to both parties. It is a question whether the scale proposed would not be sufficient even were every portion of the various grants susceptible of mining operations. This as a matter of fact can hardly be the case, and labor will thus have to be found on account of acres which contain no quartz reef, although of course the particular spots at which the labor is employed are left to the selection of the lessee.

9. Finally, I would bring to notice that the development of the mining industry will tend to enhance enormously the value of wood in the tracts concerned. This value has already risen much of late. The heavy prospective demand for timbering shafts and tunnels, erecting workshops, machine sheds, bungalows, and cooly lines, as well as for fuel purposes, will send up prices much higher. The time is not yet come for taking action, but the progress of mining will be carefully watched with reference to this eventuality.

G.O., dated 1st October 1880, No. 1263.

THE foregoing letters raising several questions of importance in connection with the rules recently issued for the disposal of applications to mine for gold will be submitted for the orders of Government.

2. Messrs. Pierce, Leslie and Co. inquire with reference to G.O., dated 15th October 1880, No. 1341, whether a holder of escheat lands to whom Government have conceded the exclusive privilege of mining within the leased area is restricted in regard to actual mining operations to a minor area of 30 acres. The Board consider the intention to be that the holder of escheat lands may, on application, obtain the exclusive right to mine over the whole area comprised within his holding, thereby excluding all others, and as regards the limitation in regard to the area of mining lots they gather from the terms of the notification that, although mining operations *at one time* are to be restricted to 30 acres in all, as it is expressly stated that this extent may be allotted in one or more blocks, there is nothing to prevent those to whom exclusive privileges have been given working in different parts of the area held by them, provided that their operations are restricted to 30 acres in all, and that the breadth of each mining lot is not less than 70 yards. Thus thirty mines occupying a surface area of one acre each might be worked at the same time, and those spots which were found unprofitable might be given up on application and operations commenced in other parts of the holding so long as the aggregate workings are within the specified limit. If the Government are prepared to accept this interpretation of the notification the objections raised to the condition in question will vanish and what has hitherto been a bar to the development of the industry in lands held under Government will be removed. The general impression is that mining operations are restricted to one block of 30 acres, notwithstanding that the exclusive right of mining is conceded over a far larger area, and this has deterred English capitalists from investing for mining in Government land whilst capital is freely invested in land held under native landlords where no restrictions are imposed.

3. The other point to which Messrs. Pierce, Leslie and Co. refer is the protection of the holders of surface rights in lands on which mineral rights are reserved in dealing with mining applications. This point was brought forward in paragraph 3 of Board's Proceedings, dated 17th July 1880, No. 977, and the Government in their Order dated 1st October 1880, No. 1263, stated that the subject would be separately considered.

4. Mr. Roupell asks how he is to deal with applications for permission to mine in lands held on putta, and as to the extent to which it is intended to assert the claims of the State in such cases. The question is still under the consideration of Government; the Board have expressed their views in their Proceedings, dated 13th September 1880, No. 1323. It is observed, however, with reference to the

remark at the close of paragraph 1 of the Commissioner's letter that the case of escheat lands, where the Government occupies the position of landlord, is not analogous to that of ryotwari land held on putta.

5. In paragraph 2, Mr. Roupell reports having disposed of applications to mine in escheat lands in accordance with the decision passed in G.O., dated 15th October 1880, No. 1341, with reference to the Provident Estate in Moonaad Amshom. This action is approved on the understanding that the exclusive privilege of mining is limited to the extent actually occupied for cultivation.

6. In paragraphs 3 and 4 Mr. Roupell raises the questions—

(*a*) Whether under the terms of the notification one individual can hold blocks each not exceeding 30 acres in more than one district, or whether he is restricted to 30 acres in all.

(*b*) Whether it is permissible to grant mining leases for such blocks to members of an applicant's family in addition to the block taken up by himself.

On the first point, the Board are of opinion that the restriction was not intended to extend beyond the District, and further that where an individual holds land in more than one locality in a District he is entitled to have a mining grant of 30 acres in each of the estates over which the exclusive privilege of mining has been conceded to him. As regards the second point, the Board presume that the object of the restriction was to prevent land-jobbing, in which case it was probably not the intention to allow an applicant to obtain additional areas in the names of members of his family; but it is clear that the rule can be easily evaded, and some modification of the condition appears desirable.

7. As regards the question raised in paragraph 5, the Board consider that the limits of mining below the surface must coincide with the surface boundaries, and that no man has a right to undermine adjacent property, whether vested in Government or an individual, without permission.

8. In paragraphs 6, 7 and 8, Mr. Roupell points out the impossibility of compliance with Clause 3 of Rule 2, requiring that five laborers per acre shall be regularly employed on *bonâ fide* mining operations on each block. Mr. Roupell suggests a modification of the rule to the extent of requiring one laborer per acre instead of five, but the Board think that self-interest may be trusted to determine what labor can be profitably employed, and if the rent of Rs. 5 per acre is not sufficient to prevent land being taken up without any intention of working it, it would seem better to increase the rental rather than impose a condition which cannot be observed.

9. There is another point not referred to in either of the letters above read which the Board think requires elucidation, viz., Clause 4 of Rule 2. If this condition merely requires that a notice of transfer of a mining lease should be given to the local authorities in view to the register being altered accordingly there is no objection to it, but it is generally understood to mean that Government reserve to themselves the power of prohibiting any such transfer, and this is felt to be a hardship, inasmuch as the time that must elapse before sanction can be obtained and the uncertainty as to whether it may be granted or refused, operate to prevent the investment of capital in the purchase of properties on which mining rights have been conceded. The effect of the numerous restrictions by which the right to mine on Government land is fenced in is to divert capital therefrom to native estates where no such restrictions exist.

10. The enhancement of the value of timber in connection with the development of the gold industry points to the necessity of asserting and defining the rights of Government in the escheat forests of the Wynaad, a subject which will be noticed shortly in submitting proposals for continuing the survey in that province.

(True Copies and Extract.)

(Signed) C. A. GALTON,
Secretary.

No. 18. Proceedings of the Board of Revenue, dated 31st October 1881, No. 2572.

Read the following letter from E. BARCLAY, Esq., Government Solicitor, to the Secretary to the Board of Revenue, dated Madras, 21st October 1881, No. 445 :—

WITH reference to the Proceedings of the Board of Revenue, under date 11th instant, No. 1980, I shall be obliged by your furnishing me with a copy of G.O., dated 23rd February 1881, No. 353. I do not appear to have received a copy of this order.

2. I shall also be obliged by your informing me whether the form of mining lease set out in the Board's Proceedings above referred to is to be altered so as to exclude silver and precious stones. In the Board's resolution only gold is mentioned; and, in altering the lease, some provision will have to be made as to what is to be done with gold and (if excluded from the lease) silver and precious stones, if found in mining for other minerals. I should be glad to receive instructions upon these points.

WITH reference to paragraph 1, the Government Solicitor will be furnished with a copy of G.O., dated 23rd February 1881, No. 353.

2. Adverting to paragraph 2, the orders of Government are requested on the question therein raised. The present form of lease of lands for gold-mining is so worded as to confer the right to mine for metals other than gold, and when parties pay the higher acreage rate prescribed for gold-mining, the Board do not see why they should not be allowed to mine under the same lease for inferior metals; they are, however, of opinion that where a lease is granted for mining for metals other than gold and gold is discovered, the lessee should be made to accept a gold-mining lease under the conditions applicable thereto. The Board do not understand that it is the intention of Government to treat silver under rules applicable to gold-mining, and it will therefore come under the category of "Metals other than gold." Diamonds and other precious stones must be excluded from leases of either description.

(A true Copy and Extract.)

(Signed) E. GIBSON,
Acting Secretary.

No. 19. From E. BARCLAY, Esq., Government Solicitor, Madras, to the Secretary to Government, Revenue Department, dated 15th November 1881, No. 495.

I BEG to acknowledge receipt of your Official Memorandum, dated 8th instant, No. 390, Revenue Department, requesting me to obtain and submit, for the information of Government, the Advocate-General's opinion as to whether the form of Indenture printed in the Proceedings of the Board of Revenue, dated 11th October 1881, No. 1980, includes diamonds and other precious stones or not.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward herewith a copy of his opinion.

OPINION.

I DO not think the form of Indenture includes diamonds or other precious stones, but to prevent future disputes, it would be well to insert a proviso showing that they are not included. This may be done after the words " make merchantable all gold and other metallic ores" (but not including diamonds or other precious stones) "found therein" by inserting the words within the parenthesis and inserting the same words after the words "metallic ores" seven lines higher up.

14th November 1881. (Signed) P. O'SULLIVAN,
Advocate-General.

(A true Copy.)

(Signed) E. BARCLAY,
Government Solicitor.

No. 20.

ORDER THEREON, 1st February 1882, No. 132.

Miscellaneous.

THE letter from the Government of India read above and the Secretary of State's despatch to which it gives cover leave the limit of area for a gold-mining lease to the discretion of this Government and empowers this Government to dispense with the labor requirement; the only condition insisted upon and particularly enjoined being, a guarantee of means as well as *bonâ fide* intention to carry [illegible] mining operations and the actual application of a sufficiently stringent test to secure continuous proof of the fulfilment of such intention. With this condition and its strict enforcement, it is presumably considered unnecessary to restrict an applicant to one mining lease.

2. The Right Honorable the Governor in Council resolves to fix the ordinary limit of area for a mining lease at 150 acres, exceptional cases in which it might be considered desirable to exceed this limit being reported for orders.

3. Where the means or *bonâ fides* of an applicant are questionable, the application for a mining lease will be unhesitatingly rejected. As observed by the Government of India, the guarantee for *bonâ fide* operations can, in the nature of the case, be expressed in the Indenture only in general terms. The nature of the test to be actually employed in each case must be left to the decision of the Collector, subject of course to appeal to Government.

4. The Board will, in communication with the Government Solicitor, modify the present published form of Indenture for gold mining as follows.

5. The clause relating to the labor requirement will be omitted and those clauses which provide for "*search*" being conducted "in the best and most effectual manner" and for accounts being kept of the working of the mines and of the expenditure incurred, will be so modified as to impose on the lessee, in express terms, an obligation also to furnish, when required, satisfactory proof of operations having been properly and effectually carried on, making forfeiture of the lease the consequence of default. There is a provision in this respect in the present form of Indenture; but it is not sufficiently specific except as regards the labor requirement now dispensed with. The obligation now to be imposed will, in accordance with orders already issued,* be enforced after the lapse of nine months from the execution of the Indenture, and, as in the case of the labor requirement in the present form, space will be left for the date from which the obligation shall actually commence.

6. The Government observe that the present published form of Indenture retains the original restriction of transfer without sanction, such restriction having been removed by G.O., dated 21st May 1881, No. 818, paragraph 5. The clause containing it should be expunged, and one imposing the obligation referred to in the preceding paragraph on the transferree, in case the lease is transferred, should be inserted in its place.

7. Diamonds and other precious stones should be expressly excluded.

8. A form of Indenture on these lines should be prepared also for mining for metals other than gold, and both should be submitted to Government, with as little delay as possible, for final approval.

* G.O., dated 21st May 1881, No. 818, paragraph 4.

9. It does not appear necessary to exclude metals other than gold from the Indenture for gold mining, and the Board's suggestion that if the holder of a lease for other metals shall strike gold, he should be required to take out a gold-mining lease, is approved. A clause to this effect must be inserted in the form of Indenture for mining for other metals.

10. The Board will also prepare and mit for approval notifications in accordance with the terms now settled fo plication in supersession of those appended to G.Os., dated 1st October 1880 . 1263, and 23rd February 1881, No. 353.

11. The enlarged limit of area for ning lease and the removal of the restriction as to an applicant obtaining mor an one mining lease dispose of the question raised with respect to escheat lan the Wynaad in paragraph 2, and with respect to unoccupied Government w in paragraph 6 of the Board's Proceedings, dated 25th March 1881, No. 50 read at the head of those Proceedings; while the abandonment of the labor quirement and the removal of all restriction on transfers disposes of paragra 8 and 9 of the same paper. In paragraph 3, the Board apparently refer to uestion raised by Messrs. Pierce, Leslie and Co. as to the position, as regards su ace rights, of holders of land under the Waste Land Rules, in which the mineral rights have been expressly reserved. This question has been settled by the revised forms of Indenture for the sale of waste lands printed in G.O., dated 7th June 1881, No. 895. The general and far more important question of Ryots' rights in lands held on ordinary Ryotwari putta, to which the Board advert in paragraph 4, is under consideration. The view expressed by the Board in paragraph 7 to the effect that mining rights, where such exist or have been acquired under a lease from Government, do [illegible] extend beyond the surface boundaries is obviously the right one.

12. The question of proving or prospecting leases has already† been dealt with in conformity with the Secretary of State's views.

(True Extract.)

ned) C. G. MASTER,
Secretary to Government.

To the Board of Revenue.
,, the Government Solicitor.

Exd. W. H. French.

150 Copies.

† G.O., 12th December 1881, No. 1916.

21-4-09.

Govt. of [illegible]

REVENUE.

The BOARD of REVENUE,

&c., &c., &c.

G.O., 1st February 1882, No. 182.

FEBRUARY.

Nos. 16—29.

SUBJECT.

Mining Lease.—Modification of the terms [illegible] —with reference to the [illegible] of the Secretary of State.—Instructions [illegible]

No. 2 of 1881.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

MINERALS.

To

THE RIGHT HONOURABLE THE MARQUIS OF HARTINGTON,
Her Majesty's Secretary of State for India.

Simla, the 27th August 1881.

MY LORD MARQUIS,

IN acknowledging the receipt of Mr. Brough Smyth's Report on the Wynaad Gold-fields, Your Lordship* expressed a wish to be informed of our conclusions as to the terms on which mining leases and licences to prospect for gold should be granted in the Madras Presidency. We now have the honour to acquaint Your Lordship with the present state of our correspondence on this subject with the Government of Madras.

2. A draft form of indenture for mining leases in the Wynaad was framed several months ago by the Madras law officers, and received the concurrence of the Madras Government. When it came under our consideration in January last, only two points seemed to require special notice. Firstly, the Madras Government had intimated to us that they were not disposed to insist on the payment of rent in advance; and secondly, it left to our decision, without any specific recommendation, the question whether the Local Government should be declared to be the final arbiter in cases of dispute as to the fulfilment or otherwise of the conditions of the lease. On the first point, we agreed in the view that it was unnecessary to require the rent to be payable in advance. On the second point, our Advocate General advised that a clause providing that the Local Government should be the final arbiter was not unusual in Government contracts, and might save expense and trouble. An addition to this effect was accordingly made to the indenture, which was sanctioned by our Government. A copy of the form is enclosed for Your Lordship's perusal; but, as we are about to explain, several questions, more or less affecting its substance, have since been reopened.

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* No. 47 $\left(\frac{\text{Revenue}}{\text{Minerals}}\right)$, dated the 27th May 1880.

3. There was little difficulty in dealing with the indenture when it was before us, because all the more important conditions had already been accepted—partly in the correspondence with Your Lordship* of 1879-80, and partly in the discussion of a notification of the Madras Government,† which it issued on the 1st October 1880, and which we subsequently approved. We shall eventually furnish Your Lordship with a full print of the papers; but for the moment, to obviate delay, we would refer to the pages, noted in the margin,‡ of the May, November, February and March volumes of our Proceedings in the Minerals Branch of the Home, Revenue and Agricultural Department for 1880 and 1881.

4. We have now received a communication from the Government of Madras, No. 819, dated 21st May last, which necessitates the reconsideration of a good many particulars in connection with these mining leases. We transmit a copy of this letter and of its accompaniments for Your Lordship's information and instructions. The Governor of Madras in Council holds that the existing rules tend unduly to restrict the gold-mining industry; and although we do not propose to comment in detail upon all the facts and arguments by which this conclusion is supported, we desire briefly to record our opinion both on the points which have been specially referred to us by the Madras Government, and upon one or two more with which it has dealt upon its own authority.

5. But before making any specific recommendations, we would briefly remind Your Lordship of the general objects which we have kept in view. The terms proposed for mining leases in paragraphs 9 and 10 of our despatch of the 1st September 1879 were settled after frequent personal conferences with Mr. Brough Smyth, who was called to Simla for the purpose. Our desire, as we stated at the time, was to render the mining leases as simple and as liberal as possible without encouraging undue speculation. The present proceedings of the Madras Government have originated in a memorial on the part of the Nilgiri and Kotagiri Planters' Associations and of others interested in mining in the Nilgiris and the Wynaad; and we think there is much in the character of the grievances asserted to suggest that the memorialists are at least as anxious for greater liberty to speculate with the concessions made to them as for the removal of any restraints which may have been found, in fact, to cramp the industry. In 1879 the report of Mr. Brough Smyth had led to the belief that the returns from gold-mining enterprise in the Wynaad would be rapid and large. This expectation has not been quickly fulfilled, but there are obvious inducements to seek immediate profits by the readier method of

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* Despatch of the Government of India, No. 7, dated the 1st September 1879.
Reply of the Secretary of State, No. 35, dated the 25th March 1880.

† *Vide* pages 473-74, *Fort St. George Gazette*, of October 12th, 1880, copy of Notification enclosed.

‡ Volume for May 1880, pages 37 and 38.
" November 1880, pages 99 to 108.
" February 1881, page 23.
" March 1881, pages 31 to 43.

promoting companies and selling or otherwise transferring the lands ostensibly acquired for mining purposes. The 8th paragraph of the letter of the Government of Madras indicates the nature of this process, as it appears that individuals take up 30-acre grants in close proximity to each other and then transfer them to companies.

6. Nevertheless, in deference to the opinion of the Government of Madras, which possesses the advantage of dealing directly with the gold-mining companies and of knowing the local circumstances, we do not object to some wider discretion being conferred upon the Local Government in the matter of granting mining leases.

Looking at their proposals from this point of view, we would offer the suggestions contained in the subsequent paragraphs of this despatch on the following points in the order in which they are stated :—

(i.) the maximum limit of the area to be included in each grant;
(ii.) whether such maximum having been fixed, the lessee shall be prohibited from obtaining any further area;
(iii.) the labour requirement and the proposal to impose a royalty in lieu of it;
(iv.) whether the lessee shall be permitted to transfer or sub-let his grant without reference to Government;
(v.) the conditions on which prospecting for gold should be allowed;
(vi.) the character of the discretion to be left to the Local Government.

On the first three and on the last of these subjects the Madras Government has directly consulted us. The fourth point is one of particular importance as concerning the check of speculation; and on the fifth, Your Lordship called for a report in the despatch of the 27th May 1880, cited in the first paragraph.

7. (i.) It is urged that the 30-acre blocks give too small an area of reef in proportion to the cost of the machinery required for its working, and that the stone may be worked out before the expenditure can be recovered. The Madras Government would increase the size of the blocks to 100 or 150 acres. We consider that it is desirable to leave to the discretion of the Madras Government the determination of the question whether the maximum should be 100 or 150 acres, provided that it be understood that the maximum area is not to be given in cases where circumstances do not require the grant of so large an extent of land. At the same time, we would not rescind the offer made in paragraph 4 of the Notification of October 1880 to grant additional land for purposes subsidiary to mining.

8. (ii.) In the Madras Notification already mentioned it has been provided that more than 30 acres in all, in one or more blocks, shall not be

given to one and the same applicant. The question now raised is whether an individual may hold blocks, up to the permissible maximum area, in each of more than one district. The Madras Government correctly describes the object which we would keep in view, *viz.*, to prevent the acquisition of large areas by individual applicants; and it would prefer to settle this point by some limit of distance. But it is not stated in what way this restriction would be practically enforced, and we think, on the whole, that our intention would be better carried out by the broad and clear rule that one and the same lessee shall not hold more than one mining lease in the same district. At the same time, we should not greatly object to a limit of distance, if it could be shown that it could be made to operate with certainty and without giving rise to disputes.

9. (iii.) We fully adhere to our original view that during the currency of the first leases for 20 years no royalty should be imposed. To exact a royalty would *pro tanto* burden the industry; and we cannot perceive that its imposition would in any way restrain speculation. The royalty would be payable only if gold were raised; but the object of the speculator is not to mine for gold, but to trade in land; and if he did not mine at all, he would be unaffected by the royalty. The papers certainly show that there may be some valid objection to insisting upon the continuous employment of five labourers per acre, as sufficient labour may not be procurable at certain seasons of the year. The Madras Government has (in our opinion very properly) extended the period within which this requirement shall be enforced from three to nine months: and we admit the force of the argument that the use of modern appliances, whilst in itself evidence of real industrial enterprise, must to some extent displace labour. At the same time, we do not forget that, as stated in our despatch of September 1879, conditions requiring a certain limit of available capital, or a certain quantity of machinery, were tried unsuccessfully in Australia; and we fully concur in the observation of the Right Honourable the late Mr. Adam that some guarantee for *bonâ fide* mining operations is indispensable, whether it take the form of a labour requirement or not. Having regard to these considerations, we would leave it to the discretion of the Madras Government to decide what form such guarantee should take; whether some labour test should still be applied, or a certain expenditure of money, or the maintenance of so much machinery, per acre, insisted on.

10. (iv.) In regard to the transfer of mining lots, we are of opinion that the argument justly urged against the system of speculation in land which follows unchecked licence of transfer is more advisedly met by precautions made at the initial stage of the conferment of grants than by restrictions applied to the sale of grants at any period subsequent to their original conferment on grantees. Under this view we consider that the following

conditions should in the conferment of leases be carefully prescribed:—

(1) a restriction of area to the limited extent of 100 or 150 acres, according to the discretion of the Madras Government;

(2) the requirement of a test sufficiently stringent to secure continuous proof of *bonâ fide* intention to carry out the objects for which the grant is made;

(3) the continuance to any transferee of the same obligations under which the original grantee was from the date of the original grant himself bound.

If these restrictions are carefully secured at the time of initial sale, we are of opinion that the clause in the Notification of October 1880, which was issued by the Madras Government itself without any reference to us and which prohibited the sub-lease or assignment of the grant without the previous consent of Government, may be cancelled.

11. (v.) The Madras Board of Revenue originally suggested that blocks should be made over to applicants for a period of twelve months, free of charge, for prospecting purposes; and that if, before expiration of that period, no application were submitted for a mining lease within the limits of the area thus assigned, the right to prospect in such area should lapse, and the land should revert to the Government. But the Governor of Madras in Council, when considering the Notification of October last, thought that it would be superfluous to grant prospecting licences, holding that they might delay the development of the industry by restricting the examination of the country by experts. We saw no reason to question the propriety of this view, because it was obvious that the grant of prospecting licences to particular companies or individuals might interfere with the systematic examination of considerable tracts of country, such as that undertaken by Mr. Brough Smyth, in the south-eastern portion of the Wynaad and the Carcoor Ghat. The Madras Government, however, has now changed its opinion, and, whilst awaiting a report on the subject from the Board of Revenue, proposes, as at present advised, to grant prospecting leases for six months or more over half a square mile or some larger area. We do not understand that it is intended to prevent explorations by persons who do not take out such licences; but the effect of the licence will be to give the holder the preferential claim for an allotment within the area covered by it. No further investigation of the resources of the auriferous tracts at Government expense is now contemplated; and indeed when the Wynaad Planters' Association* recently urged that a Mining Engineer should be deputed by the Government to report on the whole of the South Wynaad, we agreed with the Government of

vide letter to
G. I. No 1308
7.10.80

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* Copy of correspondence enclosed:—
Letter from the Government of Madras, No. 195, dated 28th January 1881, and enclosure.
Letter to the Government of Madras, No. 14, dated 17th February 1881.

Madras that further researches as to the character of the Wynaad gold-fields should be left to private enterprise. In these circumstances, we consider that it is not unreasonable that some definite arrangement should exist for securing to private persons or companies who prospect for gold the reward of their labours. It thus seems to us that prospecting licences might properly be granted for a term of six months over areas not exceeding half a square mile. Larger grants for longer periods might, we think, facilitate speculative proceedings.

12. (vi.) As regards the general question of the nature of the discretion which should be exercised by the Local Government, it will be seen that while we have pointed out the desirability of imposing stringent precautions at the time of the first conferment of grants, we have done so in terms which leave ample discretion and latitude in every requisite direction to the Madras Government.

We have the honour to be,

My Lord Marquis,

Your Lordship's most obedient, humble Servants,

RIPON.

D. M. STEWART.

W. STOKES.

RIVERS THOMPSON.

J. GIBBS.

E. BARING.

T. F. WILSON.

[illegible]

LIST OF ENCLOSURES.

1.—Indenture for mining leases, Madras.

2.—Notification by the Government of Madras, dated the 1st October 1880.

3.—Letter from the Government of Madras, No. 819, dated the 21st May 1881, and enclosures.

4.—Letter from the Government of Madras, No. 195, dated the 28th January 1881, and enclosure.

5.—Letter to the Government of Madras, No. 14, dated the 17th February 1881.

1881

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

MINERALS.

No. 2, DATED SIMLA, THE 27TH AUGUST 1881.

(Copy.)

Letter to Her Majesty's Secretary of State for India.

SUBJECT.

Gold-mining leases in the Wynaad.

G. C. B. Press, Simla.—No. 93 R. & A. D.—24-8-81.—50.

4

No. 15

No. 40M.

FROM

E. C. BUCK, ESQ., C. S.,
Offg. Secretary to the Government of India.

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

Rev. & Agri. Dept.
Minerals.

Calcutta, the 30th December 1881.

SIR,

IN continuation of the correspondence ending with Mr. Tupper's endorsement No. 15, dated the 30th August 1881, I am directed to forward, for the information of His Excellency the Governor in Council, copy of a despatch from Her Majesty's Secretary of State for India relative to the terms on which mining leases and licences to prospect for gold should be granted in the Madras Presidency.

No. 98 (Revenue), dated the 10th November 1881.

2. From paragraph 5 it will be seen that, as the limit of 30 acres is considered too restricted, His Lordship has no objection to the area of single grants being extended at the discretion of the Local Government, provided that it is satisfactorily ascertained in each case that the applicant possesses the means for and has the intention of carrying out mining operations in a proper manner.

3. The stringency of the test to be imposed on the grantee in the first instance, and the continuance of the same obligation to any transferee, are, it will be observed, specially insisted on in the despatch. With regard to the nature of the test, the Secretary of State agrees with the Government of India that this may be best left to the decision of the Government of Madras. Special attention is invited to the remarks made in this connection in paragraph 6 of the despatch. It is possible that the same guarantee for *bonâ fide* mining operations would not be applicable in every case. Should the Government of Madras concur in this view, it may not be possible to express the obligation except in general terms in the deed of lease. The extent to which the form of Indenture sanctioned by the Government of India, in its letter No. 19 of the 11th March 1881, will require to be modified, should be considered; and the Governor General in Council desires to be informed of the final conclusions of the Government of Madras on this subject.

4. Adverting to the concluding paragraph of the despatch, I am to request that the Government of India may be favoured with the report on the questions mentioned in paragraph 6 of its letter No. 1—39 of 15th May 1880, to the Government of Madras, as the reply promised in your letter No. 1693 of the 11th December 1880 has not yet been received.

I have the honour to be,

SIR,

Your most obedient Servant,

O L Tupper

For *Offg. Secretary to the Govt. of India.*

Revenue 1882 Department
Special
No 104

Rev. (1881.) Dep 6.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

MINERALS.

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

No. 40 M. 61

Dated the 30th December, 1881.

Cf. 8th Feb., 1882.

Encl 1

SUBJECT.

GOLD-MINING leases and licences, Madras.

A. N. T.—Home Department Press—No. 27—2-1-82—60.

24-1-82 / R 1-2-82

No. 93 (Revenue), dated India Office, London, the 10th November 1881.

From—Her Majesty's SECRETARY OF STATE for India.

To—His Excellency the Most Honourable the GOVERNOR GENERAL of India in Council.

I HAVE considered in Council Your Excellency's letter No. 2 (Minerals) of the 27th August last, transmitting copies of correspondence with the Government of Madras relative to the terms on which mining leases and licences to prospect for gold should be granted in the Madras Presidency.

2. In Lord Cranbrook's despatch No. 35 of the 25th March 1880, the rules recommended by you, based upon the system adopted in Australia, as explained by Mr. Brough Smith, were sanctioned. Owing, however, to differences in the circumstances of Wynaad, as compared with Australia, the terms which have proved well suited to the latter country do not appear to be altogether applicable to the Indian gold fields, and you consequently now, at the instance of the Madras Government, propose certain amendments to the instructions formerly issued on the subject.

3. Although it was the desire of your Government to make the terms of mining leases of State lands as simple and liberal as possible, it appears that, in the opinion of the Madras Government, the existing rules tend unduly to restrict the gold-mining industry, which has not developed so rapidly as it was hoped and expected would be the case. At the same time, the rule which limited the area of single grants to 30 acres each has, it is shown, been evaded by the combined action of lessees.

4. From the experience now obtained, the Madras Government consider that some extension of the terms hitherto offered is necessary in order to attract capital and industry for gold-mining in Wynaad, and, in laying down fresh rules for this purpose, care must be taken that, whilst adopting measures which may seem necessary with a view to prevent undue speculation, they shall not be such as to check proper commercial enterprise.

5. Since the limit of 30 acres is considered too restricted, I have no objection to the area of single grants being extended, provided a sufficiently stringent test be imposed to secure continuous proof of *boná fide* intention to carry out the objects for which the grant is made, and provision be included in the lease for the continuance of the same obligation to any transferee, there would appear to be no necessity for placing restrictions on its sub-lease or assignment. It has, however, evidently been overlooked by your Government that under the conditions proposed there will exist absolutely no more practical preventive to one person or company becoming possessed of an unlimited area for mining purposes, by the concerted action of several grantees, in consequence of the increase of the limit of each grant to 150 acres, than when it was restricted to 30 acres. The proposal, therefore, to prohibit a lessee from obtaining more than one grant of limited area in any district seems ineffective. It appears to me that the only precaution necessary with reference to the grant of mining leases is that the Madras Government should, in each case, satisfy itself that the applicant possesses the means for, and has the intention of, carrying out mining operations in a proper manner, in which case the area over which a mining licence should be granted might be left to the discretion of that Government.

6. With regard to the obligation to be imposed in order to secure that the objects for which a grant is made are properly carried out, it is shown that the labour test is inapplicable in the present case. I would, however, point out to Your Excellency that the desired end would be equally well attained if an equivalent in machinery were required in the place of so much labour. I do not desire, neither do I think it was the intention of Lord Cranbrook, to insist that five men per acre should invariably be employed on mining grants in addition to labour-saving machinery. On this subject I agree with your Government that it may, perhaps, best be left to the Madras Government to decide what form the guarantee for *boná fide* mining operations should take, whether it be that the means for carrying them out should be provided, that a certain minimum quantity of rock should be periodically crushed, or other mining work continuously performed.

7. The only other question for consideration referred to in Your Excellency's letter is relative to the conditions on which prospecting for gold should be allowed. The Madras Government very properly declined to accede to the request of the Wynaad Planters' Association that a mining engineer might be sent to report on the whole of South Wynaad, and I concur in the opinion you have expressed that enough has been already done by Government, and that it must be left to private enterprise to undertake any further operations in that direction. In these circumstances it is desirable that reasonable facilities should be afforded intending applicants for mining leases to examine portions of the country before applying for a grant, and I approve of the proposal by your Government that prospecting licences, carrying with them preferential claims for a lease, be granted for a term of six months each over areas not exceeding half a square mile,

8. I notice that you have, on the advice of your Advocate General, decided that the Local Government is to be the final arbiter in cases of dispute as to the conditions of mining leases. You also state that, as regards the general question of the nature of the discretion which should be exercised by the Madras Government, ample discretion and latitude will be left to that authority in every requisite direction. Of this I approve, and I trust that the concessions now made to mining industry in India will be followed by the development of the gold resources in Government waste lands.

9. There yet remain for decision the questions raised in the concluding paragraph of Lord Cranbrook's despatch, above quoted, relative to the grant of mining leases in owned or occupied lands in Madras, where the mineral rights may be vested in Government, and also the manner in which it is proposed to deal with the rights of the cultivating proprietors in such lands.

[illegible]

1881.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

REVENUE.

FROM

HER MAJESTY'S SECRETARY OF STATE FOR INDIA.

No. 98.

Dated 10*th November.*

Recd. 2*nd December.*

SUBJECT.

COMMUNICATES remarks on the correspondence forwarded with despatch No. 2, dated 27th August last, relative to the terms on which mining leases and licences to prospect for gold should be granted in the Madras Presidency.

Rev: May/82

No. 501.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 25th March 1881.

Read the following letters :—

From MESSRS. PIERCE, LESLIE AND CO., to G. McWATTERS, Esq., Collector of Malabar, dated Calicut, 24th February 1881.

WE are, as Agents of various proprietors, interested in the action of Government with regard to the mining rights on escheat lands held from the State in terms of the settlement notified publicly by Mr. Ballard in January 1863, a paragraph of which reads—"The title of persons who in ignorance of the rights of Government obtained land in these (Wynaad) forests from other pretending owners will be respected in every case where collusion or bad faith is not evident, &c., &c.,"—and beg you to be good enough to inform us whether Government proposes to restrict mining to 30 acres on each property occupied by one individual, though the recent Government Order on the subject (paragraph 3) says—"In the matter of mining within the leased area the Government are prepared to concede to the lessees the exclusive privilege, but the lessees must apply for and obtain a separate mining lease for a specified minor area under the conditions notified in the *Fort St. George Gazette* of the 12th instant."

What exercises the minds of the lessees and those of capitalists at Home who wish to assist in developing the mineral resources of the country is that apparently Government concedes to the tenant the exclusive privilege of mining on the leased area and at the same time restricts him to 30 acres. As this question is of vital importance to those concerned and to the general interest of the country we beg you will be good to inform us if the restriction is really meant, and if so must mining be considered as prohibited absolutely on the remainder of the leased area and not one single acre of the balance of the leased area touched except for cultivation, and if so will you kindly give a reason for the restriction?

2. Other clients of ours have purchased land under the Waste Land Rules since Government notified that on such lands Government would in future reserve the minerals. These clients are in great fear that while they hold the surface for cultivation the right to mine may be granted to others who might interfere in a disastrous manner with coffee, tea, and chinchona cultivation, as the interests of the miners might not coincide with those of the surface tenants. Under these circumstances we beg to invite your opinion as to the course Government will follow.

No. 586.

FORWARDED to the Board of Revenue for orders.

(Signed) G. McWATTERS,
Acting Collector.

CALICUT,
25th February 1881.

From N. A. ROUPELL, Esq., Acting Commissioner of Nílgiris, to C. A. GALTON, Esq., Secretary to the Board of Revenue, dated Ootacamund, 28th February 1881, No. 26.

REFERRING to the rules relating to mining grants I have the honor to request I may be favored with the early orders of the Board and Government as to the disposal of applications for permission to mine in lands held on putta and as to the extent to which it is intended to assert the claims of the State in such cases. The notification appended to G.O., dated 1st October 1880, No. 1,263, Revenue Department, is silent on this point. The Proceedings marginally noted indicate that this point has been under the consideration of Government and definite orders are now awaited. As the proprietary title vests in Government the course to be followed will probably be the same as in the case of escheat lands.

Paragraph 3 of Board's Proceedings, No. 863, of 28th June 1880. G.O., Revenue Department, No. 1,263, of 1st October 1880.

2. In their Order, Revenue Department, No. 1,341, dated 15th October 1880, the Government disposed of an application for permission to mine in escheat land by granting the exclusive privilege subject to certain conditions notified in the *Fort St. George Gazette* of 12th idem.

The order in question was passed on a special reference, but as the course sanctioned was one of general applicability I have dealt with other similar urgent applications as laid down in the said Government Order.

3. I would also request instructions as to the interpretation to be put upon the wording of the notification—" nor will more than 30 acres in all be granted to one and the same applicant."

The Government Order to which the notification was appended was communicated to the Collector of Malabar and to the Commissioner of Nílgiris. It was, I presume intended that the 30 acre limit should apply to *each* district, as otherwise the officers above named would be in constant communication regarding the holding of their respective applicants. According to this interpretation the same applicant can hold 60 acres in two adjoining blocks on the border line of Nílgiri and Malabar Wynaad.

4. Again, as to the meaning of the expression " one and the same applicant." Is a man debarred from applying for grants in the name of his wife or in those of each of his children in addition to one in his own name? Is the expression to be taken to include all who are dependent upon the " one and the same applicant?" The latter desires to make investments on behalf of his children. Is this not allowable? Is wife precluded, in respect of mining grants, from holding a separate estate from that of her husband? I put these questions as I have received such applications as those alluded to.

It would, I think, be best to place the most liberal interpretation on the rule and admit the application of a wife and of any child made by a parent or authorized guardian. This, I learn, was the course adopted in Australia where a man in the name of his wife and children held numerous mining blocks under a rule similar to that now under reference.

5. No definition is given in the rules of mining *limits*, the allusions being to superficial areas merely. I have heard of cases in America in which it was the rule that a reef once found might be followed and worked, although thereby the perpendicular division between two adjoining properties was over-stepped. The English rule as to such perpendicular division is, I believe, clear; but it might lead to the saving of disputes and litigation if any possible doubt as to the boundaries of mining rights were set at rest once for all by some formal declaration thereon.

6. During a recent tour in South-East Wynaad, in the course of which I visited most of the chief mining properties and met most of those at present engaged in mining enterprise, I heard many and various opinions expressed regarding the rules. Upon these I will now only say that the opinions were conflicting except as to Clause (3) of Rule 2, as to the impracticability of which all were unanimous. Upon this clause I would beg leave to offer the following observations.

7. The amount of labor required is, I believe, without parallel elsewhere. I consider that it will be impossible to procure so large a supply as the industry develops and mining extends. So large a number of coolies cannot be profitably employed at one time on tunnelling or shaft-sinking, the working space being limited. In many cases the hard character of the rock to be pierced will require the use of compressed air-drills and other machinery, hand-work for this purpose being virtually of no value. There is a further serious objection which has force in many parts of South-East

Wynaad. From such tracts partly to keep some festival to which much importance is attached, partly to cultivate their lands and visit their relatives, but especially to avoid the exceedingly feverish season, the Mysore coolies, who form the laboring class, go to their own homes at the beginning of March, not returning until the end of June. At that season the work on the plantation estates is light and is fitfully carried out by Kurumbers and other tribes from the hill slopes, who may and do any day absent themselves or leave altogether without notice. There is then in fact no cooly labor worthy of the name. It will thus be seen that the present labor condition will be impossible of fulfilment over a considerable area, and if it is relaxed in one portion of the district it must be relaxed altogether. In my opinion so large a supply of regular labor cannot be procured anywhere in this district.

8. I would venture to suggest that the amount of cooly labor required be reduced from five coolies to not more than one cooly per acre of mining grant. One cooly per acre would represent an expenditure of Rs. 7 × 30 = 210 over a 30-acre grant, equivalent to Rs. 2,520 per annum for manual labor alone. I submit that this is ample if not too much. It is not intended that the condition should be oppressive to the lessee, but fair to both parties. It is a question whether the scale proposed would not be sufficient even were every portion of the various grants susceptible of mining operations. This as a matter of fact can hardly be the case, and labor will thus have to be found on account of acres which contain no quartz reef, although of course the particular spots at which the labor is employed are left to the selection of the lessee.

9. Finally, I would bring to notice that the development of the mining industry will tend to enhance enormously the value of wood in the tracts concerned. This value has already risen much of late. The heavy prospective demand for timbering shafts and tunnels, erecting workshops, machine sheds, bungalows, and cooly lines, as well as for fuel purposes, will send up prices much higher. The time is not yet come for taking action, but the progress of mining will be carefully watched with reference to this eventuality.

The foregoing letters raising several questions of importance in connection with the rules recently issued for the disposal of applications to mine for gold will be submitted for the orders of Government.

G.O., dated 1st October 1880, No. 1,263.

2. Messrs. Pierce, Leslie and Co. inquire with reference to G.O., dated 15th October 1880, No. 1,341, whether a holder of escheat lands to whom Government have conceded the exclusive privilege of mining within the leased area is restricted in regard to actual mining operations to a minor area of 30 acres. The Board consider the intention to be that the holder of escheat lands may on application obtain the exclusive right to mine over the whole area comprised within his holding, thereby excluding all others, and as regards the limitation in regard to the area of mining lots they gather from the terms of the notification that, although mining operations *at one time* are to be restricted to 30 acres in all, as it is expressly stated that this extent may be allotted in one or more blocks, there is nothing to prevent those to whom exclusive privileges have been given working in different parts of the area held by them, provided that their operations are restricted to 30 acres in all, and that the breadth of each mining lot is not less than 70 yards. Thus thirty mines occupying a surface area of one acre each might be worked at the same time, and those spots which were found unprofitable might be given up on application and operations commenced in other parts of the holding so long as the aggregate workings are within the specified limit. If the Government are prepared to accept this interpretation of the notification the objections raised to the condition in question will vanish, and what has hitherto been a bar to the development of the industry in lands held under Government will be removed. The general impression is that mining operations are restricted to one block of 30 acres, notwithstanding that the exclusive right of mining is conceded over a far larger area, and this has deterred English capitalists from investing for mining in Government land whilst capital is freely invested in land held under native landlords where no restrictions are imposed.

30 acre limit

3. The other point to which Messrs. Pierce, Leslie and Co. refer is the protection of the holders of surface rights in lands on which mineral rights are reserved in dealing with mining applications. This point was brought forward in paragraph 3 of Board's Proceedings, dated 17th July 1880, No. 977, and the Government in their Order, dated 1st October 1880, No. 1,263, stated that the subject would be separately considered.

4. Mr. Roupell asks how he is to deal with applications for permission to mine in lands held on putta, and as to the extent to which it is intended to assert the claims of the State in such cases. The question is still under the consideration of Government; the Board have expressed their views in their Proceedings, dated 13th September 1880, No. 1,323. It is observed, however, with reference to the remark at the close of paragraph 1 of the Commissioner's letter that the case of escheat lands, where the Government occupies the position of landlord, is not analogous to that of ryotwari land held on putta.

5. In paragraph 2 Mr. Roupell reports having disposed of applications to mine in escheat lands in accordance with the decision passed in G.O., dated 15th October 1880, No. 1,341, with reference to the Provident Estate in Moonaad Amshom. This action is approved on the understanding that the exclusive privilege of mining is limited to the extent actually occupied for cultivation.

6. In paragraphs 3 and 4 Mr. Roupell raises the questions—

(*a*) Whether under the terms of the notification one individual can hold blocks each not exceeding 30 acres in more than one district, or whether he is restricted to 30 acres in all.

(*b*) Whether it is permissible to grant mining leases for such blocks to members of an applicant's family in addition to the block taken up by himself.

On the first point the Board are of opinion that the restriction was not intended to extend beyond the district, and further that where an individual holds land in more than one locality in a district he is entitled to have a mining grant of 30 acres in each of the estates over which the exclusive privilege of mining has been conceded to him. As regards the second point the Board presume that the object of the restriction was to prevent land-jobbing, in which case it was probably not the intention to allow an applicant to obtain additional areas in the names of members of his family; but it is clear that the rule can be easily evaded, and some modification of the condition appears desirable. Local limit

7. As regards the question raised in paragraph 5 the Board consider that the limits of mining below the surface must coincide with the surface boundaries, and that no man has a right to undermine adjacent property, whether vested in Government or an individual, without permission.

8. In paragraphs 6, 7, and 8 Mr. Roupell points out the impossibility of compliance with Clause 3 of Rule 2, requiring that five laborers per acre shall be regularly employed on *bonâ fide* mining operations on each block. Mr. Roupell suggests a modification of the rule to the extent of requiring one laborer per acre instead of five, but the Board think that self-interest may be trusted to determine what labor can be profitably employed, and if the rent of Rs. 5 per acre is not sufficient to prevent land being taken up without any intention of working it it would seem better to increase the rental rather than impose a condition which cannot be observed. Labour

9. There is another point not referred to in either of the letters above read which the Board think requires elucidation, viz., Clause 4 of Rule 2. If this condition merely requires that a notice of transfer of a mining lease should be given to the local authorities in view to the register being altered accordingly there is no objection to it, but it is generally understood to mean that Government reserve to themselves the power of prohibiting any such transfer, and this is felt to be a hardship, inasmuch as the time that must elapse before sanction can be obtained and the uncertainty as to whether it may be granted or refused operate to prevent the investment of capital in the purchase of properties on which mining rights have been conceded. The effect of the numerous restrictions by which the right to mine on Government land is fenced in is to divert capital therefrom to native estates where no such restrictions exist. Transfer

10. The enhancement of the value of timber in connection with the development of the gold industry points to the necessity of asserting and defining the rights of Government in the escheat forests of the Wynaad, a subject which will be noticed shortly in submitting proposals for continuing the survey in that province.

(True Copies and Extract.)

Secretary.

To the Secretary to Government, Revenue Department, 2 ~~with copies of two letters~~

" Commissioner of the Nilgiris.
" Collector of Malabar.
" First Member of the Board of Revenue, in charge of Settlement Department, ~~with copies of two letters~~.

Exd. J. Tulloch.

80 Copies struck off

Rev. 1881. Dept.

Board of Revenue,

MADRAS. No. 1782

To

THE SECRETARY TO GOVT.,
REVENUE DEPARTMENT,
&c., &c., &c.

Dated March 25th.

Printed th.

Received 31.

PROCEEDINGS, 25TH MARCH 1881, No. 501.

C. 4th 30/3/81

MARCH
No. 501.

Lands—for mining purposes.—Submitting to Government, with remarks, letters from Commissioner of Nílgiris and Collector of Malabar requesting orders in regard to applications for —.

24-1-82 R.1-2-82.

C-11-4-81
7-4-81 R-9-4-81

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(11)

9

[31st October 1881, No. 2572.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 31st October 1881.

No. 2572.

Read—the following letter from E. BARCLAY, Esq., Government Solicitor, to the Secretary to the Board of Revenue, dated Madras, 21st October 1881, No. 445:—

WITH reference to the Proceedings of the Board of Revenue, under date 11th instant, No. 1980, I shall be obliged by your furnishing me with a copy of G.O., dated 23rd February 1881, No. 353. I do not appear to have received a copy of this order.

2. I shall also be obliged by your informing me whether the form of mining lease set out in the Board's Proceedings above referred to is to be altered so as to exclude silver and precious stones. In the Board's resolution only gold is mentioned; and, in altering the lease, some provision will have to be made as to what is to be done with gold and (if excluded from the lease) silver and precious stones, if found in mining for other minerals. I should be glad to receive instructions upon these points.

Resolution—

WITH reference to paragraph 1, the Government Solicitor will be furnished with a copy of G.O., dated 23rd February 1881, No. 353.

2. Adverting to paragraph 2, the orders of Government are requested on the question therein raised. The present form of lease of lands for gold-mining is so worded as to confer the right to mine for metals other than gold, and when parties pay the higher acreage rate prescribed for gold-mining, the Board do not see why they should not be allowed to mine under the same lease for inferior metals; they are, however, of opinion that where a lease is granted for mining for metals other than gold and gold is discovered, the lessee should be made to accept a gold-mining lease under the conditions applicable thereto. The Board do not understand that it is the intention of Government to treat silver under rules applicable to gold-mining, and it will therefore come under the category of "Metals other than gold." Diamonds and other precious stones must be excluded from leases of either description.

(A true Copy and Extract.)

Acting Secretary.

To the Government Solicitor, with copy of G.O.,
23rd February 1881, No. 353, Revenue Department.
" Secretary to Government, Revenue Department. Ws. copy already sent

Exd. A. F. Goodall.

No. 6022.

1881.
Board of Revenue,
MADRAS.

To

THE GOVERNMENT SOLICITOR,
&c., &c., &c.

Printed November th.

Received 15

PROCEEDINGS, 31ST OCTOBER 1881, No. 2572.

FURNISHING the Government Solicitor with a copy of *G.O.*, dated 23rd February 1881, No. 353, and requesting the orders of Government on the question raised in paragraph 2 of his letter regarding the adaptation of the *form* of gold-mining leases for mining for metals other than gold.

7-4-81 K 9-4-81

of 6 Sept/81

619

No. 15

Copy of the despatch forwarded to the Government of Madras for information, with reference to its telegram of the 26th ultimo.

Revenue & Agric. Deptt.
Minerals
Simla the 30th August 1881

By order

Offg. Under Secy. to the Govt. of India.

Mis. Lt. No. 3324.

Recorded.

19 Nov/81.

REVENUE (188/) DEPARTMENT.

No. 4686.

Endorsement

From

The Government of India

Rev & Agril. Dept.

Dated 30 Augt. 1881

Recd. 6 Septr.

No. 15.

Print

SUBJECT.

Forwarding for information copy of the despatch to the Secretary of State regarding Gold-mining leases in the Wynaads.

Put on Order.

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now sufficiently clear, that an applicant did not say that he wants a mining lease in order that he may sell it directly to some Company in England at an enormous profit.

Now that all restriction on transfers, as also on a lessee getting more than one mining lease, (either has the same effect as ~~both~~ ~~com~~ the other or both combined), it seems to be a question whether it is necessary to fix the maximum of area for a mining lease so high as 150 acres. A blank is left therefore for the number of acres in para .. of the draft, so that such ~~que~~ extent as may be deemed a suitable limit may be entered.

N.

In the letter to the Govt. of India, dy 21st May 1881 No. 819, it is stated (para 10) that the provision for the grant of land as an adjunct to the mining grant for purposes therewith connected, may be abandoned; but the Govt. of India in their despatch to the Secretary of State ~~say p~~ (C. No. 4686) say (para 7) that they did not rescind the offer made in para 4 of the notification of Octr 1880 (G.O. 1st of that month No. 1263). Nothing is said, therefore, about this in the draft.

C No 102

Note

The combined effect of the large concession made and the condns imposed seems to be to give unrestricted scope to bona fide mining enterprise and to shut out all land jobbing. It is apparently desirable to put this clearly now once for all, so that each Company may not adopt its own reading of the Secretary of State's despatch and the Govt of India letter, or come up to Govt every now and then for the solution of doubts and difficulties.

Unless it is intended to refer again to the Govt of India on the point, it seems to be

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Revenue Secretariat,
Madras, 11th April 1881.

Dear Hobart,

Please submit for the consideration of the Right Honorable the Governor the accompanying papers relating to gold mining leases.

His Excellency's note of 20th March on Captain Campbell's application has been seen and remarked upon by the Honorable Mr Hudleston.

Now there has come a further paper from the Board of Revenue dated 25th March No 501 requesting instructions on certain points connected with the grant of land for mining purposes and this has also been noted upon by the Honorable Mr Hudleston.

I

I see the Planters are getting up a big memorial on the subject.

An order had already been issued on the subject of proving leases in accordance with previous instructions.

Yours sincerely

G. Master

To Major Bertie Hobart R.A.

REVENUE DEPARTMENT.

C. No. 1782.

~~[illegible]~~ Pro; Bd. of Revenue,

Dated 25th March 1881.

FOR ORDERS.

1. This paper is circulated with reference to, and in continuation of, Captain Campbell's representation* and the notes of Honorable members thereon, which also accompany.

* C. No. 1093.

2. A final disposal of that paper will leave little in this for consideration.

3. It is submitted that supposing the terms of the notification in G. O. 1st October 1880, No. 1263, are left unaltered there is no objection to the reading adopted in paragraph 2 of the present Proceedings.

There is I think no question that the max. area of 30 ac. may be taken up in the dist. for [illegible] [illegible] [illegible]

25 March 80. [illegible]

4. I am not quite clear

clear as to paragraph 3 of the current paper. The notes in G. O. 1st October 1880, No. 1263, do not shew distinctly why the Board's proposal on the subject in para 3 of their Proceedings dated 17th July 1880, No. 977, was not accepted.

5. In regard to para 4 of current paper the Board's Proceedings quoted (13th September 1880 No. 1323) are still under consideration. (a)

6. Para 5. There can be no objection to this in any case of bonâ fide escheat but the question has still to be settled whether certain tracts which have been dealt with by the District authorities as escheats are really so.

7. Para 6. The Board's argument on Point 1 seems correct

correct. As to Point 2 some ruling is required.

8. Para 7. Submitted that the Board are right.

Paras 8 and 9 might be considered in connection with No. 107 (Captain Campbell's papers)

This refers to the case of [illegible] of land in recognised occupation for cultivation purposes, in the form of mining leases being sought by a distinct applicant. In G.O. 1541 [illegible] Govt. stated that they were prepared to concede to the cultivation lessees the exclusive privilege in the matter of mining within the leased area [illegible] but that such lessees must take out a distinct mining lease under the Rules. I do not think this [illegible] bar what the Bd. advocate. If a lessee concerned [illegible] in an outsider's applicn. for a mining lease within the lessee's cultivation area, it might be admitted without scrutiny into the terms on which concession has been obtd.

But what the Bd. [illegible] in their para 2 is a distinct matter viz: the position as regards holders of land under the [illegible] land rules in which the mineral rights have been expressly reserved. This is provided for by the revised form of indenture lately approved. [illegible] anticipate [illegible] could protect.

As regards (a) in Bd. para 6 I do not think that on the principle adopted of 30 acres limitation the same party can obtain the max. amt. in each Dt. This it seems to me would be to abandon the principle altogether. But whether it was correctly deduced from the [illegible] is [illegible]. Whether, if so, it is desirable to maintain it may be questioned. I think the Gt. intention in proposing this limitation was to prevent a monopoly of large areas of a single auriferous tract by individual applicants, [illegible] the policy of the principle [illegible] probably be [illegible] question. But I think it should be carried out in principle by prescribing a minimum of distance between leases of max. extent (30 acres) which could be held by the same Mining lessee rather than by adopting the distinction of Districts. But the [illegible] would work thus in the case of [illegible] aggregating 30 acres. [illegible] required that they should all be within a fixed radius or distance from another or range, & that when the 30 acres was completed the same applicant could not obtain any more within a prescribed distance from any portion of the former concession.

But the primary point is whether the 30 acres is an absolute limitation to the extent of a single lessee. & this is distinct from the point raised by the Bd., the Govt. viz. the extent of the limit. shall be.

The question is, having settled the [illegible] for a single lessee, is the intention of G.O. to bar the lessee from obtaining any further area any where?

This is what has been assumed by the Govt. & the [illegible]. Is the assumption correct? I would ask Gt. & suggest that a limit of distance would be more reasonable than an absolute bar.

The acceptance of the Bd.'s opinion on the case of cultivation lessees holding land in more than one locality would be in accordance with this suggestion, but at present I doubt whether we can accept it without violating the interpretation we have adopted.

I think the Bd. are clearly right in para 7. I believe it to be a universally recognised rule.

At this very moment the [illegible] family in [illegible] are arranging

& pay to the Commissioners a very large sum of money (£6000) I think at least as compensation for having carried their Coal Mines at Whitehaven beyond the Manor limits. & under the Sea below H. W. mark where Crown right begin.

The question of Lease & Transfer or sub-letting are already under discussion.

L.K. 8/4/81

C. Ess II 17532

FOR ORDERS.

On certain points in connection with the old mining leases.

c. 11-4-81

c. 7-4-81 R.9.4.81

Mis G.O. 22-10-81 No 2909

Vide Cir 6345/81.

Rev: 1881. Dept

Board of Revenue,

MADRAS. No 6022

To The Secretary to Govt
Rev. Dept

Recd 1st Novr

Proceedings, dated 31st October 1881.
No. 2572 Miscellaneous.

Subject.

Forwarding to the Govt solicitor copy of G.O. 23rd Feby/81 No 353 & requesting orders of Govt as to whether the form of gold mining lease is to be altered so as to exclude silver & precious stones —

C. 20-1-82 R. 1-2-82

REVENUE DEPARTMENT.

No. 6022.

From Board of Revenue

Dated 31st October 1881.

FOR ORDERS.

1. The indenture printed with Boards' Proceedings, 11th October last No. 1980, includes 'other metallic ores' in addition to gold, and therefore if a lease in this form is granted no question can arise that the lessee is entitled to all metals which he finds.

2. Silver being a Metal 'other than gold' would come under the provisions of G.O., 23rd February 1881, No. 353, and would therefore be dealt with in the revised form of lease asked for by the Board, whenever an application for permission to mine for silver

and

I recommend to alter the Lease form already published so as to exclude metals other than gold, and suppose the Bd's suggestion that if the holder of a Lease under the provisions of G.O. 23 Feb 81 for silver &c. mining shall strike gold, he shall be required to take out the gold mining lease.

If the published form of gold & other metallic ores mining lease does not already exclude diamonds and metals other than gold was received.

3. The enquiry made by the Govt. Solicitor as to what is to be done with gold, if found in mining for other minerals suggests the desirableness of one general form of lease which would include all metallic products.

4. Reefs have been discovered already which contain a larger proportion of silver than gold. The former could not practically be worked out without also extracting the latter. Yet the owner might wish to have only a lease for metals other than gold. The Board say in such a case he should be made

& other previous clauses
alteration may ~~[illegible]~~
be necessary. ~~[illegible]~~
~~[illegible]~~ Govt. Solicitor [illegible]
[illegible] the Bd. [illegible]
on the point.

Minerals. Semble
will cover everything that
is mined for.

In the lease [illegible]
minerals, or containing gold
or other metallic ores.

[illegible]
[illegible]
[illegible]
[illegible] the metallic
ores.

And [illegible] of the
other metals [illegible]
found.

And [illegible] accounts
of the [illegible] of the gold
metals. metallic ores
& other substances [illegible]
[illegible]
[illegible]

[illegible]

provisions of the lease [illegible]
[illegible] for working
of Diamonds & other precious
Stones under the lease. &
[illegible] accounts
[illegible] accidentally
found in working the
metallic ores.

Diamonds & precious
Stones may be minerals
but they are not [illegible]
metals or metallic ores.

If this view is correct the
lease has the Lessee [illegible]
[illegible] precious stones
it may be better [illegible]
[illegible]
[illegible] for
Diamond mining.

[illegible]
Eng. [illegible]
[illegible] 21 May 1881, No 818.
To India " " No 819.
+ [illegible] " 30 Aug/81 No 15.

× [illegible] the despatch which [illegible] India [illegible] [illegible] in the [illegible]

[illegible] 26.81. [illegible]
[illegible]

made to accept a gold mining lease. It might be difficult in some cases to arrange this and it would certainly simplify matters if the proprietor could deal at once as he liked with any metals he might find.

5. It had been intended in this office to postpone altering the form of lease till some decision was passed on the modifications in the terms of gold mining grants now under the consideration of the Secretary of State. The orders which may be passed will probably render necessary a revision of the whole question as affecting gold as well as metals other than gold.

6. Meanwhile it might be the simplest way to say that

that if gold is found a gold-mining lease must be substituted for the 'other metal' lease should the latter have previously been granted.

7. As to what is to be done if precious stones are found in mining for minerals.

8. The terms on which land for digging for diamonds may be given are contained in G.O., 21st July 1881, No. 1096.

9. These can hardly be enforced if diamonds are found in a block already leased for gold or 'other metal' mining.

10. Query- whether in such a case the lessee might not have his diamonds into the bargain?

5-11-81 R. 7-11-81

FOR ORDERS.

C. No. 1022

Forms of lease for Gold mining and for mining for other metals. Modifications suggested in [illegible]

[illegible] the Labor condition is important. [illegible] please -) [illegible] to the Gold Mining Lease. Solicitor that [illegible] form [illegible] [illegible]. [illegible]

Proceedings of the Board of Revenue,

Dated 31st October 1881.

No. 2572 ~~Miscellaneous.~~

READ the following

No. 445.

From,
Ernest Barclay,
Government Solicitor, Madras.

To,
The Secretary, Board of Revenue,
Madras.

Sir,

1. With reference to the Proceedings of the Board of Revenue under date 11th instant No. 1980 I shall be obliged by your furnishing me with a copy of G.O. dated 23rd February 1881 No. 353. I do not appear to have received a copy of this order.

2. I shall also be obliged by your informing me whether the form of

Mining lease set out in the Board's Proceedings above referred to is to be altered so as to exclude silver and precious stones. In the Boards Resolution only gold is mentioned; and in altering the lease, some provision will have to be made as to what is to be done with gold and (if excluded from the lease) silver and precious stones, if found in mining for other minerals. I should be glad to receive instructions upon these points.

Madras,
21st October 1881 } I am, &c.
(Signed) Ernest Barclay
Government Solicitor.

With reference to para 1 the Government Solicitor will be furnished with a copy of G.O. dated 23d February 1881 No 353.

c. 5-11-81 R. 7-11-81

2. Adverting to para 2 the orders of Government are requested on the question therein raised. The present form of lease of lands for gold mining is so worded as to confer the right to mine for metals other than gold and when parties pay the higher acreage rate prescribed for gold mining the Board do not see why they should not be allowed to mine under the same lease for inferior metals; they are however of opinion that where a lease is granted for mining for metals other than gold and gold is discovered the lessee should be made to accept a gold mining lease under the conditions applicable

thereto. The Board do not understand that it is the intention of Government to treat silver under rules applicable to gold mining and it will therefore come under the Category of "metals other than gold." Diamonds and other precious stones must be excluded from leases of either description.

(True Copy & Extract)
C. Mackay
Ag Sub Secretary.

To
The Secretary to Government
R.D.

Rd. Hogg

5-11-81 R. 7-11-81

Draft O.M. No 390

With reference to the Govt Solicitor's letter to the Board of Rev. dy 21st ulto No 445, the undersigned is directed to request that he will obtain and submit for the information of Govt the Advocate General's opinion as to whether the form of ~~Indent~~ Indenture printed in the Board's Procs dy 11th idem No 1780 includes diamonds and other precious stones or not.

2 It is observed that the term "minerals" presumably includes every thing obtainable by mining; but the words "gold and other metallic ores" that follow seem to restrict its definition to metals.

The question of construction seems to be further complicated by the words "or substances of a similar nature" in the first [illegible]

Fort Saint George
8 Nov 1881.

Copy to the Govt Solicitor Dy/11

G.M.

Cr No 6022/81.

Drft O. M

To The Govt Solicitor

Indenture of Gold mining lease – Construction of – as to its including or not including diamonds and other precious stones

Des 8/11 bundle to be [illegible]

e. 5.11.81 R. 7-11-81

10

No 1195.

Madras 15th November 1881.

From.
Ernest A. Barclay.
Government Solicitor
Madras.

To.
C. G. Master Esquire
Secretary to Government
Revenue Department
Fort Saint George.

Sir.

1. I beg to acknowledge receipt of your Official Memorandum dated 8th Instant. No 390. Revenue Department, requesting me to obtain and submit for the information of Government the Advocate General's opinion as to whether the form of Indenture printed in the Proceedings of the Board of Revenue, dated 11th October 1881. No 1980. includes diamonds and other precious Stones or not.

2. I Submitted the matter for the Consideration of the Advocate General and I now forward herewith a Copy of his opinion.

I am. Sir.
Your Obedient Servant.
Ernest Barclay
Government Solicitor

Cuo 6022/81

No 1345

Revenue (1881) Department

From
The Government Solicitor
Madras

To
The Secretary to Govt.
Revenue Departt.
Fort St George.

No 495.

Dated 15th } November 1881.
Recd 16th } 16.

Enclosure 1.

Forwarding the Advocate Genl's opinion as to whether the form of Indenture printed in the Proceedings of the Board of Revenue dated 11 October 1881 No 1980 includes diamonds and other precious Stones or not -

C. 24-1-82 R. 1-2-82

C. 11. 81 R. 7-11-81

OPINION.

I DO NOT THINK THE FORM OF INDENTURE INCLUDES DIAMONDS OR OTHER PRECIOUS STONES, BUT TO PREVENT FUTURE DISPUTES IT WOULD BE WELL TO INSERT A PROVISO SHEWING THAT THEY ARE NOT INCLUDED. THIS MAY BE DONE AFTER THE WORDS ''MAKE MERCHANTABLE ALL GOLD AND OTHER METALLIC ''ORES'' (BUT NOT INCLUDING DIAMONDS OR OTHER PRECIOUS STONES)'' FOUND THEREIN'' BY INSERTING THE WORDS WITHIN THE PARENTHESIS AND INSERTING THE SAME WORDS AFTER THE WORDS ''METALLIC ORES'' SEVEN LINES HIGHER UP.

(SIGNED) P. O'SULLIVAN.

14TH NOVEMBER 1881. ADVOCATE GENERAL.

(A TRUE COPY.)

Ernest Barclay

GOVERNMENT SOLICITOR.

Rev Dept.

Draft G.O. No 132 d/ 1st February 1882

To be not printed [illegible] only

Read again G.Os d/ 21st May 1881, No 818, & 19th Nov: following No 3324.

C. No 104 of 1882. Read also letter from the Govt. of India, d/ 30th Dec: 1881, No 40 M.

" " 1782 of 1881. Also Boards' Pros: dated 25th March 1881 No 501.

" " 6022 " — Do dated 31st October 1881 No 37.

[illegible] " " 6345 " From the Govt. Solicitor, d/ 15th Nov 1881 No 495.

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1. The letter from the Government of India read above and the Secretary of State's despatch to which it gives cover leave the limit of area for a Gold mining lease to the discretion of the

C.S. 495

Rev: 6345/81.

this Govt. and empowers this Govt. to dispense with the labor requirement, the only condition insisted upon and particularly enjoined being a guarantee of means as well as _bona fide_ intention to carry on mining operations and the actual application of a sufficiently stringent test to secure continuous proof of the fulfilment of such intention. ~~The nature of the test to be employed is left to the decision of this Government.~~ With this condition and its strict enforcement, it is presumably considered unnecessary to ~~at all~~ restrict an applicant to one mining lease.

2. The Right Honorable the Governor in Council resolves

resolves to fix the ordinary limit of area for a mining lease at 150 acres, exceptional cases in which it might be considered desirable to exceed this limit being reported for orders.

3. Where the means or bona fides of an applicant are questionable, the application for a mining lease will be unhesitatingly rejected. As observed by the Government of India, the guarantee for _bona fide_ operations can, in the nature of the case, be expressed in the Indenture only in general terms. The nature of the test to be actually employed in each case must ~~will~~ be left to the decision of the Collector ~~or Commissioner, as the case may be~~, subject of course to appeal to Government.

The

Query whether some definite rules sh'd be prescribed.

4. The Board will, in communication with the Government Solicitor, modify the present published form of Indenture for Gold mining as follows:-

5. The clause relating to the labor requirement will be omitted and those clauses which provide for "search" being conducted "in the best and most effectual manner" and for accounts being kept of the working of the mines and of the expenditure incurred, will be so modified as to impose on the lessee, in express terms, an obligation also to furnish, when required, satisfactory proof of operations having been properly and effectually carried on, making forfeiture of the lease the consequence of default. There is a provision in this respect in the present form of Indenture, but it is not sufficiently specific except as regards the labor requirement now dispensed with. ~~This~~ The obligation now to be imposed will, in accordance with orders already issued,+ be enforced after the lapse of nine months from the execution of the Indenture, and, as in the case of the labor requirement in the present form, space will be left for the date from which the obligation shall actually commence.

+ G.O. of 21st May 1881, No. 818, para 4.

6. The Government observe that the present published form of Indenture retains the original restriction of transfer without sanction, ~~notwithstanding that it was~~ such restriction having been removed by G.O. of 21st May 1881, No. 818, para 5. The clause containing ~~this restriction~~ should be expunged and

and one imposing the obligation referred to in the preceding para on the transferree, in case the lease is transferred, should be inserted in its place.

7. Diamonds and other precious stones should be expressly excluded.

8. A form of Indenture on these lines should be prepared also for mining for metals other than gold, and both should be submitted to Govt., with as little delay as possible, for final approval.

9. It does not appear necessary to exclude metals other than gold from the Indenture for gold mining, and the Board's suggestion that if the holder of a lease for other metals shall strike gold, he should be required to take out a Gold mining lease is approved. A

Clause

clause to this effect must be inserted in the form of Indenture for mining for other metals.

10 The Board will also prepare and submit for approval notifications in accordance with the terms now settled, for publication in supersession of those appended to GOs d/ 1st October 1880, No. 1263 and 23rd February 1881, No. 353.

11. The enlarged limit of area for a mining lease and the removal of the restriction as to an applicant obtaining more than one mining lease dispose of the question raised with respect to escheat lands in the Wynaad in para 2, and with respect to unoccupied

Govt

to Waste in para 6, of the Board's Proceedings d/ 25th March 1881 No. 501, read at the head of these Proceedings; while the abandonment of the labor requirement and the removal of all restriction on transfers disposes of paras 8 and 9 of the same paper. In para 3 the Board apparently refer to the question raised by Messrs. Pierce Leslie & Co. as to the position, as regards surface rights, of holders of land under the waste land rules, in which the mineral rights have been expressly reserved. This question has been settled by the revised forms of Indenture for the sale of Waste lands printed in G.O. d/ 7th June 1881, No. 895. The general and far more important question of Ryots' rights in lands held on ordinary Ryotwari putta, to which the Board advert in para 4, is under consideration. The view expressed by the Board in para 7 to the effect that mining rights, where such exist or have been acquired under a lease from Govt, do not extend beyond the surface boundaries is obviously the right one.

*C No 1782.

12. The question of granting prospecting leases has already been dealt with in conformity with the Secretary of State's views.

*G.O. 12 Dec 1881 No 1916

Endt Copy to the Board of Rev. Dec 7/2/82
10 Presidency Copies Dec 11/2/82
4 The Govt Solicitor Dec 11/2/82

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[illegible]

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