M.R.O. 1—20,002—12-8-65.

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 1140-41 Press
~~B.P. No.~~ ~~Mis.~~

Dated 18-9-1883 196 .

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following letter from E. C. BUCK, Esq., C.S., Secretary to the Government of India, Revenue and Agricultural Department (Revenue), to the Secretary to the Government of Madras, dated Simla, 18th April 1883, No. 450-R:—

In continuation of Mr. Holderness's letter, No. 243, dated the 22nd February last, sanctioning the sale of 80 acres of waste lands, revenue-free in perpetuity, in the Madura district, I am directed to invite the consideration of His Excellency the Governor in Council to the general principle involved in the rules under which this sale was effected, and to the expediency of modifying these rules so as to subject similar alienations of Government waste lands to assessment of land revenue in future.

2. The policy which has been systematically approved by the Government of India in respect to the alienation of unoccupied waste is that it may be freely granted on lease or sold subject to such land revenue as is assessable under existing rules, but that it should not be sold revenue-free in perpetuity. In 1874 the importance of retaining the State's claim to minerals in waste lands led to the discussion of the question whether long leases should not be substituted for sales in fee-simple. It was finally decided that, provided the State's mineral rights were duly reserved in the deed of conveyance, there was no special objection to sale as a mode of transfer. This, however, did not touch the question of sale of State lands *revenue-free in perpetuity*, as the proprietary right may be sold subject to revenue assessment, and in fact is constantly thus sold. Since the question of sale was mooted in 1874, the several local Governments have revised their rules for the disposal of waste lands, and, save in Madras, in no case is sale of land exempt from revenue assessment in perpetuity permitted. The usual conditions are that the grant is to be revenue-free for two or three years, and after that time is to be in whole or part subject to a progressive rate of assessment. I am to enclose, for His Excellency's information, copies of the rules in force in the North-Western Provinces and in the Punjab, as these have been most recently considered and approved by this Government. In Burma, Assam, Bombay, and in short throughout the temporarily-settled Provinces, the same principle has been observed, whether waste lands are disposed of by sale or by lease.

3. It is hardly necessary to dwell on the reasons which recommend the policy of not alienating in perpetuity the State's interest in the culturable waste of the country. The objections which exist to the redemption of the revenue assessed on private lands, except in very special cases and on small areas, are equally applicable to the case of unassessed but culturable waste, which eventually, with the increase of population, will become valuable to the State. An exemption from land revenue for a limited number of years, coupled with equitable conditions as to the assessment to be eventually imposed, would not, it is believed, materially diminish either the selling price of waste lands in the Madras Presidency, or check the liberal employment of capital on their reclamation. The question is an important one, and His Excellency the Governor-General in Council would be glad to have it fully considered by the Government of Madras with reference to the rules at present in force throughout the greater portion of the Presidency.

ORDER—dated 18th September 1883, No. 1140, Revenue.

Land Revenue, No. 166.

Ordered that the following reply be despatched:—

(Here enter No. 1141, dated 18th September 1883.)

(True Extract.)

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

Exd. A. Aubert.

80 Copies.

Govt. of {1883} Madras:

REVENUE.

Issued

Recd. *Encl.*

G.O., 18th September 1883, No. 1140.

SEPTEMBER.

Waste Lands.

Ordering despatch of a reply to the Government of India with regard to the proposed modificationof the rules for the disposal of — in this Presidency in so far as they provide for sale *revenue-free*.

REVENUE DEPARTMENT.

LETTER—from

THE SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE,

To

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

SIR,

I am directed to acknowledge receipt of your letter, dated 18th April last, No. 450-R, suggesting a modification of the rules for the disposal of waste lands in this Presidency in so far as they provide for sale *revenue-free*.

Land Revenue, No. 167.

2. In reply I am to say that, after giving the subject his most careful consideration, the Right Honorable the Governor in Council, though entirely agreeing with the principle laid down by the Government of India in regard to the inexpediency of alienating in perpetuity the interest of the State in the culturable waste, is of opinion that in the circumstances of this Presidency as explained below, it is not necessary or desirable to disturb the existing rules which, after much deliberation, were introduced with the approval of the Secretary of State twenty years ago.*

* Despatch from the Secretary of State to the Government of India, dated 9th July 1862, No. 14, and letter from the Government of India to the Government of Madras, dated 15th August following, No. 4244.
Also letter to the Government of India, dated 12th August 1881, No. 1178.

3. It is in the first place to be observed, that sales, *free of assessment*, in this Presidency have always been very limited. Since 1874-75 they have, under the circular from the late Department of Revenue, Agriculture and Commerce, dated 10th August 1872, No. 4733, been restricted to lots of 10 acres and under; but during the fourteen years ending 1880-81, they aggregated only 1,243 acres as shown in the margin, and the sales under the ten-acre restriction have aggregated only 429 acres. The applicants in such cases are generally missionaries, retired officers or other European settlers who render useful service to the country; while from the very small extent of the area alienated, the sacrifice of a prospective increase of revenue involved must be insignificant. The existing system especially suits the convenience and requirements of the classes above named.

	Unassessed Lots without restriction as to size.	Lots of 10 acres and less.
	ACRES.	ACRES.
1867-68	314	...
1868-69	223	...
1869-70	292	...
1870-71	160	...
1871-72	139	...
1872-73	24	22
1873-74	91	8
1874-75	...	48
1875-76	...	129
1876-77	...	53
1877-78	...	48
1878-79	...	31
1879-80	...	15
1880-81	...	75
	1,243	429

4. It is true that in the Wynaad and on the Nilgiri and Shevaroy hills, where the sale of waste lands, under special rules, is *subject to assessment*, the

* *Nilgiris and Wynaad.*

Rs. 2 per acre for forest land.
As. 8 per acre for grass land.

Shevaroys.

Re. 1 per acre—general rate.

rates* of assessment cannot be increased, and are redeemable at the option of the purchaser at twenty-five years' purchase; but in these exceptional localities, there is very little prospect of land attaining an increased value except from the special products, viz., coffee, tea and cinchona, to which alone it is generally adapted and is chiefly devoted. These special products require skill and capital, but skill and capital are scarcely likely to be attracted where there is no assurance that the revenue demand will not be enhanced at a future date. The land revenue is usually settled with reference to the produce of the land estimated in the ordinary staple food-grains of the country; and it would not be possible to assess the lands under discussion with reference to the special products raised. Having regard to the quality and situation of these lands, a rate of Rs. 2 per acre is certainly as high as could ever be imposed with reference to their suitability for ordinary produce.

	Extent. ACRES.
† 1867-68	304
1868-69	5
1869-70	49
1870-71	247
1871-72	165
1872-73	324
1873-74	595
1874-75	1,450
1875-76	1,342
1876-77	1,060
1877-78	1,016
1878-79	778
1879-80	193
1880-81	1,113
1881-82	87
Total ...	9,628

5. The present rules for the hill tracts above named certainly do not err in the direction of undue liberality to European enterprise at the expense of the interests of the State; the total extent of land sold (subject to assessment) in these tracts during the period of fifteen years ending 1881-82 is, as will be seen in the margin, only 9,628 acres†—a quantity obviously very inconsiderable relatively to the extent available for planting; and, in the opinion of the Right Honorable the Governor in Council, modification of the rules in the direction desired by the Government of India might tend to discourage enterprise and is not required in the interest of the public revenue.

	Extent of land. ACRES.	Amount paid in redemption of revenue. RS.
1872-73	4	376
1873-74	52	1,484
1874-75	118	1,070
1875-76	29	1,759
1876-77	7	271
1877-78	14	69
1878-79	41	1,125
1879-80	14	93
1880-81	18	356
1881-82	...	1,023
Total ...	...	7,626

6. The option to redeem the assessment, considering the high rate of purchase provided for (25 years' purchase) can hardly be considered to be open to any objection; but the option is very rarely availed of; the whole amount realised under this head, including building lots of ten acres and under, throughout the Presidency, during the period of ten years ending 1881-82, being only Rs. 7,626.

I have the honor to be,
Sir,
Your most obedient servant,

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

OOTACAMUND,
18*th September* 1883.

Exd. W. H. French.

80 Copies.

1883.

REVENUE AND AGRICULTURAL DEPARTMENT.

From the Government of Fort St. George.

Issued

Recd. *Encl.*

Letter, 18th September 1883, No. 1141.

SEPTEMBER.

Expressing the views of this Government relative to the proposed modification of the rules for the disposal of waste lands in this Presidency, in so far as they provide for sale *revenue-free*.

No. 450 R.

FROM

E. C. BUCK, ESQ., C.S.,

Secretary to the Government of India,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

Rev. & Agri. Dept. Received.

Sim'a, the 18th April 1883.

SIR,

IN continuation of Mr. Holderness's letter No. 243, dated the 22nd February last, sanctioning the sale of 80 acres of waste lands, revenue-free in perpetuity, in the Madura District, I am directed to invite the consideration of His Excellency the Governor in Council to the general principle involved in the rules under which this sale was effected, and to the expediency of modifying these rules so as to subject similar alienations of Government waste lands to assessment of land revenue in future.

2. The policy which has been systematically approved by the Government of India in respect to the alienation of unoccupied waste is that it may be freely granted on lease or sold subject to such land revenue as is assessable under existing rules, but that it should not be sold revenue-free in perpetuity. In 1874 the importance of retaining the State's claim to minerals in waste lands led to the discussion of the question whether long leases should not be substituted for sales in fee-simple. It was finally decided that, provided the State's mineral rights were duly reserved in the deed of conveyance, there was no special objection to sale as a mode of transfer. This, however, did not touch the question of sale of State lands *revenue-free in perpetuity*, as the proprietary right may be sold subject to revenue assessment, and in fact is constantly thus sold. Since the question of sale was mooted in 1874, the several Local Governments have revised their rules for the disposal of waste lands, and, save in Madras, in no case is sale of land exempt from revenue assessment in perpetuity permitted. The usual conditions are that the grant is to be revenue-free for two or three years, and after that time is to be in whole or part subject to a progressive rate of assessment. I am to enclose for His Excellency's information copies of the rules in force in the North-Western Provinces and in the Punjab, as these have been most recently considered and approved by this Government. In Burma, Assam, Bombay, and in short throughout the temporarily-settled Provinces, the same principle has been observed, whether waste lands are disposed of by sale or by lease.

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I have the honour to be,

SIR,

Your most obedient servant,

Secretary to the Government of India.

19 sheets extra office of each sent by Post to Madras

1883.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

REVENUE.

1146/6

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

No. 450 R.

Dated Simla, the 18th April 1883.

SUBJECT.

Proposed modification of the rules in force in Madras regarding the alienation in perpetuity of the State's interest in culturable waste lands so as to stop the sale of land free from revenue assessment in perpetuity.

Govt. C. B. Press Simla.—No. 51 R. & A. D.—20-4-83.—100.

Revenue

REVENUE (1883) DEPARTMENT.

No. 2820

From The Govt. of India
Rev. & Agr. Dept.

Dated 8th Sept 1883
Recd. 12th Sept 1883

No. 450 R.

Enc. 2

SUBJECT.

Imposing modification introduced in force in Madras regarding the application in perpetuity of the State's interest in cultivable waste lands so as to stop the sale of land free from revenue assessment in perpetuity.

1-5-83 RC 21-5-83 Ct 15-6-83
21-5-83 Ct 21-5-83 Ct 27-7-83.
[illegible]

File No. 114 P/83

1883.

GOVERNMENT OF INDIA.

REVENUE AND AGRICULTURAL DEPARTMENT.

REVENUE.

North-Western Provinces Waste Land Rules.

Govt. C. B. Press, Simla,—No. 55 R. & A. D.—20-4-83.—100.

NORTH-WESTERN PROVINCES WASTE LAND RULES.

Notification No. 845A., dated 4th April 1878.

The following rules made by the Hon'ble the Lieutenant-Governor, with the previous sanction of His Excellency the Governor-General in Council, for the grant on lease of, and ultimately of ownership in, waste lands in all parts of the North-Western Provinces, except the Kumaun Division, are published for general information.

RULES FOR THE GRANT ON LEASE OF, AND ULTIMATELY OF OWNERSHIP IN, WASTE LANDS IN THE NORTH-WESTERN PROVINCES.

I.—Procedure before issue of notice of sale.

1. Any waste land which the local Government has ordered to be disposed of in grants on lease shall be marked off by the Collector of the district for that purpose into blocks of such area not exceeding 3,000 acres as the local Government may approve.

2. The blocks marked out shall be surveyed and mapped under the orders of the Board of Revenue. The maps shall show distinctly the culturable and unculturable area.

3. When a block has been surveyed and mapped, the Collector of the district shall calculate an assessment on it in accordance with the rates given below.— He shall exclude from his calculation the whole of the unculturable area and one-fourth of the culturable area. The one-fourth of the culturable area excluded from the calculation will ordinarily be the least productive portion, or a part of the least productive portion of the culturable area, or a portion suitable for grazing, thatching, or similar requirements. The remaining three-fourths of the culturable area shall be the assessable area of the grant. On that area the assessment shall be calculated as under—

(*a*)—For the first five years no revenue shall be payable.

(*b*)—From the beginning of the sixth to the end of the tenth year, the revenue shall be calculated at 4 annas per acre on the assessable area.

(*c*)—From the beginning of the eleventh to the end of the fifteenth year, the revenue shall be calculated at 8 annas per acre of the assessable area.

(*d*)—From the beginning of the sixteenth to the end of the twenty-fifth year, the revenue shall be calculated at 12 annas per acre of the assessable area.

4. The Forest Department shall value the wood on each separate block (exclusive of belts of trees along existing roads) and if it is worth more than Rs. 1,000, shall mark off wood of that value for the use of the grantee. No wood shall be marked off on the culturable area till all the wood on the unculturable area has been marked off.

5. An upset price will be fixed, sufficient to cover at the lowest all expenses of surveying, mapping, putting up pillars, and advertising the grant.

II.—Issue of notice of sale.

6. The Collector of the district having proceeded according to the directions contained in the foregoing rules, and having submitted a report of his proceedings to the Commissioner for approval, shall, with the permission of the Commissioner, issue a notice of sale with conditions thereto annexed in the form hereinafter contained.

III.—Sale.

7. On the day fixed in the notice, unless the sale be stayed for any valid reason, the lease of the grant will be sold in accordance with, and subject to, the conditions of sale set forth at the end of the said notice of sale.

IV.—Procedure after sale.

8. When the purchaser has complied with the requirements of the fifth condition of sale, a deed in the form hereinafter set out shall be executed by the Secretary to the Government, North-Western Provinces and Oudh, on behalf of the Secretary of State, and shall be tendered for execution by the purchaser.

9. In putting the purchaser in possession of a grant, the officer appointed for that purpose shall point out to the purchaser any wood marked off for his use, and the purchaser will, without additional payment, be entitled to use the wood so pointed out, but no more, unless he pays for any surplus as hereinafter provided.

V.—Notice of sale and general conditions.

Notice is hereby given that a grant (or grants) on lease for 25 years with power of acquiring proprietary right therein at the end of such period, of the (several lots) of land specified in the schedule hereunto annexed, and of which the plan is (or plans are) open to inspection at the office, will be sold by public auction at the Collector's office at o'clock on the of

The land will be sold subject to the conditions which are hereto annexed.

The bidding shall commence from an upset price of Rs.

SCHEDULE.

Name of grant.	Total area in acres.	Barren acres.	Culturable area in acres.	Assessable area to be three-fourths of culturable area.

Boundaries—North

East

South

West

Revenue payable from beginning of first to end of fifth year, *nil*; from beginning of sixth to end of tenth year, Rs. per annum; from beginning of eleventh to end of fifteenth year, Rs. per annum; from beginning of sixteenth to end of twenty-fifth year, Rs. per annum.

The wood standing on the land, over and above the wood of the value of Rs. 1,000, marked off for the use of the grantee, and exclusive of belts of trees along existing roads may be purchased by the purchaser of the grant at the price of Rs. fixed on it by the Forest Department.

In the event of the purchaser of the grant not electing to purchase the wood over and above the wood marked off, the Collector of the district on behalf of Government, will arrange to have it cut and removed in such time as to allow of the grantee fulfilling the conditions of cultivation laid down in the rules.

The following are the conditions of sale :—

1. The bidding for the grant will begin from the upset price stated in the notice of sale. No person shall advance less than Rs. 10 at each bid. No bid shall be retracted. The highest bidder above the upset price shall be the purchaser, and if any dispute arises as to who was the last or highest bidder, the lot shall be again put up at the last previous bid, to such dispute, and if no increase be made on such last previous bid, the same shall be sold to that bidder.

2. Immediately on the lot being knocked down, the purchaser shall pay the upset price, and at the same time sign an agreement in the form annexed to this notice and marked A ; and in the case of a lot containing wood worth more than Rs. 1,000, he shall at the same time give in to the Collector of the district a statement in writing or agreement in the form hereto annexed, and marked B, stating whether he will purchase all or any of the wood over and above the wood of the value of Rs. 1,000 marked off for the use of the grantee and agreeing to purchase and pay for the same within one month from that date ; and in the event of his refusing to sign such last mentioned statement or agreement, he shall not be entitled to any of the wood over and above the said value of Rs. 1,000 ; and in the event of his not carrying out such purchase of such extra wood within such time, he shall have no right to claim the same, and the same shall belong to Government as if such last-mentioned agreement had not been made. The Collector of the district on behalf of the Government will arrange to have any wood not taken over by the purchaser cut and removed in such time as to allow of the grantee fulfilling the conditions of cultivation laid down in condition 12 hereinafter contained.

3. In default of immediate payment of the upset price, or in the event of refusal to sign the said agreement marked A, the Collector of the district may at once or at any other time put the lot up again and re-sell it.

4. The balance of the purchase-money (if any) of the grant or of wood on the grant shall be paid within one month from the date of sale.

5. On payment of the purchase-money within one month from the date of sale, the purchaser shall receive from Government a deed of grant in the form which can be seen on inspection at the office of the Collector, and upon his executing a counterpart of such deed, the purchaser will be entitled to be put in possession, and from the time of the execution of the said deed by the said purchaser the said deed shall form the sole contract between the Government and the purchaser as to the said land and premises therein mentioned or referred to.

6. In the event of the balance of the purchase-money not being paid within one month from the date of sale, the Collector may cancel the said sale, and upon his declaring such sale cancelled, the money deposited to the extent of the upset price shall be forfeited to Government, the residue being returned to the bidder. The Collector, after deducting any amount payable upon a re-sale as hereinafter mentioned, may re-sell the lease, and upon such re-sale, if there be any deficiency in price as compared with the former sale, the said defaulting purchaser shall make good the same to the Collector, and shall also bear all expenses of such second sale, such sums being deducted from any balance in the Collector's hands above the upset price as aforesaid ; or if there be no such balance, the same shall be forthwith paid by the said defaulting purchaser ; but the said defaulting purchaser shall not be entitled to any benefit from the second sale bringing a higher price.

7. If any error, misstatement, or omission is discovered in the particulars stated in the notices of sale, the same shall not annul the sale ; but in such case it shall be referred to the Commissioner of the Division to ascertain

whether any and what compensation ought to be allowed either to the vendor or to the purchaser in respect thereof, and his award thereon shall, after he has taken evidence in the presence of the said parties or their duly authorized agents, or in their absence after being duly summoned be final and binding, and the party directed to pay such compensation shall pay the same within one week after notice of such award has been served, and such award may be enforced in accordance with the provisions of the Civil Procedure Code as to enforcing awards.

8. The sale will convey a right to the land and to all the products of it, whether spontaneous or artificial, but will not give a right of property in the minerals which may be beneath the surface.

9. The grant shall be subject to all existing rights in the Government or the public or individuals of way and water navigation, fishing and other easements; and where the land includes at the time of sale or subsequently rivers, canals or other streams, the right of the public to go along the banks thereof for the purpose of towing or fishing shall not be interfered with by the purchaser. The Government reserves all rights with regard to such canals, rivers and streams, whenever it sees fit, and of assuming the control of the waters and of distributing them in such manner and on such conditions for irrigation or otherwise as may seem most conducive to the public good; and no right to ownership over such waters free from such reservations as in this clause contained can be obtained by individuals save under special grant from the local Government. The Government also reserves all rights over belts of trees along existing roads, and none of such belts of trees shall pass to the purchaser save under special grant from the local Government.

10. The sale shall be subject to the power of the Government or duly constituted authorities of acquiring the land for public purposes according to the law in force at the time of the land being so required.

11. The assessable area is acres, and revenue upon such assessable area shall be paid by the said purchaser as follows, that is to say—

1.—For the first five years, nothing.

2.—From the beginning of the sixth to the end of the tenth year, 4 annas per acre.

3.—From the beginning of the eleventh to the end of the fifteenth year, 8 annas per acre.

4.—From the beginning of the sixteenth to the end of the twenty-fifth year, 12 annas per acre.

And such revenue shall be recoverable under the rules for the recovery of Government revenue, and the lease shall be resumable on non-payment within the prescribed time for payment of Government revenue, as in the case of mahâls.

12. The purchaser shall be bound to clear and to bring and to maintain under cultivation an area equal to one-fifth of the assessable area within two years, an area equal to one-third of the assessable area within five years, an area equal to two-thirds of the assessable area in ten years, and an area equal to the whole assessable area in fifteen years, and in the event of this clause not being complied with, the Government may resume the land and appurtenances without compensation to the purchaser.

13. The purchaser shall be bound to pay all rates, cesses and taxes leviable under any general or local law for the time being in force, and to discharge all duties and perform and provide for the performance of all services which, under any law for the time being in force, proprietors of revenue-paying estates are bound to discharge, perform or provide for.

14. The purchaser shall be bound to keep in a state of repair the boundary pillars erected round the land leased, and in the event of his neglecting to

do so within one month after notice from the Collector so to do, the officers of Government may enter upon the land for the purpose of repairing the same without hindrance, and the expenses thereof shall be paid by the said purchaser on demand.

15. The officers of Government may at any time enter upon and measure the land for the purpose of ascertaining whether the conditions respecting the clearance of the specified portion of land within each of the specified periods have been fulfilled, and the said officers or grantees of the minerals in the said land shall be at liberty, without hindrance, to enter upon the said lands and do all acts and things necessary for the full enjoyment of the rights reserved to Government to and over all such minerals, and for mining for the purpose of acquiring the same, and the said officers shall be similarly at liberty so to enter for the purpose of controlling and distributing the water as in the ninth clause is mentioned.

16. The land shall be considered a mahâl as defined in section 3, clause (1) (*a*) of Act XIX of 1873, and subject to all the conditions attaching by law to such tenures. The grantee is to be considered during the currency of the lease as the proprietor, subject to these conditions, of such mahâl, and subject to all the liabilities legally attaching to such persons.

17. It shall not be competent to the purchaser, until the expiry of the 25 years in the next clause No. 18 mentioned, to assign, save to cultivators or tenants under his immediate control, the said land without the sanction in writing of the Collector of the district.

18. Provided the above said conditions be well and truly fulfilled, then, from and after the lapse of the 25 years' term of lease, the grantee shall become the proprietor of the land, and shall be subject to all the conditions attaching by law to the proprietors of mahâls paying revenue in the North-Western Provinces.

19. If the conditions stated in clauses 11 and 12 of these conditions of sale be not fulfilled, the grant shall be liable to resumption by the local Government. In the event of resumption, the grant and premises comprised in the said sale and their appurtenances and all additions or accretions thereto and all improvements thereof and all buildings, crops, plantations and fixtures thereon shall become the absolute property of the Government, and the grantee shall be entitled to no compensation for any outlay thereon of any description whatsoever, and the said purchaser shall forthwith on request deliver up quiet possession of the said premises to the Government or their assigns.

SCHEDULE A.—

(*Set forth here a copy of the notice and conditions of sale.*)

It is hereby declared and agreed by and between A. B. and the Collector of on behalf of the Secretary of State for India in Council that he, the said A. B., has this day purchased a grant on lease for 25 years of the following property described in the notice of sale above set out, that is to say, lot No. , at the price of Rs. , and has paid to the Collector of the district the sum of Rs. by way of deposit and in part payment (or in full payment) of such purchase-money, and that the sale shall be completed in accordance with the conditions hereinbefore set forth.

Dated

SCHEDULE B.

Form of agreement for extra wood.

The said A. B. is desirous of purchasing the following portions of wood upon lot purchased by him this day, and which has been marked off as in excess of wood of the value of Rs. 1,000 (describe the wood), and he hereby agrees with the Collector of in accordance with the condition of sale No. 2 to purchase the same and to pay the sum of Rs. for the same within one month from this date or forfeit all right thereto.

A. B.

C. D., *Collector.*

The following is the form of deed to be executed by the purchaser as mentioned in rule IV., clause 8, and referred to in condition of sale No. 5.

VI.—Form of Deed to be executed by Purchaser.

THIS INDENTURE made the day of 187 , BETWEEN THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called the vendor) of the one part and A. B. (hereinafter called the grantee) of the other part. WHEREAS by an Agreement entered into between A. B. of the one part and the Collector of of the other part it was agreed as follows—

(COPY AGREEMENT A.)

AND WHEREAS the conditions of sale under which the said Agreement was entered into were fully understood by the said grantee and the following were two of such conditions that is to say—

No. 4 (COPY IT). No. 5 (COPY IT.)

(a) This recital will only be inserted in the case of surplus wood being bought.

[AND WHEREAS at the time of the said sale the said grantee entered into the following further agreement:

(COPY THE AGREEMENT FOR SALE OF SURPLUS WOOD.)

AND WHEREAS the said grantee has duly paid the said sum of Rs. as the price of the said wood] AND WHEREAS the said grantee having duly complied with the said condition of sale No. 4 has in accordance with said condition No. 5 requested the vendor to put him in possession of the said premises to which the vendor has agreed. NOW THIS INDENTURE WITNESSETH that the vendor hath and doth by these presents grant demise lease and to farm let unto the said grantee all the piece of land in the said Agreement referred to situated in the district of and which is bounded as follows that is to say—

on the north by

on the east by

on the south by

on the west by

and which is in the description of the said property at the time of sale called lot No. together with all trees shrubs grass plants situated on the said piece of land with the appurtenances save as hereinafter excepted and save and except the wood in the schedule hereunto annexed and marked A* specifically described to have and to hold the premises so hereby granted unto the said grantee his heirs executors administrators and assigns upon the conditions and subject to the provisoes herein contained and upon the expiry of the said twenty-five years and upon the fulfilment of all conditions and provisoes herein contained for the extension of the tenure of the said grantee and not otherwise to have and to hold the said premises to and to the use of the said grantee his heirs executors administrators and assigns as his absolute property in accordance with the conditions hereinafter mentioned. And it is hereby further witnessed that this grant demise and assignment is made subject to and on the express condition that the said grantee his heirs executors administrators and assigns shall truly and well perform and keep all the covenants by him hereinafter contained and that upon the non-performance thereof the said grant shall absolutely cease and determine and the said property shall revert absolutely to the vendor. And it is hereby provided and agreed by and between the parties hereto that if within six months from the date of these presents but not later any error misstatement or omission is discovered in the particulars of the property hereby conveyed the same shall not annul these presents but in such case it shall be referred to the Commissioner of the Division to ascertain whether any and what compensation ought to be allowed either to the vendor or to the grantee in respect thereof and the award of such referee thereon shall after he has taken evidence in the presence of the said parties or their authorised agents in their absence after being

* This will include excepted wood and belts of trees on the road.

duly summoned be final and binding and the party directed to pay such compensation shall within one week after notice of such award has been served on him pay the same in accordance therewith and such award may be enforced in accordance with the provisions of the Civil Procedure Code as to enforcing awards but that from and after the said term of six months no such error misstatement or omission shall in any way affect this contract. And it is hereby further provided and agreed by and between the parties hereto that these presents shall in no way convey or assign to or vest in the said grantee any right of property in the minerals which may be beneath the surface of the said land and the said grantee doth hereby for himself his heirs executors and administrators covenant and agree to and with the vendor and his successors as follows that is to say—

First.—That the said grantee his heirs executors administrators and assigns shall hold the said premises subject to all existing rights in the Government or the public or individuals of way and water navigation fishing and other easements and that he and they will at all times permit the public to go along the banks of rivers canals or other streams now existing or henceforth existing in and upon the said land and shall in no way interfere with the Government whenever it sees fit so to do assuming the control of the waters of such rivers canals and streams and of distributing them in such manner and on such conditions for irrigation or otherwise as may seem most conducive to the public good and that the said grantee his heirs executors administrators and assigns shall in no way interfere with or assert any rights over belts of trees along existing roads or assert any right of property in such belts of trees under this deed or otherwise save under special grant from the local Government.

Second.—That if at any time the Government or duly constituted authorities shall be desirous of acquiring the land for public purposes according to the law in force at the time of the land being so required the said grantee his heirs executors administrators and assigns shall notwithstanding these presents allow the same to be so acquired according to such law.

Third.—That the said grantee his heirs executors administrators and assigns shall in respect of acres which is hereby declared to be the assessable area of the said land well and truly pay for each of such acres the following sums for the following periods that is to say from the day being the beginning of the sixth year from these presents up to the day of being the end of the tenth year therefrom the sum of four annas per annum for each and every such acre and from the day of being the beginning of the eleventh year from these presents to the day of being the end of the fifteenth year therefrom the sum of eight annas per annum for each and every such acre and from the day of being the beginning of the sixteenth year from these presents to the day of being the end of the twenty-fifth year the sum of twelve annas per annum for each and every such acre such payments to be made in the instalments to the persons and at the times and places in which to whom and at which the Board with the previous sanction of the local Government may from time to time direct under Section 147 Act XIX of 1873 or any other the law for the time being in force and that it shall be lawful for the Government to recover such sums and every part thereof as the same become due in accordance with the rules for recovery of the Government revenue upon estates paying revenue to Government and that in the event of default in payment of any such sum at the due time for the payment thereof it shall be lawful for the Government to resume the said grant and to deal with the same and to have the same remedies as are prescribed upon default being made in payment of Government revenue in the case of mahâls.

Fourth.—That the said grantee his heirs executors administrators and assigns shall clear and bring and maintain under cultivation an area equal to one-fifth of the assessable area abovementioned within two years from the date of these presents and an area equal to one-third of the said assessable area within five years from the date of these presents and an area equal to two-thirds

of the said assessable area within ten years from the date of these presents and a further equal to the whole of the said assessable area within fifteen years from the date of these presents.

Fifth.—That the said grantee his heirs executors administrators and assigns shall as the same become due and payable pay all rates cesses and taxes leviable under any general or local law now or hereafter for the time being in force and shall discharge all duties and perform and provide for the performance of all services which under any law now or hereafter for the time being in force proprietors of revenue-paying estates are bound to discharge perform or provide for.

Sixth.—That the said grantee his heirs executors administrators and assigns shall well and truly keep in a state of repair the boundary pillars erected round the land leased and that in the event of his or their neglecting to do so within one month after notice from the Collector so to do the officers of Government may without let or hindrance enter into and upon the said land for the purpose of repairing the said pillars and that he the said grantee his heirs executors administrators and assigns shall on demand pay all the expenses thereof to the said Collector.

Seventh.—That the said grantee his heirs executors administrators and assigns shall at all times when requested so to do permit the officers of Governmen freely and without hindrance to enter into and upon the said land for the purpose of measuring the same and ascertaining whether the conditions respecting the clearance of the specified portions of land within each of the abovementioned specified periods have been fulfilled and that he and they will also when so requested permit the officers of Government or grantees of the minerals in the said land freely and without hindrance to enter upon the said lands and do all acts and things necessary for the full enjoyment of the rights reserved to Government to and over all minerals on the said land and for mining for the purpose of acquiring the said minerals and that he and they shall also in like manner when so requested freely and without hindrance permit the officers of Government so to enter for the purpose of controlling and distributing the water as in the first abovementioned covenant is provided.

Eighth.—That the said grantee shall not nor shall his heirs executors administrators or assigns without the sanction in writing of the Collector of the District during the said term of twenty-five years herein mentioned assign save to cultivators or tenants under the immediate control of the said grantee or of his heirs executors administrators or assigns the said land or any portion thereof. AND THIS INDENTURE FURTHER WITNESSETH that the said land shall from the date of these presents be considered and treated subject to the covenants and conditions herein contained as a mahál as defined in Section 3 Clause (1) (*a*) of Act XIX of 1873 and subject to all the conditions attaching by law to such tenures and that the grantee his heirs executors administrators and assigns shall subject to the convenant and conditions herein contained be considered during the currency of lease as the proprietor of such mahál and subject in addition to the said covenants and conditions to all the liabilities legally attaching to such persons. AND THIS INDENTURE FURTHER WITNESSETH that the vendor for himself and his successors doth hereby covenant with the said grantee his heirs executors administrators and assigns that if the above-mentioned covenants and conditions be well and truly fulfilled by the grantee his heirs executors administrators and assigns he and they shall from and after the expiry of twenty-five years from the date of these presents become the proprietors of the land and shall be subject to all the conditions attaching by law to the proprietors of mahál paying revenue in the North-Western Provinces. PROVIDED ALWAYS and the said grantee doth hereby for himself his heirs executors administrators and assigns covenant with the vendor and his successors that if the covenants in these presents mentioned as No. 3 and No. 4 or either of these be not fulfilled the grant shall be liable to resumption by the local Government and that in the event of such resumption being declared by writing signed by the Collector of the district the said grantee his heirs executors administrators and assigns shall forthwith give up possession of the said land

1140/13

with all its appurtenances and all additions or accretions thereto and all improvements thereof and all buildings crops plantations and fixtures thereon to the said Collector and shall comply with and do all acts which may be necessary for vesting the same in the Government as the absolute property of the Government free from all claims of the said grantee his heirs executors administrators and assigns and that the said grantee his heirs executors administrators and assigns shall not be entitled to or claim any compensation for any outlay thereon of any description whatsoever and the vendor doth hereby for himself and his successors covenant to and with the grantee his heirs executors administrators and assigns that the Collector of the district shall within two years have such wood which is upon the said land and which has not been purchased by the grantee save and except belts of trees along roads cut and removed and save and except that it shall be optional with the Collector to leave as the absolute property of the grantee any trees or brushwood whether standing or felled that it would not pay to remove and also that so long as the said grantee his heirs executors administrators and assigns shall fully comply with the conditions in these presents contained he and they shall have peaceable possession of the said premises according to the true intention of these presents.

IN WITNESS, &c.

By order, &c.,

C. ROBERTSON,

Secretary to Government N.-W. P. and Oudh.

PUNJAB WASTE LAND SALE RULES.

Notification No. 83, dated 13th March 1882.

No. 83—Notification—It is hereby notified that the rules for sale of waste lands in the Punjab, issued under Notification in the Department of Revenue, Agriculture and Commerce, No. 1450, dated 15th December 1876, are hereby cancelled.

2. Persons desirous of purchasing Government waste lands in the Punjab, should apply in writing to the Deputy Commissioner of the district in which the land required is situated.

3. Except under special circumstances and with the express authority of the Local Government, all future sales of waste lands, the property of Government, in the Punjab will be made only after a notice in annexed Form A, with its two Schedules, has been issued and published in the *Punjab Government Gazette*, and in strict accordance with the terms of the notice.

The annexed Forms B and C are prescribed for adoption in all cases where a sale of Government waste lands pursuant to a notice under Form A is completed, and Form D when the circumstances render a mortgage necessary.

FORM A.

Whereas application has been made to the Deputy Commissioner of the district of by A B, the son of C D, of , for the purchase of the lot of Government waste land, described in the particulars hereunto annexed and marked Schedule I, notice is hereby given that a plan of the said lot of waste land is open to inspection, free of charge, at the Office of the Deputy Commissioner at , and that the said lot will be put up to sale by public auction at the said Office on* the day of next at in the forenoon (afternoon), and will be sold upon the conditions hereunto annexed and marked Schedule II, unless the sale shall, in the meantime, have been stopped or postponed by order of superior authority or in consequence of claims or objections, made under Act XXIII of 1863, or for any other reason.

* Not less than three clear months from the date of this notice.

Issued this day of 188 at by the undersigned,

Y. Z.

Deputy Commissioner.

SCHEDULE I.

Particulars of the lot to be sold.

1. The land to be sold is Government waste land, situate in Tahsil in the district of

2. It comprises an area of acres more or less, and is bounded as follows:—

[*Here enter the boundaries.*]

3. The trees and underwood and all other products whatever of the above land will be included in the sale, save and except—

(i) all mines, minerals, coals, gold-washings, and quarries in or under the said land;

(ii) in the case of a stream or a canal with a well-defined and permanent channel, the bed and the land for tow-paths should be excepted and the dimensions or area be approximately stated;

(iii) when the land is traversed by a made road, on each side of which it is desired to keep a strip of sixty feet, the road and strips should be excepted, and the dimensions or area should be approximately stated;

(iv) &c., any other similar exceptions.

SCEDULE II.

Conditions of sale.

I.—The land will be sold subject to all rights of way or water and other easements, if any, subsisting thereon, and subject in particular to the right of the public to use the * together with a towpath of 20 feet in width on each side of the channel of the same for the time being, and further subject to all other conditions of reservations which under the provisions of Section 2 of Act XXIII of 1863, may be notified by the Deputy Commissioner at the time of sale.

* Here enter the name of or describe otherwise any navigable stream or canal with a shifting channel which traverses the lot to be sold.

II.—The land will be sold in full proprietary right, but subject—

(*a*) to the exception and reservation to Government, its successors and assigns, of all mines, minerals, coals, gold-washings, and quarries in or under the said land, and full right at all times to enter upon any part of the said land, and to do all acts and things that may be necessary or expedient for the purpose of searching for, working, getting and carrying away any mines, minerals, coals gold-washings or quarries in or under the said land, without leaving any vertical or lateral support for the surface thereof or any building for the time being standing thereon [the Government its successors, and assigns making reasonable compensation to the grantee, his heirs executors, administrators, and assigns, and his or their lessees or tenants, for all damage occasioned by the exercise of the rights hereby reserved];

(*b*) to the payment of the land revenue demand for the time being assessed thereon, and of all general taxes and local taxes or cesses, to which revenue paying lands are liable.

In case of any dispute arising between the purchaser and the Government as to the property and rights hereby reserved or any matter incidental or in any way relating thereto, or as to any compensation payable under clause (*a*), the decision thereon in each case of the Lieutenant-Governor of the Punjab shall be considered final and binding on both parties. The sale is also subject to the limitation next following.

III.—The purchaser shall not alienate any portion of the lot sold before he shall have received the deed of conveyance hereinafter mentioned.

IV.—The land will be put up in one lot, and the biddings shall commence at an upset price of Rs. . No purchaser shall advance at each bidding less than Rs. , and no bidding shall be retracted, and the highest bidder above the upset price shall be the purchaser. In case of dispute between two equal bidders, the lot shall be put up again at the last preceding bidding.

V.— The purchaser shall immediately after the sale pay into the hands of the Deputy Commissioner, or whoever acts as auctioneer, the cost of survey and demarcation if not already paid by him, and a deposit in part payment of the purchase money of not less than Re. 1, per acre of the lot, as estimated in the foregoing particulars, and sign an agreement in the Form B hereto annexed upon stamp paper to be provided at his expense.

VI.—In default of such payment, or in the event of refusal to sign such agreement, the lot may be put up again and re-sold. In the event of the foregoing conditions being fulfilled, the purchaser shall receive an attested copy of the said agreement upon stamp paper to be provided at his expense.

VII.—The purchaser, if he shall so require, will be supplied with a map of the land sold, to be prepared at his expense, upon his depositing the sum estimated by the Deputy Commissioner to be sufficient for the purpose.

VIII.—Upon the expiration of one month from the date of sale, simple interest at the rate of 10 per cent. per annum shall be charged upon the balance of the purchase money for the time being remaining unpaid.

IX.—Within three months from the date of sale, the purchaser shall, without demand pay a sum which, together with the amount paid at the date of sale shall amount to not less than one-half of the purchase money, and shall also pay the interest, if any, due at the rate of such payment.

The payment within the period specified of such amount, and of the interest due, if any, shall be deemed to be of the essence of the contract for sale.

X.—If the purchaser shall duly make such payment, he will thereupon be placed in possession of the land sold by an officer appointed in that behalf by the Deputy Commissioner, and shall furnish to such officer a written acknowledgment of receipt of possession.

XI.—If the purchaser shall make default in such payment, the Deputy Commissioner may rescind the contract, and the deposit shall be forfeited to the Government.

XII.—If the purchaser shall make the payment as required in clause IX he shall subject to the proviso in clause XIII, within two months from the date of delivering to the Deputy Commissioner at his office the stamp paper requisite for a deed of conveyance of the lands sold, or the value of such paper receive through the Deputy Commissioner, a deed of conveyance in English, signed by the Secretary to the Punjab Government in the Form C, annexed to the *Punjab Government Gazette* Notification No. 83, dated 13th March 1882, or to the same effect.

The delivery of such deed within the period specified shall not be deemed of the essence of the contract for sale, and the purchaser shall not in default of such delivery be entitled to rescind the contract.

XIII.—Provided that, if the whole of the purchase-money shall not have been paid previous to the delivery to the purchaser by the Deputy Commissioner of the deed of conveyance above mentioned, the purchaser shall execute, when tendered, a mortgage deed to secure payment within five years of the unpaid balance, with interest thereon; such deed to be attached to the deed of conveyance in Form D., annexed to *Punjab Government Gazette* Notification No. 83, dated 13th March 1882, or to the same effect. The deed of conveyance and the deed of mortgage shall both be registered, and the latter stamped at the purchaser's expense, and shall remain in the possession of the Local Government until the whole of the purchase-money, with the interest due thereon, shall have been paid, when the conveyance shall be made over to the purchaser or his heirs or assigns, the mortgage deed having first been cancelled by the Deputy Commissioner of the district for the time being.

XIV.—All payments to be made under these conditions on account of purchase-money or interest, or any other charges, shall be made at the Office of the Deputy Commissioner at .

XV.—If the land is believed, and shall be taken, to be correctly described as to quantity and otherwise, and if any error, misstatement, or omission in the foregoing particulars shall be discovered, the same shall not annul the sale, nor shall any compensation be allowed by the Government or by the purchaser in respect thereof.

FORM B.

Form of agreement referred to in No 5 of the foregoing conditions.

I, A B, the son of C D, of , do hereby acknowledge that on the sale by auction this day of 188 of the property described in the particulars annexed to the notice of sale issued by the Deputy Commissioner of , under date the published at page of the *Punjab Government Gazette*, I was the highest bidder, and was declared the purchaser thereof, subject to the conditions of sale annexed to the said notice (and to *the further conditions and reservations notified by the Deputy Commissioner under the first of the said conditions) at the price of Rs. , and that I have paid the sum of Rs. by way of deposit and in part payment of the said purchase-money to the Deputy Commissioner of , and I hereby agree to pay the remainder of the said purchase-money and complete the said purchase according to the aforesaid conditions.

* NOTE. To be inserted when any such conditions or reservations have been notified.

Signature of purchaser.

I hereby ratify this sale, and acknowledge receipt of the said deposit of Rs.

Signature of Deputy Commissioner.

FORM C.

Deed of conveyance referred to in No. 12 of the foregoing conditions.

This deed of grant made the day of in the year of our Lord one thousand eight hundred and eighty between the Secretary of State for India in Council (hereinafter called the grantor), of the first part, and A B, the son of C D), hereinafter called the grantee), of the second part, witnesseth that in pursuance of a contract of sale entered into, by and on behalf of the parties aforesaid, and dated the day of 188 , and in consideration of the sum of Rs. (of which amount the sum of Rs. has before the date of these present, been paid by the said A B to the grantor whereof receipt is hereby acknowledged), and of the promises hereinafter contained, and by the said A B to be observed and performed, the Secretary of State for India in Council doth hereby grant and convey to the said A B the lands described in the schedule* hereunto annexed, together with all trees, under wood and agricultural produce of the said land and save, and except and reserved unto the Government of India, its successors, and assigns, all mines, minerals, coals, gold-washings, and quarries in or under the said lands, and full right at all times to enter upon any part of the said land and to do all acts and things that may be necessary or expedient for the purpose of searching for, working, getting and carrying away any mines, minerals, coals, gold-washings, or quarries in or under the said land, without leaving any vertical or lateral support for the surface or any building for the time being standing thereon (the Government, its successors, and assigns making reasonable compensation to the grantee, his heirs, executors, administrators and assigns and his or their lessees or tenants for all damage occassioned by the exercise of the rights, hereby, reserved). To hold the said land unto him, the said A B, his heirs, and assigns for ever in full proprietary right but subject nevertheless to all existing rights of way and water and other easements, if any, subsisting thereon; and to payment of the land revenue demand for the time being assessed thereon, and all general taxes and local taxes, rates, or cesses for the time being imposed by competent authority in respect of the lands hereby conveyed or any part thereof. In case of any dispute arising between the said grantor and the said grantee as to the property and rights hereby reserved or any matter incidental or in any way relating thereto

Enter the date on which it is signed by the Secretary to Government, Punjab.

* When a map has been made, insert the words "and delineated in the map" after "schedule."

or as to any compensation as aforesaid, the decision in each case of the Lieutenant-Governor of the Panjab shall be considered final and binding on both parties.

And the grantee doth hereby, for himself, his heirs, and assigns, agree with the grantor, his successors and assigns as follows :—

That he will duly pay the said land-revenue demands, taxes, rates and cesses, when and as the same shall from time to time become due and payable.

And that he will erect permanent boundary-marks on the limits of the lands hereby granted, and will at all times maintain the same in good and substantial repair.

And that it shall be lawful for the Government, its successors, and assigns and for any engineers, surveyors, agents, workmen, or officers authorised by it or them in this behalf, to enter at all times upon any part of the said lands and to do all acts and things that may be necessary or expedient for the purpose of searching for, working, getting, and carrying away all mines, minerals, coals, gold-washings, and quarries in or under the said lands; it or they making compensation (as hereinbefore provided) to the grantee his heirs and assigns for any damage occasioned thereby.

And that he will maintain such establishment for the purposes of police and conservancy in respect to the said lands, as may be required by the general rules in force for the time being in that behalf.

In witness whereof the undersigned have hereunto subscribed their hands.

Secretary to Government, Punjab, by order of the Lieutenant-Governor of the Punjab, on behalf of the Secretary of State for India in Council.

Signed in presence of X Y, witness, this day of 188

A B (the purchaser) signed in presence of Y Z, witness, this day of 188

Schedule.

acres more or less of Government waste land situate in tahsil in the district of and bounded as follows :

(*Boundaries.*)

Excepted and reserved [describe exceptions with area or dimensions, and add, when there is a map, " delineated (in color,) on the map hereunto annexed."]

Secretary to Government,
Punjab.

A B (the purchaser).

Map (if any) assigned as above.

FORM D.

Mortgage deed to be attached to form D. referred to in No. 13 of the foregoing conditions.

This deed of mortgage made the* day of 188 , between the parties to the above-written deed of grant dated the day of 188 , witnesseth that A B, the son of C D, the above-named grantee, doth hereby acknowledge that the sum of Rs. in part of the purchase-money of the lands granted and conveyed by the said deed remains due and owing to the Secretary of State for India in Council, the abovenamed grantor, and the said A B doth hereby for himself, his heirs and assigns, agree with the said grantor, his successors, and assigns that he will pay the said principal sum of Rs.

* The date of signature by the mortgagor.

together with simple interest calculated upon the whole or such portion thereof as shall from time to time remain unpaid, at the rate of 10 per cent. per annum from the day * of 188 by the five annual payments of not less than Rs. † and in addition thereto of interest calculated as aforesaid up to the date of each payment made, the first of such payments of principal and interest to be made on or before the ‡ day of next ensuing, and the remaining payments on or before the same day in each of the four succeeding years, or until the whole principal amount secured, with interest thereon, shall have been paid at the office of the Deputy Commissioner of the district at and for the further and better securing of such payments, the said A B doth hereby grant and convey to the said grantor, his successors, and assigns, by way of mortgage, the whole of the lands granted and conveyed to him the said A B, by the above-written deed of grant, but so as that possession of the said land shall be and continue with the said A B, his heirs, and assigns. And this deed further witnesseth that the said A B, hereby agrees that in case default shall be made by the said A B, his heirs, or assigns in any one or more of the payments hereinbefore agreed to be made, the whole of the balance of the principal sum, remaining unpaid at the date of such default, shall be deemed thereupon to accrue due and payable immediately, and it shall be lawful on any such default for the said grantor, his successors, or assigns to enter upon the lands hereby mortgaged, or any part thereof and thenceforth quietly to possess and enjoy the same and receive the rents and profits thereof, and also with or without such entry at any time or times, and without any further consent on the part of the said A B, his heirs, or assigns, to sell the said lands or any part thereof by public auction and at any such sale to buy in the said lands or any part thereof with power also to execute deeds, give effectual receipts for the purchase-money, and do all other acts, or things for completing the sale which the said grantor, his successors, or assigns shall think proper, and also to seize and make sale by public auction of the whole or any part of the moveable property of the said A B, his heirs, or assigns that may be found upon the lands hereby mortgaged or elsewheresoever; and it is hereby agreed and declared that the said grantor, his successors and assigns shall stand possessed of the moneys arising from any such sale in trust first to pay and retain the costs and expenses attending such sale or otherwise incurred in relation to this security, and in the next place to pay and satisfy the moneys which shall then be owing upon the security of these presents, and lastly to pay the surplus, if any, to the said A B, his heirs, or assigns.

And the grantor for himself, his successors and assigns, doth hereby agree with the said A B, his heirs, and assigns that if he or they shall duly pay the whole of the principal sum hereby secured, together with the interest due thereon, he, the said grantor, his successors or assigns, will thereupon cause the above written deed of grant to be delivered to the said A B, his heirs and assigns, with this deed of mortgage cancelled by the Deputy Commissioner of for the district of time being.

In witness wherof the undersigned hereunto subscribed their hands.

A B, (purchaser).

Signed in presence of X Y, witness, this day of 188

L.M.

Secretary to Government, Punjab, by order of the Lieutenant-Governor of the Punjab, on behalf of the Secretary of State for India in Council. Signed in presence of Y Z, witness, this day of 188

W. M. YOUNG,

Secretary to Government, Punjab.

* The date on which payment of the first half of the purchase-money was completed.
† One-tenth of the purchase-money.
‡ The anniversary of the date above written.

Govt. C. B. Press, Simla.—No. 58 R. & A. D.—20-4-83.—100.

For Orders

C No 2820 { From the Govt of India, dt 18th April 1883 No 450 C.

This very important Ref. Letter from India, should it is thought, be sent to the Govt for a full and duly expressing Result with a view to any amendment which

In this paper the Govt of India desire a modification of the rules for the sale of waste lands in this Presidency, in so far as they provide for the alienation of land, except in small plots for buildings and Gardens, revenue-free.

Under the rules in force in this Presidency, waste lands in the Nilgiris, the Wynaad and the Shevaroy hills* are sold subject to assessment; but the purchaser has the option to redeem the assessment at twenty five years purchase whereupon the sale is revenue-free

Sec of St Standing Order 34.

No 34.

Option to redeem the assessment is equivalent to sale revenue-free; but practically advantage is taken of this Concession but to a ~~very small~~ trivial extent. As regards Forest-free Sales elsewhere, there are very few excepting those in small plots for building purposes, which the Govt of India except from the proposed ~~reservation~~ reservation. On the whole, therefore, there seems to be no objection, on the score of possible hindrances of agricultural enterprise, to Sales of waste land subject to assessment and without the option to redeem.

3 But what the Govt of India desire seems to be, that sales of land shall not carry with them, as they do now in the

× In the four years preceding 1872-73, when such sales above the limit were stopped under instructions from the Govt of India, the extent of land sold both below and above that limit was:—

	Acres
1868-69 - -	24
1869-70 - - -	363
1870-71 - - - -	207
1871-72 - - -	83
	677

I am entirely in accord with the G. of I. as to the expediency of modifying any rules under which the interest of the State in cultivable waste is so alienated that it is no longer participate in the enhanced value of the property, certain sources

besides using the words "in perpetuity" immediately after "revenue-free",

as these goes on, is barred in perpetuity — the rules having this effect are entirely foreign to the principles on which the land revenue system of India is based. By the ~~same~~ right of the State to share in the produce of the soil, ~~was~~ ~~forced upon us~~ in Sir C. Wood's time in consequence of an agitation got up in England the question which urged that Capitalists were prevented from investing in landed property in India because they could not get a title in fee simple — that the amount of revenue payable to the State was variable annually

Exchequer may be able to participate in the increasing value of land. Thus they say in para 21 that the policy systematically approved by them is to grant on lease or to sell "subject to such land-revenue as is assessable under existing rules" and their intention appears the more clearly where they say (para 31) "The objections which exist to the redemption of the revenue × × × are equally applicable to the case of unassessed but cultivable waste, which eventually, with the increase of population, will become valuable to the State."

Indeed, the matter must be carefully considered and approved by the Govt of N. W. Provinces and the Punjab, and of which the Govt of India send a copy has containing an enunciation of the policy they have in view, leave little room on this point. Section 2 (b) of the conditions of Sale in the Punjab rules says "the land will be sold in full proprietary right, but "subject to the payment of land-revenue demand for the time being assessed Hereon". Para 13 of the conditions of Sale in the N. W. Provinces rules contains words to the same effect.

4. Now the conversion of a fixed into a variable land-revenue demand might have

mainly at the instance of the Collectors &c &c. It was all but decided by them for the course but the L. G. fell in with the work-ment and wanted to have a permanent settlement of the land revenue all over the country. A compromise was effected which resulted in these rules and the sooner they are got rid of and one uniform system adopted the better—

In every one of the cases in this all uncertified land is the property of the people and the govt holds it in trust for them and gives it out for occupation as it is wanted subject to the payment of produce which converts into a money value for the land, being assessed the occupiers have to pay as a contribution towards the cost of administration—under a good Govt the value of property increases and in a proportionate ratio does the cost of administration—

a fair contribution to
bonds the latter today
would be out of all pro-
portion 100 years hence
and it would be manifestly unfair & positively
of the Govt of today to
relinquish the right of
the State to share in the
increasing value of
landed property—This
then must be maintained
and when the State
parts with the land think

H. O. 7th June 1881 No
8/8.

it holds in trust for the
community & individuals
the transfer must carry
with it the condition
properly stipulated for by
the G. of I. that it is subject
to such land revenue
as is payable under
existing rules. Our settle-
ments hold good for 30
years and with perhaps
one or two exceptions it is
probable that they will
not be varied for sixty
The mode in which
the transfer of land from
the Municipalities to the

The effect of clearing the
interested Capital in
the reclamation of land
in the Nilgiris, the Wynaad
and the Shevaroys, though
perhaps it may be
doubted whether its
retrospective effect would be
greater than that of the
present complete reser-
vation of mineral rights.

5. The question for
decision, therefore, is
whether the wishes of the
Govt of India in this
respect are to be given
effect to, or whether a
reply is to be sent to
their letter, pointing out
the inexpediency of making
any alterations in the
existing rules for the
special tracts referred to,
which have been settled

[illegible]

after [illegible] consideration
and with the sanction of
the Home Govt. and Reference
is solicited to Letter No
the Govt of India printed
in G. O. dy 12th Augt 1881
No 1177.

The N. W. Pensioner
Rules are otherwise very
liberal. One fourth of the
Cultivable area is to be
over exempt and the rest
for the first five years.
After the fifth year the
remaining three fourths of
the Cultivable area is
to be liable to pay a charge
thus:—

From the Six to the tenth year	—	Nil
From the Eleventh to the fifteenth year	8	"
From the Sixteenth to the twenty fifth year	12	"

and after the twenty fifth
year to such Revenue demand

State to the individual or
Corporation should be
effected, is a matter which
may here receive consider-
ation — If the principle is
admitted that the pro-
prietary right in the soil
(subject to payment of assess-
ment) vests in the community
the sale of that right by the
public appears to be an infor-
mality — The general rule
is to give it, but certain
preferential claims on
the part of individuals being
recognized, any one
who offers for it and who
agrees to pay the assessment
thereon — Sales by auction
are only resorted to in
exceptional instances where
it is difficult to decide be-
tween conflicting claims —
On the Nilgiris, the Newara
Eliya is to be sold by auction
subject to the
payment of land
revenue, the sale
carrying with it the
privilege of redeeming
the Tax by a cash
payment of 25 years
assessment — as a matter
of fact land bottom in
these parts is nearly worth
about Rs 5 per acre

conceptions will at the
same time tend to compli-
bitterly the operations
of the Settlement officer
under them they represent
that others enjoy the benefit
of his labour and trouble
they have expended in
selecting suitable land
and that I recommend for
themselves they have to
pay exorbitant prices.
If the low country system
were introduced Mr.
Burnett told me that
the planters would gladly
pay enhanced assessment
and would willingly
forgo the privilege of
redeeming the same.
I would like Sir
Richard to consult the Board
on a question of this nature
that we are quite agreed to
modify the rules in ac-
cordance with the policy
which finds expression in
this Letter dy 18th ult.
and that we have under
consideration the expediency
of proposing to abolish sales
of land altogether. On
the Cullen point we might
the Board consult-

be may provide time being
be reserved on the land.
The Madras rules allow
exemption for Coffee land
Tea lands only, on the
Nilgiris for the first five
years and in the Wynaad
for the first three years.

the Collectors of Malabar
Salem & the Nilgiris
as to whether such a
course would be acceptable
to the planters in those
districts [illegible]
some time, indicating
our own views, ask
for an expression of
their opinion.

H.S. 17/9

dangerous people. To the first we can say "How are you to prevent them from using it?" To the other we should find it hard to give a good Parliamentary answer.

MGD
Aug 9/83.

11/8/91

From India No 450 of
dft to April 8/83.

from Mr Sullivan's note -

I dare say the Governor remembers the discussion in Parliament of the question of Sales of Land in India, free of revenue. After the mutiny Ld Canning issued a Notification, authorising sales of waste lands in all parts of British India - the local Govts were to fix an upset price in the different districts; then, when an application was rec'd for any given area, there was to be an auction, & the man to whom the lot was knocked down, was to be the owner, if he paid up what he bid into treasury within so many days - no quit rent was reserved.

2. Those who know India best - Old Prinsep, Mr Pearse one of them, went to Sir Charles Wood, & showed him how iniquitous this would be to the native cultivators, who certainly had the first claim to occupy lands lying waste in their respective villages, and to do so, on paying the ordinary assessment

respectfully the Viscount Stanley of Preston

C 17-5-83. Rec 21-5-83.
C 21-5-83 R 31-5-83.
Rec 8-6-83. R 30-7-83.
C 27-7-83. R 7-8-83.

without strangers being allowed the privilege of competing with them.

2. Finally, early in '63, the Indian Govt proposed an act (XXIII of that year) to provide for the adjudication of claims to Waste Lands. This gave many protection to the Ryots; they cd appeal cheaply & summarily agst any action proposed to be taken by a Collr in selling waste lands; while - so far as Collrs were in Ryot is concerned - Collrs were in structed that the members of the Village Community had the first claim; if any of them wd take up the land, there was no admission to strangers.

Very little Waste Land has been sold in Madras, and indeed for some years past, India has told us not to sell any but in cases of ten acres! Under new proposals that even here must cease; in future alienations shall be direct - ed; that those who want waste lands must pay an annual assessment; which may be revised when any general revision of the land revenue takes place.

I do not like them: we consider their proposal inexpedient. If the alienations were extensive, it wd be different; but while they do no hurt to us, they mostly please a small certain class, Indian planters & merchants, European settlers &c, who are - anxious, European settlers &c, who are the country.

11 R 2/1

3. Another way in which, to a very small extent, waste lands occasionally come to bear assessment is this -

In the Malgeri Taluks, Wynaad & the Shevaroys - the system of granting waste lands to ryots - free of assessment - is of some years standing, never has prevailed - Before Lord Canning promulgated his Rotation (more infra) Collrs had (in '59 & '60) in order to encourage the growth of Tea & Coffee (cinchona came later), a feeling there that while they did not interfere with the just claims, to extend their cultivation properly the Hill people - in Travancore in these ranges the tracts of waste Forest & Grass lands - The applicant was to pay the cost of demarcation & survey of the tract he selected: there was then to be a public auction of the lot, the liability of the purchasers to pay the annual assessment being strictly recognised; but if the purchaser, within time fixed to put down 20 years assessment, he was free from all future liability - Where is the harm of this? is there any probability in ever considering that by any one shd be able to impose a higher assessment than the present one on these Hill Lands? The lands will grow more valuable from their special products - but when we assess land, we do so in reference to the ordinary food grains of the country. Very few planters care to buy off their assessment altogether; but while such

The matter was discussed in 1874 & 1876 but no final rules were framed.

C.O. 384/5 Page 18 No. 11

decourage them to look for a permanence they have, that the present article should never be exchanged.

Mr Sullivan wishes to abolish these auction sales in the Wales altogether. I cannot agree. It is the fairest way to sell. It is not enough sold already, even when we have this fair & open competition of the witnesses for Govt. against us. Will you give these tradesmen such a handle as would arise from a system of grants of land under the Colonial signature, without the check of competition?

See the table (no 2) of Indian sales we have very few sales - given them the figures for the last ten or twelve years - either under the ordinary Waste Land rules, or under the special Rules for Tea. Is it that there seems no good reason for disturbing the rules of either system.

F.R.N. Aug 30/83.

I agree with a good deal that the Hon. Mr Sullivan has said on this long debated question; but we must remember that if our principal school of economists in favour of keeping the land in the hands of the State is a matter in which Dukes such as the Duke of Argyle & Sir Lowry Mallet are to be found in vehement opposed to it. If we make it impossible for people to get lands in fee-simple we shall most certainly be strongly attacked some of letter by members of this school.

I am also on the ground of expediency all with the Hon. Mr Carmichael. I would point out the fact to Indian & in decorous official language say "Fix fast sales but not alone." If we act as Mr Bark proposes we shall fall out of the hands of the agitators who grumble at the auction sales into the hands of much more

Leading by every interest

23-7-83.
27-8-83.

Noble for Secretary.

C No 7824

It was not possible to settle the draft on the above paper with the information contained in the Statements with C No 5692. They do not give any figures for any years prior to 1872-73, and those for subsequent years are, so far as Waste-free sales are concerned, of little use, as they can give no idea of the extent of such sales prior to their restriction to ten acres & under. Further, the Statements do not give any figures for 1881-82. Indeed, had it been possible, I would have sent this draft about ten days ago, viz, at my urgent request the Board's Secretary

visited

Kindly send me the single copies of these statements, with all connected papers in charge of one of his Accountants before they were officially despatched to Orissa. At my suggestion, further information was obtained by him through Divisions by telegraphs, and I was engaged all yesterday with the Board's Officer Accountant in examining and checking the figures. Of course there was no time to get particulars as to the area & larger lots, and so only totals are given in the draft; it is evident, as will be seen from the draft, the details are not required for sales of land. For redemption of revenue, they are ~~have already~~ available for ten years to 1880-81, but are not for 1881-82.

Further also, therefore, I have given only totals.

2 The information given in the draft will come from the Board officially hereafter.

3 I have not found it possible to draft a Notification on the lines of those the Chronicle asks for the following reasons—

Firstly. It does not appear that the question of the rights of natives is raised in this discussion. The Govt of India do not say that those rights are not adequately protected by the Madras rules. Neither on the other hand, does it appear, that they are protected by the Madras System of Revenue-free Sales more than they will be if the rules now in force in the Rest of India were adopted here. Further it is no part of the Madras ~~Government~~ Government's rules that "the members of the village Community"

still leave the disposal of the land before it can be put up to auction. It is to be observed that the present question has no reference to (assessed) waste lands which will be dealt with under the system above detailed rules 2nd 3rd. There seems to be no reason to suppose that the Govt of India object to revenue free sales also of small plots not exceeding ten acres, for buildings or gardens. The words "small areas" in para 3 of their present Communication seem clearly enough to point to the exception made in the case of such sales in their letter of August 1872 (H. O. of 21st idem N: 1241).

4. It does not seem necessary (as the Governor's note) to allude to the discussion of the relative merits of auction system and a system of grants. The Govt of India do not want to dispense with auction sales, and indeed, these form an essential part of the systems adopted in the N.W.P. and the Panjab (vide rules with the India letter) which they suggest as models for adoption here. The proposal in favor of the auction system emanated from Hon Mr Sullivan.

JP
13/9

Note for Secretary.
with reference to draft
on C. No 2820.

Not for circulation

Draft G. O.

No 1140 of 18-9-83.

C. No 2820

Letter from the Govt of India, dated 18 April 1883, No 450 R.

Ordered that the following Reply be despatched. (H.S. No 1140 of 18-9-83)

No 1146 of 18-9-83

The Secretary to the Government of India,

Rev. & Agric. Dept.

Sir,

I am directed to acknowledge receipt of your letter, dated 18th April last, No 450 R, suggesting a modification of the rules for the disposal of waste lands in this Presidency, in so far as they provide for sale, Revenue-free.

&c

2. In reply I am to say that, after giving the subject his most careful consideration, the Right Honorable the Governor in Council doubts the expediency of disturbing the existing rules which, after much deliberation, were introduced with the approval of the Secretary of State twenty-years ago*

3. It is one the first place to be observed, that sales, pieces of assessment, in this Presidency have always been very limited. Since 1872-73 they have, under the Circular from the late Dept of Revenue, Agriculture and Commerce, dated the 10th August 1872, No. 4733, been restricted to lots of 10 acres and under, that during the fourteen years ending 1880-1 they aggregated only 1243 acres, as shown in the margin. The applicants in such cases are generally Indians, or Europeans [illegible] retired officers or Europeans who render useful services to the Country, exclusive from the very small extent of the area alienated, the sacrifice of no prospective increase of Revenue is involved must be insignificant.

4. It is true that, in the Wynaad and on the Nilgiri and the very hills, where the sale of waste lands, under special rules, is subject to assessment, the sales of

	leases assessed	lots & leases sales
1867-68	311 acres	
1868-69	223	
1869-70	292	
1870-71	160	
1871-72	139	
1872-3	24	22
1873-4	91	8
1874-5	?	48
1875-6	-	129
1876-7	-	58
1877-8	-	48
1878-9	-	31
1879-80	-	15
1880-1	-	75
	1243	429

* Despatch from the Secretary of State to the Govt of Madras, dated 9th July 1862 No. 14 and letter from the Govt of Madras to the Govt of India, dated 15th [illegible] No. [illegible] Circular dated 12 August 1881, [illegible]

† The sales under the restriction have aggregated only 429 acres.

The existing system especially suits the convenience of the classes above named.

Nilgiris & Wynaad
Rs 2 per acre for forest land.
Rs 8 per acre for grass land.
Shevaroys.
Rs 1 per acre grass land.

of assessment cannot be increased ~~are not variable~~, and are redeemable at the option of the purchaser at twenty five years' purchase; but in those exceptional localities there is very little prospect of land obtaining an increased value except from the special product, viz^t, coffee, tea and Chinchona, to which alone it is generally adapted and is chiefly devoted. These special products require skill and capital, but skill and capital are scarcely likely to be attracted where there is no assurance that the Revenue demand will not be enhanced at a future date. The

Draft altered

Land Revenue is mainly settled with reference to the produce of the land situated in the actually staple food grains of the country, and it would not be sensible to tax land under the annual cultivation of these special products raised from regard to the precise distribution of these lands, a rate of Rs 2 per acre is as high as could ever be imposed with safety to their productiveness

certainly do not err in the direction favored liberality to European enterprise at the expense of the interests of the State

2. The present rule for the five districts named, such as they are, hardly afford sufficient encouragement to European enterprise, since the applicants have to pay Rs 100 per of demarcation survey and thereafter the plots which he selects must be twenty acres that he will be the original purchaser at the public auction. Hence, the total extent of land sold

	Extent acres.
1867-68	304
1868-69	5
1869-70	49
1870-71	241
1871-72	165
1872-73	824
1873-74	595
1874-75	1,450
1875-76	1,342
1876-77	1,960
1877-78	1,016
1878-79	778
1879-80	193
1880-81	1,113
1881-82.	87
	7,628.

are these two years during the period of five years ending 1881-82 is, as will be seen in the margin, only 7,628 acres - a quantity

during the period of
five years ending 1881-82
being only Rs 7,626.

W.S.

80

	Extent of land acres.	Amount paid in redemption of revenue. Rs.
1872-73.	4	376
1873-74.	52	1,484
1874-75.	118	1,070
1875-76.	29	1,759
1876-77.	7	271
1877-78.	14	69
1878-79.	41	1,125
1879-80.	14	93
1880-81.	18	356
1881-82.	"	1,023
		7,626

Note.

Nothing is said in the draft about the abolition or working of the auction system — as that question is entrained by the Govt. of India, but was stated in the Hon'ble Mr Sullivan's note.

W.S.

shall cease by any inconsider-
-able relatively to the
extent available for
planting; and, in the
opinion of the Right
Honorable the Governor
in Council, ~~a~~ modi-
-fication of the rule as to duration decided by Govt. of India might
tending to further
discourage ~~the~~ enterprise
~~in the Agreement~~ and it is suggested ~~in part particulars~~ in the public interest of the
public interest.

6. The option to redeem
the assessment, considering
the high rate of purchase
(25 years purchase)
provided for, can hardly
be considered to be
open to any objection;
but the option is rarely
availed of; the
whole amount derived
under this head, including
building lots in the cities and under Bombay
the Presidency, ~~and~~
Madras

