

(1) Number of pages 1-104(2) Date of repair 26-8-38(3) Initials of the Referencer 4**MADRAS RECORD OFFICE.****Government of Madras.***Revenue* **DEPARTMENT.**

G.O. No.	2678	Press Mis.
Dated	6-5-	1886.

Not to be folded or roughly handled



Madras 14 February, 1886.

The Chief Secretary to Government,

Sir,

We have the honor to state that at the auction sale of Government (Indiana) bark held this morning, the auctioneers made a remark to the following effect:

That with regard to a claim made upon Government (owing to some analysis of certain bark purchased at the sales having shown less alkaloids than did the Government analysis) it had been decided that in future the auctioneers should, on application, open out a number of bales, so that intending buyers might take a representative sample for their guidance in every respect; and that Government would thus absolve themselves from any liability.

This practically amounts to a statement that in future Government would not guarantee the analyses of their Analysts.

As recent large buyers of the Government bark,

to buy at such a distance.

We have the honor to be,
Sir,

Your most obedient servants

Wm. Lusk

5-2-86

Received
Revenue Dept.
H. Lusk

Recd 17/11/86

No 116

Director's Office
(Madras 25 February 1886)

From
The Secy to Govt.
Revenue Department
Fort St George.
To
The Secy to Govt.
Public Works, Parks
& Gardens, Nilgiris
D. O. No. 116
I am in honor to acknowledge the receipt of your letter of the 1st inst. in reference to the analysis of the barks sold by the Government Quinologist, and published in the Auction Sale Catalogue, and I have the honor to point out that the analysis in question are intended to represent the alkaloidal value of the samples distributed to the

With reference to Nos. 116
I am in honor to acknowledge the receipt of your letter dated the 1st February 1886, sent to me under endorsement No 850 of the 5th Idem, in which they complain that the Government have decided for the future not to guarantee the analysis of the barks sold by them in Madras, made by the Government Quinologist, and published in the Auction Sale Catalogue, and I have the honor to point out that the analysis in question are intended to represent the alkaloidal value of the samples distributed to the

the intruding purchasers, while these samples are intended to represent the quantity of the bark offered for sale.

2. About the accuracy of the analysis, I have no doubt at all, but about the accuracy of the samples, I cannot speak with the same amount of confidence. They were selected, according to my direction, with great care from the barks in bulk, as it lay in the store-room, and which I believed at the time were as fair as could be obtained, but upon investigating the matter, recently, I find that it is not impossible variation may occur in the value of the bark which is first baled, and that which is baled last. In the first case the bales will contain the larger and more unbroken pieces, while the latter will contain more or less the debris, and this debris would appear to be of less alkaloidal

value

value than the former, a fact with which I have only just become conversant.

3. If my conclusions are correct, I regret to be obliged to admit that the samples which were sent out did not fairly represent the character of the bark in each bale, although I feel quite certain that they did very fairly represent the character of the whole.

4. The analyses which were published were intended for general information, but which information was to be verified by the purchaser, who through the samples, which were sent to them were thus enabled to do this. It was never intended that the publication of these analyses should be construed into any such guarantee as that which Messrs. Arbuthnot & Co. demand.

5. Messrs. Arbuthnot & Co. state in their letter that they have made their purchases, solely, on the confidence which they had in the analyses published

published by Government, and
on the understanding that such
analyses were guaranteed, but
from the action of this firm,
it appears that this statement must
not be taken too literally; for, they
as well as Messrs. Arbuthnot & Co.,
obtained samples of bark; and
this could be for no other purpose,
than the verification of the
published analyses. Again, could
it be quite credited, that a firm,
of such a long Commercial ex-
perience, as Messrs. Arbuthnot & Co.,
would have made large purchases,
on the supposition that Government
would guarantee them against
loss, when, ⁱⁿ para 3 in the "Conditions
of the Sale" published in the
Catalogue, it is expressly stated
that "lots ought to be taken with
all faults and errors of description".

Surely, if they had seriously considered
that the publication of the analyses
was binding, they would have made
some enquiry as to why the
instructions

instructions contained in para
3 were issued.

6. After the bark has once been
sold, and left Madras, the Government
authorities cease to have any control
over it, and if it was believed that
Government would make compensation,
it would be open to any dishonest
firm, to assert, without any possibility
of this being contradicted, that the
bark which they had bought was
of inferior quality to that which
had been advertised, when it was
not. I do not mean to suggest,
that, in the case of Messrs. Arbuthnot
& Co., making a claim for compensation,
that they would be actuated by
motives other than those of strict
honor; but I point out what
might happen, with the view of
enforcing upon Government how
dangerous it would be to admit
claims for compensation in the case
of crude bark, after it has once left
the hands of their servants.

I have already pointed out
in my letter No 105 dated 27 January 1886

That

that it is very difficult, if not impossible, to guarantee that samples taken from a very large quantity of bark, should represent more than approximately, the general character of the whole bulk; and I would suggest, therefore, that, in the future, no more crude bark should be offered for sale; but that the whole should be ground into powder. If this was done, it would be possible to get an absolutely reliable sample, which would never vary in its analysis, and could, therefore be guaranteed to the public.

8. If Government should believe, after proper evidence, that any claimant for compensation has received decidedly inferior bark to that which was advertised, and waiving their right to insist upon 3 parts of the Condition of Sale, I would suggest that Compensation should be made upon the following Conditions:-

1st That

1st That the claimant should send samples of half a pound, from each bale in dispute, and which they should guarantee to be perfectly fair for analysis by the Government Chemist.

2nd That, if analysis of the sample should show a smaller quantity of Quinine than that advertised. Compensation should be allowed, in proportion to the difference, calculated at the rate of the unit of quinine which was given at the sale in each case.

(I) I have the honor to be
Sir

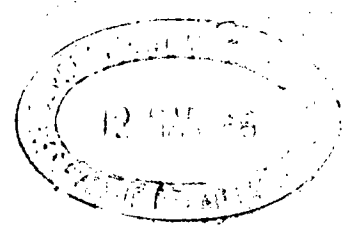
Yours most Obedient

M. A. Lawson

Director

Revenue (386) Cinchona

No. 174



Madras, 10th. Madras, 1886.

The Chief Secretary to Government,
Madras.

From
The Director
of Cinchona Plantations
to
The Secretariat, Madras
Revenue Dept.
10th Feb 86.

W^m Jackson
10/2/86

Government Cinchona Park.

We have the honor to bring to your notice that the day after we had addressed you on this subject, in our letter of 1st February, we received advice from London which had led to certain correspondence between Messrs. Cakes & Co. (the Auctioneers) and ourselves, of which we forward copy herewith.

We were under the impression that the subject was under your consideration (vide the Director of Government Cinchona Plantations letter to Messrs. Cakes & Co. 1st 1220 dated 25th February 1886) but it would appear from that official last communication to them that we have now to submit the matter to you direct.

Any delay which may have occurred is not, you will therefore see, due to us.

The correspondence speaks for itself; and we should be glad to receive at your early convenience a refund of the amount we have

paid

Recd 25th Feb 86
Madras

Revenue Dept.

Director

Enclosed find a copy of the letter from the Director of Cinchona Plantations to the Secretary to Government, dated 25th Feb 86, and a copy of the letter from the Secretary to Government to the Director of Cinchona Plantations, dated 10th Feb 86.

Submitting a report on the —

W^m Jackson

paid for the Bark. Statement of expenses &c will
be furnished in due course.

We have the honor to be,

Your most obedient servants.

Robertson & Co

17-3-86

Frankland & Co
Rushmore Dist.

W. L. L. L.

Special

Madras 3rd February 1886.

Messrs. Robertson & Co

Madras.

Dear Sir,

Government Quinchin bark purchased by
us at the auction held on 27th Jan 1885.

We enclose copy of letter dated 15th January addressed
to us by the London firm for whom we purchased the above
bark, and copy of the letter therein referred to from the most
important Bank Brokers in London - Messrs. Lewis & Paul.

You will at once see that the bark is not
what we understood we were buying according to the
published Government Catalogue which formed part of the
Catalogue of the sale; and we regret therefore we cannot
accept it.

It seems to us that under the circumstances
Government in their own interest should at once either
instruct us to have the bark sold on their account or name
some one to whom it is to be delivered on their behalf.

We await a cheque for the amount of purchase
money and will hereafter furnish a return of expenses.

We must impress upon you the desirability
of immediately representing the matter in the proper
quarters, as delay involves loss of interest and possibly
loss of weight.

We are, Dear Sir,
Yours faithfully
Rd Robertson & Co

ARBUTHNOT & CO

London E.C. 19
Madras 15th January 1886.

Mr. Wm. Arbuthnot & Co.

Madras.

Dear Sir,

We have now had analyzed the ~~bank~~
you bought on our order of the Government sale on 2nd
December 1885, and we are greatly shocked to find
that the percentage of Crystallized Sulphate of
Quinine is totally different to that given by the Govern-
ment in their Catalogue of sale, and on which our
order was based.

But bank is not what we understood we were
buying and as it is quite unsuited to our requirements
we are compelled to decline to receive it and it is
now left at the bank at your disposal. We have
protected it against the risk of fire, and shall be
happy to realize it for you as you may direct.

The support of our action we enclose copies of
the analysis supported by a letter from the most
important Bank Broker in London. Moreover as
bank is here it is quite open to you to appoint any
one you please to receive and have it analyzed.

Yours faithfully

Copy

London. &c.
16th January 1866.

Dear Sir

21

We are in receipt of your favor of this date and in reply beg to say that the samples of the Bark "per India" sent to be analysed, were carefully taken by us from the larger samples drawn by the London Stock Company, and that said samples were analysed by Mr. W. Rich. - and we are of opinion that this gentleman is quite competent, and thoroughly reliable analyst.

We may mention that this analyst analysed the whole of the East Indian Barks offered by us and we have reason to believe analyses the greater proportion of the Imports arriving at other firms.

The following are the particulars of the Barks referred to.

per "India" arrived 8/12/85
Mr. W. Rich. analysis
shows the contents to be

A & C.			
A.	82/87	6 Bales	3.11%
B.	88/141	51 - -	1.91%
C.	142/147	6 - -	4.02%
D.	148/205	58 - -	03.19%
E.	206/232	27 - -	5.01%
F.	233/258	26 - -	1.66%
		1 bale not analysed	
		27	

Common to all
sulphate of lime

We are
(Sigs) 27

ARBUTHNOT & CO

Exchange Hall.

Madras 5th February 1855

Messrs Arbuthnot & Co.
Madras

Dear Sirs,

Cork Cinchona (Park).

We beg to acknowledge receipt of yours of the 3rd inst: enclosing copies of letters from London which we have forwarded to the Director of Cork Cinchona Plantations. Stillgherris. Pending his consideration of your communication we beg to point out that the marks and numbers of the Bales reported on by Messrs Lewis & Katz do not correspond with any of the lots sold by us at auction.

Yours, Dear Sirs,

Yours faithfully,
per pro Bales of
Ld Francis Davies

ARBLTHNOT & CO

25
Madras 5th February, 1886.

Messrs Cates & Co

Madras.

Dear Sirs,

Government - Auctioneers.

With reference to your letter of date the marks and numbers quoted in the copies of correspondence we have sent you, are those under which we shipped the bark to the firm for whom we bought. You are no doubt aware it is always customary for firms to place a distinguishing mark and number on goods they ship. In the present case the Government marks and numbers were left on the bales so identification will not be difficult.

We are,

Dear Sirs,

Yours faithfully
J. & A. Arblthnot & Co

(Copy)

27
Madras 25th Feby: 1856.

Major Carter & Co.,

Madras.

Dear Sirs,

Government Cinchona Bark

We are still without the cheque
requested in our letter of 3rd instant,
and would remind you that interest
is running on -

We are,

Dear Sirs,

Yours faithfully,

Sgt. Arbuthnot & Co.

29
Madras 25th February 1886.

Messrs. Struthers & Co.

Madras.

Dear Sirs

Government Chinchona Bark.

In reply to your letter of this date, we beg to inform you that the same has been sent to the Director of Govt. Chinchona to be dealt with. We must remind you that we have no power to deal with any claim such as you have put forward but we at once communicated your first letter and enclosures to the Government who will doubtless write to you direct, or give us instructions to do so.

We are, Dear Sirs,

Yours faithfully,
J. J. Carter & Co.

Madras, 27th Sept, 1886.
31

Messrs. P. & S. S. S. S. S.

Madras, 27th Sept.

Dear Sir,

Govt. Vinchina Bank

Confirming our letter of the 25th instant, we
now beg to enclose copy of a letter received by us today from
the Director of Govt. Vinchina Bank from which you will observe
that your claim is now under consideration by the Government
and that their decision will be communicated to us in due
course.

Yours faithfully,
J. J. Baker & Co.

Enclosed for you
are 1/2 of the
1/2

Copy
No. 2220. 15. and 16.

From

The Director of Govt Cinchona Plantations

to

Messrs Clarke & Co

Madras

Enclosure 1/2

Colacum, 25. 11. 1886

1/2

1/2

Gentlemen

With reference to your letter dated 25. 11. 1886 forwarding letter from Messrs Clarke & Co, Madras, regarding the matter of compensation for purchase of bark alleged to be inferior to that advertised in the Government Catalogue. I have the honor to inform you that the general question of the grant of compensation in such cases is before Government, whose decision in the matter will be communicated to you in due course.

I have the honor to be,

Gentlemen,

Your most obedt servant,

J. M. A. Lawrence

Director

ARBUTHNOT & CO

33

Madras 25. 11. 1886.

Messrs Clarke & Co

Madras

Dear Sirs,

Government Cinchona Plantations

We have to acknowledge your letter of 27. 11. 1886 containing copy of that from the Director of Government Cinchona Plantations to your address dated 25. 11. 1886 in regard to which we have to point out that our claim is not for compensation, and cannot therefore, we assume, come under the general question of the grant of compensation in such cases. What we claim is not what we believed we were buying, and we cannot accept it. We await intimation from the Government as to how they wish the bark disposed of on their account, and shall be glad to receive the cheque for which we have already twice applied.

We are,

Dear Sirs,

Yours faithfully,

J. M. A. Lawrence

Exchange Hall.

Madras 3 March 1886

Messrs. Arthur & Co. 10, South Bridge Road,
Madras.

Dear Sirs,

Reference is made to your letter of the 2nd inst.

In reply to your letter of the 2nd inst. we beg to state that we have forwarded to the Director of Government Printing copies of all the letters received from you on the subject of your purchase of South India auction of the 2nd inst. last and have sent you copies of the replies received from Colacamus. It is manifest that we cannot be responsible for the terms used by the Director in his letters when referring to your claim.

His letter dated the 25th Feb^y stated that the matter was under consideration by the Govt.

Mark number 51

Dear Sir, & Co. Madras,
and that their decision would be communicated in
due course. Until such decision is given, we
do not regret it is out of our power
to take any further steps in the matter.

We are, Dear Sir,
Yours faithfully,
Eds. Cakes & Co.
Director's Office
Octacummed 5th March 1886

ARBUTHNOT & CO

Exchange Hall, 37
Madras, 8th March 1886

Mess^{rs} Arbuthnot & Co.
Madras.

Dear Sir,

re Government Chinchora Bark.

In continuation of our letter of the 3rd instant
we beg to annex copy of another letter received this
day from the Director of Government Chinchora.

We are, Dear Sir,

Yours faithfully,
Eds. Cakes & Co.

Director's Office

Octacummed 5th March 1886

From the Director

Govt Chinchora Plantations Nilgiris

To Mess^{rs} Cakes & Co.

Madras

Gentlemen,

I have the honor to acknowledge your letter
dated

dated the 3rd of March 1886, and to state that Messrs
Arbuthnot & Co. should be told to submit their claims
to Government direct as it is of no use sending them
to me since I am not empowered to make any
payments such as they refer to.

I have &c. &c.

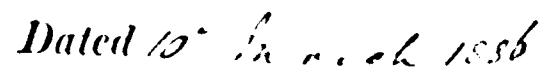
Yds &c. H. A. Lawrence
Director.

True Copy.

Received
20/3/86

No.

From *Prof. Robt. Hall & Co*
in care



Received 12 " "

Enclosures //

No.

SUBJECT.

wishing for the report
 of the value of ^{not} Cincinnati
 back purchased by them
 at the auction held on
 the 2^d. Nov. 1880

NOTE FOR THE SECRETARY.

1/2 lb. of butter
 1/2 lb. of sugar
 1/2 lb. of flour
 1/2 lb. of eggs
 1/2 lb. of milk
 1/2 lb. of cream
 1/2 lb. of vanilla
 1/2 lb. of salt
 1/2 lb. of baking powder
 1/2 lb. of baking soda
 1/2 lb. of yeast
 1/2 lb. of hops
 1/2 lb. of malt
 1/2 lb. of water
 1/2 lb. of fire
 1/2 lb. of air
 1/2 lb. of earth
 1/2 lb. of heaven
 1/2 lb. of hell
 1/2 lb. of everything

W. S. 100

REVENUE DEPARTMENT.

No. 2078

From Messrs. Robertson & Co

Dated 10th March 1884

FOR ORDERS.

Refers to Advocate
sent today can that
he has all necessary
information.

Get the opinion
of the Advocate
General. I don't
think a go here
a legal stand on.
Nor does it seem to
me that in any
case can an action
be against for who
have never had

In reference to the receipt
of the Honble Mr. Advocate
on 10th March 1884. The
1113, 1513 & 1714. The
claim made by Messrs. Robertson
& Co is submitted for order
The Honble Mr. Advocate's
two subjects were made
as it appeared clear that
-Messrs. Robertson intended
their letter to be the
prelude of what has
now come.

that by ask for and
present is refused.
the price paid for the
back to which they
object.

His wife he followed
by the usual long bill

for shipping charges

bought to which Mrs. A. & Co. now
shall a "memo of expenses"

they seem to mean
fighting if the claim

is rejected.

The case of Govt. will

stand upon para

3 of the conditions of

sale which seem

sufficiently to show

that there was no

guarantee of any

sort - that is from

any dealings with
Arbitrators & Co. and
if they choose to buy the
against the auctioneer

They of course defend
themselves under
the sale conditions.

If as A. & Co. allege

that the back was

not ^{what} they believed

they were purchasing

it was their business

to satisfy themselves

on this point

H.A.

19/3 To enable the

Advocate General, who

if of course he consulted,

understand and view,

the correspondence show-
ing the mode in which
these sales were first

started and the ar-
rangements for adver-
tising them here and
in England, should
be collected.

This correspondence
should have been sent
round when the papers
were circulated the
other day (Nov 17/4 &c)

Mr. Dawson sh. obtain

from Mr. Bales & Co. (or

the office can get the in-
formation direct) par-

ticulars of the sales

purchased by Arbitrators

in 1870 - at the 2nd Avenue

and sale. It may be

inferred however

from their home cor-

respondents' letter

d/15 Jan 86 contain-

ing as it does a list

of 177 Bales, that the 5th of

177 Bales, that the 5th of

177 Bales offered
on 2 Nov 1885 - The

The legal point of view

It is submitted that the

are disposed to let this matter

be into court & would

be desirable, to before

effecting Mrs. Arbitrators

the claim to take the

advice of the Govt. Law

Officers.

18/3

There is nothing in the papers

in this Office to show

what the analysis by

Mr. Hooper of the sales

of back opened with

Mrs. A. & Co's correspondents

in London will. It is

on this point is required

reference will have to

be made to Mrs. A. & Co

P.T.O.

It has been thought
advisable not to allow
them whilst the
question of their claims
is under consideration

During the month of Nov. when
the value of bark
was high
FOR ORDERS.

had 18/3
18/3

Particulars of those
bales & the analysis
made by Mr. Hooper
are shown in the ad-
vertisement of 17 Nov-1885 2. 1287

Bales	C. Sulphate of Quinine	
	Hooper	Rich
6	4.18	3.11
54	1.17	91
6	4.33	4.02
58	3.52	3.19
* 27	4.22	5.04
26	2.16	1.66
177		

2. 1287-28 In letter Ned. Renewed Bark the order
analysis was given higher than Mr. Hooper's
analysis

note. 49

The present system
of local sale of Cinchona bark
was first started & approved
in f.o. no 549 dated 12th May
1885. In February 1885 Messrs
Jenkins and Phillips drew the
attention of the Secretary of
State to a rise in the price
for Cinchona bark in the London
market and suggested the
desirability of sending the
the Madras bark to London for
sale. Their letter was forwarded
by the Secretary of State for
the information of this Govt.
The question was then taken
up for consideration by the
Govt who arrived at the
conclusion that the interests
of Govt do not suffer to
any material extent by selling
the bark locally and proposed
a continuance of the system

of local sale. In order however
to give certainty & stability
to the market and to enable
home dealers to make arrange-
ments for purchase of barks
through local agents, it was
proposed to appoint fixed
dates for the sale of the barks -
the first ~~month~~ Monday in
each of the months of Sept,
Oct & Nov and December in
each year - and to guarantee
that for two years no less than
70,000 lbs of bark shall be
offered for sale in each year
in quantities of not less 17,500 lbs
at each of the four monthly
sales. Further to give the
home market "knowledge and
assurance" regarding the
barks that may be offered for
sale, it was proposed to send
samples of it under chemical
analysis for inspection at
the India office by intending
purchasers.

These proposals which

Despatch dated 27th May 1885 -

No 10

G.O. 14th July 1886 - No 816

were ~~submitted~~ submitted
to the Secretary of State
were duly approved of
by him.

Along with the
above despatch a notice
was ~~sent~~ forwarded
for publication in England,
which contained the
conditions under which
the sales were to be held.
These conditions have been
republished by Messrs Bates
& Co in their sale notice at
the time of each auction.

HAS
25/3 25/3

Don Lawson 5 Jan 1886
REVENUE DEPARTMENT

Nos 1113 + 1613 + 1714

From The Asst. Gen. & the Director Govt.
Anchona Plantations

Dated 188

FOR ORDERS.

As regards compensation. In his letter No. 105, of 27th Jan /86 (Cur. No. 1113) the Director of Govt. Anchona Plantations brought to notice that complaints have been made that the analyses which have been given by the Govt. Analyst do not always coincide with those obtained by analysts in London. ~~He~~ Mr Lawson suggests that the cause of this is that the amount of bark usually taken for purposes of analysis is insufficient to ensure reliable results.

But it is clearly desirable that there should be no room for doubt in regard to the quality of the material offered for sale. In para 2 of his letter explains how it is possible that the contents of the bales last packed may be inferior in alkaloidal quality and be therefore pro- to the samples taken

poses that several bales from the stock in bulk by packing and the remedy he proposes is to grind all bark together and to take the analysis from the pulping mass - no doubt this would be the most reliable way & the machinery required is not very costly -

But your private answer with appliances for pulping the bark is it not worth while to consider the expediency of again receiving shipments to England & the time paid for in sterling. The bulk of the raw material will be materially & enormously reduced by the process and freight proportionally. The disposal of this surplus bark should be conducted on commercial principles and that, in view of the depreciation of skins, it is more profitable to send it home than to dispose of it in this country may be inferred from the fact that no planter sells it here.

However this may be decided I would sanction the supply of

poses that several bales should in future be taken. But to do this he requires special disintegrating machinery. He therefore submits an indent for a disintegrator and a turbine etc, the whole of the plant costing £400 or Rs 5333 at 1/6 the value. This charge can be met from a saving of Rs 11000 in this year's budget. It is stated that this amount is sent home before the close of the financial year - Mar. 31st - it cannot be met from this source as the saving will then lapse.

HAS
7/3

The machinery asked for by the Director is not home made and needs for early compliance

14/3 H.V.

If the Hon. Mr. Sullivan's suggestion to retransfer the sale of bark being and is to be considered it will be necessary to recirculate the file with the order bearing on the subject.

But as the present arrangement is the outcome of considerable discussion would it not be better to leave it alone for the present?

Future advertisements should distinctly specify that the analysis by the Govt. Chemist is the result of such a number of experiments and cannot be considered a positive guarantee. The machinery

Since the above was written C. No. 1714 has been received. Messrs. Arbutnot & Co. complain that Govt. have practically refused to guarantee the analyses of their Quinologists. They further state that in the case of the bark sold on the 11th ultimo, the English analysis showed it will be necessary only .86 per cent. of sulphate of quinine as against 1.56 according to Mr. Hooper's analysis. Mr. Dawson says that the sample taken cannot always be depended upon as variations can be between the bark baled first and that baled subsequently. The bark, therefore, will vary in value, and the analyses of the Govt. Quinologist cannot be depended upon as a true index of the quality of the bark in each particular bale. The remedy suggested by Mr. Dawson is that no more crude bark should

...sold but that the
wholes should be ground
into powder

As regards that portion
of his letter which sug-
gests the manner of dealing
with claims for compensa-
tion put forward by parcham
nothing need be done until
claims are preferred. None
such have yet been re-
ceived nor is any one
likely to make any
claim upon the
face of the condition
of sale viz. that lots
are to be taken with all
errors of description
Orders are requested as to
the proposal to offer only
ground bark for sale.

Will be done
2.3

C. No 1113 & 1613 + 1714

FOR ORDERS.

Apparatus for Cinchona
Laboratory - Botacamund
And Messrs Arbuthnot & Co's com-
plaint regarding the analysis
of cinchona bark offered
for sale.

15/3/86
Proceed as proposed.
H. W. Maiter

REVENUE DEPARTMENT.

No 1113, 1613 + 1714

From The Assistant General & the Director of
Cinchona Plantations,

Dated 2nd February 1886

FOR ORDERS.

Messrs Arbuthnot & Co have clearly
no legal claim for compensation.
They are barred by clause 3
of the conditions of sale.
They speak of a "sample" bark
examined in England as
showing only 58% of Salp Guin
as against the Govt. Quantities
analysis of 1.576. This however
does not show that the whole
bale from which their sample
was taken averaged only
the percentage figure given
by Messrs A. & Co. Mr. Knowson
(p. 3) expresses the opinion
that the sample taken out
fairly represented the character
of the bark in the whole lot
put up for sale though it
might not do this in the
case of that contained
in each bale. Messrs A. & Co

have not shown that this is
not the case. They seem to
have based their complaints upon
the result of a single analysis.

Govt have certainly never
guaranteed anything.

As far as analysis is
possible or as seemed possible

- for Mr. Lawson has discovered

points neglected in arrangements; has
made a published and intending

& begins were permitted to
take samples and check
the results obtained by Mr.

Hooper.

The demands in paras 4 & 5

of the Director's letter are

unreasonable.

It is submitted that before

it is of case is not one for

the consideration of the question

of compensation.

As regards the proposal of

the Director to find up all

back before it is opened

for sale there can be no

doubt that this would be

an improvement. It

is only the question of cost

as against that of increased

profits that is involved

Mr. Lawson says nothing of
the former and as regards
the latter experiments can
alone afford information.
It is however certain that
if analyses of bark made
at home give markedly
worse results than those
published here Govt. will
not in future realize such
enumerative prices as
they have hitherto done.

X

4. 3

- 3 quarts of water
 and sugar and
 and dissolved in
 water in the
 hot. It is used
 as a remedy for
 phlegm and
 cough and
 asthma and
 other
 diseases.

1113, 1613 & 1714

FOR ORDERS.

Proposals for securing ^{more} better
^{reliable} results from the analysis of
 Chinchona bark offered for
 sale.

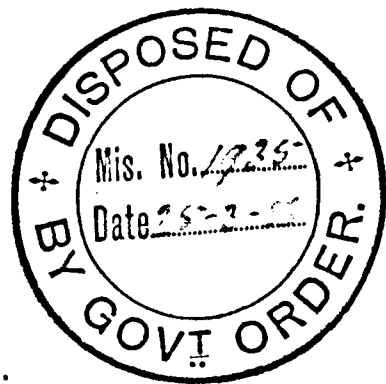
The Right Honorable
 The Secretary of the
 War Department

25/3
Read 2-202 1714 & 2078.
Confidential

Messrs Arbuthnot & Co's claim
for refund of value of Anchona
bark purchased by them.

Order Miss No 1935

Forwarded to the ~~Advocate~~
Advocate General for opinion.
The 3rd clause of the pub-
lished conditions of sale is
to the effect that lots are
to be taken with all faults
and errors of description,
and it appears to H.E. the
Governor in Council that this
condition effectually bars any
claim of the nature of that
now preferred by Messrs Ar-
buthnot & Co.



HAS
25/3
2. A short note on the intro-
duction of the present sys-
tem of sale and a copy
of a despatch to the S.O.S.
of 27th May 1885, no. 10 Revenue,
are forwarded for the Advocate
General's information.

HAS
25/3 25-3-86

2. The Advocate General
with note & file of papers thereon
25/3
G.O. 12th May 1885 no 529 6/4
25/3 dated 27th May 1885 no 1067 T.V
S.O. 17th May 1885 no 1287 C.B.
with the Sale notice & C.O. 17/16-2078.

REVENUE DEPARTMENT.

No. 87

OFFICIAL MEMORANDUM.

The undersigned has the
honor to request that
Messrs Cakes and Co.
will inform him of
the particulars of the
Anchona bark purchased by
Messrs Arbuthnot & Co.
at the auction held
on Nov. 2nd, 1886.

For S. C. C. HAS 25/3
25-3-86

To Mr. Cakes & Co. 26-3-86

O. M. to James Cook Esq.

Order of the Government

Madras 1st April 1886

From

The Honorable H. H. Shephard

Acting Advocate General

To

J. J. Price Esq.

Acting Secretary to Government

Revenue Department

Fort St. George

Sir,

With reference to the Order of Government, dated the 25th March 1886, No. 1935, I have the honor to state that the circumstances of the sale are not very clearly stated. But I gather from the Director's letter (116) of the 25th February 1886 that Messrs Arbuthnot & Co. had an opportunity of inspecting the bales and were not compelled to rely exclusively on the description given in the advertisement. I understand also that although they took samples the sale was not properly a sale by sample, nor do Messrs Arbuthnot & Co.

complain of the bulk being inferior to sample.

The case appears to be one in which the buyers having bought specific lots and found that the quality is not what was represented in the auctioneer's description seek not compensation in the way of damages, but an entire release from the bargain. I do not think this position is tenable, for the reason that the sale was one of specific goods in which accordingly the property passed to the buyers on delivery, and the buyers did not reserve the power of rejecting the goods on their inferior quality being discovered. The right of buyers under such circumstances is not to reject the goods bought, but to bring an action on the warranty, if warranty exists. I think that the Quinalogist's report would, in the absence of saving words, constitute a warranty of quality, and if it could be shown to be incorrect Government would

would be liable in damages. The question is whether the third condition of sale neutralizes the effect of the representation which would otherwise be a warranty.

This question is one of some nicety but having considered the cases decided on contracts containing similar clauses, I am of opinion that the effect of the clause is to protect the vendor from any responsibility for a mistake honestly made. To quote the words of Lord Ellenborough. "The very object of introducing such a stipulation is to put the purchaser on his guard and to throw upon him the burden of examining all faults both secret and apparent" (*Baglehole v Walters & Campbell*, 11; *Taylor v Bullen* 5 Exchequer 779, *Ware v Hobbs* 4 Appeal Cases 13). If I rightly understand the facts, this passage may properly be applied to the present case. I therefore think that there was no warranty of the accuracy

of the analyses and that Government
cannot even be held liable in damages.

I return the papers sent to me.

I have the honor to be

Sir

Your Most Obedient Servant

W. H. Shepherd

Acting Advocate General

NO 2697
conf no 31
1886

From
The Acting Advocate Genl.
Madras

To
The Revenue Secretary
to Govt.
Fort
Dated 1st April.

Subject

Opinion in regard to
Messrs. Arbuthnot & Co's
claim for refund of the
value of Govt. Cinchona
bark purchased by
them at Auction held
on 2nd Nov/85.

73
REVENUE DEPARTMENT.

Current No. 2697

From The Advocate General

Dated 1st April 1886.

FOR ORDERS.

The opinion of the Advocate
General, called for
under the instructions
issued in the Note for
Orders on R. D. 1173 &c,
is submitted for orders.

From this it would
appear that Govt. would
be justified in negating
the claim of Messrs
Arbuthnot & Co. and

Yes and Mr. Shepherd's
advice sh. be taken
as to the form of alter-
ation in the adver-
tisement to be as to

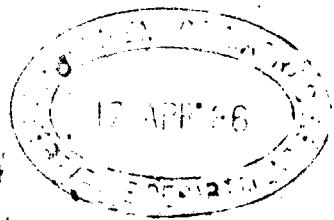
posing that Messrs
Arbutnot & Co.
had an opportunity
of inspecting the
bales and were
not compelled to
rely exclusively
on the description
given in the ad-
vertisement.

The Du. is also
requested to state
whether the sale
was a sale by
sample

HAS
17th

Cotacambund
17th April 1886

To Messrs of Govt
Cinchona Plantations
with adv. Genl. Pensions
Dated 27/4/86



21

Madras 15th April, 1886.

The Chief Secretary to Government,
Ootacamund.
Sir,

Government Cinchona bark
We have the honor to invite your special attention to our letter of 10th ultimo, and its enclosures, upon this subject.

We have this morning received a telegram from the London firm for whom we purchased the Cinchona bark in question, asking whether they are to sell the bark; and by the mail to hand yesterday we are advised that heavy charges such as rent and interest are being incurred.

We have the honor to request that we may be furnished with such directions as may enable us to at once telegraph to the London firm either to hand over the Bark to some one the Government will depute to receive same, or to sell the Bark on Government account.

We have further the honor to request that a refund of the amount we paid for the bark, may be made to us at an early date.

In connection with this matter we beg to refer the Government to our letter of 1st February, written and despatched prior to receipt by us of the London firm's intimation that they could not accept

the

the bank we purchased for them on their order.

We have the honor to be,

Sir,

Your most obedient servants,

Astathuon

ABSTRACT.

83

(1886.)

REVENUE DEPARTMENT.

No. 3081.

From Messrs. Arbuthnot & Co.
Madras.

Dated 15th
Received 17th } April
Enclosures ~

No. ~

SUBJECT.

Inviting special
attention to their letter
asking for the refund of the
value of Fort Cinchona
Bark purchased by them
at the auction held on
the 27th November 1885.

NOTE FOR the Hon'ble Mr Master

It is believed that the papers
connected with this subject are
with the Hon'ble Mr Master.

Has

17.4

17/6

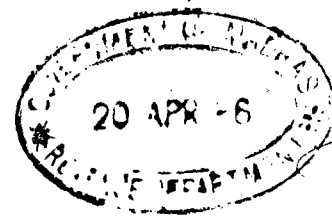
17/6

Do not detain papers
then on voyage of 17/6

Director's Office
No. 7 Cotacumund 19 April 1886

87

To
The Govt. Dy. Magistrate
and Revenue of Cutcham
Plantations



The Secretary to Government
Revenue Department
Cotacumund

Sir,

In returning the opinion
of the Advocate General, which
accompanied your official notice
No. 110 of the 17 April 1886, asking
for further information as to
whether Messrs. Arbuthnot & Co
had an opportunity of inspecting
the Cutcham barks in question, I
have the honor to inform you that
the barks ~~in question~~ were received
by Messrs. Oakes & Co in Madras, on
the 17 October 1885 or 15 days before
the auction took place.

No orders were issued to
Messrs. Oakes & Co to forbid inspection
of the bark, and as the Custom had
always been to admit of the barks
being inspected, I cannot doubt
that they were so in the
present

present instance, but to make
sure I am writing by to-day's
mail to Messrs. Clark & Co.,
inquiring if this is not so.

With reference to the concluding
portion of your official Memoir
under reference, I have the honor
to inform you that samples
were issued to all such intending
purchasers, as applied for by
them, together with the analyses
of the samples which had been
made by the Government Analyst.

I have the honor to be

Sir

Your obedient servant

M. A. Lawson

Govt. Analyst and Chemist

Revenue Cinchona

1886.

No 3158

From

Craft 38

The Govt Botanist Director of
Cinchona Plantations

To,

Malindi

The Secretary to Government
Revenue Department
Colacacumud

1/27

Dated 19th } April 1886.
Recd

Enclosure - one.

Subject

Messrs. Treloar & Co's claim for
the refund of the value of the bark
bought at the Auction Sale of
November 1885.

Returns the Advocate General's
opinion regarding the - and states
there can be doubt but that that
firm had opportunities to inspect
the bark and promises to report
further on leaving from Messrs
Coker & Co. Madras.

Confidential

Exchange Hall
Madras 21st April 1886.

Mr. T. Laidson Esq.

Director of Government Cinchona
Colacacumud

Sir,

We have the honor to acknowledge your
Confidential and Emergent letter of the
19th Instant, and hereby beg to state that Messrs. Treloar
and Co. could at any time after the receipt
of the bark by us have inspected as many
bales as they pleased of the bark to be sold
by us in January and December last.

We may mention that as a matter of fact, one of
their employees called upon us and asked if
he should be allowed to measure the cubic
contents of a number of the bales and brought
a pair of callipers for the purpose and our
Mr. Davis took him into our godown where the
bark was stored, gave instructions to the
storekeeper to give Messrs. Treloar & Co. repre-
sentative every assistance.

Respectfully

Revenue (1886) Cinchona

M^o. 3261

Conf. no. 40

How

M. S. Lauren Esq.
Govt. Botanist
and Director of
Cinchona Plantations

W^h.

The Secretary to Govt.
Revenue Department
(Calcutta)

N^o. 10

Dated 26th } April 1886
Rev. 25 }

En. enc

Subject

Cinchona bark sold
in November 1885.

Reports that Messrs
Hutchinson & Co. had
opportunities to inspect
the — and enclose a
copy of Messrs. Clarke's
letter.

97
In their letter, dated

10th March 1886, Messrs. Hutchinson
and Co. advanced a claim for
refund of the value of Govt. Cinchona
barks, purchased by them at the
auction sale, held on 2^d Nov. last,
on the ground that the alkaloidal
value of the bark purchased
was found on analysis to be
lower than that certified by the
Govt. Quinologist in the sale
notice. This claim was, it was
thought, inadmissible under clause
3 of the conditions of sale which
ran as follows:—

"Lots to be taken with all faults
and errors of description".

The question was, however,
referred to the Advocate General,
who gave it as his opinion that
the above condition barred
my claim on the part of
Messrs. Hutchinson & Co., if they
had had an opportunity

of inspecting the bales and had not been compelled to rely exclusively on the description given in the advertisement. His Excellency the Governor desired that it should be ascertained if the assumption made by the Advocate General was correct. The Director was accordingly asked to furnish the required information. Mr. Lawson thought that it was, but to make sure he addressed the Auctioneers, Messrs. Bates & Co, who report that Messrs. Robertson & Co had been supplied with samples of the bales offered for sale and had also had

the bales inspected by one of their employees. Samples of the bale were also exposed for inspection of intending purchasers at the time of sale. It seems clear therefore that Messrs. Robertson & Co's claim for refund of the purchase money cannot stand.

99
The question as to whether the sale was a sale by sample need not be discussed, as Messrs. Robertson & Co do not complain of the inferiority of the bales to the sample.

The Advocate-General, it will be seen, is pretty sure that the Quinologists' analysis cannot, in the face of clause 3 of the conditions of sale, be construed as a warranty.

There can be but little doubt that the Advocate-General's assumptions of the facts are correct. His opinion is that therefore it is submitted to be accepted & the claim of Messrs. Robertson & Co. is rejected.

175

(14) Arbutnot
Messrs. Arbutnot & Co's
claim.

had ~~also~~ again his g.o. to 1935-8
25-3-86. 151
had also c. nos. 2697, 3081, 3158
23261.

G.O. Min. No. 2678 of 6-5-86

Messrs. Arbutnot & Co will
be informed that Govt. now
declines to accede to their
request that the amount
paid by them them for the
purchase of the cinchona
bark allotted to by them
should be refunded.

5/5.

To Messrs. Arbutnot & Co. Messrs.
The Govt. Secretariat & Civil Service

From Orders in Council

It has been ordered to keep them off.

Q.O. about Innes Abentham
also claim —
✓ 1

7-80 26923 7-5-86
" 32073 1-6-86
7-2-86 6613/86

