

MADRAS RECORD OFFICE.

Government of Madras.

REVENUE DEPARTMENT.

G.O. No. 2957

Press
Mis.

Dated 2-3-31

1931.

Not to be folded or roughly handled

23RD SEPTEMBER 1891, No. 895, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again G.O., dated 3rd April 1889, No. 259, Revenue.

ABSTRACT.—Passing orders on papers regarding the grant of land free of assessment to Municipalities and Local Boards.

READ—again G.O., dated 23rd March 1891, No. 233, Revenue.

ABSTRACT.—Ordering that application be made to the Government of India for permission to delegate to Collectors and the Board of Revenue the Local Government's powers of sanction in the case of alienations of Government lands to local bodies for the construction of roads.

READ—also the following letter from Sir E. C. BUCK, Kt., Secretary to the Government of India, Revenue and Agricultural Department, (Revenue), to the Secretary to the Government of Madras, Revenue Department, dated Simla, the 30th July 1891, No. 1772-149:—

With reference to your letter, No. 233-A., dated 23rd March, I am directed to state that the Government of India have no objection to the proposal of the Government of Madras that it may be authorised to delegate to the Board of Revenue and Collectors the power given to Local Governments and Administrations under paragraph 9 of the Government of India's Resolution No. ¹/₁₄₁₋₁₆, dated 6th February 1872, of granting Government waste lands to local bodies when such land is required for roads. The Board of Revenue and Collectors may also, as hitherto, remit the Government revenue on occupied lands acquired for this purpose.

2. I am, however, to point out that under orders of the Government of India, No. 4-806-815, dated 29th September 1873, the rules laid down in paragraph 6 of the resolution of the Madras Government, No. 259, dated 3rd April 1889, which forms one of the enclosures of your letter, required the sanction of the Imperial Government, inasmuch as they involved the permanent alienation of land revenue.

The 1872 rules for the alienations of State lands do not cover the case of lands in which the proprietary right does not belong to the State, and are not therefore applicable to the permanent remission of revenue on such lands.

I am to request accordingly that, except so far as action may be required to be taken under the sanction conveyed in the first paragraph, the rules laid down in paragraph 6 of the resolution of the Madras Government may be held in abeyance, pending the receipt of general instructions which the Government of India intend to issue on the subject.

ORDER—dated 23rd September 1891, No. 895, Revenue.

Land Revenue, No. 71.

Communicated to the Commissioners of Land Revenue.

2. Paragraph 6 of G.O., dated 3rd April 1889, No. 259, will be held in abeyance pending further orders, except as regards lands required by local bodies for the construction of roads.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue,
and the Local and Municipal Department.

Exd. A, Aubert.

45 Copies.

Original
Govt. of {1891} Madras.
REVENUE.

Issued

Recd.

Encl.

G.O., 23rd September 1891, No. 895.

SEPTEMBER.

Alienations.

Communicating, with remarks, to the Land Revenue Commissioners letter from the Government of India authorising the Local Government to delegate to the Board of Revenue and Collectors the power of granting Government waste lands to local bodies, when such lands are required for roads, as well as of remitting Government revenue on occupied lands.

8-8-91
21-11-05
25/1/08 ✓
4-9-08 ✓
12-11-08 ✓

4-9-09 ✓
11/2/11 ✓
80-10-11 ✓
18/3/12 ✓
11/6/12 ✓

16-2-16
12-2-16
16-2-17
20-4-18

6-5-19
18/8/19

3
BOARD OF REVENUE (LAND REVENUE), 29TH APRIL 1890, No. 222.

PROCEEDINGS OF THE BOARD OF REVENUE
(LAND REVENUE).

Mr. W. S. WHITESIDE.
Mr. H. F. CLOGSTOUN.

Read—the following G.O., dated 13th February 1890, Mis. No. 1063, Revenue :—
Read—Proceedings of the Board of Revenue (Land Revenue), dated 21st December 1889, No. 901.

ABSTRACT.—Submitting to Government, with Board's support, recommendation of the Collector of Kistna to sell by public auction Government waste lands in the delta taluks which will shortly be benefited by extended irrigation.

Order—dated 13th February 1890, Mis. No. 1063, Revenue.

The question raised in the Board's Proceedings read above is one of great importance and before arriving at a decision thereon, the Government desires to have full information as to the extent and probable value of the land to be disposed of; whether it is intended to set apart for the resident ryots any portion of the available area to meet their reasonable wants and capacity to cultivate and, if so, what extent is to be reserved for this purpose and how the Collector proposes to allot it; also whether it is necessary in order to ensure the utilization of the water as fast as the works are extended, that outsiders should be brought in; a detailed report on these points should be obtained from the Collector as soon as possible.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue.

Reference on the above, dated 15th February 1890.

Referred to the Collector for the favor of very early report on the points noticed by Government.

(Signed) M. HAMMICK,
Secretary.

To the Collector of Kistna.

READ—the following letter from A. T. ARUNDEL, Esq., Collector of the Kistna District, to the Secretary to the Commissioners of Land Revenue, dated Masulipatam, 28th March 1890, No. 2095 :—

I have the honor to reply to Board's Reference on Government Register No. 334, dated 15th February 1890, on G.O., No. 1063, dated 13th February 1890.

2. It is not possible without an elaborate inquiry to give the extent and probable value of the waste lands that will hereafter come under the ancient irrigation and become desirable property. It is known that by the time the Kistna ancient project is

completed about 80,000 acres of land will be added to the area already under irrigation, but how much of this is occupied and how much is waste cannot be stated without a long delay. I have therefore thought it best to reply to this reference at once, the more so as a reminder has since been received.

3. I do not think it would be practicable under a system of free sale to reserve any portion of the newly irrigated waste land of any village to meet the wants of the resident ryots and their capacity to cultivate, nor could this result in any case be effected under the present durkhast rules. The need for the introduction of outsiders in such cases is shown by the fact that large areas of land newly irrigated and about to be irrigated are too sparsely inhabited for proper cultivation. Instances have occurred of pattadars leaving their actual holdings of irrigated land partially waste or postponing planting till too late, and then applying for remission, when the fault was their own and arose from their holdings being more than they could cultivate in the season.

4. As the durkhast rules now stand, the ordinary residents of a village, however anxious they may be to take up fresh land, may be as much excluded as outsiders. For instance, suppose all the occupied land except a single petty holding lies on one side of a road or channel and that a new irrigation channel is made to supply 500 acres on the other side of that road or channel. The ryot owning the single petty holding on that other side has by the rules a preferential claim to the whole of the 500 acres.

5. Up to that time the land has been so valueless that it was worth no one's while to hold it and pay the dry assessment. Now a market value is suddenly given to it by Government which by strict interpretation of durkhast rules must all fall to the lucky owner of the little plot adjoining, simply because it is adjoining. It is obvious that the durkhast rules were not framed to meet cases of this kind.

6. Since penning this imaginary case, I have received a petition which effectively illustrates it. One A. Venkatappayya, resident of a Zemindari in another part of the district, has put in an application for 2,500 acres of unassessed waste land in the Répalle taluk which is shortly expected to come under irrigation. He has furnished a map and given the boundaries in detail. The block is so situated that there is only one ryot whose patta land is described as abutting on any portion of the 2,500 acres. This pattadar is the wife of Mr. Carlier, a dismissed Assistant Local Fund Engineer, whom, prior to his dismissal, I had to transfer from this locality for mixing himself up in land transactions. Under the durkhast rules, Mrs. Carlier is *prima facie* entitled to the 2,500 acres if she desires to have it, and might find her prescriptive right to it to possess a considerable saleable value. She is not a resident of the village though technically a ryot of it. The real resident ryots, it will be seen, have no claim to prefer against this accidental lucky pattadar.

7. Again, to take a common case, two or more ryots own land adjoining a block newly brought under irrigation. Under the rules, if they are sensible men and can agree each to apply for a 100 acres or whatever they want, they will get it for nothing. If they quarrel, as ordinarily happens, the lands are by the rules put up to auction under the Collector's order.

8. In no case is any provision really made by the rules for the villagers in general where valuable lands are thus suddenly made available; for the adjoining holder or holders will not let the opportunity slip if it can be helped. It pays them better to avail themselves of it and resell.

9. As a matter of fact dissensions among applicants are so nearly invariable that both the Sub-Collector and Head-quarter Deputy Collector have requested permission to allow the sales to take place without formal reference to the Collector. During the past year in Gudivada taluk, 3,700 acres have been sold for Rs. 1,998; in Bandar taluk, 565 acres for Rs. 1,575; in Répalle taluk, 104 acres for Rs. 650; for Bapatla taluk, figures are not yet forthcoming.

10. It seems clear that when there are large areas of waste land in a village the ryots must already have taken up all they can cultivate. The durkhast rules assign all the newly irrigated lands to the lucky owners of any holdings however small, that may be contiguous. These, if they could but abstain from quarrelling, take it up in the hopes of cultivating part, holding part free of assessment if remission can be got,

and selling the rest. As dissensions ordinarily arise between the adjacent holders resulting in the sale of the land applied for, it is, I venture to think, better that the rule in such cases should be modified so that waste lands newly brought or about to be brought under irrigation should be put up to auction as a matter of course. The newly created market value which is an unearned increment as far as the adjacent ryot is concerned, should fall to Government through whose action it has come into existence.

RESOLUTION—dated 29th April 1890, No. 222.

Mr. Arundel's letter will be submitted to Government, with reference to G.O., dated 13th February 1890, No. 1063. The Board considers that it is shown that the durkhast rules will not meet such a case as was submitted by the Collector for orders and it therefore supports the Collector's recommendation. The Board, however, considers that the present case must be treated as an exception and that no general rule permitting unlimited sales should be at present introduced. The result of the present experiment should be carefully watched and a report made in order that the Board and Government may, if possible, be informed as to the class of men who purchase the land, and as to what they do with it.

(True Copies and Extract.)

Secretary.

To the Secretary to Government, Revenue Department,
Collector of the Kistna District.

Exd. W. H. French.

REVENUE DEPARTMENT.

1890.

Board of Revenue

(Land Revenue),

MADRAS.

h 3327

Printed May th.

Proceedings, 29th April 1890, No. 222.

Recd 8 May 1890
REVENUE DEPARTMENT

Submitting, with Board's support, to Government report of the Collector of Kistna regarding the sale of Government waste lands in the Delta taluks, shortly to be benefited by the extension of irrigation; and requesting Collector to submit a report, after careful observation, as to the result of the present experiment.

h 13-2-20 No 1063.

The Current No

h 27/5
20/6

3RD JULY 1890, No. 513, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again the following G.O., dated 13th February 1890, No. 1063, Mis., Revenue:—

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 21st December 1889, No. 901:—

MR. W. S. WHITESIDE.

MR. H. F. CLOGSTOUN.

Read—the following letter from A. T. ARUNDEL, Esq., Collector of the Kistna district, to the Secretary to the Commissioners of Land Revenue, dated Masulipatam, 21st August 1889, No. 5391:—

I have the honor to report that in the delta taluks of Gudivada, Bandar, Répalle and Bapatla applications are received for the cultivation of assessed waste lands, which are shortly to be benefited by the extension of the anicut irrigation canal system. These applications should ordinarily be disposed of under darkhast rules. But as the lands suddenly rise in value owing to the introduction of irrigation works executed at the cost of Government, there is no reason why this increase of value should not go to Government, i.e., to the credit of the irrigation works rather than to the benefit of the adjacent landholders.

2. It is also desirable to encourage not only all resident villagers of every caste to invest in land, but also, as the local population is often very scanty, to induce non-residents to come forward and extend cultivation by investing in land and introducing more field laborers.

3. Under the darkhast rules lands can be sold only when there are rival applicants whose claims are pretty equal, and such cases not unfrequently happen. But, if one applicant can induce the others to withdraw, no sale can take place. I beg, therefore, that the Board will be so good as to authorise me to sell all such delta lands by public auction without reference to the number of applicants.

Resolution—dated 21st December 1889, No. 901.

Submitted to Government for early orders.

2. The Board is of opinion that the Collector's proposal to sell the waste lands shortly to be benefited by the extension of irrigation under the Kistna anicut should be allowed a trial.

3. There is no doubt that irrigation confers on land a value very considerably in excess of the additional charge which is imposed for water, and the Board agrees with the Collector in thinking that there is no reason why this increase of value should not go to Government, i.e., to the credit of the irrigation work rather than to the benefit of the adjacent landholders.

4. In the case of the Periyar project, the Board * supported the proposal to sell the right of occupancy of the waste lands under it.

* Board's Proceedings, dated 22nd December 1876, No. 3250, paragraph 6.

"To bring so large a tract under wet cultivation, it is observed, capital is needed, and a sufficiency, the Board gathers from the papers before them, is not to be found in the villages comprised therein.

2. 3RD JULY 1890, No. 513, REVENUE.

It will be necessary, therefore, to attract it from a distance, and, in view to this, the Board would support the proposal to sell the right of occupancy, arrangements being made to secure to the resident ryots so much of the area as their means will enable them to cultivate, and in return for an outlay which will convert a waste into a garden, the Government would, the Board considers, be perfectly justified in departing from the usual course in disposing of unoccupied land. The land would be eagerly competed for. Under any circumstances, a large proportion of the area must pass into the hands of capitalists, and it is only fair that the State outlay which has given a value to the property which it did not possess should be recouped in this manner."

The above arguments seem to the Board to apply to the case now under consideration.

The Secretary of State has distinctly sanctioned the sale of waste land "in the case where irrigation has been supplied to the lands of a village in excess of the quantity required for the occupation of the resident ryots," and as Mr. Arundel refers to large areas of waste to be newly brought under irrigation, the Board has no doubt that the areas available are in excess of the requirements for occupation of the resident ryots.

5. No order was passed by Government on the proposal to sell the waste lands under the Periyar project, the papers being ordered to lie over, pending the settlement of an engineering question; but when Sir C. Elliott was in Madras the matter was mentioned, and the Board is now in correspondence with the Collector of Madura in regard to the matter.

6. The sale of waste lands under the Srivaikuntham anicut was sanctioned by Government, but in that case the Government limited the sum to be raised to an amount just sufficient to make the required minor distributary channels under the project; the amount so to be raised was distributed rateably over the whole of the waste, and the resident ryots were allowed in the first instance to take up all they wanted on payment of the rateable value. The Collector is anxious for early orders on the question, and the Board, therefore, requests the favor of the very early orders of Government.

(A true Copy and Extract.)

(Signed) M. HAMMICK,
Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of the Kistna district.

Order—dated 13th February 1890, No. 1063, Mis., Revenue.

The question raised in the Board's Proceedings read above is one of great importance and before arriving at a decision thereon, the Government desires to have full information as to the extent and probable value of the land to be disposed of; whether it is intended to set apart for the resident ryots any portion of the available area to meet their reasonable wants and capacity to cultivate, and, if so, what extent is to be reserved for this purpose and how the Collector proposes to allot it; also whether it is necessary, in order to ensure the utilization of the water as fast as the works are extended, that outsiders should be brought in. A detailed report on these points should be obtained from the Collector as soon as possible.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue.

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MR. W. S. WHITESIDE.

MR. H. F. CLOGSTOUN.

Read—G.O., dated 13th February 1890, No. 1063, Mis., Revenue.

Reference on the above, dated 15th February 1890.

Referred to the Collector for the favor of very early report on the points noticed by Government.

(Signed) M. HAMMICK,
Secretary.

To the Collector of the Kistna district.

Read—the following letter from A. T. ARUNDEL, Esq., Collector of the Kistna district, to the Secretary to the Commissioners of Land Revenue, dated Masulipatam, 28th March 1890, No. 2095 :—

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2. It is not possible without an elaborate inquiry to give the extent and probable value of the waste lands that will hereafter come under the anicut irrigation and become desirable property. It is known that, by the time the Kistna anicut project is completed, about 80,000 acres of land will be added to the area already under irrigation, but how much of this is occupied and how much is waste cannot be stated without a long delay. I have therefore thought it best to reply to this reference at once, the more so as a reminder has since been received.

3. I do not think it would be practicable, under a system of free sale, to reserve any portion of the newly irrigated waste land of any village to meet the wants of the resident ryots and their capacity to cultivate, nor could this result in any case be effected under the present darkhast rules. The need for the introduction of outsiders in such cases is shown by the fact that large areas of land newly irrigated and about to be irrigated are too sparsely inhabited for proper cultivation. Instances have occurred of pattadars leaving their actual holdings of irrigated land partially waste or postponing planting till too late, and then applying for remission, when the fault was their own and arose from their holdings being more than they could cultivate in the season.

4. As the darkhast rules now stand, the ordinary residents of a village, however anxious they may be to take up fresh land, may be as much excluded as outsiders. For instance, suppose all the occupied land, except a single petty holding, lies on one side of a road or channel and that a new irrigation channel is made to supply 500 acres on the other side of that road or channel. The ryot owning the single petty holding on that other side has by the rules a preferential claim to the whole of the 500 acres.

5. Up to that time the land has been so valueless that it was worth no one's while to hold it and pay the dry assessment. Now a market value is suddenly given to it by Government which by strict interpretation of darkhast rules must all fall to the lucky owner of the little plot adjoining simply because it is adjoining. It is obvious that the darkhast rules were not framed to meet cases of this kind.

6. Since penning this imaginary case, I have received a petition which effectively illustrates it. One A. Venkatappayya, resident of a zemindari in another part of the district, has put in an application for 2,500 acres of unassessed waste land in the Répalle taluk which is shortly expected to come under irrigation. He has furnished a map and given the boundaries in detail. The block is so situated that there is only one ryot whose patta land is described as abutting on any portion of the 2,500 acres. This pattadar is the wife of Mr. Carlier, a dismissed Assistant Local Fund Engineer.

whom, prior to his dismissal, I had to transfer from this locality for mixing himself up in land transactions. Under the darkhast rules, Mrs. Carlier is *prima facie* entitled to the 2,500 acres if she desires to have it, and might find her prescriptive right to it to possess a considerable saleable value. She is not a resident of the village though technically a ryot of it. The real resident ryots, it will be seen, have no claim to prefer against this accidentally lucky pattadar.

7. Again, to take a common case, two or more ryots own land adjoining a block newly brought under irrigation. Under the rules, if they are sensible men and can agree each to apply for a 100 acres or whatever they want, they will get it for nothing. If they quarrel, as ordinarily happens, the lands are by the rules put up to auction under the Collector's order.

8. In no case is any provision really made by the rules for the villagers in general where valuable lands are thus suddenly made available; for the adjoining holder or holders will not let the opportunity slip if it can be helped. It pays them better to avail themselves of it and resell.

9. As a matter of fact dissensions among applicants are so nearly invariable that both the Sub-Collector and Head-quarter Deputy Collector have requested permission to allow the sales to take place without formal reference to the Collector. During the past year in Gudivada taluk, 3,700 acres have been sold for Rs. 1,998; in Bandar taluk, 565 acres for Rs. 1,575; in Répalle taluk, 104 acres for Rs. 650; for Bapatla taluk, figures are not yet forthcoming.

10. It seems clear that when there are large areas of waste land in a village the ryots must already have taken up all they can cultivate. The darkhast rules assign all the newly irrigated lands to the lucky owners of any holdings, however small, that may be contiguous. These, if they could but abstain from quarrelling, take it up in the hopes of cultivating part free of assessment if remission can be got, and selling the rest. As dissensions ordinarily arise between the adjacent holders resulting in the sale of the land applied for, it is, I venture to think, better that the rule in such cases should be modified so that waste lands newly brought or about to be brought under irrigation should be put up to auction as a matter of course. The newly created market value, which is an unearned increment as far as the adjacent ryot is concerned, should fall to Government through whose action it has come into existence.

Resolution—dated 29th April 1890, No. 222.

Mr. Arundel's letter will be submitted to Government with reference to G.O., dated 13th February 1890, No. 1063. The Board considers that it is shown that the darkhast rules will not meet such a case as was submitted by the Collector for orders and it therefore supports the Collector's recommendation. The Board, however, considers that the present case must be treated as an exception and that no general rule permitting unlimited sales should be at present introduced. The result of the present experiment should be carefully watched and a report made in order that the Board and Government may, if possible, be informed as to the class of men who purchase the land, and as to what they do with it.

(True Copies and Extract.)

(Signed) M. HAMMICK,
Secretary.

To the Secretary to Government, Revenue Department.
" Collector of the Kistna district.

ORDER—dated 3rd July 1890, No. 513, Revenue.

Land Revenue, No. 31.

His Excellency the Governor in Council is not prepared to sanction the Collector's proposal to sell by auction all waste land newly brought under irrigation in the Kistna delta. The question of

substituting the auction for the darkhast system was fully discussed in 1860 and the arguments which then prevailed against the proposal are as cogent now as they were then. It was decided that the

usage of the country under which the ryots of a village have a preferential right to the occupation of the waste lands of the village is of universal application and should not be interfered with. At the same time, it was recognized that, in certain exceptional cases, sale by auction would be a proper method of disposing of the waste, one of these being the supply of irrigation newly to an unhabited village or to a village with very few and poor ryots, but it was expressly stipulated that, in the latter case, as much land as the resident ryots can occupy should be reserved for their use, and it was on this understanding that the Secretary of State authorised the adoption of the plan of auction sale in such cases.

Despatch printed in G.O., dated 30th April 1861, No. 971.

2. The Collector of the Kistna district, however, states that he "does not think it would be practicable, under a system of free sale, to reserve any portion of the newly irrigated waste of any village to meet the wants of the resident ryots and their capacity to cultivate." This admission is fatal to his proposal. The principle enunciated in 1860 is, in the opinion of His Excellency the Governor in Council, sound and he is not prepared to sanction any departure therefrom.

3. As to the impossibility of applying the darkhast rules, the Government considers that the difficulties to which Mr. Arundel's illustrations point can easily be overcome. There is nothing in the Standing Order (No. 30 of the revised edition) which supports the view that a ryot can claim an unlimited area because he happens to own a field adjoining the block to be disposed of. The rules clearly contemplate applications for land being made by survey fields, and, though this is not stated as clearly as it might be, paragraph 15 of the order vests the Collector with discretionary power to deal with special cases as may appear to him equitable and is quite sufficient to cover such cases as those adduced. The obvious course to be adopted in respect of applications of the nature specified in paragraphs 4 and 6 of the Collector's letter is to parcel out the block to be disposed of in fields of convenient size, say 5, 10 or 15 acres, and, after assigning those which adjoin land already in occupation in accordance with clause (a) of paragraph 12 of the Standing Order, to dispose of the remainder under clauses (b) and (c).

4. The Government does not consider that any rigid rules can be laid down as to the area which should be set apart for the resident ryots or as to the extent which should be assigned to any individual. This must depend upon local circumstances and the capacity to cultivate, of which the Collector is the best judge. The Government is confident that Mr. Arundel will be able to apportion the tracts which are available equitably and has no desire to fetter his discretion in any way. If, however, the Board considers that any rules could be framed which would be of assistance in determining the question, it is at liberty to suggest them for his guidance, provided that they do not contravene the principle laid down in 1860; but His Excellency the Governor in Council considers that the capacity to cultivate is the best measure to apply and believes that the Collector will be able to settle the question satisfactorily on that basis.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue.
" the Commissioner of Revenue Settlement, Land Records and Agriculture.

Exd. A. D. Xavier.
30 Copies.

Gobt. of (1890) Madras
REVENUE.

Issued

Recd.

Encl.

G.O., 3rd July 1890, No. 513.

JULY.

Waste land newly brought under
irrigation in the Kistna delta.

Stating that the Government is not prepared
to sanction the Collector's proposal to sell by
auction all—

28.6.06
26.4.09

4.8.13

15/3/16

16.8.16

27.3.17

14-8-17

22.11.19

No. 3327 of 1890.

Letter for orders

The Colli report does
not furnish the information
which the Govt. wanted.

2 He says (para. 2)
that without an elaborate
survey it would be

The ordinary deskwork
under an enquiry is limited
to make a case or two, but
not, in my opinion, to apply
I am disposed to agree
to Colli that in every village
any village has got
much land which can
cultivate with the same
which disposal of the land
is more extensive than the
the area of land to be
land is large. But
irrigation into villages
does not immediately
increase the crops
of cultivation. The
the immediate effect
of getting irrigation for
lands which they do
possess, which are
not yet irrigated
before, they have no
claim to the

impossible to give two
and probable value
to waste lands that
will hereafter come
under the Ancient irrigation
by the time this
Ancient project
is completed, about 20,000
acres will be added
to the area already
under irrigation; but
how much of this
now occupied are
found

How much is waste cannot be stated without a long delay.

3. He accordingly desires that the question should be decided on general considerations, and puts forward what appear to be very imaginary and extreme cases, to discredit the Dinkham system.

4. He says (para. 3) that the need for the re-introduction of irrigation is shown by the fact that large areas of land newly irrigated and about to be irrigated are too sparsely settled for proper cultivation.

Of course, whenever
this is the case, it will
reason for in

right of occupancy of ^{lands} ~~land~~
 in the village to which the Govt.
 has granted an irrigation water,
 has given a sudden increase
 value - which properly belongs to
 the State & not to the village -
 which the State therefore has
 the right to sell by auction
 in the interests of the taxpayer
 & to pay for the irrigation -
 that the State's sales by
 auction is only the first right
 of occupancy ^{the first right} ~~the first right~~
 held in the ^{land} ~~land~~ ^{the first right}
 for about ^{the first right} ~~the first right~~ ^{the first right}
 since then ^{the first right} ~~the first right~~ ^{the first right}
 not ^{the first right} ~~the first right~~ ^{the first right}
 being an outside away from
 the land -
 Govt. therefore ^{the first right} ~~the first right~~ ^{the first right}
 further report - ^{the first right} ~~the first right~~ ^{the first right}
 and of land the local
 who can take up, which
 home can determine, but
 holds ^{the first right} ~~the first right~~ ^{the first right}
 right of occupancy ^{the first right} ~~the first right~~ ^{the first right}
 all has to ^{the first right} ~~the first right ^{the first right}
 of the canal, which ^{the first right} ~~the first right ^{the first right}
 has occupied during the last
 5 years - ^{the first right} ~~the first right~~ ^{the first right}
 has occupied it ^{the first right} ~~the first right~~ ^{the first right}
 distributed for ^{the first right} ~~the first right~~ ^{the first right}
 manner.~~~~

29/5750

I am amazed that any one
 should be deluded by the extreme argu-
 ment by the Abolition. as illustrating
 the working of the dark heart out of
 as justifying his revolutionary pro-
 posals. I cannot accept being
 sanction being given to general in-
 troduction of auction sale on such
 an argument as this.

Take the 500 acre illustration. Here
the first thing that would be done
would be to line the block out in
convenient fields 5, 10 or 15 acres
as the case may be. The right of the
"adjoining holder" under the present
dark act rules somewhat at once
dwarfed to reasonable proportions
the rights of resident ryots would
come in. So as regards the 250
acre case. No Collector in his senses
would accept such a dark heart.
If Mr. Arundel would be a just
fool then I take him for.

I have nothing to add to my
note against these proposals. Col.
says he cannot see how
provision is to be made for
want of resident vote. His
is therefore damned in any opinion.

Wm

30 May

introducing out-of-door
but what the Com^{rs} want
to suspend the Durban
system altogether.

5. From the common occurrence of psychotic conditions leaving a portion of their holders

uncultivated, the Cole?
(para. 3)
shows the inference, that
it shows that the syste
had more land than
could cultivate. This
does not always follow.

It is more likely that
high lands are over
the heavy making of
cultivation and are

just not worth holding.
The nyoti do not as a
rule let any portion
of their valuable land
lie waste out of mere
inability to find the
grazing.

to funds needed for
meeting the expenses
of cultivation. The
interest which the
myoti take in lands
heavily wasted having
is shown by what
the Col^l himself reports
in para. 9 of his letter.
6. What precisely the
Col^l means by paras.
7, 8 & 9 of his letter is
not clear. The question
now is not between
Auction sale and
free grant to myoti, but
whether there is to be
a free sale of all waste
lands or whether before
the waste lands are
thrown open to outsiders
the resident myoti
are to be allowed
an opportunity of
taking

This is the very point
even the Col^l can give
information.

This is leaving the question

taking up as much
of the waste lands
as can be newly ir-
rigated by ^{extension of} ancient ir-
rigation as they may
be able to cultivate -
The Col^l's statement
in para. 10 that when
there are large areas
of waste land in a village
it means that the myoti
must already have
taken up all they can
cultivate, overlooks the
special circumstances
which does not
apply to cases now under
discussion, namely,
whereby special
attention works certain
waste lands and renders
irrigable which were
not irrigable before and
therefore not cultivable.

Current No. 3327

From

Dated

Dipone Juntalanda
the Delta Collectors of the
Kistna District: 18

FOR ORDERS.

Re. The disposal of
Govt. waste land in
the delta talukas of Kistna

8. If a report for the
entire delta tract
is likely to take time
the Col. may confine
his report to such
villages only, in which
he wishes to introduce
the free sale system.

9. The report called for
in G.O. of 18.2.90 No. 1064
concerning the irrigable
land under the Peltiya
Project has not yet come.

10. We are anticipating
that the (the) will
reply to the request
once. In the meantime
I am enclosing and enclosing
letter that the (the)
should be able to collect
the required information &
submit a full report on
the project in due time.
Commencement which

The Hon. Secy. to Govt.
of Madras

may have to make the
modification of the Draft
order to suit the case
as the mentioned in
para 6. It will probably
be necessary to state
the rights as they exist
under the present rules
of the adjoining parcels
of land, and to limit the
extent of land which
any individual may
take up. Special rules
may be made to meet
any special cases
which may arise. The
Draft should be put
into effect. There is no

I have perused H.R. the Govt.
memorandum & regret I cannot
agree with him. H.R. doubt
less is perfectly correct from an
anti-trust point of view, but
he says the money realized by Govt.
by selling land of another sale
will be somewhat taken from the
cultivation because of making
knowing which I think so
doubtful. But this is only
based on the assumption that the purchase
is to be the actual cultivation,
or some one in the same line,
to whom the payment of the auction
sale money will be a serious
consideration. This, however,
is not a very likely case. The
of the Govt. selling capital. I
contemplate the matter of
capital in such a manner of providing
work, but in hundreds of cases
I have known companies with a
capital of a million sterling
buy land for the purpose of the
estate lands in the foreground of the
District, nearly irrigable by the
Govt. irrigation works, & the large
into its capital in cultivating
the land to the best advantage
it is. He is agreed in 10 years
country would be made
which the people have to pay
some of the character of a business
to the District. I

The above current is
circulated again with
reference to the Council
recorded by Mr. A.
Cullery. The note
on the District Rules
by Jiminca Nighara
Cullery on the subject of the
creation of the District
Rules & substitution of
auction sales was made
concordance in the
District Rules in the District
of the District. It
was sent to me by Mr.
Jiminca Nighara Cullery
as he has sent the District
in under discussion.

17/6

Mr. A. H. ...

The papers are sent to the Hon. Mr. ... again that he may see his belongings ...

Dec 21/6

FOR ORDERS.

only to the ... 1976/2

I had not seen ... the present ...

means. One does not pick one's words in a rough note as a secretary is expected to do in drafting a for letter.

Dec 19/6

... I called ...

I am not conscious of ever having ...

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read *again* S.O. dated 13.
26/90^{his} no 1063.
C. no 3327.

Land Rev. no. 31.

Order of 3 July 1890, no. 513.

C

*See
J.H.
3/7/90*

His Excellency the Governor in Council is not prepared to sanction the Director's proposal to sell by auction the land recently brought under irrigation in the Kistna Delta. The question of substituting the auction for the Sale by Auction was fully discussed in 1860 and the arguments which then prevailed against the proposal are as

S.O. dated 7.4.1860
no 1545

coherent now as they
were then. It was
decided that the usage
of the country under
which the rights of a
rillage have a preferen-
tial right to the occu-
pation of the waste
lands of the village is
of considerable application
and should not be in-
terfered with. At the
same time it was re-
cognized that in certain
exceptional cases sale
by auction would be a
proper method of dis-
posing of the waste, one
of these being the supply
of irrigation water to
an uninhabited village
or a village with very
few or poor rights, but

Deposited in State authorities the
30th April 1909, with a view to the plan of
sale in such
cases.

2. The Director of the
Kistna District, however
states that he does not
think it would be prac-
ticable under a system
of free sale to reserve
any portion of the best
irrigated waste of any
village to meet the
needs of the village.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read

a right can claim an
 unlimited area because
 he happens to own a
 field adjoining the block
 to be disposed of. The
 Rules clearly contemplate
 applications for land being
 made by survey fields and
 though this is not stated
 as clearly as it might be,
 paragraph 15 of the order
 sets the illustration with
 disconcerting power to
 deal with special cases
 as may appear to him
 equitable and is quite
 sufficient to cover such
 cases as those referred to.
 The Rules cannot be
 adopted in their present

rights and their capacity
 to adjust etc." This
 admission is fatal to
 his proposal. The
 principle enunciated
 in 1860 is, in the opinion
 of his Excellency the
 Governor in Council
 sound and he is not
 prepared to sanction
 any departure therefrom.

3. As to the ^{unpossibility} ~~difficulty~~ of
 applying the Burkhast
 Rules the former considers
 that the difficulties to
 which he alludes are
^{which he can} ~~which he can~~
 easily be overcome
 nothing in the Standing
 Order (No. 30 of the
 Revised Edition) which
 suggests the view that

of applications of the
nature specified in
paragraphs 4 and 6
of the Director's letter
is to parcel out the
block to be disposed of
in parcels of convenient
size, say 5, 10 or
15 acres and after
surveying them which
adjoin land already
in occupation in ac-
cordance with clause
(a) of paragraph 12
of the Standing Order to
divide of the remainder
under clauses (b) and (c).

6. The Government does
not consider that any
rigid rules can be
laid down as to the
matters which should be

set apart for the various
purposes as to the extent
which should be assigned to
any individual. This
must depend upon local
circumstances and the
capacity to cultivate of
which the Director is the
best judge. The former
is confident that his
Committee will be able to
apportion the tracts which
are available Equitably
and has no desire to
fetter his discretion in
any way. If however
the Board consider that
any Rules could be
framed which would be
of assistance in de-
termining the question
it is at liberty to sug-
gest them for his guidance.

provided that they do not
 anticipate the principle
 laid down in 1860,
 but this being the
 former in Council con-
 sidered that the capacity
 to follow it is the best
 reason to apply and
 believe that the (then)
 the will be able to
 solve the question
 satisfactorily on that
 basis.

Printed 8/12
 with hints to 1862
 8/7.

The disposal of
 waste land in
 the Kistna Delta.

The Com. to Mr. S. S. S. S.
 C.S.
 H.E. the Governor
 The Com. to Mr. S. S. S. S.
 C.S.

Ch
 24/6

To the Com. of H.R.
 Com. of H.R. & H.R. S. S. S. S.
 1/10/17
 12/10/17
 5/5

Memo

I beg respectfully to submit
 that it would not be well
 to allude to the Correspondence
 of 1860 in the draft Proceedings
 otherwise the Government
 might suppose that the Board
 were unaware of it.

I have looked through
 the whole correspondence and
 find that even in 1860, the
 question was not open for
 discussion, the present rule
 in regard to the preferential
 rights of the ryots having
 been adopted as a final
 settlement of the question
 of mirasi rights long before
 that date.

It will be remembered
 that mirasi claims were
 cropping up continually in the
 first half of the century

and produced quite a li-
terature of their own which
will be found collected
in Mr. Huddleston's compi-
lation entitled Papers on
mirasi right. These claims
were troublesome to deal
with for several reasons. In
the first place the traditional
feeling of the early English
administrators, derived from
the state of landed property
in their own country was
opposed to the recognition
of such claims incompatible
as they seemed with the
right of Government to
claim a large share of
the produce of land, which
was denominated rent,
and which entitled them
according to English notions
to be regarded as the ab-
solute proprietors of land.

There

There was much also in
the state of the country
to favor such an impression.
These mirasi claims were
of a pronounced type only
in a few districts and in
others they were vague and
undefined, and in some
no trace of them had been left.
In some of the southern
districts, notably in Chingle-
put and Tanjore, the mirasi
right was in full operation;
in several other districts it
was in various stages of
decay, although a traditional
feeling in regard to it still
existed; in others again
especially in the northern
circars even this traditional
feeling had become effaced
wherever by previous mis-
government and heavy
expropriations land had
been lost.

lost all saleable value
and the greater portion of
arable land was out of
cultivation and the efforts
of the officers of Govern-
ment were directed towards
saddling the ryots with
more land than they
could cultivate, as was
the case under the British
system in the dry districts.
Mirasi rights would rather
be a burden than a privilege
and the longer this
state of things continued
the less would be the
chance of the ryots asserting
their rights. In the few
favorable circumstances
districts in which land
had some saleable value
these rights would be
clung to with great
avidity. This was exactly
what happened. The

was two schools of writers
on Indian land tenures
one asserting that land
was property of Government
and the ryots merely culti-
vating tenants and the
other that the ryots were proprietors
of the land they cultivated.
The Government of the
day was called upon to
decide between these two
conflicting theories and a
discussion was kept up
for nearly 40 years. There
was one incident of the
mirasi tenure which
almost all engaged in the
discussion were unwilling
to admit (viz, the absolute
rights of the mirasidars to vac-
cate lands) as being inconsistent
with the right of Government
to levy its share of the crop
as

as revenue. The mirasidars
claimed the right to keep
the waste lands uncultivated
themselves and
to prevent Government
from finding other ryots
to cultivate them. Such
a right in the interests
of revenue and of the
general public ^{govt} they could
not acknowledge. They were
willing however to acknow-
ledge the right of the
mirasidars to hold the
lands they cultivated
so long as they paid
the assessment; nay
more, they were willing
to concede the same
right even to new culti-
vators, and they reduced
the heavy assessments

whereas it was necessary
to create a substantial
interest for the ryot in the
soil. As regards waste
lands whenever there was
any demand for ^{them} ~~it~~ they
were willing to acknowledge
the rights of the mirasidars
so far as to give them
the right to ^{granting them to strangers} ~~refuse~~ the refusal, but in this
respect they would treat
the old mirasidars and
the new prattadars in the
same way. They were
willing to recognize mirasidars
rights only to this extent
but if the mirasidars had
any further rights they were
to establish them before
the judicial tribunals. In
the language of the Board
of that day, by this decision
the question of mirasidars
rights

rights was "set at rest"

This seems to me to be the purport of the orders on this subject. The following quotations from "Papers on mirasi right" will establish this position.

In this despatch dated 28 July 1841, the Council of Directors stated that without entering upon a discussion of the respective rights of Government, and the mirasidars (a point still under the consideration of the superior tribunals to which the case has been appealed) it will be enough for us to state our opinion that it is desirable that in all cases where Pagaris propose to cultivate the waste lands

43
lands of mirasi village, their proposal should be in the first instance communicated to the mirasidars; to show in the event of their being willing to cultivate or to give security for the revenue assessable on the land, the preference should be given. We considered that the Government has a clear right to the revenue to be derived from the conversion of waste lands into arable but we at the same time think it preferable that this object should be obtained, whenever practicable, without the intrusion of strangers into the village community."

In their Proceedings 11th
November 1841, the Board
remarked as follows—

"Under this view of the
case, it is not considered
expedient to raise abstract
questions of the extent of
the mirasidars rights in
regard to the village waste.
No opinion on these points
would be binding upon any
Court of law in which
the questions might be
mooted by parties dis-
satisfied with the decision
of the Revenue authorities,
and it seems quite
unnecessary to raise the
question with a view to
its solution by the highest
legal authorities, unless it
could be shown that
under the long practice

the interests of Government
are compromised or injured.

"Mr. Kinderley's first
question is whether in de-
fault of means or desire
of mirasidars to exercise

their right of cultivating
the waste, their consent
is necessary before the
Government can grant

the land to a stranger.

To this, the Board can
only reply that it is the
custom generally to give
the option of occupation

to the mirasidars, and
to the Kadecan ryot, where

no mirasi exists in pre-
ference to a stranger. It

matters not what the law
may be on this point,

much of the revenue
practice is founded on

custom.

Custom, and the practice
is better, the Board believe,
favorable to Government
and in accordance with
the feelings and sentiments
of the people.

"The second question
is to the effect whether
the offer of strangers can
be accepted by Government
of more favorable than
that of the mirasidars?
To this the Board answer
most unquestionably it
cannot. The admission
of such a practice would
virtually set aside the
prescribed permission of
assessment on the re-
demption of waste existing
in every Province.

"The Board cannot
conceive a case in which
the

the interests of Government
can suffer materially by the
continuance of the system
that now prevails. If the
mirasidars can, by them-
selves or through others, under-
take the cultivation of
all the reclaimable lands
of their villages and pay
the established dues of
Government, no loss is
sustained by the State.
If they cannot do this,
if they neglect to do it,
then the rule is to give
the land as well as the
Soondoovarum thereon
to any stranger who chooses
to undertake it. Thus the
right of Government which
is simply the right to close
the authorized assessment
is abundantly protected.

"The only possible pro-

an advantage that Govern-
ment could derive in as-
suming the right to dis-
pose of waste land for
cultivation without reference
to the mirasidars or ancient
cultivators would consist
in the sums they might
derive over and above the
legitimate annual land
tax, by selling to the best
advantage the right of oc-
cupancy, as the ryots now
do in some instances. The
assertion of such a right,
even if it was upheld by
judicial decision, would
lead, it is believed, to
much discontent and
dissatisfaction, and be
powerless in the end
as a means of raising
revenue."

In the Despatch of
Court of Directors dated
3rd

3rd July 1844, they remark
"From the perusal of the
decrees of the Provincial
Court it appears to us that
tribunal has declared
the law to be in accordance
with what in para 55 of our
Despatch dated 28th July 1841
we desired might be
generally adopted as
practice in similar cases
viz, that when proposals
were made by Poozacoody
ryots for waste land in mirasid
villages, they should in
the first instance be
communicated to the
mirasidars to whom
in the event of their
being willing to cultivate
or to give security for
the revenue assessable
on the lands, the

preference should be
given. In the case which
has now been brought
under discussion this
course was not adopted
by the collector and it
would appear that the
question still remains
undecided, whether Govern-
ment possesses the right
in the event of the mirasi-
dars refusing to cultivate
or to give security for the
revenue, to alienate waste
land in mirasi villages
to Ponnasoody cultivators,
either for a term or in per-
petuity. We trust, however,
on all occasions care will
be taken that the just
rights of the mirasidars
shall be respected."

In G.O. dated 1st
May 1849, Government ^{said}
"The Right Honorable the
Governor in Council has
only to observe in reference
to the foregoing Proceeding
of the Board of Revenue
that the principle which
the Honorable the Court
have laid down for the
guidance of the Govern-
ment in the disposal of
waste lands is that
the ryots of the village in
which the land is situated
should invariably have
the option of holding it for
cultivation on certain terms.
If they refuse the Collector
is justified in giving such
land to strangers."

The Court of Directors
in their Despatch 17th
December 1856 remarks

as follows:-

"In para 27 you have referred to the rights of mirasidars over the waste lands of their villages and you observe that "under moderate assessment" land will become valuable, the rightful holders will occupy it themselves, subletting it or part of it and will no longer quietly submit to its being given away to those who have no right interest in it."

"The question involved in this para is one of very considerable importance and it would appear that you now propose to deal with it in a manner at variance with

53
with the practice which has hitherto prevailed. We desire that in the disposal of waste land you will be guided by the principles laid down in para 55 of our Despatches of the 28th July 1841, 3rd July 1844 &c.

"We see no reason to change the opinions respecting the rights of mirasidars which we entertained when these paras were written. Where as in Tanjore, any remains of mirasi right have survived to the present time, and have actual existence, we do not desire that it should be interfered with; but where as in the

greatly

greater portion of your
Presidency, it had fallen
into desuetude, and
has only been known in
name ever since we
have obtained possession
of the country, we think
that it would be un-
wise and inexpedient
to make any attempt
for its revival.

" When applications
for waste lands are
made by strangers they
should be communi-
cated to the Residents
of the villages
better claiming to be
mirasidars or not, and
the option should be given
to them of engaging
or not.

finding security for the
payment of assessment.
Should they or any of them
think fit to do so, they
would of course be at
liberty either to cultivate
the land themselves or
sublet it, but the payment
should be strictly enforced
in order on the one hand
to prevent transactions
in the nature of land
jobbing and on the other
to deter villagers from
engaging for land merely
for the purpose of excluding
others who might be desirous
of holding it direct from
Government, but who
objected to take it as
their sub-tenants. In
cases where the residents

and the old residents of
a village whether they call
themselves mirasidars or
not, decline to cultivate
(or else pay for) waste land,
the usual puthahs may
be given to pattadars with-
out forcing them to become
sub-tenants of the old
residents and that the
influence which the so-
called mirasidars have
hitherto exercised in keeping
much land out of the
occupation of others though
not occupying themselves
may be put an end to.

The above extracts
make it clear that the
Court of Directors told
the ryots somewhat as
follows:-

"you claim a lot
of

59
of things under the descrip-
tion of mirasi rights. We
cannot find out what
they exactly are, and how
far you are justly entitled
to them. There is one thing
we gladly recognize, it is
your right to hold the
land you cultivate. That
is another thing also we
will concede; it is that
whenever we receive an
offer to cultivate waste
lands in your village
we will give you the op-
tion of taking it up your-
self should you be willing
to do so. We mean to con-
cede this right not only
to you who call themselves
mirasidars but to all
ryots of whatever descrip-
tion for we do not know what
you are.

your mirasi means
and we are not going
to be bothered with any
further discussions on that
subject. We wish to see
all pottadars whether belonging
to the class of ancient
mirasidars or recently
created placed on an
equal footing so far
as it is in our power
to do so, and certainly
the preferential right which
we wish to give them
is not only in accordance
with long standing custom
but also public policy. You
must clearly understand
that we will not indulge
you in the - manner
of either cultivating
the waste lands your-
selves nor allowing strangers
to cultivate them, thus

preventing extension of
cultivation and increase
of our revenue. If you
think you can establish
such a right you may do
so before the Courts of
justice."

This is no doubt a rough
and ready solution of
a much vexed question
but it has been acted
upon and acquiesced in
for the last 30 years and
has become a part of the
common law of the country
even if it was not so
before. The rule was passed
in the spirit of compromise
of allowing to mirasidars
such rights as they possess
if they were found to be
inconsistent with good
policy and the same
policy

policy required that all
puttadas should be treated
alike to put an end to
interminable disputes as
to whether a puttada is an
ancient occupant or a
payakan. Is it expedient
that the rule should now
be abrogated? The well
known work of Sir Henry
Maine on Village Communi-
ties, has established the
fact that throughout the
whole of India and pro-
bably throughout the whole
of the ancient world,
property in land was
vested in village com-
munities whose rights
extended not only to
cultivated lands but
also to the waste lands
of the village and customs
and

and forms of property
derived from this tenure
survived to this day in the
greater part of India. Re-
garding waste lands Sir
H. Maine writes as follows
"The waste or common
land of the village com-
munity has still to be
considered. One point of
difference between the view
taken of it in the East and
that which at all times
seems to have been taken
in Europe deserves to be
specially noted. The mem-
bers of the Teutonic com-
munity appear to have
valued village waste
chiefly as pasture for their
cattle and possibly may
have found it so profitable
for

For this purpose as to have
deliberately refrained from
increasing that cultivated
portion of it which had
been turned into the
arable mark. The rights
of pasture vested in the
commoners are those, I
need scarcely tell you,
which have descended
but little modified to our
own day in our own country,
and it is only the modern
improvements in the methods
of agriculture which have
disturbed the balance
between pasture and
tillage and have thus
tended to multiply inclosure
Acts. But the vast bulk
of the natives of India
are a grain and not a
beef eating people. Cattle
are

are mostly regarded by
them as auxiliary to
tillage. The view, therefore
generally taken (as I have
told you) of the common land
by the community is that
it is that part of the village
domain which is temporarily
uncultivated, but which
will some time or other
be cultivated and merge
in the arable mark.
Doubtless it is valued
for pasture, but it is more
specially valued as poten-
tially capable of tillage.
The effect is to produce
in the community a much
stronger sense of property
in common land than
at all reflects the vague
feeling of right which in
England at all events
characterizes

characterises the common
In the late days of the
East India Company
when all its acts and
omissions were bitterly
criticized and amid
the general reopening
of Indian questions after
the Military insurrection
of 1857, much stress was
laid on the great amount
of waste land which offi-
cial returns showed to
exist in India, and it was
more than hinted that
better Government would
bring these wastes under
cultivation, possibly under
cotton cultivation, and
renew plant with English
Colonists. The answer of
experienced English func-
tionaries was that there
was

was no waste land at
all in India. If you ex-
cept certain territories which
stand to India proper
much as the rocky moun-
tains stand to the United
States - as for example -
the Indo Chinese province
of Assam - the reply is
substantially correct. The
so called waste lands
are part of the domain
of the various communi-
ties which the villagers,
theoretically, are only wait-
ing opportunity to bring
under cultivation. It did
appear that though the
Native Indian Govern-
ment had for the most
part left the village com-
munities entirely to their
elves on condition of their

paying the revenue -
assessed upon them. They
nevertheless sometimes
claimed (though in a
vague and occasional
way) some exceptional
authority over the waste,
and acting on this pre-
cedent the British Govern-
ment at the various
settlements of lands
revenue has not sel-
dom interfered to re-
duce excessive wastes
and to reappropriate un-
cultivated land among
the various communities
of a district."

This extract makes it
clear that the waste lands
are not unreservedly at
the disposal of Government.
Then

They in the first instance
belong to the ryots in
common but the State
occasionally interferes
for the protection of its
rights. In the present
case it has done so
by ruling that the land
will be given away to
a stranger if the resident
village is not willing to
cultivate it. To take
away even this quali-
fied right might be re-
garded as a confiscation
in some measure of
the property of the people.

I will quote only two
more passages from
eminent authorities in
regard to the power of
disposal of Government
over waste lands. Let
us

would be easy to multi-
ply them if it were
necessary.

Mr. Mountstuart
Elphinstone says "The
unoccupied waste as
in all other cases where
society has assumed
a regular form must
no doubt have belonged
to the State but the King
instead of transferring
to the intended cultivator
for a price paid once for
all or a fixed annual or
quit rent (as is usual
in other countries) reserved
a certain proportion of the
produce which increased
or diminished according
to the extent and nature
of the cultivation. The
rest of the produce belonged
to the cultivator."

to the community of
settlers." Sir George
Campbell in his article
on India published
in the Cobden Club ^{Review} on
the systems of land tenure
in various countries says
"I was no part of India
and under no form of
Government did the
State undertake these
latter functions or any
other analogous to those
of an English landlord.
Except in the assignment
of waste land to be
cultivated on the custom
tenure there never was
any system of interference
with the immediate posses-
sion of the soil; no letting
it by competition or anything
of that kind."

The passages quoted
from Sir H. Maine's
work are almost identical
with G. O. dated 27th May
1856, no 667. "The waste
lands in this country
in the villages of the plains
at least is certainly not
the property of Government
or the State in the abso-
lute sense in which the
unoccupied lands in the
United States and some
of the British Colonies
is so. The village com-
munities claim an
interest in it and that
interest has been uni-
versally admitted though
not accurately defined
& put up the waste to sale,
entirely ignoring that prior
rights

right of the village com-
munities would be to
introduce a totally new
practice; and it would
certainly be regarded
by the common feeling of
the country as an in-
vasion of existing rights

There is another view
of the question which
leads to the same result.
By the common ^{law} of the
country the Government
can take only a fixed
share of the crop of its
commuted value. Sir
Thomas Munro was of
opinion that to create
private property in land
it was necessary that
the share of Government
should never exceed $\frac{1}{3}$ of

of the gross produce and following this opinion the Court of Directors in sanctioning the scheme for the settlement of districts in this Presidency ruled that the Government share of the crop shall be half the net profits of cultivation that being nearly equal to the one-third of gross produce fixed by Sir Thomas Munro. That according to the ancient law of the country and modern practice, a limit to the demand of the state has been acknowledged and can be established. I would among other things refer to the following papers:-

(1) Board's Proceedings dated 2^d December 1864, N^o 7743 in which the whole question is exhaustively reviewed.

(2) The judgment of the Bombay High Court in which

the Kanara Land assessment in which the question of land tenures throughout the whole of the Madras Presidency is dealt with.

(3) The state papers printed as appendix to the report of the House of Commons to enquire into East India affairs 1835.

Assuming then there is a limit to the demand of the state the system of sale of waste lands by auction violates that limit for the purchase money if it represents anything at all must represent the capitalizing value of the margin of profit allowed alike by the ancient law of the country and the enlightened policy of the British Government over and above the

ordinary wages of labor.

The whole thing therefore simply amounts to a rack rent with a portion of it anticipated in the shape of purchase money. The policy of Government allows a certain share ^{of the crop} to the right of the crop to enable him to grow rich and prosperous. The auction system will sweep this share into the coffers of the state.

Even allowing that the auction system does not involve a violation of existing rights, is it otherwise expedient?

The only grounds urged in its favor appear to be two, viz-

(1) that it brings in an additional revenue to the state.

(2) that it is likely to throw

throw land into the hands of capitalists.

As regards the first point whatever might have been the case in former days at the present time it is the least productive lands that are out of cultivation and they are generally used as pasture. If there is any capital available in the country there is nothing to prevent the land attracting that just now and the Outkast rules do not stand in their way. It is not likely that foreign capital will be attracted by the abrogation of the dachha rules as it is very doubtful whether scientific methods of cultivation can compete with ordinary cultivation considering the cheapness

of manual labor in this country. Mr. Robinson has complained that the grass lands are diminishing extent owing to increase of cultivation.

As regards the second point, it seems very doubtful whether capitalists will come forward and even if this is so, it is it so certain that cultivation on a large scale is better for the country than small culture? The only country in which culture on a large scale appears to have succeeded is England but it appears that this is under special circumstances.

The auction system
in regard to waste land
on the hills is not by any
means recognized to be
a success. G. O. 15 February
1876, no

If the auction system
to be allowed, Sivagangai
cultivation which is now

permitted will have
prohibited. Governor
very recently declared
that they will do no
thing.

The Board have recommended that the ryots in Zemindaries be placed on a satisfactory footing in regard to security of tenure. This means that the Zemindars' rent should be restricted to custom rates and precludes putting lands to competition with nominal rates.

If the Government
themselves adopt the plan
they cannot well enforce
the observance of a different
principle by the Ministers.

For these reasons
I would urge respectfully
a reconsideration of the
whole question. If however
the

Board consider that
 present practice should
 change, there seems
 to hardly any ^{use} ~~case~~
 asking Collectors for
 opinions. All the
 materials necessary for
 decision of the question
 already on the record
 the Board's Office. Any
 change that is adopted
 probably require the
 action of the Secretary of
 State.

H

Notes

Shortest rules

GOVERNMENT HOUSE.

As to the Collector's remarks on
this particular reference I do
not think he has done anything
extraordinary in bringing before
your committee illustrations of the
darkening of the dark heart poles
and of the opinion held
by some persons in his
district on the subject -
Nor do I see how the
blocking out into common

fields of 5 10 or 15 acres,
the area in question
dispos of the subject -
It is not a question of
subdivision, but of the
total quantity, divided or
undivided, which limitrophe
or adjacent spots, may be
considered entitled to -
I have sufficient confidence
in Mr. Curran to feel

quite sure we will not do ⁸⁵
anything on the subject which
I shall consider foolish -
Nor do I think that his
proposals can justly be designated
as revolutionary, any more than
any similar propositions, which
were made to parliament
in 1860 - and which were
dealt with at that time
with much deliberation
& dignity by high authority.
I shall now proceed to

state my opinion on the main
question - The Hon^{ble} Mr. Justice
has remarked that if the increase
in the value of waste lands by
reason of irrigation works carried
out by the State, was a good ground
for abrogating the ordinary duckhawk
rules - equally good reasons
existed in the case of improved
communication by railroads &c
and suggested that the
duckhawk rules should be
washed away - but in 1860
the Government decided that

the then & now existing duckhawk
rules were of universal application,
and were founded on usage
and so destined to interfere,
& can see no reason to
dissent from the policy -
and I agree with most
of the opinion contained
in the office Memoirs dated
1861 of decision whether of the
Sammashanahyana Regulations in 1852 when the
was again considered
& concern with the Hon^{ble}
and further that India wants
reason for referring

a greater outlay on the land
but I do, on that, if the
Government takes the money
obtained from the Auction Sale,
~~of land~~ - the land will
obtain a greater outlay
upon it than if that purchase
money remains in the
possession of the Cultivator.
On the contrary I think
such money will be so
much taken from the
Cultivator means of

95
~~extending the outlay~~
making the outlay which
any well-to-do person thinks
so desirable - I am
therefore opposed to the introduction
of Auction Sales -

Mr. Ainslie thinks that
under a system of free sale
it would ^{not} be practicable to
reserve any portion of the
newly irrigated waste, to meet
the wants of present & future
and then ceasing to cultivate.
This is I think a sufficient
reason for rejecting his proposal

even if there were no other - But
~~I do not follow him as~~

7 16

S.O.
no 30

Under 12, ~~seems~~ to point
out with sufficient distinctness
the cases to be followed -
even when large quantities
of land ~~may be~~ have to
be dealt with - and I
think the discretion of the
Collector ~~to deal with such~~
~~cases~~ is a safer guide than
any rule which it would
be possible to lay down,
where circumstances must
vary so much -

After the last communication ^{of}
from the Collector GOVERNMENT HOUSE. 9
do not think it would be
desirable to waste any more
time in endeavoring to
obtain the further information
which we thought necessary
last January -

It occurs to me that
no more difficult need
be experienced in the future
district - there was fault in
the Goolery and in other
places where great irrigation
works have been executed

The President of the Sivarajasthan
Committee can hardly be
considered in vain, as
in that case the wants
of the President's Agents
were easily provided for.

It may be possible
for the Board to lay
down rules to guide
the Collectors as to the
estate of land, which
any individual ought to
take up, but I really think
the capacity to cultivate

95
89
is the best means to
apply, and that I believe
the Collector can do now.
However if the Board
think they can assist
Collectors by rule I have
no objection provided
they do not march
on the principles laid
down in 1860 —

16th
90

96

FILE NO. 149.

SERIAL NO. 2.

1891.

GOVERNMENT OF INDIA.
REVENUE AND AGRICULTURAL DEPARTMENT.

REVENUE.

To

THE SECRETARY TO GOVERNMENT OF MADRAS.

No. $\frac{1772}{149}$

Dated Simla, the 30th July 1891.

Despatched 1st Aug. 1891.

SUBJECT.

Alienations of State lands and remissions of land revenue.

[W. F. C.]

motor
disposal
H/O

(189/.)

REVENUE DEPARTMENT.

Current Number 6229

From

Me S of I

Dated 1. 8. 71

Received 7. 8. 71

Enclosures

No. 1772
149

SUBJECT.

leg: alienation
of State lands and
remission of Land Revenue

En 200k 6229-71-1
ABSTRACT.

REVENUE DEPARTMENT.

972

Current No. 6229

From

ated

18

FOR ORDERS.

The C. of I grants the permission applied for in C. O. $\frac{253}{25-3-91}$ to delegate to the Board of Revenue and Collectors the Local Courts powers of sanctioning alienations of Court land and land revenue in the case of lands required by Local Bodies for the construction of roads, but makes exception to para 6 of C. O. $\frac{259}{3-4-89}$ as being opposed to a letter of its of 1873 meeting with no rules involving the permanent alienation of revenue or the grant of waste land free from assessment for a longer period than 20 years should be made or promulgated without its previous sanction.

In C. O. $\frac{1170}{25-10-73}$

2. The C. of I letter of 1873 referred to above and the subsequent letter of 1879 declaring that the Resolution

In C. O. $\frac{127}{3-2-80}$

No.

Dated

18

ORDERS.

From

without any reference to India. It is presumed that the effect of holding para 6 of the A.O. in abeyance is that every case involving the present alienation of revenue permanently for a longer period than 20 years and not falling under any recognized rules should be submitted for the orders of India.

Order of 23rd Sept 1891, no: 895

Communicated to the Comd of L.R.

Para 6 of A.O. 259 3-4-89 will be held in abeyance except for regard as to lands taken up by Local bodies for the construction of roads.

15/9

To the Comd of L.R. At the Secy's Office. 22/10

FOR ORDERS.

Sub para 7 of the A.O. 259 3-4-89 will be held in abeyance except for regard as to lands taken up by Local bodies for the construction of roads.

This will give rise to many references of a petty character but the general instructions furnished by the A.O. 259 3-4-89 are awaited.

Secy

Lt.

21/9/91

M. 221

of 1872 was not intended to be applicable to alienations of land revenue ~~was~~ ^{were} duly considered at the time ~~to~~ ²⁵⁹ ³⁻⁴⁻⁸⁹ was passed and it was deliberately resolved ~~to bring regulations~~ for the reason stated in para 6 of this A.O. to regulate alienations of land revenue on the basis of the Resolution of 1872. The fact was there were no rules limiting the Local Bodies powers of sanction in respect of alienations of land revenue and doubts were expressed as to whether the A.O. 259 3-4-89 did not imply that no reference should be made to that A.O. in cases of alienations of revenue. The A.O. of April 1889 declares that there is no such implication, and that the A.O. 259 3-4-89 refers only to remissions of revenue under sanctions & rules and that all other cases should be governed by the Resolution of 1872. The A.O. was intended to limit the powers of the Local Bodies rather than otherwise.

intended to place a limit on the powers which the Local Bodies were exercising.

3. It is not clear what is the

FOR ORDERS.

C. No 6229.

Re. Alienation of
State lands and re-
mission of land tax

G. O. 23 Sept 1891, no. 895

The Hon. Sec. of the Interior

Washington, D. C.