

23-1-86J

Revenue (1897) Department.

PRESS SERIES.

G.O., No. 955

DATED 15th November

[Despatch Abstract.]

Coming to the Board of Revenue
letter from the Govt. of India declining
to sanction in advance an application
from Messrs. Holmes and Baberwell to
transfer their gold mining leases to
a company and informing Mr. W. J.
Hamilton Holmes of this decision.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Civ 73/98							
Go. 2050 15.4.98							

Govt of Madras
Revenue 1897. Department

File No. 82 of 1896.

Serial No. 2.

GOVERNMENT OF INDIA.
 DEPARTMENT OF REVENUE AND AGRICULTURE.

GEOLOGY AND MINERALS.



Current No. 9207

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
 REVENUE DEPARTMENT.

No. 3036-82-2.

Dated Simla, the 13th October 1897.

Received. 25th "
Registered. 26th "

SUBJECT.

Application from Messrs. Holmes and Bakewell to transfer their gold mining leases to a Company.

G. C. Press, Simla.—No. 301 R. & A. D.—15-10-97.—100.

k3 (initials)

12/10
No. 3036-82-2.

FROM

DENZIL IBBETSON, Esq., C.S.I., C.S.,
Secretary to the Government of India,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
REVENUE DEPARTMENT.

Dept. of Rev. & Agri.
Geology and Minerals.

Simla, the 13th October 1897.

SIR,

I AM directed to reply to your letter No. 365, dated 27th July 1896, with which you forward for the orders of the Government of India, with the strong support of the Madras Government, an application submitted by Messrs. Holmes and Bakewell, in which they pray that the restrictions imposed by Nos. 18 (3) and 23 (vii) of the Indian Mining Rules upon the grant or transfer of a mining lease to a Company may be removed in their favour, and that general permission may be given them in advance to transfer to a Company to be formed in London, such of their mining leases of land in the Madras Presidency as may be proved to the satisfaction of the Local Government to contain "payable auriferous lodes." I am in the first instance to express regret that your reference should have remained so long without reply.

2. In the letter in question you refer to Mr. Galton's letter No. 557-Rev., dated 18th June 1891, in which the Governor in Council, criticising the draft mining rules then under consideration, expressed his entire concurrence with the view held by the Board of Revenue that the proposed restrictions upon the free transfer of mining leases were undesirable. And you remark that the correspondence between the Secretary of State and the Government of India, which resulted in the draft rules being sanctioned and declared applicable to the Presidency of Madras, does not appear to have been communicated to the Madras Government, so that His Excellency in Council is unaware of the reasons which led to his recommendations in the matter being overruled. I am now to forward, for the information of His Excellency in Council, copies of the papers noted in the margin.* The Government of India's despatch of 9th March 1892 added nothing to the arguments already used in their

* 1. Despatch No. 11, dated 10th February 1892, to Secretary of State, with enclosed "comparative table."

2. Despatch No. 15, dated 9th March 1892, to Secretary of State.

3. Despatch No. 63, dated 4th August 1892, from Secretary of State.

IV.
letter of the same date to the Madras Government which formed one of the enclosures to the despatch; and the relevant portions of the Secretary of State's despatch of 4th August 1892 were forwarded for the information of the Governor in Council with this office endorsement No. 2100—20, dated 19th September 1892.

3. The above-mentioned papers explain the general grounds upon which the restrictions to which exception is now again taken by the Madras Government were held in 1892 to be necessary. The Governor General in Council, however, is desirous of giving full weight to the strong expression of the views of the Governor in Council which your letter of last July conveyed; and he has therefore carefully reconsidered the whole question in the light of the arguments brought forward by the Madras Government, not only in your letter of last July, but also in 1881 and 1891; and now directs me to set forth with some fulness the conclusions at which he has arrived, and the reasons why he finds himself unable to accept the view of the matter which that Government have so repeatedly urged upon him.

4. In the first place, I am to explain that the word Company, as used in the Mining Rules, is meant to apply to a Joint Stock or a Limited Company only. There is not the slightest desire to prevent a licensee or lessee at any stage, whether of exploring, of prospecting, or of mining, from associating with himself, as partners, or in the form of a syndicate, other gentlemen who will contribute the capital needed for the thorough exploitation of the concession. The evil which the Government of India desire to avoid is the sale to the public of shares in speculative or unproved concerns, and they do not wish to prevent individuals from associating themselves together in such manner as they may think best. It is quite legitimate that such individuals should desire to limit the liability they incur in operations like prospecting; and so long as the association does not take the form of a Registered Company, the money risked belongs to the individuals who compose it, and nothing in the form of Company-mongering or of speculation with funds provided by the public is possible.

5. So long, however, as the enterprise is in the preliminary stage of exploration or prospecting, the formation of a Registered Company for the purpose of working the concession should not, in the opinion of the Governor General in Council, be allowed; or at any rate, only under the most exceptional circumstances. The object of Government in granting a license to explore or prospect is to encourage the licensee to discover mineral deposits which can be worked with profit, by promising him a mining lease upon favourable terms in the event of his doing so. If he, or the persons whom he may associate with himself as in the preceding paragraph, is not prepared to spend money in the search, and in testing the value of any indications which he may discover, he ceases to have any *raison d'être* as a licensee, and should make way in favour of somebody who is so prepared. The license is not granted to him as a means of making money without previous expenditure; and until he has discovered a mineral deposit and reasonably tested its value, he has done nothing for which he is entitled to receive a price from the public; since if the bare license to explore or prospect has value, it is the Government, and not the licensee, to whom that value properly belongs.

6. So soon, however, as the testing process is reasonably complete, and a mining lease has been or is about to be obtained for a block of land which affords reasonable prospects of profitable working, the Governor General in Council fully recognises that, at least in very many cases, the further prosecution of the enterprise may be beyond the means of any association of private individuals, and that

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the necessary capital can only be procured by an appeal to the public in the usual manner. He recognises also that, however thoroughly the block may have been prospected, the enterprise must still remain of an exceedingly speculative character, since the elements upon which success depends are hidden below the earth. He is also fully alive to the fact that in prospecting for minerals the failures are many in proportion to the successes, and that when the prospector, by the application of capital and special knowledge, has succeeded in discovering reasonable prospects of a valuable mining property, he may fairly demand a very substantial reward. Nothing is further from his intention than to obstruct unnecessarily the development of the mineral resources of the country, or to scrutinise too minutely the details of a mining speculation, of the uncertain nature of which, all who enter into it must already be fully aware.

7. But he considers it essential, for reasons which will presently be more fully explained, first to ensure, as far as may be possible, that before a prospector is allowed to offer a mining lease to the public, he shall have taken all reasonable measures to assure himself of the value of the property, and secondly to demand that the prospector shall show the *bona fides* of his belief in that value. It was in order to attain these two objects that the restrictions to which the Madras Government object were inserted in the mining rules; and the Governor General in Council cannot consent to abandon them. He thinks, however, that the rules as they stand are fairly open to exception, in that they afford no indication of the nature of the conditions under which the Government of India will ordinarily accord sanction to the transfer of a mining lease to a Registered Company.

8. These conditions have recently been formulated with respect to certain mining leases in another part of India; and the Secretary of State, to whom a copy of this correspondence will be forwarded, will be asked to approve of their insertion in the general mining rules. As in the case of the other rules, it will be in the power of the Government of India to relax these conditions, though this will be done only under very special circumstances. They are as follows:—

- (a) that an adequate and *bona fide* investigation into the value of the property covered by the lease has been made before it is offered to the public. The amount of work to be executed or money to be expended in such investigation may be fixed beforehand, when the circumstances render this conveniently possible.
- (b) that as far as possible, a full statement of the facts alleged to be thus ascertained is laid before the public. The entire responsibility for the correctness of this statement must rest with the promoters. The Government reserve the right of objecting if they consider that the statement is not such as to give, on the responsibility of the promoters, sufficient indication of the value, or probable value, of the property.
- (c) that the price to be paid to the promoters for the concession is not so excessive as to throw doubt upon the *bona fides* of the transaction.
- (d) that the promoters bind themselves in the prospectus to retain, for a period of eighteen months after the date of the transfer or the date on which the Company is registered, whichever is later,

any shares that may have been allotted to them as part of the price paid to them by the Company for the concession, except in so far as such shares, together with any portion of the price received in cash, represent the actual recoupment of what has been spent by them upon proving the concession.

Illustration.—The promoters have spent Rs. 20,000 in proving the concession. The Company pays them for it Rs. 15,000 in cash, and 2,000 fully paid-up shares of Rs. 10 each. The promoters may sell 500 of these shares at once, in order, with the Rs. 15,000 cash, to make up the Rs. 20,000 spent by them. But the remaining 1,500 shares they must hold for 18 months after the date of the transfer or of the registration of the Company, whichever is later.

- (e) that the prospectus (which must be submitted to the Government of India before issue) contains nothing that can be construed as a guarantee by Government, either expressed or implied, of the accuracy of any of the statements contained therein or of the valuable nature of the property. The promoters may be required to append to the statement in the prospectus that the consent of the Governor General in Council has been obtained to the transfer, an express declaration that no such guarantee is implied thereby.

9. The Governor General in Council does not think that these conditions can fairly be objected to as hindering the proper development of the mineral resources of the country. They contain nothing whatever which need prevent any person, who is himself possessed of the necessary means, or who can inspire other individuals with the confidence necessary to induce them to co-operate with him, from proving the existence of minerals, or even from establishing a lucrative business. It is only when the business of the private firm becomes too large to be manageable by individuals, or passes into a new stage of development, that the firm is converted into a Joint Stock Company. This is the usual history of commercial enterprises; and there is nothing in the rules and proposed conditions to prevent this course being followed. Indeed, they go a step further, and allow of transfer to a Company at an earlier stage than that at which it would ordinarily be made, subject only to the condition that there shall be some reason to believe in the *bona fides* of the promoters. It must be remembered that, just as mining enterprises are of necessity more speculative in their character than are planting and other industries which have taken root in India, so are the people who occupy themselves with the former too often of a very different character from those who devote themselves to the latter. Again, while in England, at any rate, minerals almost invariably belong to private owners, in India, in the cases to which the rules under discussion refer, they are the property of the Crown, and it is impossible to neglect this distinction in weighing the responsibility of Government to the public. In the former case, if a Joint Stock Company fails owing to fraudulent misrepresentation by the persons from whom they acquired their concession, it is with private individuals that they will have to deal in extricating themselves as best they can from their difficulties. But in the latter case they will deal with the Government; and, apart from the undesirability of the State being associated with discreditable transactions, it is always well that Government should avoid condi-

tions under which an appeal *ad misericordiam* is possible, since in such cases they invariably find themselves at a disadvantage. Nor is the Governor General in Council by any means convinced that it would be for the ultimate benefit of the country to encourage great rushes of speculative enterprise. It is important that, as the increase of population tends to exceed the capacity of the great agricultural industry to support the people, they should have other occupations upon which to fall back; and our aim should be, not so much to enrich English promoters and capitalists, as to gradually induce the native of India to interest himself in the development of its varied resources. And to secure this object, a steady rate of progress is probably best.

10. There is, moreover, another consideration to which His Excellency in Council attaches the greatest weight. Notwithstanding all that has been urged above, the fact remains that if we had only British Territory to deal with, there would be much to be said in favour of abandoning all attempt to control the transfer of mining leases. It would in that case be easy to protect the interests of Government; while it is perhaps doubtful whether we need attempt to protect the general public, further than by such general legislation as has, in most other countries, been found sufficient for the purpose. But there are the Native States also to be considered, for which the Government of India are responsible. Their circumstances are in too many cases such that, in the absence of protection from without, they would fall an easy prey to the class of speculators against whom the restrictions of the mining rules are primarily directed. Nor is it their interests alone that are in question. The Government of Madras are evidently at a loss to understand why the considerations in favour of freedom of transfer which were accepted by the Government of India in 1881, were wholly set aside when the rules came under revision in 1891. The explanation is, that during the interval transactions had taken place in connection with mines and in connection with Native States, which were not only financial, but also political scandals. The Government of India cannot divest themselves of the obligation to prevent, so far as in them lies, occurrences which bring odium upon the paramount power, and create political difficulties of considerable magnitude.

11. On the other hand, it is inadvisable in the extreme that the Government of India should expose themselves to the accusation of treating Native States unfairly, by imposing in their case restrictions which they think unnecessary in their own, and which have at least the appearance of hindering the development of their resources. The choice lies therefore between absolute freedom of transfer in the case of Native States, and some restriction in the case of British territory; and of the two alternatives the Governor General in Council prefers the latter.

12. I am, therefore, to request that Messrs. Holmes and Bakewell may be informed that His Excellency in Council is unable to grant them the general permission for which they ask; but that the conditions formulated in paragraph 8 of this letter may be at the same time communicated to them, as indicating the general nature of the circumstances under which the Government of India will be prepared to accord sanction to the transfer of any mining lease that may be acquired or about to be acquired by them to a Joint Stock or Limited Company.

I have the honour to be,

SIR,

Your most obedient Servant,

Rungilabhin

Secretary to the Government of India.

Encl. 1/11
No. 11 OF 1892.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

MINERALS.

To

THE RIGHT HONOURABLE VISCOUNT CROSS, G. C. B.,
Her Majesty's Secretary of State for India.

Calcutta, the 10th February 1892.

MY LORD,

IN paragraph 2 (iii) of our Financial Despatch No. 229, dated 18th August last, we intimated our intention of forwarding to Your Lordship rules then under preparation for the guidance of Local Governments and Administrations in granting exploring and prospecting licenses and mining leases. We apprehended at the time that the proposed Statutory rules, which were the subject-matter of our despatch, might, in some points, be transgressed by the powers conferred in our own rules, and that the latter would for that reason require Your Lordship's special sanction. But if Your Lordship accepts the modifications suggested in clause ii of paragraph 2 of that despatch, our rules as they now stand do not appear to transgress any of the restrictions of the Statutory rules, or to require a special sanction. The only point in which the new mining rules, of which copies are appended, will be found out of accordance with the Statutory rules as originally drafted lies in rule 22, which permits a lease to be granted for a term of from 20 to 30 years, the maximum term allowed by the draft Statutory rules without the sanction of the Secretary of State being 10 years. We have no objection to offer to this restriction in the case of leases involving concessions which in respect to value exceed the limits of the Statutory rules, but we are convinced that considerable inconvenience would be involved by any order requiring a reference to be made to the Secretary of State, or even to the Government of India, in every other case in which the term of 10 years might, as it usually would, be deemed insufficient. If Your Lordship agrees in this view and is prepared to accept the modifications proposed in clause ii of paragraph 2 of the August despatch, there will be no occasion on account of these mining rules alone to insert the saving clause suggested in clause iii of the same paragraph; but nevertheless we think such a clause desirable, as we may have to frame other sets of rules hereafter upon cognate subjects, and we are strongly of opinion that concessions made under rules which have received Your Lordship's general approval should in no case be required to be submitted for your special sanction.

2. The rules now submitted have been the subject of considerable correspondence with Local Governments and Administrations, whose views and advice have been carefully regarded in their preparation, and there is now no material question in which they are not in accord with general opinion. The Madras Government alone has expressed a desire to retain its own Provincial rules, and as these were sanctioned by the Secretary of State, we prefer to leave it to Your Lordship to say whether this should be permitted. We would point out however, in respect to the most important issue between ourselves and the Madras Government, that the Madras rules transgress the principle of the draft Statutory rules under which every concession to a Company requires the special sanction either of the Secretary of State or of the Government of India. The other points of difference between the Madras rules and those under submission are of minor importance and are chiefly connected with details of area and rent or other charges; they are shown in the comparative table appended to this despatch. It will be observed that the Madras rules are less liberal in respect to areas than the Imperial rules, but as they do not prescribe any limit to the number of blocks, or that there should be any intervening distances between blocks, conceded to the same applicant, there is no real limit to the extent of any grant. As Your Lordship will gather from the appended papers, the Madras Government has objected to the restriction of an intervening distance in the case both of prospecting licenses and mining leases. On consideration of this objection we have introduced into rule 14 a proviso permitting Local Governments to dispense with the restriction in the case of prospecting licenses (it will be observed that in the case of exploring licenses no restriction at all is imposed), but we consider that in order to check the establishment of inconvenient monopolies over large areas the retention of the restriction in respect to mining leases is desirable; and we are of opinion that it would be safer, in the interests both of the State and of mining enterprise, that all cases which involve the grant of compact areas more extensive than those indicated in Schedule A of our rules should be submitted to the scrutiny of the Government of India.

3. We believe that the royalties which have been suggested in Schedule C attached to the rules are in no case so high as to involve any discouragement of mining enterprise. A further investigation has, however, been instituted in connection with the enquiries made in Your Lordship's Despatch No. 7 (Public Works), dated 5th February 1891, as to the relation between the value of coal and iron at the place of production on the one hand and the royalties of Schedule C on the other, and the result will in due course be communicated to Your Lordship. We doubt if it will be found necessary to make any reduction in the royalties which we have now proposed, but the schedule will of course be subject to any modification which the replies of Local Governments in connection with the despatch above quoted may indicate to be desirable.

4. We have in conclusion to draw special attention to the preamble of the draft rules, which permits licenses and leases other than those provided for thereby to be granted by the Governor General in Council, subject, of course, to any limits which may be prescribed by Your Lordships' Statutory rules. The draft rules, therefore, do little more than define the powers of Local Governments and indicate the lines on which concessions should be granted in ordinary

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cases. They are not intended in any way to restrict the freedom of Local Governments to propose the grant of any concession on more liberal or different terms in particular cases. The main objects which have been held in view have been to secure uniformity of practice, and principle and to prevent the necessity of continual reference to the Government of India for instructions on matters of detail, as well as to indicate generally to prospectors and to others interested in mining enterprise the terms on which they may, as a rule, obtain prospecting licenses and mining leases without the inconvenience and delay involved by reference to higher authority.

We have the honour to be,

MY LORD,

Your Lordship's most obedient, humble Servants,

LANSDOWNE.

P. P. HUTCHINS.

D. BARBOUR.

A. E. MILLER.

H. BRACKENBURY.

R. C. B. PEMBERTON.

File No. 20 of
1892.

No. 1892.

Serial No. 2.

GOVERNMENT OF INDIA.
DEPARTMENT OF REVENUE AND
AGRICULTURE.

MINERALS.

NO. 11, DATED CALCUTTA, THE 10TH FEBRUARY
1892.

(Copy.)

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

SUBJECT.

Exploring and prospecting licenses and mining
leases.

G. C. Press, Simla.—No. 1114 R. & A. D.—8-5-97.—50

Comparative Table showing the difference between the Imperial and Madras Prospecting and Mining Rules.

NATURE OF CONCESSION AND MINERAL.	MADRAS RULES.			IMPERIAL RULES.				
	Area.	Term.	PAYMENTS. Annual rent per acre	Area.	Term.	PAYMENTS. Surface Rent.	D-ad Rent ing in Royalty.	Royalty.
<i>Prospecting.</i>			R					
Coal	Not	mentioned		4 square miles .	1 year or less	Not exceeding one rupee per acre.	Nil	Not less than 2 annas per ton.
Oil	Not	mentioned		2 square miles .	Ditto	Ditto	Nil	Not less than 8 annas per 40 gallons or 5 per cent.
Gold	1 square mile .	6 months .	1	1 square mile .	Ditto	Ditto	Nil	Not less than 5 per cent of value of gold extracted.
Iron	1 square mile .	6 months .	1	1 square mile .	Ditto	Ditto	Nil	Not less than 2 annas per ton of ironstone.
Other metals	Not	mentioned		1 square mile .	Ditto	Ditto	Nil	Not less than 5 annas per ton of dressed ore.
Precious stones								Not exceeding 30 per cent. on value.
<i>Mining.</i>							Minimum rates.	
Coal	No special rules for gold and other metals.	Terms similar to those	to those	2 square miles .	Not exceeding 20 years. To prospectors not less than 20 years.	Rate current for agricultural land or a maximum of R 1 per acre.	4 annas per acre	Not less than 2 annas per ton.
Oil	Not	mentioned.		1 square mile .	Ditto	Ditto	R 1 per acre	Not less than 8 annas per 40 gallons or 5 per cent.
Gold	150 acres with a minimum breadth of 70 yards.	Not exceeding 20 years.	5	1 square mile .	Ditto	Ditto	R 1 per acre	Not less than 5 per cent of value of gold extracted
Iron	1 square mile	Ditto	2	1 square mile .	Ditto	Ditto	1 anna per acre	Not less than 2 annas per ton of ironstone.
Other metals							R 1 per acre	Not less than 5 annas per ton of dressed ore.
Precious stones	50 acres	Not exceeding 5 years.	15 in addition to land assessment.	...	Not mentioned.	...	...	...

E. C. BUCK.

REVENUE AND AGRICULTURAL DEPARTMENT;
The 9th February 1892.

G. C. Press, Simla.—No. 307 R. & A. D.—8-5-97.—50.

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No. 15 OF 1892.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

MINERALS.

To

THE RIGHT HONOURABLE VISCOUNT CROSS, G. C. B.,
Her Majesty's Secretary of State for India.

Calcutta, the 9th March 1892.

MY LORD,

IN continuation of Despatch No. 11 (Minerals), dated 10th February 1892, submitting a set of draft rules to regulate the grant of exploring and prospecting licenses and mining leases in India, we have the honour to forward, for Your Lordship's information a copy of the correspondence margin-

ally noted, regarding certain proposals made by the Government of Madras for the modification, of the prospecting and mining rules already in force in that Presidency.

2. It will be observed that, apart from the question of the transfer of concessions, only two material points of difference remain to be settled with the Madras Government, and on these it may be hoped that our views will be accepted. The Local Government's reply will be forwarded to your Lordship on receipt. Although we have not felt ourselves able, for reasons which Your Lordship will appreciate, to depart from the position which we have taken up on the important matter of the transfer of concessions, we trust that the representations of the Government of Madras may not be without effect in inducing Your Lordship to agree to that somewhat larger measure of discretion which we propose to take for ourselves and the Local Governments in this respect, as compared with the restrictions suggested in the Statutory Rules, which formed the subject of correspondence ending with our Financial Despatch No. 229, dated 18th August 1891. We are able to assure Your Lordship that the inevitable delays which under the existing procedure, occur in obtaining the prescribed approval of authorities to mining enterprises, even of a genuine character, have not failed to create a certain amount of discouragement among the mercantile community, and we consider it of some importance that these hindrances should not be increased more than is necessary by reference to England for sanction in comparatively unimportant cases. Your Lordship may rest

assured that we fully appreciate the necessity of securing by every precaution in our power the *bond fide* character of all mining enterprises, and in particular of those projects in which it is intended that the public should be invited to share.

We have the honour to be,

MY LORD,

Your Lordship's most obedient, humble Servants,

LANSDOWNE.

F. S. ROBERTS.

P. P. HUTCHINS.

D. BARBOUR.

A. E. MILLER.

H. BRACKENBURY.

R. C. B. PEMBERTON.

LIST OF ENCLOSURES.

Letter from Government of Madras, No. 60, dated 18th January 1892, and enclosure.
Letter to Government of Madras, No. $\frac{504}{20}$ dated 9th March 1892.

File No. 20. of
1892.

Serial No. 4.

No.

1892.

GOVERNMENT OF INDIA.
DEPARTMENT OF REVENUE AND
AGRICULTURE.

MINERALS.

NO. 15, DATED CALCUTTA, THE 9TH MARCH 1892.

(Copy.)

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

SUBJECT.

Rules for prospecting and mining in the Madras
Presidency.

G. C. Press, Simla.—No. 305 R. & A. D.—85 97.—50.

No. 63 (Revenue), dated India Office, London, the 4th August 1892.

From—The Right Hon'ble VISCOUNT CROSS, G.C.B., Her Majesty's Secretary of State
for India,

To—The Government of India.

I have considered in Council the draft rules for the grant of exploring and prospecting licenses and mining leases, which were forwarded with Your Excellency's (Revenue) letter, No. 11, dated the 10th February 1892.

2. I accept the view that in the majority of cases, the power of finally granting these concessions may, subject to the observance of the rules, be left to the Local Governments, and I will not object to the rule permitting the grant of a mining lease for a period of 30 years. But no lease should be granted for any longer period without my previous sanction.

3. I question the advisability of entering in Schedule C *minimum* instead of *maximum* rates of royalty. The object is to attract capitalists who will develop the mineral resources which India undoubtedly possesses. Capitalists are more likely to come forward as prospectors, if they know beforehand the *most* instead of the *least* they may have to pay as royalty on mining leases. I consider it would be advisable to make 5 per cent. the maximum instead of the minimum royalty leviable on gold and silver raised from State lands.

4. In the case of coal, iron, copper, tin and lead I would go further. It is desirable to encourage as much as possible the development of mining enterprise in these minerals. As yet, save in the case of coal, none of these products have been worked successfully on a large scale. Much of the undeveloped wealth of this kind is private property, or is situate in Native States. If the Government grants liberal terms, native rulers and private proprietors may perhaps adopt a similar policy. In all the circumstances I think the maximum royalty leviable for some years to come should be—

One anna per ton	...	...	...	on coal.
Half an anna per ton	...	...	...	ironstone.
Two annas per ton of dressed ore in the case of	...	...	...	copper, tin, or lead.

Power might be taken to levy higher royalties from and after the year 1920, or some such date. The loss to the Indian treasury from thus foregoing higher royalties on these minerals for a term of years will not be great, and it will be more than counterbalanced by any development of mining industry to which the concession may lead.

5. From the introductory portion of the draft rules, the second clause, beginning "Licenses and leases other . . . Governor-General in Council" should be omitted, for I am advised that such a provision is inconsistent with 22 and 23 Victoria, chapter 41, section 1.

6. It should be made clear on the face of Rule 9 that no block can be sold under that rule, if the sale "involves the cession of property or rights" in excess of the limit (at present 12 lakhs) prescribed in the rules issued by the Secretary of State under statute 22 and 23 Vict., chapter 41, section 1. I am also advised that clause vii of Rule 16 would be more effectual, if the words "No person shall" were substituted for the words "The Licensee shall not."

7. Unless you see material objection to thus reducing the royalties, and fixing *maximum* instead of *minimum* rates, as suggested in the foregoing paragraphs, I request you to alter the draft rules accordingly. After giving full consideration to the representations of the Madras Government, I am of opinion that the new rules should apply to Madras as well as to other provinces.

8. I observe that the Madras Government support the Revenue Board in objecting to Rule 10, which requires the deposit of, or security for, Rs. 1,000 from an intending prospector. I understand that this deposit would be returned to the applicant if his application fell through, or would be placed to his credit if he afterwards obtained a mining license. If so, this might be made clear in the final draft of the rules. A licensed prospector excludes other prospectors from the ground for the period of his license, and he has a preferential claim to a mining lease of part of the area which he prospects. I therefore see no objection to requiring a moderate deposit or security in proof of a prospector's ability and intention to do *bona fide* work.

9. A copy of the rules as finally settled by you should be forwarded to me for approval, in order that these rules may be excluded from the operation of the Statutory Rules made by the Secretary of State under 22 and 23 Vict., chapter 41, section 1. I draw attention to the fact that, though these Mining Lease Rules will then be exempt from the operation of the aforesaid Statutory Rules I to VII, they will not be exempt from the operation of the Instructions A to D, printed as a preamble to the Statutory Rules.

10. Fifty spare copies should be sent separately for use in England.

Handwritten notes:
H.M. E.
but not to be
11/11/97

His Excellency the Governor.

The Hon^{ble} Mr J. Grose C.I.E.

The letter should be communicated to the
Bd. of Revenue as proposed, and Mr
Holmes & Co. should be addressed
as suggested in this Note.
But, it is not meant to be understood
that, as far as the Govt. of India is
concerned, it is the duty of the Board
before acquiescing in a decision
whether to acquiesce or not to defer.

Handwritten: 11.11.97

Handwritten notes:
See. Please see
the form now
advised to para 1
of the 5th G.O. No. 1111/97
When the Board
replies, please
the matter with
again circulated
to H.E.
12/11/97

Handwritten:
J. G. 11/12/97
C. 11/11/97
12/11/97

Handwritten:
full Read again G.O. 11/11/97
full C.No. 9207 of 97

G.O. No. 955 of 15th Nov. 1897

The foregoing letter from the Govt of India will be communicated to the Board of Revenue for information for its remarks. It may desire to refer to the experience of the Government in reference to his application to the Govt of India dated the 11th July 1896. Mr. W. T. Hamilton Holmes will be informed that His Excellency the Governor General in Council is unable to grant ^{in advance} the general permission asked for, ~~in advance~~ for transferring to a Company to be formed in London. Such of the his Mining leases as may be proved to the satisfaction of this Govt to contain 'payable' ~~Acquisitive~~ ^{Acquisitive} ~~leases~~ ^{leases}. The following Conditions however, which have been forwarded.

Handwritten:
In remarks, letter from the Government of India from Messrs. Holmes and Bakewell to Mr. W. T. Hamilton Holmes of this

action to the transfer
of any mining lease
that may be acquired or
about to be acquired to a
Joint Stock or Limited
Company.

(H.E. Conditions (a) (c)
given in para 8 of the letter).

MH
31/11/97

H. H. H. H.

To the Board (L.R.)
" " Political Deptt.

22-4-12-97

W. T. Hamilton Holmes Esq. (para 2 of the order)
only

17/11/97

Vol.

This is the long awaited

reply to ^{this Govt's} letter no 365 of 27.7.96.

that E.O. flagged 2.
G. C. Press

Government (1897) of Madras. REVENUE.

Recd.

Regd.

1897.

Enclosures

Spare copies

G.O., No. 955, 15th November 1897.

NOVEMBER.

Mining leases.

Communicating to the Board of Revenue, with remarks, letter from the Government of India declining to sanction in advance an application from Messrs. Holmes and Bakewell to transfer their gold — to a Company, and informing Mr. W. T. Hamilton Holmes of this decision.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again the following G.O., No. 364, Revenue, dated 27th July 1896:—

Read—letter from H. HOLMES, Esq., dated Ootacamund, 11th July 1896.

ABSTRACT.—Requesting to move the Government of India to allow him and Mr. Bakewell to transfer, to a company to be formed in London, such of their mining leases as are proved to the satisfaction of Government to contain payable auriferous lodes.

Order—No. 364, Revenue, dated 27th July 1896.

Miscellaneous.

The Government of India will be requested to permit Messrs. Hamilton Holmes and Bakewell to transfer to a company, to be formed in London, such of their mining leases as relate to lands which are proved to the satisfaction of Government to contain payable auriferous lodes.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

To W. T. Hamilton Holmes, Esq.

READ—again the following letter from the Honourable Mr. A. T. ARUNDEL, I.C.S., Acting Secretary to the Government of Madras, Revenue Department, to the Secretary to the Government of India, Department of Revenue and Agriculture, dated Ootacamund, 27th July 1896, No. 365:—

I am directed to forward, for the orders of the Government of India, the accompanying application submitted by Mr. W. T. Hamilton Holmes on behalf of himself and Mr. J. W. Bakewell praying for permission to transfer to a company to be

Miscellaneous.

formed in London such of their mining leases as relate to lands in the Madras Presidency which are proved to the satisfaction of the Local Government to contain payable auriferous lodes.

2. Mr. Hamilton Holmes bases his application on the ground that the restrictions imposed by rules 18 (3) and 23 (VII) of the mining rules promulgated by the Government of India constitute grave obstacles to the development of any mining undertaking. His Excellency the Governor in Council entirely concurs in this opinion and considers that the arguments which Mr. Hamilton Holmes adduces justify the grant of the concession which he seeks.

3. In this connection I am to invite attention to the decision which was arrived at in 1882 upon a petition preferred by the Members of the Nilgiri Planters' Association in regard to the conditions of the mining rules in force in this Presidency at that time. Referring to a condition which prohibited lessees from sub-letting or assigning

their leases without the prior consent of Government, the petitioners urged that no private individual could risk or afford the capital necessary to work a mine and that no company would purchase concessions where the right to transfer had first to receive the sanction of Government. They considered that the retention of this condition would result in the cessation of all mining operations on Government lands and therefore urged that it should be expunged. Their petition was forwarded to the Government of India in Mr. Master's letter, No. 819, Revenue, dated 21st May 1881, in which it was stated that, in the opinion of this Government, the success of gold mining industry was unduly hampered by the restrictions complained of. The force of the arguments adduced was practically admitted by the Government of India which, in its despatch No. 2 (Minerals), dated 27th August 1881, recommended that the condition prohibiting the sub-lease or assignment of grants without the previous consent of Government should be replaced by conditions (1) restricting the area in respect of which leases could be conferred, (2) requiring proof of the original lessee's *bona fide* intention to carry out the objects for which the grant was made, and (3) continuing to any transferee the obligations under which the original grantee was bound. This recommendation was accepted by Her Majesty's Secretary of State in his despatch No. 98, Revenue, dated 10th November 1881, and from 1882 until the promulgation of the revised mining rules in 1894, the transfer of mining leases was not subject to the restrictions of which Messrs. Hamilton Holmes and Bakewell complain. When the revision of the rules was under consideration, the Local Governments were consulted as to the form which they should take. The views of the Madras Government were communicated in Mr. Galton's letter No. 557, Revenue, dated 18th June 1891. This letter communicated a Resolution of the Board of Revenue, No. 3406, dated 15th May 1891, paragraphs 2—7 of which contained a powerful resume of the arguments which renders undesirable conditions restricting the free transfer of mining leases. For the reasons therein given the Board of Revenue was of opinion that such conditions should be expunged from the draft mining rules and in this opinion His Excellency the Governor in Council expressed his entire concurrence. The draft mining rules were however approved by the Secretary of State who directed that they should apply to the Presidency of Madras. The correspondence which took place between the Secretary of State and the Government of India does not appear to have been communicated to this Government and His Excellency in Council is unaware of reasons which led to his recommendation in this matter being overruled.

Conclusion to state that in these circumstances His Excellency the Governor in Council adheres to the opinion which was expressed by this Government first in 1881 and again ten years later, and to make a strong recommendation that Mr. Hamilton Holmes' request should be granted.

READ—the following letter from DENZIL IBBETSON, Esq., C.S.I., C.S., Secretary to the Government of India (Department of Revenue and Agriculture—Geology and Minerals), to the Secretary to the Government of Madras, Revenue Department, dated Simla, the 13th October 1897, No. 3036—82—2:—

I am directed to reply to your letter, No. 365, dated 27th July 1896, with which you forward, for the orders of the Government of India, with the strong support of the Madras Government, an application submitted by Messrs. Holmes and Bakewell, in which they pray that the restrictions imposed by Nos. 18 (3) and 23 (vii) of the Indian Mining Rules upon the grant or transfer of a mining lease to a company may be removed in their favour, and that general permission may be given them in advance to transfer to a company to be formed in London, such of their mining leases of land in the Madras Presidency as may be proved to the satisfaction of the Local Government to contain "payable auriferous lodes." I am in the first instance to express regret that your reference should have remained so long without reply.

2. In the letter in question you refer to Mr. Galton's letter, No. 557, Revenue, dated 18th June 1891, in which the Governor in Council, criticising the draft mining rules then under consideration, expressed his entire concurrence with the view held by the Board of Revenue that the proposed restrictions upon the free transfer of

mining leases were undesirable. And you remark that the correspondence between the Secretary of State and the Government of India, which resulted in the draft rules being sanctioned and declared applicable to the Presidency of Madras, does not appear to have been communicated to the Madras Government, so that His Excellency in Council is unaware of the reasons which led to his recommendations in the matter being overruled. I am now to forward, for the information of His Excellency in Council, copies of the papers noted in the margin.

1. Despatch No. 11, dated 10th February 1892, to Secretary of State, with enclosed "comparative table."

2. Despatch No. 15 dated 9th March 1892, to Secretary of State.

3. Despatch No. 63, dated 4th August 1892, from Secretary of State.

to the despatch; and the relevant portions of the Secretary of State's despatch of 4th August 1892 were forwarded for the information of the Governor in Council with this office endorsement, No. 2100—20, dated 19th September 1892.

3. The above-mentioned papers explain the general grounds upon which the restrictions to which exception is now again taken by the Madras Government were held in 1892 to be necessary. The Governor-General in Council, however, is desirous of giving full weight to the strong expression of the views of the Governor in Council which your letter of last July conveyed; and he has therefore carefully reconsidered the whole question in the light of the arguments brought forward by the Madras Government, not only in your letter of last July, but also in 1881 and 1891; and now directs me to set forth with some fulness the conclusions at which he has arrived and the reasons why he finds himself unable to accept the view of the matter which that Government have so repeatedly urged upon him.

4. In the first place, I am to explain that the word company, as used in the mining rules, is meant to apply to a joint stock or a limited company only. There is not the slightest desire to prevent a licensee or lessee at any stage, whether of exploring, of prospecting, or of mining, from associating with himself, as partners, or in the form of a syndicate, other gentlemen who will contribute the capital needed for the thorough exploitation of the concession. The evil which the Government of India desire to avoid is the sale to the public of shares in speculative or unproved concerns, and they do not wish to prevent individuals from associating themselves together in such manner as they may think best. It is quite legitimate that such individuals should desire to limit the liability they incur in operations like prospecting; and so long as the association does not take the form of a registered company, the money risked belongs to the individuals who compose it, and nothing in the form of company-mongering or of speculation with funds provided by the public is possible.

5. So long, however, as the enterprise is in the preliminary stage of exploration or prospecting, the formation of a registered company for the purpose of working the concession should not, in the opinion of the Governor-General in Council, be allowed; or at any rate, only under the most exceptional circumstances. The object of Government in granting a license to explore or prospect is to encourage the licensee to discover mineral deposits which can be worked with profit, by promising him a mining lease upon favourable terms in the event of his doing so. If he, or the persons to whom he may associate with himself as in the preceding paragraph, is not prepared to spend money in the search, and in testing the value of any indications which he may discover, he ceases to have any *raison d'être* as a licensee, and should make way in favour of somebody who is so prepared. The license is not granted to him as a means of making money without previous expenditure; and until he has discovered a mineral deposit and reasonably tested its value, he has done nothing for which he is entitled to receive a price from the public; since if the bare license to explore or prospect has value, it is the Government, and not the licensee, to whom that value properly belongs.

6. So soon, however, as the testing process is reasonably complete, and a mining lease has been or is about to be obtained for a block of land which affords reasonable prospects of profitable working, the Governor-General in Council fully recognises

that, at least in very many cases, the further prosecution of the enterprise may be beyond the means of any association of private individuals, and that the necessary capital can only be procured by an appeal to the public in the usual manner. He recognises also that, however thoroughly the block may have been prospected, the enterprise must still remain of an exceedingly speculative character, since the elements upon which success depends are hidden below the earth. He is also fully alive to the fact that in prospecting for minerals the failures are many in proportion to the successes, and that when the prospector, by the application of capital and special knowledge, has succeeded in discovering reasonable prospects of a valuable mining property, he may fairly demand a very substantial reward. Nothing is further from his intention than to obstruct unnecessarily the development of the mineral resources of the country, or to scrutinise too minutely the details of a mining speculation, of the uncertain nature of which, all who enter into it must already be fully aware.

7. But he considers it essential, for reasons which will presently be more fully explained, first to ensure, as far as may be possible, that before a prospector is allowed to offer a mining lease to the public, he shall have taken all reasonable measures to assure himself of the value of the property, and secondly to demand that the prospector shall show the *bona fides* of his belief in that value. It was in order to attain these two objects that the restrictions to which the Madras Government object were inserted in the mining rules; and the Governor-General in Council cannot consent to abandon them. He thinks, however, that the rules as they stand are fairly open to exception, in that they afford no indication of the nature of the conditions under which the Government of India will ordinarily accord sanction to the transfer of a mining lease to a registered company.

8. These conditions have recently been formulated with respect to certain mining leases in another part of India; and the Secretary of State, to whom a copy of this correspondence will be forwarded, will be asked to approve of their insertion in the general mining rules. As in the case of the other rules, it will be in the power of the Government of India to relax these conditions, though this will be done only under very special circumstances. They are as follows:—

(a) that an adequate and *bona fide* investigation into the value of the property covered by the lease has been made before it is offered to the public. The amount of work to be executed or money to be expended in such investigation may be fixed beforehand, when the circumstances render this conveniently possible.

(b) that, as far as possible, a full statement of the facts alleged to be thus ascertained is laid before the public. The entire responsibility for the correctness of this statement must rest with the promoters. The Government reserve the right of objecting if they consider that the statement is not such as to give, on the responsibility of the promoters, sufficient indication of the value or probable value of the property.

(c) that the price to be paid to the promoters for the concession is not so excessive as to throw doubt upon the *bona fides* of the transaction.

(d) that the promoters bind themselves in the prospectus to retain, for a period of eighteen months after the date of the transfer or the date on which the Company is registered, whichever is later, any shares that may have been allotted to them as part of the price paid to them by the company for the concession, except in so far as such shares, together with any portion of the price received in cash, represent the actual recoupment of what has been spent by them upon proving the concession.

Illustration.—The promoters have spent Rs. 20,000 in proving the concession. The company pays them for it Rs. 15,000 in cash, and 2,000 fully paid-up shares of Rs. 10 each. The promoters may sell 500 of these shares at once, in order, with the Rs. 15,000 cash, to make up the Rs. 20,000 spent by them. But the remaining 1,500 shares they must hold for 18 months after the date of the transfer or of the registration of the company, whichever is later.

(e) that the prospectus (which must be submitted to the Government of India before issue) contains nothing that can be construed as a guarantee by Government, either expressed or implied, of the accuracy of any of the statements contained therein or of the valuable nature of the property. The promoters may be required to append

to the statement in the prospectus that the consent of the Governor-General in Council has been obtained to the transfer, an express declaration that no such guarantee is implied thereby.

9. The Governor-General in Council does not think that these conditions can fairly be objected to as hindering the proper development of the mineral resources of the country. They contain nothing whatever which need prevent any person who is himself possessed of the necessary means, or who can inspire other individuals with the confidence necessary to induce them to co-operate with him, from proving the existence of minerals, or even from establishing a lucrative business. It is only when the business of the private firm becomes too large to be manageable by individuals, or passes into a new stage of development, that the firm is converted into a Joint Stock Company. This is the usual history of commercial enterprises; and there is nothing in the rules and proposed conditions to prevent this course being followed. Indeed, they go a step further, and allow of transfer to a company at an earlier stage than that at which it would ordinarily be made, subject only to the condition that there shall be some reason to believe in the *bona fides* of the promoters. It must be remembered that, just as mining enterprises are of necessity more speculative in their character than are planting and other industries which have taken root in India, so are the people who occupy themselves with the former too often of a very different character from those who devote themselves to the latter. Again, while in England, at any rate, minerals almost invariably belong to private owners, in India, in the cases to which the rules under discussion refer, they are the property of the Crown, and it is impossible to neglect this distinction in weighing the responsibility of Government to the public. In the former case, if a Joint Stock Company fails owing to fraudulent misrepresentation by the persons from whom they acquired their concession, it is with private individuals that they will have to deal in extricating themselves as best they can from their difficulties. But in the latter case they will deal with the Government; and, apart from the undesirability of the State being associated with discreditable transaction, it is always well that Government should avoid conditions under which an appeal *ad misericordiam* is possible, since in such cases they invariably find themselves at a disadvantage. Nor is the Governor-General in Council by any means convinced that it would be for the ultimate benefit of the country to encourage great rushes of speculative enterprise. It is important that, as the increase of population tends to exceed the capacity of the great agricultural industry to support the people, they should have other occupations upon which to fall back; and our aim should be, not so much to enrich English promoters and capitalists, as to gradually induce the native of India to interest himself in the development of its varied resources. And to secure this object, a steady rate of progress is probably best.

10. There is, moreover, another consideration to which His Excellency in Council attaches the greatest weight. Notwithstanding all that has been urged above, the fact remains that if we had only British Territory to deal with, there would be much to be said in favour of abandoning all attempt to control the transfer of mining leases. It would in that case be easy to protect the interests of Government; while it is perhaps doubtful whether we need attempt to protect the general public, further than by such general legislation as has, in most other countries, been found sufficient for the purpose. But there are the Native States also to be considered, for which the Government of India are responsible. Their circumstances are in too many cases such that, in the absence of protection from without, they would fall an easy prey to the class of speculators against whom the restrictions of the mining rules are primarily directed. Nor is it their interests alone that are in question. The Government of Madras are evidently at a loss to understand why the considerations in favour of freedom of transfer which were accepted by the Government of India in 1881, were wholly set aside when the rules came under revision in 1891. The explanation is, that during the interval transactions had taken place in connection with mines and in connection with Native States, which were not only financial, but also political scandals. The Government of India cannot divest themselves of the obligation to prevent, so far as in them lies, occurrences which bring odium upon the paramount power, and create political difficulties of considerable magnitude.

11. On the other hand, it is inadvisable in the extreme that the Government of India should expose themselves to the accusation of treating Native States unfairly, by imposing in their case restrictions which they think unnecessary in their own, and which have at least the appearance of hindering the development of their resources. The choice lies therefore between absolute freedom of transfer in the case of Native States and British territory; and of the two alternatives the latter.

12. I therefore, to request that Messrs. Holmes and Bakewell may be informed that His Excellency in Council is unable to grant them the general permission for which they ask; but that the conditions formulated in paragraph 8 of this letter may be at the same time communicated to them, as indicating the general nature of the circumstances under which the Government of India will be prepared to accord sanction to the transfer of any mining lease that may be acquired or about to be acquired by them to a Joint Stock or Limited Company.

ENCLOSURES.

Copy of a letter from the Government of India (Department of Revenue and Agriculture—Minerals), to Her Majesty's Secretary of State for India, dated Calcutta, the 10th February 1892, No. 11 of 1892.

In paragraph 2 (iii) of our Financial Despatch No. 229, dated 18th August last, we intimated our intention of forwarding to your Lordship rules then under preparation for the guidance of Local Governments and Administrations in granting exploring and prospecting licenses and mining leases. We apprehended at the time that the proposed Statutory Rules, which were the subject-matter of our despatch, might, in some points, be transgressed by the powers conferred in our own rules, and that the latter would for that reason require your Lordship's special sanction. But if your Lordship accepts the modifications suggested in clause ii of paragraph 2 of that despatch, our rules as they now stand do not appear to transgress any of the restrictions of the Statutory Rules, or to require a special sanction. The only point in which the new mining rules, of which copies are appended, will be found out of accordance with the Statutory Rules as originally drafted lies in rule 22, which permits a lease to be granted for a term of from 20 to 30 years, the maximum term allowed by the draft Statutory Rules without the sanction of the Secretary of State being 10 years. We have no objection to offer to this restriction in the case of leases involving concessions which in respect to value exceed the limits of the Statutory Rules, but we are convinced that considerable inconvenience would be involved by any order requiring a reference to be made to the Secretary of State, or even to the Government of India, in every other case in which the term of 10 years might, as it usually would, be deemed insufficient. If your Lordship agrees in this view and is prepared to accept the modifications proposed in clause ii of paragraph 2 of the August despatch, there will be no occasion on account of these mining rules alone to insert the saving clause suggested in clause iii of the same paragraph; but nevertheless we think such a clause desirable, as we may have to frame other sets of rules hereafter upon cognate subjects, and we are strongly of opinion that concessions made under rules which have received your Lordship's general approval should in no case be required to be submitted for your special sanction.

2. The rules now submitted have been the subject of considerable correspondence with Local Governments and Administrations, whose views and advice have been carefully regarded in their preparation, and there is now no material question in which they are not in accord with general opinion. The Madras Government alone has expressed a desire to retain its own

Provincial rules, and as these were* sanctioned by the Secretary of State, we prefer to leave it to your Lordship to say whether this should

be permitted. We would point out, however, in respect to the most important issue between ourselves and the Madras Government, that the Madras rules transgress the principle of the draft Statutory Rules under which every concession to a company requires the special sanction either of the Secretary of State or of the Government of India. The other points of difference between the Madras rules and those under submission are of minor importance and are chiefly connected with details of area and rent or other charges; they are shown in the comparative table appended to this despatch. It will be observed that the Madras rules are less liberal in respect to areas than the Imperial rules, but as they do not prescribe any limit to the number of blocks, or that there should be any intervening distances between blocks conceded to the same applicant, there is no real limit to the extent of any grant. As your Lordship will gather

3. We believe that the royalties which have been suggested in Schedule C attached to the rules are in no case so high as to involve any discouragement of mining enterprise. A further investigation has, however, been instituted in connection with the enquiries made in your Lordships's Despatch No. 7 (Public Works), dated 5th February 1891, as to the relation between the value of coal and iron at the place of production on the one hand and the royalties of Schedule C on the other, and the result will in due course be communicated to Your Lordship. We doubt if it will be found necessary to make any reduction in the royalties which we have now proposed, but the schedule will of course be subject to any modification which the replies of Local Governments in connection with the despatch above quoted may indicate to be desirable.

4. We have in conclusion to draw special attention to the preamble of the draft rules, which permits licenses and leases other than those provided for thereby to be granted by the Governor-General in Council, subject, of course, to any limits which may be prescribed by your Lordship's Statutory Rules. The draft rules, therefore, do little more than define the powers of Local Governments and indicate the lines on which concessions should be granted in ordinary cases. They are not intended in any way to restrict the freedom of Local Governments to propose the grant of any concession on more liberal or different terms in particular cases. The main objects which have been held in view have been to secure uniformity of practice, and principle and to prevent the necessity of continual reference to the Government of India for instructions on matters of detail, as well as to indicate generally to prospectors and to others interested in mining enterprise the terms on which they may, as a rule, obtain prospecting licenses and mining leases without the inconvenience and delay involved by reference to higher authority.

COMPARATIVE table showing the difference between the Imperial and Madras Prospecting and Mining Rules.

Nature of concession and mineral.	Madras Rules.			Imperial Rules.				
	Area.	Term.	Payments.	Area.	Term.	Payments.		
			Annual rent per acre.			Surface Rent.	Dead Rent merging in Royalty.	Royalty.
Prospecting.								
Coal	Not mentioned.	..	Rs. ..	4 square miles	1 year or less ..	Not exceeding one rupee per acre.	Nil.	Not less than 2 annas per ton.
Oil	Do.	..	..	2 do.	Do.	Do.	Nil.	Not less than 8 annas per 40 gallons or 5 per cent.
Gold	1/2 square mile .. 6 months ..	..	1	1 square mile	Do.	Do.	Nil.	Not less than 5 per cent. of value of gold extracted.
Iron	1/2 square mile ..	..	1	1 do.	Do.	Do.	Nil.	Not less than 2 annas per ton of ironstone.
Other metals	Do.	..	..	1 do.	Do.	Do.	Nil.	Not less than 5 annas per ton of dressed ore.
Precious stones	Not mentioned.	..	..	1 do.	Do.	Do.	Nil.	Not exceeding 30 per cent. on value
Mining.								
Coal	No special rules. Terms similar to those for gold and other metals.	..	..	2 square miles	Not exceeding 30 years. To prospectors not less than 20 years.	Rate current for agricultural land or a maximum of Rs. 1 per acre.	4 annas per acre ..	Not less than 2 annas per ton.
Oil	Not mentioned.	..	..	1 square mile	Do.	Do.	Rs. 1 per acre	Not less than 8 annas per 40 gallons or 5 per cent.
Gold	150 acres with a minimum breadth of 70 yards	..	5	1/2 do.	Do.	Do.	Do.	Not less than 5 per cent. of value of gold extracted.
Iron	1/2 square mile ..	Do.	2	1/2 do.	Do.	Do.	1 anna per acre	Not less than 2 annas per ton of ironstone.
Other metals	Do.	..	..	..	Not mentioned.	..	Rs. 1 per acre	Not less than 5 annas per ton of dressed ore.
Precious stones	50 acres ..	Not exceeding 6 years.	15 in addition to land assessment.		..	..	..	

COPY of a letter from the Government of India (Department of Revenue and Agriculture — Minerals), to the Right Hon'ble Her Majesty's Secretary of State for India, dated Calcutta, the 9th March 1892, No. 15.

In continuation of Despatch No. 11 (Minerals), dated 10th February 1892, submitting a set of draft rules to regulate the grant of

Letter from Government of Madras, No. 60, dated 18th January 1892, and enclosure.
Letter to Government of Madras, No. 504—20, dated 9th March 1892.

exploring and prospecting licenses and mining leases in India, we have the honour to forward, for your Lordship's information, a copy of the correspondence marginally noted, regarding certain proposals made by the Government of Madras for the modification of the prospecting and mining rules already in force in that Presidency.

2. It will be observed that, apart from the question of the transfer of concessions, only two material points of difference remain to be settled with the Madras Government, and on these it may be hoped that our views will be accepted. The Local Government's reply will be forwarded to your Lordship on receipt. Although we have not felt ourselves able, for reasons which your Lordship will appreciate, to depart from the position which we have taken up on the important matter of the transfer of concessions, we trust that the representations of the Government of Madras may not be without effect in inducing your Lordship to agree to that somewhat larger measure of discretion which we propose to take for ourselves and the Local Governments in this respect, as compared with the restrictions suggested in the Statutory Rules, which formed the subject of correspondence ending with our Financial Despatch No. 229, dated 18th August 1891. We are able to assure your Lordship that the inevitable delays which, under the existing procedure, occur in obtaining the prescribed approval of authorities to mining enterprises, even of a genuine character, have not failed to create a certain amount of discouragement among the mercantile community, and we consider it of some importance that these hindrances should not be increased more than is necessary by reference to England for sanction in comparatively unimportant cases. Your Lordship may rest assured that we fully appreciate the necessity of securing by every precaution in our power the *bona fide* character of all mining enterprises, and in particular of those projects in which it is intended that the public should be invited to share.

Despatch from the Right Hon'ble Her Majesty's Secretary of State for India, to the Government of India, No. 63 (Revenue), dated India Office, London, the 4th August 1892.

I have considered in Council the draft rules for the grant of exploring and prospecting licenses and mining leases, which were forwarded with your Excellency's (Revenue) letter No. 11, dated the 10th February 1892.

2. I accept the view that in the majority of cases, the power of finally granting these concessions may, subject to the observance of the rules, be left to the Local Governments, and I will not object to the rule permitting the grant of a mining lease for a period of thirty years. But no lease should be granted for any longer period without my previous sanction.

3. I question the advisability of entering in Schedule C *minimum* instead of *maximum* rates of royalty. The object is to attract capitalists who will develop the mineral resources which India undoubtedly possesses. Capitalists are more likely to come forward as prospectors, if they know beforehand the *most* instead of the *least* they may have to pay as royalty on mining leases. I consider it would be advisable to make 5 per cent. the maximum instead of the minimum royalty leviable on gold and silver raised from State lands.

4. In the case of coal, iron, copper, tin and lead I would go further. It is desirable to encourage as much as possible the development of mining enterprise in these minerals. As yet, save in the case of coal, none of these products have been worked successfully on a large scale. Much of the undeveloped wealth of this kind is private property, or is situate in Native States. If the Government grants liberal terms, native rulers and private proprietors may perhaps adopt a similar policy. In all the circumstances I think the maximum royalty leviable for some years to come should be—

One anna per ton	...	...	...	...	on coal.
Half an anna per ton	...	...	...	...	ironstone.
Two annas per ton of dressed ore in the case of	...	...	...	...	copper, tin, or lead.

Power might be taken to levy higher royalties from and after the year 1920, or some such date. The loss to the Indian treasury from thus foregoing higher royalties on these minerals for a term of years will not be great, and it will be more than counterbalanced by any development of mining industry to which the concession may lead.

5. From the introductory portion of the draft rules, the second clause, beginning "Licenses and leases other . . . Governor-General in Council" should be omitted, for I am advised that such a provision is inconsistent with 22 and 23 Vict., chapter 41, section 1.

6. It should be made clear on the face of Rule 9 that no block can be sold under that rule, if the sale "involves the cession of property or rights" in excess of the limit (at present 12 lakhs) prescribed in the rules issued by the Secretary of State under statute 22 and 23 Vict., chapter 41, section 1. I am also advised that clause vii of Rule 16 would be more effectual, if the words "no person shall" were substituted for the words "the Licensee shall not."

7. Unless you see material objection to thus reducing the royalties, and fixing *maximum* instead of *minimum* rates, as suggested in the foregoing paragraphs, I request you to alter the draft rules accordingly. After giving full consideration to the representations of the Madras Government, I am of opinion that the new rules should apply to Madras as well as to other provinces.

8. I observe that the Madras Government support the Revenue Board in objecting to Rule 10, which requires the deposit of, or security for, Rs. 1,000 from an intending prospector. I understand that this deposit would be returned to the applicant if his application fell through, or would be placed to his credit if he afterwards obtained a mining license. If so, this might be made clear in the final draft of the rules. A licensed prospector excludes other prospectors from the ground for the period of his license, and he has a preferential claim to a mining lease of part of the area which he prospects. I therefore see no objection to requiring a moderate deposit or security in proof of a prospector's ability and intention to do *bona fide* work.

9. A copy of the rules as finally settled by you should be forwarded to me for approval, in order that these rules may be excluded from the operation of the Statutory Rules made by the Secretary of State under 22 and 23 Vict., chapter 41, section 1. I draw attention to the fact that, though these Mining Lease Rules will then be exempt from the operation of the aforesaid Statutory Rules I to VII, they will not be exempt from the operation of the Instructions A to D, printed as a preamble to the Statutory Rules.

10. Fifty spare copies should be sent separately for use in England.

ORDER—No. 955, Revenue, dated 15th November 1897.

Miscellaneous.

The foregoing letter from the Government of India will be communicated to the Board of Revenue for information and for any remarks the Board may desire to offer with reference to the arguments therein contained.

2. With reference to his application to the Government of India, dated the 11th July 1896, Mr. W. T. Hamilton Holmes will be informed that His Excellency the Governor-General in Council is unable to grant in advance the general permission asked for. The following conditions, however, which have been formulated by the Government of India, indicate the general nature of the circumstances under which the Supreme Government will be prepared to accord sanction to the transfer of any mining lease that may be acquired or about to be acquired to a Joint Stock or Limited Company:—

(a) That an adequate and *bona fide* investigation into the value of the property covered by the lease has been made before it is offered to the public. The amount of work to be executed or money to be expended in such investigation may be fixed beforehand, when the circumstances render this conveniently possible.

(b) That, as far as possible, a full statement of the facts alleged to be thus ascertained is laid before the public. The entire responsibility for the correctness of this statement must rest with the promoters. The Government reserve the right of objecting if they consider that the statement is not such as to give, on the responsibility of the promoters, sufficient indication of the value, or probable value, of the property.

(c) That the price to be paid to the promoters for the concession is not so excessive as to throw doubt upon the *bona fides* of the transaction.

(d) That the promoters bind themselves in the prospectus to retain, for a period of eighteen months after the date of the transfer or the date on which the Company is registered, whichever is later, any shares that may have been allotted to them as part of the price paid to them by the Company for the concession, except in so far as such shares, together with any portion of the price received in cash, represent the actual recoupment of what has been spent by them upon proving the concession.

Illustration.—The promoters have spent Rs. 20,000 in proving the concession. The Company pays them for it Rs. 15,000 in cash, and 2,000 fully paid-up shares of Rs. 10 each. The promoters may sell 500 of these shares at once, in order, with the Rs. 15,000 cash, to make up the Rs. 20,000 spent by them. But the remaining 1,500 shares they must hold for eighteen months after the date of the transfer or of the registration of the Company, whichever is later.

(e) that the prospectus (which must be submitted to the Government of India before issue) contains nothing that can be construed as a guarantee by Government, either expressed or implied, of the accuracy of any of the statements contained therein or of the valuable nature of the property. The promoters may be required to append to the statement in the prospectus that the consent of the Governor-General in Council has been obtained to the transfer, an express declaration that no such guarantee is implied thereby.

(True Extract.)

(Signed) G. STOKES,
Secretary to Government.

To the Board of Revenue (Land Revenue).

„ the Political Department.

„ W. T. Hamilton Holmes, Esq. (paragraph 2 of the order only).

Erd. A. F. Eccloston.

40 Copies.

Returned for signature.

Printed in print.

AGAIN G.O. No.
154

SENT TO

SENT TO C. R.

OF GOVERNMENT

GOVERNMENT

SENT WITH DITTO.

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IN ORIGINAL.

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