3,000—5-3-98.

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2300

DATED 27th May 1898.

[Despatch Abstract.]

Retransmitting to the Legislative record with remarks the letter from the Govt. of India forwarding remarks on the Madras Tenancy Bill.

BACK PAPERS.

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

FURTHER PAPERS.

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

Revenue (1898) Department.

CURRENT No. 3104

From

The Legislative Department

Endt. No. 2026 dy. 5. 98.

Order

Referred to Mr. H.T. Ross, I.C.S. for favour of remarks on the suggestions contained in the Govt. of India letter.

(By order)

Sd. Under Secy. to Govt.

No. 778

Dated 24th April

Received 26th "

Registered 26th "

Enclosures 1

Spare copies.

SUBJECT.

Referring to the Rev. Dept. for favour of remarks letter from the Govt. of India, Rev. & Agri. Dept. communicating remarks on the Madras Tenancy Bill.

To H.T. Ross, Esq., I.C.S.

with copies of despatch from the Secretary of State

Read again Endt. 2026 dy. 5-5-98.

In connection with the desire of Mr. Ross that papers have been returned to Govt. without any remarks by him, they will now be transferred to the Legislative Dept.

dy. 21.5.98

Legislative Dept.

The Secy. Legisl. Dept. will communicate to other Members of the Legisl. Council

dy 18/5/98 & dy 23.5.98

To Rev. Dept.

Revd 27/5/98

To H.S. the Governor (1)

dy. 5.5.98

Sec to Govt

dy 21/5/98

dy 25/5/98

Sec to Govt

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

1898.

File No. 371 of 1897.

Serial No. 4.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

LAND REVENUE.

UNDER SECY TO GOVT
9 APR 98

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
LEGISLATIVE DEPARTMENT.

No. 587—371—4.

Dated Simla, the 2nd April 1898.

SUBJECT.

Communicates remarks on the Madras Tenancy Bill.

G. C. Press, Simla.—No. 1508 R. & A. D.—4-4-98.—60.

No. 587—371—4.

FROM

J. B. FULLER, ESQ., C.I.E., C.S.,
Offg. Secretary to the Government of India,

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
LEGISLATIVE DEPARTMENT.

Dept. of Rev. & Agri.
Land Revenue.

Simla, the 2nd April 1898.

SIR,

I AM directed to address you as follows in regard to the draft Tenancy Bill which accompanied your letter No. 90, dated the 19th November 1897.

2. An examination of the provisions of the Bill has disclosed many points on which the Government of India are not precisely in accord with the Government of Madras. But the Governor-General in Council recognizes the inexpediency of delaying legislation which has been under contemplation for over 12 years, in order to bring under discussion views which did not present themselves when the Bill was sent up in 1894; and intimation has been given to your Government by telegram that the Governor-General in Council sanctions the introduction of the Bill into the local Legislative Council, provided that modifications on the following four points of principle are accepted:—*firstly*, that a lease should not bar the acquisition of occupancy right under the 12 years' rule; *secondly*, that non-occupancy rights should be declared non-transferable; *thirdly*, that land purchased from an occupancy tenant by a zemindar should not merge in the private land of the purchaser; and *fourthly*, that section 150 should be expunged, and its provisions, if thought necessary, be inserted as a sub-section under section 154. The assent of the Madras Government to these modifications has been communicated by telegram, with the intimation that the Bill so modified will be introduced into the Legislative Council early in May next.

3. The points referred to above represent principles which the Government of India consider of such vital importance as to require recognition before the Bill is introduced. But there are other points—some of hardly less moment—on which in their opinion the provisions of the Bill might be advantageously changed. Certain of them will be discussed in a separate communication which will be made after the examination of the Bill in the Legislative Department of the Government of India. In regard to others I am to offer the following observations, which will, it is trusted, be taken into careful consideration

when the Bill is in Select Committee. The Government of India fully appreciate the necessity of shaping legislation to suit local conditions, and are impressed with the minute attention which the proposed measure has received at the hands of the Madras Government and its officers. But Tenancy legislation is a matter which has for many years past been forced into prominence in the provinces of Upper India, and experience has been gained which can hardly fail to be of service in Madras, especially as local conditions over a great part of the area to which legislation is to apply are seemingly very similar to those which obtain in the neighbouring districts of Bengal and the Central Provinces.

4. I am in the first place to advert to Chapter IX of the Bill which provides for the making of cadastral surveys. The Governor-General in Council attaches very great importance to these provisions, in the belief, shared by many of the Revenue authorities of Madras, that they offer the only effective means of interfering, on behalf of either landlord or tenants, where existing conditions have become generally unfair in the interests of either party. The Bill restricts the power of the Government to order a survey (apart from cases where parties apply or an estate is under Court of Wards' management) to cases in which the survey "is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally." In this connection I am to forward copy of a Despatch lately received from the Secretary of State (No. 31 Revenue of 17th February 1898) and am to recommend that the power of State interference be widened by the addition to clause (*b*) of section 133, sub-section (2), of the words, "or is required in order to secure either tenants or landlords in the enjoyment of their legal rights." I am also to point out the expediency of so wording Section 135 as to make it clear that an application for a survey can be made by any one of the proprietors of, or co-sharers in, an estate, and is not limited by the Explanation to Sub-section (3) of Section 3 to the registered or managing owner. It is admittedly an advantage that a survey should be made and there seems no reason why a co-sharer should not apply. I am to add that this suggestion follows an amendment which it is proposed to make in the Bengal Tenancy Act by a Bill now before the Local Legislative Council.

5. Under the draft Bill the survey record is to be accepted as conclusive proof. It is observed that the Madras Government have not adopted this conclusion without careful consideration of the arguments which have been urged against it. But the Government of India desire to press those arguments again as the question is one which is in their opinion vital to the success of the survey as well as to the interests affected by it, and the legalisation of the record as final proof may not improbably wreck the survey altogether. The idea is altogether novel in practice and has never been adopted even in provinces in which a record has been maintained for a century and has been elaborately scrutinized at repeated Settlements. It was brought forward in 1871, but was rejected for reasons which will be found stated in Sir FitzJames Stephen's speech in the Legislative Council of the 30th October of that year on the Punjab and North-Western Provinces Land Revenue Bills. It has been found in experience that the acceptance of the survey entries as *presumptive* proof is all that is required in order to secure titles with a minimum of litigation. With a comparatively small amount of trouble, errors can be brought within narrow limits and do little harm as long as the entries are rebuttable in the Courts. Every attempt at stricter accuracy adds enormously to labour and expense. And it is hopeless to expect that errors can be absolutely eliminated, take what trouble we may.

6. Such being the views of the Government of India, it follows that the procedure in preparing the record can be considerably simplified. Under the Bill as it stands, the procedure in drawing up the preliminary record will, be summary and of an executive character. Objections received after publication should also be decided summarily, and appeals should lie to a special Collector and not to a Judge. There should be no appeal permitted to the High Court, and the period for publication should be limited to three months at the outside. In Bengal only one month is allowed.

7. I am, however, to explain that in urging that the survey entries should not generally be accepted as more than presumptive proof, the Government of India do not mean to imply that in certain matters the decision of the Record Officer should not be accepted as final. Instances of such matters would be the amount of rent fixed in cases where rent settlement is undertaken, or the particular lands which are to be included in the zemindar's "private lands."

8. Another point in which the provisions for survey may be modified with advantage is the necessity under section 134 for recording the boundaries of each tenant's lands. The record will be accompanied by a survey and the words "as shown in a map of the village" should be added to clause (*d*). A map is an adequate record of field boundaries and has been accepted as such in all provinces except Bengal, where the obligation to describe boundaries as well as map them has added very greatly to the time and labour of the survey and has rendered the record of inconveniently large size. The Government of India hope that in this matter the Madras Government will find themselves able to adopt the procedure which has been followed for many years with success in the Punjab, the North-Western Provinces and the Central Provinces.

9. I am next to turn to the provision of Chapter X regarding the zemindars' "private lands." The Bill contemplates the extension of these lands by the purchase of occupancy rights from ryots. Such a provision must act as a direct encouragement to the ousting of occupancy ryots by proprietors and is absolutely opposed to the principles adopted in other provinces. The cultivating right of a proprietor in his demesne is not of the same kind as tenant right; it is a strong and exclusive phase of proprietary right, and it seems unreasonable and impolitic to give a proprietor the power to bar for all time the growth of occupancy rights in a field by getting rid of an occupancy tenant who happens to hold it. In deference to these views the provision has now been omitted, and till a record is prepared, a zemindar's "private lands" will only include such fields as are customarily so recognized under one or other of certain names locally applied to them. The making of a record will under section 148 enable a proprietor to bring into this class land which he has held in his own cultivation for the three years preceding. Having regard to the evidence which past correspondence affords as to the tendency of zemindars to extend the area of their demesnes at the expense of their tenants, the Government of India consider that a three-years' term of occupancy is too short to warrant the exclusion of land from the *ryoti* class, and that the rule followed in the North-Western Provinces, Bengal and the Central Provinces should be adopted, under which twelve years' continuous occupation is necessary. In the case, however, of land reclaimed by the proprietor from waste, a three-years' term seems free from objection. A further criticism of section 148 is that it regards occupation *at the time of the order*

for the survey. To this there is the apparently fatal objection that it would lead to a scramble for land between the passing of the Act and the inception of survey, and the Government of India are of opinion that (following in this matter the law of Bengal) the date on which the Bill becomes law should be taken as the determining point.

10. In regard to section 28 which provides for enhancement or reduction of rent on the ground of alteration in area, I am to observe that in the opinion of the Government of India its application should be restricted to cases in which *actual gain or loss* of area can be proved to have taken place since rent was fixed or in which rent was *calculated on area* and the area proves to have been taken incorrectly. When a ryot holds at a lump rent, fixed without special regard to area, or with no regard to area, as is the case with the "plough" rents in vogue in backward tracts, it is not fair to permit the landlord to claim enhancement because he can show that the area entered in the lease or recorded against the holding in the village papers is incorrect and understates the quantity of land held. The section as it stands would enable a landlord to put his tenant into Court over differences arising from errors in survey or estimation which in no way affect the rental assessment.

11. It is noticed that the Bill makes no provision for the authoritative suspension of rents in time of distress. Section 40 permits a landlord to postpone rent collection of his own motion; but the Government of India do not think that it should be left to the landlord's discretion to deal equitably or inequitably with his tenants in, for instance, a year of famine, and are of opinion that a provision should be added on the lines of section 73 of the Central Provinces Tenancy Act, under which Courts trying cases for arrears of rent are empowered to allow deduction or direct payment by instalments in cases where the tenant can prove loss owing to extraordinary calamity. A further security which I am to advocate is a provision that in cases where Government suspends the collection of land-revenue, a corresponding suspension of rents shall follow, and that the powers of the landlord to distrain, sell, or eject shall not be exercised during the season to which the suspension relates.

12. The Bill apparently makes no provision for the use of progressive rents in clearance leases. The Bengal Tenancy Act contains a useful section (178, clause (1)) which recognizes the grant of leases at progressive rents in the case of lands reclaimed from waste. A similar provision was included in the draft Bill of 1894, but it has now been omitted because "it is a principle of the present Bill that waste land for agricultural purposes should not be treated differently from other land." But I am to remark that this seems no reason for not recognising a convenient and equitable custom under which a landlord *postpones* realization of part of a full rent till land has been thoroughly reclaimed, and I am to recommend the restoration of the provision contained in clause (1) of section 121 (3) of the Bill of 1894.

13. Lastly, I am to remark that the provisions of the Bill in regard to distraint and the summary recovery of arrears by sale or ejectment appear extraordinarily severe; but the Governor-General in Council hesitates to condemn on general grounds a procedure to which the people in Madras have apparently grown habituated, and which, though open to great abuse, has perhaps become safeguarded by custom during the past 30 years. But I am to suggest that a severe penalty

be provided for the case of a zemindar's obtaining by a false statement the issue of a warrant under section 129.

I have the honour to be,

SIR,

Your most obedient Servant,

J. B. FULLER,

Offg. Secretary to the Government of India.

When given for copying ——
When copied —— } 189
When examined ——
When signed ——

READ AGAIN G.O., No. DATED
189 ,

O.

GOVERNMENT OF MADRAS

My dear Rees
Ross,

I have found Current 3104 among the papers returned by Mr. Ross, & have drafted a fresh order on it.

Yours sincerely,
J. Grose.

18/5/98

A A A

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

REVENUE DEPA

Paper taken out of the Records from the charge of the Record-keeper.

~~Regular~~ / Miscellaneous No. 2370 & 27-5- of 189 8.

FOR WHAT CURRENT.		To whom given.	When taken out.
No.	Year.		
~~4127~~	~~1897~~	E- 1	13/6/98
		Secretary Rev. Dept.	
3225/12		Rev	18/10/12
256.10.151		Rev Secretary	
6/6/98		Rev. 6676/98	5/12/98
18-1-00	3110	1222-611/3	2-1-60

Revenue (1898) Department.

CURRENT No. 3111

27/5/98

From

The Director-genl of Statistics

End[d]
~~Order~~ Mis. No. 2299 d/27.5.98.

Forwarded to the Board of Revenue for compliance.

No. 323 H C.

RS
26-5-98

Mis
27.5.98

27.5.98. **Dated** 6th May
Received 24th
Registered 25th
Enclosures 2 Copies
Spare copies.

To the Board of Revenue (L.R.)
with two copies of statement

16

SUBJECT.

Forwarding with certain instructions, for revision, tables Nos 1 to 8, showing the area, population and land revenue of India.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.
4046 dy			10-10-98

No. 323-F. C.

GOVERNMENT OF INDIA

Statistical Bureau

Financial and Commercial Statistics.

To

The Secretary to the Govt of Madras
Revenue Dept.

Simla, the 6th May 1898.

SIR,

I HAVE the honour to enclose copy of tables Nos. 1 to 8 of Section I of the Financial and Commercial Statistics for British India, shewing the area, population, and land revenue for 1896-97, and to request that they may be revised where necessary, the figures for 1897-98 in respect to land revenue being added, and the tables returned not later than 1st October, in view to their insertion in the next issue of the Financial and Commercial Statistics.

2. I take the opportunity of inviting attention in this connection to the instructions contained in the letter from the Government of India in the Home Department, No. 214—23 (Public), dated the 22nd February 1898 (copy enclosed).

I have the honour to be,

SIR,

Your most obedient Servant,

J. A. ROBERTSON,

Offg. Director-General of Statistics.

GOVERNMENT OF INDIA

Statistical Bureau

Financial and Commercial Statistics.

To

ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS

No. 323-F. C.

Dated Simla, the 6th May 1898.

Forwards, with certain instructions, for revision, tables Nos. 1 to 8, shewing the area, population, and land revenue of India.

No. 214—23 (Public), dated 22nd February 1898.

From—J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department,

To—
- The Chief Secretary to the Government of Madras.
- The Chief Secretary to the Government of Bombay.
- The Chief Secretary to the Government of Bengal.
- The Chief Secretary to the Government of the North-Western Provinces and Oudh.
- The Chief Secretary to the Government of the Panjab.
- The Chief Commissioner of the Central Provinces.
- The Chief Commissioner of Assam.
- The Chief Commissioner of Coorg.
- The Resident at Hyderabad.

IN the letter from this Department, No. $\frac{20}{1241-49}$, dated the 31st July 1896, two questions were dealt with, namely:—

(1) what receipts should be included in the columns headed "Land Revenue" and "Gross Revenue" in Statement I-C (Civil Divisions of British territory) appended to the General Administration Report; and

(2) whether the columns headed "Emigration" and "Immigration" in Statement I-D (Population) are intended to include emigrants and immigrants by land as well as by sea.

2. In respect of the first of these two questions, the principle on which the receipts shewn in the columns for "Land Revenue" and "Gross Revenue" should be filled in was laid down; but at the same time it was pointed out that the columns are not at present filled in according to any uniform system in the different Provinces, and information was called for as to the prevailing methods, with a view to the issue of precise instructions so as to secure uniformity which is essential in such matters. In the same letter it was suggested that the figures in Statement I-C should correspond with the figures in the Finance and Revenue Accounts.

3. The opinions of the Local Governments are now before the Government of India, who, after giving their careful consideration to the matter, have come to the following conclusions in modification of the views expressed in the letter cited above, namely:—

(*i*) that the heading of the column for "Land Revenue" in Statement I-C should be altered to "Land Revenue and Rates" and that the figures for this column should include statistics for all the sub-heads under the major head "I.—Land Revenue," as well as the minor head "Portion of Land Revenue due to Irrigation" under the major head "XXIX.—Major Works—Irrigation" and the minor head "Rates and Cesses on Lands" under the major head "VI.—Provincial Rates." These figures should shew the actual collections under the several heads;

(*ii*) that the column shewing the "Gross Revenue" should be omitted from Statement I-C, the "Gross Revenue of the Province" being entered in a separate line below the "Grand Total" line under the total of "Land Revenue and Rates," a note being inserted at the foot of the statement specifying the particular items of revenue which go to make up the gross item, under the major heads of the classification laid down in Appendix P, Civil Account Code, Vol. II, and the collections being shewn in detail against each head in the footnote. The receipts from the following heads will, however, be omitted from the gross item, as it is not possible to assign to any particular province the revenue derived from them, namely, Opium, Salt, Customs, Forests, Tributes from Native States, Post Office, Telegraph, Mint, Marine, State Railways, Guaranteed Railways, Subsidized Railways, Exchange, Military Works, and Military; but all revenue derived from Incorporated Local Funds will be included in the gross item as it forms part of the General Revenues and is under the control of the district officers.

A revised form of Statement I-C is attached to this letter.

4. It appears that the figures for the Finance and Revenue Accounts are not ready in time for incorporation in Statement I-C, and as it is impossible for the Government of India to extend the period for the submission of the Annual Administration Report, which is fixed to reach the Secretary of State at a stated time, they desire to lay down the following practice which should minimise the discrepancies now apparent, for the compilation of Statement I-C:—

The figures for Statement I-C should be obtained from the local account office for the official year under report as corrected up to the date on which the figures are entered up for the compiler. They will not agree exactly with the final accounts for that year, but if comparative figures for at least two years are given (as they should be), the figures for the earlier year would be those of the final accounts, and the figures for the year under report would be open to final revision and adjustment in the following year, a footnote being made to this effect.

5. As regards the second question under consideration, I am to say that the Local Governments and Administrations accept the orders contained in paragraphs 5 and 6 of the letter of the 31st July 1896, No. $\frac{20}{1241-49}$.

Revised Statement I-C (Civil Divisions of British Territory) appended to General Administration Reports.

Name of Commissionership.	Name of Executive District.	Number of Judicial and Revenue Sub-divisions.	Area in square miles.	Population.	Chief town with population.	Number of villages.	How many Civil and Revenue Judges of all sorts.	How many Magistrates of all sorts.	Maximum distance in miles from nearest Court.	Average distance in miles of villages from nearest Court.	Number of Police.	Total cost of officials and police of all kinds.	Land Revenue and Rates.	Remarks.
Grand Total ...														
Gross Revenue of this Province ...														

N.B.—[Here insert a note specifying the particular items of gross revenue which make up the gross item (*vide* paragraph 3 (ii) of Circular No. , dated).]

G. C. Press, Simla.—No. 213 C. F. 6-5-08.—200.

Paper taken out of the Records from the charge of the Record-keeper.

Regular / Miscellaneous No of 189 .

For what Current.		To whom given.	When taken out.
No.	Year.		

F 5,000—4-11-96

REVENUE DEPARTMENT.

arge of the Record-keeper.

5- of 1897.

this SERIES.

REVENUE DEPARTMENT.	When taken out.
G. O., DATED 27th may 1898	11-7-55.
No. 2313	1-8-

Note.

Original taken for current No. 4870 455.

[Despatch Abstract.]

Dry assessment. Approving and sanctioning the proposal to postpone the Collection of —— in six villages of the Hospet taluk, Bellary Dt.

0/9 5,000—5-3-95.

SIENT