

(1) Number of pages 30(2) Date of repair 2-6-18

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <u>1321-22</u>	Press Mis.
Dated <u>6-6</u>	1879.

*Original*Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

6th June 1879, No. 1321.

Bills—Legislative.

Read the following paper :—

No. 53. *From T. WEIR, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Acting Chief Secretary to Government, dated 23rd May 1879, No. 859.*

I am directed to acknowledge the receipt of your letter to the Acting Chief Justice, dated 31st October 1878, No. 2224, forwarding a copy of a letter from the Government of India, bearing date the 14th October 1878, with the marginally noted enclosure, and requesting an expression of the High Court's opinion on the provisions of the Bill.

Annexure to Bill to define and amend the law relating to alluvion islands and abandoned river-beds.

2. In reply, I am directed to transmit to you the accompanying transcripts of Minutes recorded by Mr. Justice Innes and Mr. Justice Muthusami Aiyar.

✓ ENCLOSURE No. 1.

MINUTES ON THE ALLUVION BILL.

MR. JUSTICE INNES.—On the 10th July last, I minuted on the first Bill, replying specially to the questions asked by the Government of India. My Minute was forwarded to the Government of Madras on the same day.

I have only to repeat what I then said as to the definition of "thread of the stream." In other respects I do not see any thing to remark upon in the Bill in its second stage.

MR. JUSTICE MUTHUSAMI AIYAR.—Accretion is the enlargement of a thing by the union of some alluvial deposit. It implies a gradual addition consequent on imperceptible disintegration elsewhere. Hence, if a distinct mass of ground is carried away by flood and deposited elsewhere property therein is not changed. It is, perhaps, desirable to mention this in the Bill expressly, though it is, I think, implied by it.

2. Again, if the ground carried away in bulk carries with it trees, the roots of which extend into the neighbouring land, such trees belong to the owner of that land, because a tree belongs to the soil by which its roots are nourished. I think that this case should also be expressly mentioned in the Bill which it is very desirable should be complete in itself.

The Bill adopts the condition of the channel that separates an island from the main land, according as it is fordable or otherwise, at the date of the first appearance of the island, as the means of distinguishing the ownership of the Crown from that of a riparian proprietor. It would be difficult to apply this rule in practice particularly in this country where landed property is much valued and questionable evidence is easily procured. The result will be frequent litigation between the Crown and the subject, which is not, I think, to be desired. I would vest the ownership in islands in rivers in riparian proprietors each of them being entitled to a share proportional to the extent and proximity of his land along the bank.

At all events, we may adopt this principle, I think, in the case of those rivers which are not tidal waters. As to islands on the sea, they may vest in the Crown.

In Zemindaries, I would not take away the Zemindars' rights to islands rising in rivers within limits of their estates. In Zemindaries as well as in Ryotwari villages, I would declare ryots with occupancy rights entitled to preference according to the principles applicable to

riparian proprietors in those cases in which the Zemindars or Government grant the accretions to the bank or islands in rivers for cultivation. In all cases, I would expressly reserve a right to Government to deal with accretions and islands under the Land Acquisition Act when interference therewith becomes necessary to prevent obstruction to the regular flow of water in a river or to the water-spread in a lake.

(True Copy.)

(Signed) T. WEIR,
Acting Registrar, Appellate Side.

No. 54. ORDER THEREON, 6th June 1879, No. 1321.

Resolved that the Proceedings of the Madras Government (Revenue Department), dated 28th August 1878, No. 1375, and the reply from the Honorable the Judges of the High Court, dated 23rd May 1879, No. 859, be transmitted to the Government of India.

2. The matter is still under the consideration of the Madras Government, and their views will be communicated in due course.

(True Extract.)

C. G. MASTER,
Acting Chief Secretary.

JUDICIAL DEPARTMENT.

Bills—Legislative.

✓ No. 1322.

FROM

C. G. MASTER, Esq.,
Acting Chief Secretary to the Government of Fort St. George.

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

SIR,

With reference to your letter, dated 14th April 1879, No. 446, I am directed to transmit, for the information and consideration of the Government of India, copy of the Proceedings of this Government, dated 6th June 1879, No. 1321.

I have the honor to be,

Sir,

Your most obedient servant,

OOTACAMUND,
6th June 1879.

Acting Chief Secretary.

Exd. T. O'Connor.

Colt. of 1879; 31/1/79.

JUDICIAL.

Dated June, 6th.

Issued

Recd.

Encl.

G.O., 6th June 1879, No. 1321.

JUNE.
Nos. 53—55.

Bill—Legislative.—Proceedings of Government, Revenue Department, dated 25th August 1878, No. 1375, and reply from the Honorable Judges of the High Court regarding the Bill to define and amend the law relating to alluvion islands and abandoned river-beds, transmitted to Government of India.

1879.
JUDICIAL DEPARTMENT.

From
The Acting Chief Secretary to the
Govt. of Port St. George,
To
The Secretary to the Govt. of India,
Legislative Department.

Dated 6th June 1879.

Issued

Recd.

No. 1322.

Enclosure.

Bills—Legislative.—Transmitting certain papers regarding the Bill to define and amend the law relating to alluvion islands and abandoned river-beds.

1
BILLS—LEGISLATIVE.

From T. WEIR, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Acting Chief Secretary to Government, dated 23rd May 1879, No. 859.

I am directed to acknowledge the receipt of your letter to the Acting Chief Justice, dated 31st October 1878, No. 2224, forwarding a copy of a letter from the Government of India, bearing date the 14th October 1878, with the marginally noted enclosure, and requesting an expression of the High Court's opinion on the provisions of the Bill.

2. In reply, I am directed to transmit to you the accompanying transcripts of Minutes recorded by Mr. Justice Innes and Mr. Justice Muthusami Aiyar.

ENCLOSURE No. 1.

MINUTES ON THE ALLUVION BILL.

MR. JUSTICE INNES.—On the 10th July last, I minuted on the first Bill, replying specially to the questions asked by the Government of India. My Minute was forwarded to the Government of Madras on the same day.

I have only to repeat what I then said as to the definition of "thread of the stream." In other respects I do not see any thing to remark upon in the Bill in its second stage.

MR. JUSTICE MUTHUSAMI AIYAR.—Accretion is the enlargement of a thing by the union of some alluvial deposit. It implies a gradual addition consequent on imperceptible disintegration elsewhere. Hence, if a distinct mass of ground is carried away by flood and deposited elsewhere property therein is not changed. It is, perhaps, desirable to mention this in the Bill expressly, though it is, I think, implied by it.

2. Again, if the ground carried away in bulk carries with it trees, the roots of which extend into the neighbouring land, such trees belong to the owner of that land, because a tree belongs to the soil by which its roots are nourished. I think that this case should also be expressly mentioned in the Bill which it is very desirable should be complete in itself.

The Bill adopts the condition of the channel that separates an island from the main land, according as it is fordable or otherwise, at the date of the first appearance of the island, as the means of distinguishing the ownership of the Crown from that of a riparian proprietor. It would be difficult to apply this rule in practice particularly in this country where landed property is much valued and questionable evidence is easily procured. The result will be frequent litigation between the Crown and the subject, which is not, I think, to be desired. I would vest the ownership in islands in rivers in riparian proprietors each of them being entitled to a share proportional to the extent and proximity of his land along the bank.

At all events, we may adopt this principle, I think, in the case of those rivers which are not tidal waters. As to islands on the sea, they may vest in the Crown.

In Zemindaries, I would not take away the Zemindars' rights to islands rising in rivers within limits of their estates. In Zemindaries as well as in Ryotwari villages, I would declare ryots with occupancy rights entitled to preference according to the principles applicable to riparian proprietors in those cases in which the Zemindars or Government grant the accretions to the bank or islands in rivers for cultivation. In all cases, I would expressly reserve a right to Government to deal with accretions and islands under the Land Acquisition Act when interference therewith becomes necessary to prevent obstruction to the regular flow of water in a river or to the water-spread in a lake.

(True Copies.)

(Signed) T. WEIR,
Acting Registrar, Appellate Side.

50

Reports on the - by
Mr Justice Innes &
Justice Muthusami Aiyar

Alluvion Bill

BILLS—LEGISLATIVE.

From T. WEIR, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Acting Chief Secretary to Government, dated 23rd May 1879, No. 859.

I am directed to acknowledge the receipt of your letter to the Acting Chief Justice, dated 31st October 1878, No. 2224, forwarding a copy of a letter from the Government of India, bearing date the 14th October 1878, with the marginally noted enclosure, and requesting an expression of the High Court's opinion on the provisions of the Bill.

Annexure to Bill to define and amend the law relating to alluvion islands and abandoned river-beds.

2. In reply, I am directed to transmit to you the accompanying transcripts of Minutes recorded by Mr. Justice Innes and Mr. Justice Muthusami Aiyar.

ENCLOSURE No. 1.

MINUTES ON THE ALLUVION BILL.

MR. JUSTICE INNES.—On the 10th July last, I minuted on the first Bill, replying specially to the questions asked by the Government of India. My Minute was forwarded to the Government of Madras on the same day.

I have only to repeat what I then said as to the definition of "thread of the stream." In other respects I do not see any thing to remark upon in the Bill in its second stage.

MR. JUSTICE MUTHUSAMI AIYAR.—Accretion is the enlargement of a thing by the union of some alluvial deposit. It implies a gradual addition consequent on imperceptible disintegration elsewhere. Hence, if a distinct mass of ground is carried away by flood and deposited elsewhere property therein is not changed. It is, perhaps, desirable to mention this in the Bill expressly, though it is, I think, implied by it.

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The Bill adopts the condition of the channel that separates an island from the main land, according as it is fordable or otherwise, at the date of the first appearance of the island, as the means of distinguishing the ownership of the Crown from that of a riparian proprietor. It would be difficult to apply this rule in practice particularly in this country where landed property is much valued and questionable evidence is easily procured. The result will be frequent litigation between the Crown and the subject, which is not, I think, to be desired. I would vest the ownership in islands in rivers in riparian proprietors each of them being entitled to a share proportional to the extent and proximity of his land along the bank.

At all events, we may adopt this principle, I think, in the case of those rivers which are not tidal waters. As to islands on the sea, they may vest in the Crown.

In Zemindaries, I would not take away the Zemindars' rights to islands rising in rivers within limits of their estates. In Zemindaries as well as in Ryotwari villages, I would declare ryots with occupancy rights entitled to preference according to the principles applicable to riparian proprietors in those cases in which the Zemindars or Government grant the accretions to the bank or islands in rivers for cultivation. In all cases, I would expressly reserve a right to Government to deal with accretions and islands under the Land Acquisition Act when interference therewith becomes necessary to prevent obstruction to the regular flow of water in a river or to the water-spread in a lake.

(True Copies.)

(Signed) T. WEIR,
Acting Registrar, Appellate Side.

From

J. Weir Esquire

As. Registrar of the
High Court of Judicature at
Madras.

To

C. G. Draxter Esquire

As. Chief Secretary
to Government.

Sir,

I am directed to acknowledge
the receipt of your letter to the As. Chief
Justice, dated 31st October, 1878, No. 2224,
forwarding a copy of a letter from
the Government of India,

Annexure to Bill to define
and amend the Law re-
lating to alluvion, is.
lands and abandoned
river-beds.

hearing date the 14th
October 1878, with the
marginally noted en-
closure, and requesting

an expression of the High Court's
opinion on the provisions of the
Bill.

In reply I am directed to
transmit to you the accompanying
transcripts of minutes recorded

Alumina Bill
—
Report in the
As. Justice & Law
As. Justice & Law

Alumina Bill

by Mr Justice James and Mr Justice
Muttusami Aiyar.

I have the honour to be
Sir,

Your most obedient servant

High Court of Judicature,
Madras, 23rd May 1879.



Ag. Registrar
Appellate Side.

Per [Signature]

Minutes on the Alluvion Bill.

No Justice Sinner :- On the 10th July last I initiated on the first Bill replying specially to the questions asked by the Government of India. My minute was forwarded to the Government of Madras on the same day.

I have only to repeat what I then said as to the definition of 'thread of the stream'. In other respects I do not see any thing to remark upon in the Bill in its second stage.

Mr Justice Guthrie's Answer:- Accretion
is the enlargement of a thing by the
union of some alluvial deposit. It
implies a gradual addition conse-
quent on imperceptible disintegration
elsewhere. Hence, if a distinct mass
of ground is carried away by flood
and deposited elsewhere properly

[illegible]

Submitting Transcripts of

minutes recorded by Justice Smith

and Mr Justice Williams signed on

The measures to fail to define and

summed the land belonging to Almon.

islands and abandoned river-beds.

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therein is not changed. It is perhaps, desirable to mention this in the Bill expressly, though it is, I think, implied by it.

2. Again, if the grounds carried away in bulk carries with it trees the roots of which extend into the neighbouring land, such trees belong to the owner of that land, because a tree belongs to the soil by which its roots are nourished. I think that this case should also be expressly mentioned in the Bill which it is very desirable should be complete in itself.

The Bill adopts the condition of the channel that separates an island from the main land, according as it is fordable or otherwise, at the date of the first appearance of the island, as the means of distinguishing the ownership of the Crown from that of a riparian proprietor. It would be difficult to apply this rule in practice particularly in this Country where landed property

387 90
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At all events, we may adopt this principle, I think, in the case of those rivers which are not tidal waters. As to the islands on the sea, they may rest in the Crown.

In Zeminaries, I would not take away the Zemindar's rights to islands rising in rivers within limits of their estates. In Zeminaries as well as in ^{ryots with occupancy} ~~ryots~~ villages, I would declare ^{rights} ~~rights~~ entitled to preference according to the principles applicable to riparian proprietors in those cases in which the Zemindars or Government

grant the accretions to the bank or islands in rivers for cultivation. In all cases, I would expressly reserve a right to Government to deal with accretions and islands under the Land Acquisition Act when interference therein becomes necessary to prevent obstruction to the regular flow of water in a river or to the water-spread in a lake.

(True Copies)

[Signature]

As. Registrar,
Appellate Side.

Encl. 10. 21553

[Signature]

Received
by the Honble
the Secretary
to the Government

In a letter from the
Honble Secretary to the
Government dated 23 May 1879.

Pro 976-12 1217

No 1721 Bangalore Collector's Office
Camp. Bangalore 13th May 1879

From, C. J. Webster Esquire.
Collector of Bangalore.
C. J. Webster Esquire.
As Chief Secretary to Govt.
Madras.

With reference to G.O. No. 920 dated 25th April 1879 calling for my opinion on the Bill to define and amend the law relating to alluvion islands and abandoned river beds, I have the honor to state that I have nothing to add to the report I made to the Board of Revenue and of which I have submitted a copy to Government with my letter No 1720 dated 14th June 1878 in answer to G.O. No 910 dated 1st May 1878. I. D.

I have the honor to be
Sir
Your most Obedt Servant

[Signature]

Collector

114
Revenue Settlement Office,
Madras,
No. 1255
19 7 May 1879

From
The Director of
Revenue Settlement
To The Chief Secretary to
Government
Public Department.
Sir,

I have the honor to
inform you that I have
no remarks to make on the
"Bill to define the law relating
to alluvion islands, and abandoned
river beds" forwarded for my opinion
with G.O. No. 928, dated 25th ultimo.

I have the honor to be
Sir,
Your most obt. servant
W. Lums
Director of Revenue Settlement.

Pres. 25-4-79-205 132-134
Rev. 12-9-78-108
" 26-7-78-311-314-13.
" 1-5-78-9-11-

Regd. 6-10-79 No. 1329/1321
Jmt. 1879
1 (Mls. Legislation)
from

The Secretary
General

The Chief Secretary
Government

Madras.

Recd. 13/5
Rev. 13/5
15/53
11/11/

20 1721

Reporting that the
has nothing to say
about the usual
ways laid down
the Bill & refer
to the (see) relating
to alluvion &c

2.

The following is a list of the R. E.
 of the North American.
 x contains a paper on the bill and its history
 and has been before the
 x. 2nd copy
 reply to the above due 15/7/79
 176

* G. O. 28th August 78 $\frac{R.D.}{N 1375}$

*Letter from the Acting Secy
of the High Court A. S. of
23rd May 1879 No 859

1. Resolved that the Pro-
-ceedings of the Madras
Government (Revenue
Deptt) dated 28th August
1878 No 1375 and the
reply from the Hon^{ble}
the Judges of the High Court
dated 23rd May 1879
No 859 be transmitted
to the Government.

May 21 June 1791
 Johnson (1879) / 24
 at 1879. 24
 Johnson
 The History
 Records

121321 + 1222
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 1255
 19

I have been the most
 ungrateful to me
 on the Pope's defense
 the last meeting to
 all our interests &
 abundant power that

India

2. The matter is still under
the consideration of the
Madras Government,
and their views will
be communicated in
due time.

...

No. 1322.
The Secretary to the Govt of
India
Legislative Department

Sir,
With reference to your letter
dated 14th April 1879 No 446
I am directed to transmit
for the information & con-
sideration of the Govern-
ment of India Copy of
the Proceedings of the
Madras Govt of 6 June 79 No 1321

Copy of
+ will of letter + No 6
Despatch

C. A. M. M. M.,
6 June 1879

AK 516

Report on Allegations
Bill

Draft rules for app.

Unseen by
C

Sept. of 1879 Madras.

Alm. 100

1321 & 1322

G. O., June 1879, No. 1

Dec. 53. 55

15. 15. day. Rev. 2. 1. 1. 1.

R. 10. 72th Aug 5/82, No 1375,
Sends from the Hon. Judges
of the High Ct regarding the
Bill to Define & amend the
Law relating to alluvion
lands & abandoned river
beds, transmitted to G. S.

Transmitting certain
specimens of paper.