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G.O., No. 3.

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[Despatch Abstract.]

Madras Survey Bill

Directing the publication in the Fort St George Gazette in English & in the Vernaculars, of a Bill to amend the law relating to Survey, & the settlement of boundary disputes, and requesting the Hon'ble Mr J. Grose, C.S. to take charge of the Bill.

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BACK PAPERS.

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

FURTHER PAPERS.

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Government {1897} of Madras.

LEGISLATIVE.

Recd. } 1897. *Enclosures*

Regd. *Spare copies*

G.O., No. 3, 26th January 1897.

JANUARY.

Madras Survey Bill.

Directing the publication, in the *Fort St. George Gazette* in English and in the vernaculars, of Bill to amend the law relating to survey and the settlement of boundary disputes, and requesting the Hon'ble Mr. J. Grose, C.I.E., to take charge of the Bill.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

Read—the following paper :—

G.O., No. 4, Revenue, dated 4th January 1897.

Abstract.—Considering that, in view of the delay which has already taken place in the preparation of the Madras Survey Bill, it should be transferred to the Legislative Department forthwith, and that any further criticisms which the Board may desire to offer should be communicated to the Legislative Council for consideration by the Select Committee, and requesting the Government of India to sanction the proposed repeal of Act XXVIII of 1860.

Order—No. 3, Legislative, dated 26th January 1897.

Under Rule 33 of the Rules for the conduct of business at meetings of the Council of the Governor of Fort St. George for making Laws and Regulations, His Excellency the Governor directs the publication, in the *Fort St. George Gazette* in English and in the vernaculars, of a Bill to amend the law relating to survey and the settlement of boundary disputes in this Presidency.

2. The Hon'ble Mr. J. Grose, c.i.e., will be requested to take charge of the Bill.

(True Extract.)

Secretary to Government.

To the Revenue Department.
" Hon'ble Mr. J. Grose, c.i.e.
" Superintendent, Government Press.
" Translators to Government.

Exd. A. Raitt.

Madras Legislative
3 CURRENT No. 24

Government {1897} of Madras.

REVENUE.

Recd. 23-1 } 1897.
Regd. 28-1 }

Enclosures

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G.O., No. 4, 4th January 1897.

JANUARY.

Madras Survey Bill.

Considering that, in view of the delay which has already taken place in the preparation of the —, it should be transferred to the Legislative Department forthwith, and that any further criticisms which the Board may desire to offer should be communicated to the Legislative Council for consideration by the Select Committee, and requesting the Government of India to sanction the proposed repeal of Act XXVIII of 1860.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following Proceedings of the Board of Revenue (Land Revenue), No. 181, dated 22nd May 1896 :—

Read—Government Order, No. 823, Revenue, dated 18th December 1895.

Abstract.—Passing orders on Board's Proceedings submitting a bill to amend the Boundary Marks Act.

Resolution—No. 181, dated 22nd May 1896.

The Board submits its remarks on the draft Bill to amend the "Boundary Act" forwarded with the Government Order read above.

2. *Section* 4 *of the Bill*—provides for a Survey officer being appointed by Government or by the Board, to which the Government may delegate its powers under this section. Section 29, however, states that the District Collector may himself deal with a boundary dispute or appoint one of his subordinates as *Survey officer* to dispose of it, the power of the Local Government to appoint any one it pleases being reserved. The two sections are not necessarily inconsistent, but the Board would add to the last clause of section 29 a reference to section 4.

3. *Section* 7.—As an appeal lies from the decision of a Survey officer in any dispute settled by him under this section, the Board considers that there should be a distinct provision in the section that this decision should be recorded in writing, and that it should be communicated to the landholders concerned. Paragraph 3 of the Statement of Objects and Reasons premises that the decision of a Survey officer shall be arrived at in a judicial manner, and in the case of disputes settled under Chapter V of the Bill it is distinctly stated that the finding shall be reduced to writing—*vide* section 30.

4. *Section* 11.—The Board considers that the decision of the District Collector under this section should be declared to be final. The time within which applications should be made to the Collector should also be fixed : the Board would enter it as one month from the date of the payment or tender of compensation.

5. *Section* 12 does not, like section 6 of the Burma Act, from which it has been copied, specify the purposes for which persons interested may be required to attend. The Board recommends that the words "and for such of the purposes aforesaid" may be added after the words "at such place."

6. *Section* 13 authorises the Survey officer to charge the costs of survey and demarcation to "persons possessing a right of ownership or occupancy" in the lands surveyed. As Chapter III (*a*), in which this section is found, relates to the conduct of surveys of Government lands, the Board presumes that by the words "persons possessing a right of occupancy" reference is made to the tenants or lessees of ryotwari lands. If so, it is desirable to express the meaning more clearly and to re-produce section 7 of Act II of 1884 as an additional section. Otherwise there will be no provision enabling the tenant or lessee to deduct the amount of costs recovered from him by Government from the rent payable by him to his landlord. A similar provision was contained in the draft Bill submitted by the Board—*vide* section 11 of the Bill at page 9 of Board's Proceedings, No. 390, dated 3rd July 1893. The Board assumes that charges connected with survey and demarcation should ultimately fall on the landholder.

7. *Section* 17—Clause (1) requires village officers to report the destruction, injury or alteration of survey marks to the officer in charge of the nearest police station or to the nearest Magistrate. But the action to be taken by either officer is not stated. The Board suggests the following addition to section 17, clause (1) :—"The officer to whom reference is made by the village officer shall report the matter to the authority competent to take action under section 19."

8. *Section* 21 provides for appeals from orders passed by the Survey officer under sections 13, 14 and 19, but not from orders passed by a Collector under section 19. The Board considers that the defect may be removed by inserting the words "or Collector" in the section after the words "the Survey officer." But a better plan would be to add a new clause to section 3 (2) as follows :—"The term 'Survey officer' in sections 21 and 33 to 35 includes also a Collector."

9. *Section* 23.—The Board presumes that if a proprietor withdraws his application after the survey has been commenced, work should be discontinued and considers that this point should be specifically provided for.

10. *Section* 24.—The *manner* in which the Government should notify a survey of Government lands is specified in Chapter III (*a*) and not in Chapter II. The words "in the manner prescribed in Chapter II" should therefore be omitted or reference should be made to Chapter III (*a*). It should, however, be distinctly stated that the proceedings of the Survey officer taken under Chapter IV must be governed by the provisions of Chapter II.

11. *Section* 29.—The Board considers that provision should be made for the Local Government delegating its power under this section to the Board as in section 4, clause (3).

12. *Section* 30.—The decisions passed by a Collector or Survey officer under this section are final and conclusive, unless modified by the decree of a Civil Court, while in the case of disputes arising in the course of survey and dealt with by a Survey officer under section 7, a departmental appeal lies to the authority to whom the Survey officer is subordinate—*vide* section 8. The Board considers that such a distinction is right, but it must be noted that it deviates from paragraph 4 of the Statement of Objects and Reasons and from paragraph 5 of the Government Order.

13. *Section* 32.—The time for appealing to the Civil Courts should, in the Board's opinion, be calculated from the date of completion of the demarcation and not from the date of the decision ; for, until the boundaries are marked out on the spot, the parties are not likely to know how far the decision is unfavourable to them. The Bill, as drafted by the Board, provided for this—*vide* section 22 of the Bill at page 11 of Board's Proceedings, No. 390, dated 3rd July 1893—and the Government Order does not declare why this provision has been amended.

14. *Section* 33.—The Government has negatived the Board's proposal that proceedings under the Act should be summary, and observes that such a provision is inconsistent with the declaration that the investigation should be of a thoroughly judicial character. The Board would respectfully submit that the proposal involves no real inconsistency. The proceedings of a Small Cause Court or of a Collector acting under Madras Act VIII of 1865 are summary, but they are none the less judicial on that account. The Board's object was to provide for a speedy settlement of disputes and it considered that a Survey officer should not be hampered by elaborate rules of procedure. The Board doubts whether it is advisable to leave this question to be settled by rules under section 37 of the Act.

15. In paragraph 6 of the Statement of Objects and Reasons, the second clause of the first sentence should be omitted, as there is no section in the Government Bill "relating to the conferring of powers under the Act." In line 3 of paragraph 7, the words "Erection of boundary marks" should be replaced by "The conduct of a survey and the erection of survey marks." The Board considers that paragraph 9 should be amended so as to agree with paragraph 4 of the Government order.

16. The Board regrets the delay in the submission of this report. The Government order was received in the Board's office at the commencement of the Christmas

holidays, and as the subject was of considerable importance, it was hardly possible for the Board to submit its criticisms on the new Bill in time to allow of the measure being introduced during the Legislative Session of 1895–96. The Board is of opinion that the Bill, as modified above, is a great improvement on the existing enactments, and would recommend that early steps may be taken to pass it into law.

(True Copy and Extract.)

(Signed) R. C. C. CARR,
Acting Secretary.

To the Secretary to Government, Revenue Department.

Order—No. 4, Revenue, dated 4th January 1897.

Miscellaneous.

The draft Bill to amend the law relating to survey and the settlement of boundary disputes has been subjected to a further scrutiny since the receipt of the proceedings read above, and it has been found necessary materially to alter its form. The Board will observe that effect has been given to nearly all the suggestions made in the resolution under reply. The Board's opinion in regard to the further alterations which have been made would be of much service to Government, but, in view of the delay which has already taken place in the preparation of the Bill, the Government considers that it should be transferred to the Legislative Department forthwith, and that it will suffice to communicate to the Legislative Council any further criticisms which the Board may desire to offer in order that they may be fully considered by the Select Committee to which the Bill will be referred in due course. In the meantime the Government of India will be requested to sanction the proposed repeal of Act XXVIII of 1860.

(True Extract.)

Daniel Davidson
21.1.97
for Ag. Secretary to Government.

To the Board of Revenue (Land Revenue).
,, the Legislative Department.

Exd. Shaik Karim.

100 Copies.

APPENDIX.

THE MADRAS SURVEY BILL.

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(*a*) The initiation and conduct of surveys of Government lands.
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CHAPTER IV.

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CHAPTER V.

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WHEREAS it is expedient to make better provision for the carrying out of surveys, for the erection, repair, restoration and maintenance of survey marks, and for the determination of boundary disputes; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) *Title.*—This Act may be called "The Madras Survey Act, 189 ."

(2) It extends to the whole of the Presidency of Madras.

Local extent.

2. Act XXVIII of 1860 and Madras Act II of 1884 are hereby repealed.

Repeal.

3. In this Act, unless there is something repugnant in the subject or context,—

Interpretation clause.

(i) "Estate" means—

(Madras Act II of 1894, section 4.)

(*a*) any permanently-settled estate, whether a zamíndárí, jághír, mitta or pálaiyam;

"Estate."

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled pálaiyam or jághír;

(*d*) any inám village of which the grant was made or confirmed by the British Government;

(*e*) any portion, consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure.

(ii) "Government land" means any land other than land forming an estate as defined in clause (i).

"Government land."

(Madras Act II of 1894, section 4.)

(iii) "Proprietor" means any person in whose name any estate is for the time being registered in the office of the

"Proprietor."

Collector of the district wherein the estate is situated, and, in respect of an estate specified above in clause (*e*) of the definition of "estate," the holder thereof.

Where an estate is so registered in the names of two or more persons as joint owners thereof, the proprietor shall, for the purposes of this Act, be the person who is recognized by the other joint owners as the manager of the estate or who, in case of dispute, is registered by the District Collector as senior joint owner for the purposes of this Act, after such inquiry as he shall see fit.

"Survey."

(iv) "Survey" includes demarcation.

"Survey mark."

(Burma Act II of 1895, section 3.)

(v) "Survey mark" means any mark heretofore or hereafter made, erected or placed above, on or below the surface of any land for the purpose of indicating survey points or lines by or by order of any person duly authorized to make a survey of such land or to settle the boundaries thereof on behalf of Government.

Explanation.—A survey of an estate or a settlement of a boundary-dispute conducted under the orders of any duly authorized Government officer shall be deemed to be made on behalf of Government, notwithstanding that it is made on the application of the proprietor of the estate or of a party to the dispute.

"Survey Officer."

(vi) "Survey Officer" means a Survey Officer appointed under this Act.

(Burma Act V of 1880, section 2.)

Local Government to appoint and remove Survey Officers.

4. (1) The Local Government may appoint any person to be a Survey Officer, and may dismiss, suspend or remove any person so appointed.

(Burma Act V of 1880, section 2.)

Local Government to exercise general control over Survey Officers.

(2) Subject to the control of the Local Government or of any officer appointed by it in this behalf every person so appointed shall exercise and perform, within such local limits as the Local Government may direct, the powers conferred and the duties imposed upon him by this Act or by the rules made thereunder.

Local Government may delegate such powers.

(3) The Local Government may delegate its powers under this section to the Board of Revenue, and for the purposes of section 31 only to a District Collector.

CHAPTER II.

THE SURVEY OF GOVERNMENT LANDS.

(*a*) *The initiation and conduct of surveys of Government lands.*

(Bombay Act V of 1879, section 95.)

Local Government may direct survey of Government land.

5. The Local Government may, by notification, direct the survey of any Government land.

(Burma Act V of 1880, section 5.)

Notification to be published by Survey Officer.

6. (1) When the survey of any Government land has been directed under section 5, the Survey Officer shall publish a notification addressed to all persons directly or indirectly interested in such land, calling upon them to attend either in person or by agent at a specified place and time for the purposes of pointing out the boundaries and supplying information in connection therewith, of rendering aid in setting up or repairing the survey marks, or of affording such other assistance as may be required in order to facilitate the survey.

Such notification to be sufficient notice to persons interested.

(2) A notification published under sub-section (1) shall be held to be good and sufficient notice to every person having any interest in the land about to be surveyed.

(Burma Act V of 1880, section 7.)

Terms of such notification.

7. Such notification shall further require all owners, holders or occupiers of the land about to be surveyed within a specified period—

(*a*) by cutting down or removing any trees, jungle, fences, standing crops, or other obstructions, to clear the boundaries or other lines the clearance of which may be necessary for the purposes of the survey,

(*b*) to provide labour by furnishing flag-holders or chainmen, and

(*c*) otherwise to assist in the survey.

(Burma Act V of 1880, section 8.)

Compensation for injury caused by clearance of boundaries, &c.

8. (1) If any demand for compensation is made in respect of the clearance of any line in accordance with a requisition under section 7, the Survey Officer shall determine and record the value of any trees, jungle,

fences, standing crops or other obstructions, which may have been cut down or removed, and shall pay or tender to the owners thereof the amount of compensation which, in his opinion, should be allowed therefor.

(2) From any award made under sub-section (1) an appeal as regards the sufficiency of the amount awarded shall lie to the District Collector, if preferred within one month of the date of payment or tender of such amount.

(3) The award made by the Survey Officer under sub-section (1), or, in the event of an appeal being filed, the decision of the District Collector, shall be final as regards the sufficiency of the amount awarded.

When survey may be commenced.

9. When the period specified in the notification issued under section 6 has elapsed, the Survey Officer may proceed with the survey. (Burma Act V of 1880, section 7.)

Survey Officer may issue special notice to procure attendance of interested persons.

10. The Survey Officer may, at any time during the survey, issue a special notice to any person directly or indirectly interested in the land which is being surveyed, requiring him to attend, in person or by agent, for the purpose of assisting in the survey, at a specified place and on a specified date, which shall not be less than fifteen days after the service of such notice; and any person upon whom such notice is served shall be legally bound to attend. (Burma Act V of 1880, section 6, and Bengal Act V of 1875, section 7.)

Employment of hired labour on failure of interested persons to assist in the survey.

11. (1) If the persons to whom the notification under section 6 and any notices issued under section 10 have been addressed fail to comply with the requisitions made therein, the Survey Officer may employ hired labour for the purposes of the survey. (Burma Act V of 1880, section 7.)

Costs to be charged to holders or occupiers of lands surveyed.

(2) The Survey Officer shall, in accordance with such rules as the Local Government may prescribe, apportion the cost of such labour on the lands which have been surveyed, and charge the same to the owners, holders or occupiers thereof.

Explanation.—For the purposes of sub-section (2) the Government shall be deemed to be the owner of unoccupied Government lands. (Act XXVIII of 1860, section 8.)

Provision of survey works.

12. If the owners, holders or occupiers of the lands under survey do not provide suitable survey marks to the satisfaction of the Survey Officer, such officer may himself procure such marks and the cost of procuring them shall be apportioned on the land and charged to the owners, holders or occupiers thereof in the same manner as charges imposed under sub-section (2) of section 11.

Recovery of charges incurred by Survey Officer.

13. All charges incurred by the Survey Officer under section 11 or section 12 shall be defrayed in the first instance by Government but shall be recovered by the Collector, on receipt of intimation from the Survey Officer of the amount due from each individual, in the same manner as if they were arrears of land revenue.

Survey ordinarily to proceed according to occupation.

14. (1) A survey conducted under the provisions of this Chapter shall ordinarily proceed according to occupation. (Bombay Act V of 1879, section 119.)

Procedure where boundary is undisputed.

(2) If, at the time of survey, the boundary of a field or holding is undisputed, the Survey Officer may order that it shall be laid down as pointed out by the holder or occupier, being present.

Procedure where boundary is disputed.

(3) If neither the holder nor the occupier is present, or if the boundary is disputed, the Survey Officer shall order it to be laid down, as nearly as may be, in accordance with the village records, the occupation as ascertained from the village officers and the holders or occupiers of adjoining lands, and such other evidence as the Survey Officer may be able to procure.

Order in disputed cases to be in writing.

(4) The order passed by the Survey Officer in the case of any dispute under sub-section (3) shall be recorded in writing and communicated to the parties to the dispute and to all persons known to have an interest direct or indirect in the lands affected.

Completion of demarcation to be notified.

(5) When the boundaries of any village or other defined local area forming part of the land under survey have been demarcated in accordance with the orders passed under

sub-sections (2), (3) and (4), the Survey Officer shall notify that the demarcation of such village or other local area has been completed.

Appeals against orders under section 12.

15. (1) From any order passed by the Survey Officer under section 14 an appeal shall lie to the authority to whom he is immediately subordinate, provided that it be filed,—

(*a*) in the case of a dispute decided under sub-section (3) of section 14, within three months of the date of the order recorded in writing under sub-section (4) of that section, and

(*b*) in the case of any other order, within three months of the date upon which the notification prescribed by sub-section (5) of section 14 was published.

Appellate decision to be in writing.

(2) The decision of the appellate authority shall be recorded in writing and communicated to the parties to the dispute, if any, and to all persons known to have an interest direct or indirect in the lands affected.

Such order or appellate decision final in certain cases.

(3) The order of the Survey Officer, or in the event of an appeal being filed, the decision of the appellate authority, shall be final unless reversed or modified by a decree of a Civil Court.

Appeals to Civil Courts.

16. An appeal shall lie to the Civil Courts by regular suit against any order passed under section 14 or any decision given under section 15, provided that it be filed,—

(*a*) in the case of any order or decision recorded in writing under sub-section (4) of section 14 or sub-section (2) of section 15, within six months of the date of such order or decision, and

(*b*) in the case of any other order, within six months of the date on which the notification prescribed by sub-section (5) of section 14 was published.

(*b*) *The maintenance of completed surveys of Government lands.*

(Madras Act II of 1884, section 1.)

Ryots responsible for the maintenance of survey marks.

17. Every owner, holder or occupier of Government land shall be responsible for the maintenance,

renewal and repair of the survey marks on or within the boundaries of his holding, and for any charges reasonably incurred by Government on account of the same.

(Burma Act V of 1880, section 27.)

Duties of village officers in this respect.

18. It shall be the duty of every village headman and of every village accountant—

(*a*) to prevent, as far as possible, the destruction, injury, or alteration of any survey mark, on or within the limits of his jurisdiction; and

(*b*) when he becomes aware that any such mark has been destroyed, injured, or altered, to report the fact to his immediate official superior or the nearest Survey Officer having jurisdiction.

(Madras Act II of 1884, section 2.)

Collector to maintain survey marks.

19. The charge of all the survey marks on or within the boundaries of a district shall vest in the Collector, and it shall be his duty to take measures for their maintenance, renewal and repair.

(Madras Act II of 1884, sections 3 and 4.)

Collector or Survey Officer may require ryots to repair survey marks.

20. (1) The Collector or a Survey Officer may, by notification, require the holders or occupiers of Government lands, within a reasonable specified period, to construct, renew or repair the survey marks on or within the boundaries thereof.

Or may himself cause them to be repaired, and recover costs from ryots.

(2) If such holders or occupiers fail to comply with such requisition, the Collector or Survey Officer may himself cause the survey marks to be constructed, renewed or repaired, and shall, in accordance with such rules as the Local Government may prescribe, apportion all costs thereby incurred on the lands, the survey marks on which have been constructed, renewed or repaired, and charge such costs to the holders or occupiers.

Nature of repairs may be prescribed.

(3) In the exercise of the powers granted to him by this section, the Collector or Survey Officer may, subject to the control of the authority to whom he is immediately subordinate, direct that the survey marks shall be of such material and shall be erected in such manner and such number as he may think fit.

(*c*) *The revision and recovery of charges imposed on account of the conduct and maintenance of surveys of Government lands.*

Order imposing charges to be communicated to persons affected.

21. (1) Every order of a Survey Officer or of a Collector imposing charges under section 11, section 12, or section 20 shall be recorded in writing and communicated to the persons affected. (Act XXVII of 1860, section 26.)

Appellate authority.

(2) An appeal against every such order shall lie to the authority to whom the officer passing it is immediately subordinate, provided that it be filed within one month of the date of such order.

Order or appellate decision final.

(3) The order of the Survey Officer or Collector, if an appeal is not preferred, or, in the event of an appeal being filed, the decision of the appellate authority shall be final.

Issue of demand notice.

22. (1) When the apportionment of costs has been made, or, in the event of an appeal having been filed, when the orders of the appellate authority have been received, the Collector shall cause to be issued to each person concerned a demand notice specifying the amount due from him and declaring that, if such amount remains unpaid at the expiry of one month from the date of the service of such notice, it will be recovered, together with the costs, if any, incurred in recovering it, in the same manner as if it were an arrear of land revenue due on the land in respect of which the charge was imposed.

Recovery of charges imposed.

(2) If the amount due is not paid in accordance with the terms of the demand notice, it shall be recoverable, together with the costs (if any) incurred in recovering it, in the same manner as if it were an arrear of land revenue due on the land in respect of which the charge was imposed.

Tenant may deduct amount paid from his rent.

23. If any amount be paid by or recovered from a tenant in satisfaction of a demand issued under section 22, such tenant shall be entitled to deduct the amount so paid or recovered from the rent payable by him on account of the land in respect of which the charge was imposed. (Madras Act II of 1884, section 7.)

CHAPTER III.

The Survey of Estates.

Local Government may direct survey of an estate in certain cases.

24. The Local Government may, by notification, direct the survey of any estate or portion of an estate,—

(*a*) on the application in writing of the proprietor of such estate, accompanied by a written statement of his consent to defray the whole cost of the survey, or,

(*b*) for other reasons to be previously recorded.

Proviso.—Provided that the progress of a survey directed under clause (*a*) shall be stopped on withdrawal by the proprietor of his application, unless the Local Government sees reason to direct the continuance of the survey in virtue of the powers conferred on it by clause (*b*).

Survey Officer to be appointed *ad hoc*.

25. (1) On the issue of a notification under section 24, a Survey Officer shall be appointed for the purpose of carrying out the survey therein directed.

Procedure to be observed during survey.

(2) Except as hereinafter provided in sections 26 and 27, the conduct of such survey and the proceedings of such officer shall be regulated by the procedure laid down in sections 6 to 16 inclusive with regard to the survey of Government lands.

Cost of survey recoverable from proprietor.

26. All costs incurred by Government on account of a survey conducted under this Chapter shall be recoverable from the proprietor of the estate, the whole or a part of which has been surveyed, in the same manner as if they were an arrear of land revenue due on such estate.

Provided that the cost of a survey directed under clause (*b*) of section 24 shall be borne by Government unless otherwise laid down in any other law for the time being in force.

Local Government may direct apportionment of particular costs among tenants.

27. (1) On the application of the proprietor of an estate under survey, the Local Government may direct the

Survey Officer to apportion the whole or a specified proportion of the cost of hired labour employed for the purposes of the survey and of the expenses incurred on procuring survey marks among the tenants holding the lands which have been surveyed.

(2) Such apportionment shall be made in accordance with such rules as the Local Government may prescribe, and shall be subject to appeal in the manner prescribed in section 21.

Apportionment how made.

(3) The amounts so apportioned shall be recoverable by the proprietor from the tenants concerned in the same manner as if they were arrears of rent due on the lands surveyed.

Costs so apportioned recoverable by proprietor from tenants.

28. When an estate or a portion of an estate has been surveyed in pursuance of a notification is-issued under section 24, the Survey Officer shall report the completion of the survey to the District Collector and to the proprietor, and the following consequences shall thereupon ensue :—

Consequences ensuing on completion of an estate survey.

(i) Every holder or occupier of the land surveyed shall be responsible for the maintenance, renewal and repair of the survey marks on or within the boundaries of his holding, and for any charges reasonably incurred on that account by the Collector under sub-section (2) of section 29.

(ii) The headman and the accountant of every village, the whole or a part of which has been surveyed, shall be legally bound—

(*a*) to prevent, as far as possible, the destruction, injury, or alteration of any survey-mark on or within the limits of their village, and

(*b*) when aware that any such mark has been destroyed, injured, or altered, to report the fact to the proprietor of the estate.

(iii) It shall be the duty of the proprietor to take measures for the maintenance of the survey.

29. (1) When the survey of an estate has been completed the proprietor may, by notification, require the holders or occupiers of lands

Power of proprietor in regard to the maintenance of an estate survey.

situated within such estate, within a reasonable specified period, to construct, renew or repair the survey-marks on or within the boundaries thereof.

(2) If such holders or occupiers fail to comply with such requisition, the Collector may, on application by the proprietor, cause the survey-marks to be constructed, renewed or repaired, and apportion all costs thereby incurred on the lands concerned, and charge them to the holders or occupiers thereof.

(3) The proceedings of a Collector acting under sub-section (2) shall be regulated by the provisions of sub-sections (2) and (3) of section 20 and shall be subject to appeal as provided by section 21.

(4) Costs incurred under sub-section (2) shall be recoverable from the holders or occupiers concerned in the manner provided in section 22 provided that the Collector shall have power, subject to the control of the Board of Revenue, to recover the whole or a portion of such costs from the proprietor as if it were an arrear of land revenue due on his estate.

CHAPTER IV.

THE SETTLEMENT OF BOUNDARY DISPUTES ARISING OTHERWISE THAN IN THE COURSE OF A SURVEY.

30. The District Collector may,—

Collector may direct settlement of boundary-dispute.

(*a*) of his own motion, or,

(*b*) on the application of any of the disputants,

direct that any dispute, arising otherwise than in the course of a survey, as to the boundaries of any lands shall be decided under the provisions of this Act.

31. (1) Unless the Local Government or the Board of Revenue appoints a Survey Officer under section 4 for the purpose of settling such dispute, the District Collector shall thereupon—

Officer by whom dispute may be settled.

(*a*) proceed to deal therewith himself, or,

(*b*) if empowered under sub-section (3) of section 4, appoint one of his subordinates not below the rank of Deputy Tahsildar as Survey Officer to deal therewith.

(2) Any officer to whom any dispute is referred for disposal by the Collector under sub-section (1) may either dispose

of it himself or refer it for disposal to any officer subordinate to himself not being below the rank of Deputy Tahsildar, and such subordinate officer shall be a Survey Officer for the purposes of this Act.

Inquiry regarding dispute.

32. (1) The District Collector or Survey Officer, as the case may be, shall, after giving due notice of the time and place at which his inquiry will be held, proceed to investigate the claims of the various parties and record the evidence of all persons examined by him.

Decision and demarcation in accordance therewith.

(2) At the close of the investigation, he shall record in writing his decision and the reasons upon which it is based, and, after duly informing the parties of the same, and intimating to them the date on which he intends to demarcate according to his decision, shall proceed to mark out the requisite boundaries conformably therewith.

Completion of demarcation to be intimated to parties.

(3) The date on which the demarcation is completed shall be entered on the record of the case and forthwith communicated to the parties.

Decision when final.

(4) The decision so arrived at shall be final unless reversed or modified by the decree of a Civil Court.

Appeal to Civil Court against decision.

(Act XXVIII of 1860, section 25.)

33. An appeal shall lie to the Civil Courts by regular suit against any decision passed under section 32, if preferred within six months from the date of the decision.

Proviso.

Proviso.—Provided that at any time within six months from the date on which the demarcation was completed, the Local Government may, upon just and reasonable cause being shown, extend, for such time as it may think fit, the period for preferring such appeal.

Recovery of cost of settlement.

(Act XXVIII of 1860, section 25.)

34. (1) In the case of any dispute settled under the provisions of this Chapter, the costs of settlement shall be apportioned by the District Collector or the Survey Officer, in accordance with such rules as the Local Government may prescribe, among the parties to the dispute and the proprietors, holders or occupiers of the lands the boundaries of which were disputed.

(2) Appeals against orders passed under sub-section (1) shall be governed by the provisions of section 21.

(3) Costs apportioned under this section shall be recoverable in the manner prescribed in section 22.

Maintenance of survey marks laid down to demarcate disputed boundaries.

35. The provisions of sections 17 to 21 inclusive shall be applicable for the maintenance of survey marks, laid down in the course of a demarcation conducted under sub-section (2) of section 32, wherever such marks be situated, and for the purpose of applying those provisions to the case of survey marks so laid down on land forming part of an estate, such land shall be deemed to be "Government land.".

CHAPTER V.

MISCELLANEOUS.

Survey Officer's proceedings to be governed by rule laid down in this behalf.

36. The proceedings of Survey Officers under this Act and of District Collectors acting under Chapter IV of this Act shall be governed by such rules as the Local Government may prescribe in that behalf.

(Act XXVIII of 1860, section 28, and Burma Act V of 1880, section 15.)

Power to enter upon and examine lands and to summon witnesses and require production of documents.

37. For the purposes of any survey, inquiry or other proceeding under this Act, the Survey Officer or District Collector shall have power—

(*a*) either in person or by means of his subordinates to enter upon, examine and measure any land, whether Government land or not, and

(*b*) to summon and enforce the attendance of parties and witnesses, to compel the production of documents and to examine witnesses so far as may be by the same means and in the same manner as is provided in the Code of Civil Procedure.

(Burma Act V of 1880, section 16.)

Reference to arbitration.

38. (1) The District Collector or Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary.

Procedure in such cases.

(2) The procedure laid down in Chapter XXXVII of the Code of Civil Procedure shall thereupon apply (as far as may be) to such reference.

39. In computing the periods of limitation for appeals prescribed by this Act the provisions of the Indian Limitation Act, 1877, shall apply except as otherwise herein expressly provided.

Period of limitation how computed.

40. The Local Government may empower a District Collector or Survey Officer to delegate to his subordinates such of the powers and duties conferred and imposed on him by this Act or by rules made thereunder as it may think fit.

Delegation of Powers.

41. The Local Government may, after previous publication make rules consistent with this Act— (Burma Act V of 1880, section 32.)

Local Government may make subsidiary rules.

(*a*) for the collection and record of any information in respect of any land;

(*b*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act;

(*c*) regulating the delegation to subordinate officers of the powers and duties conferred and imposed upon Survey Officers by this Act or by the rules made thereunder;

(*d*) for the publication, issue and service of all notifications and notices to be published, issued or served under this Act;

(*e*) for the regulation of all proceedings to be taken under this Act;

(*f*) generally for carrying out the purposes of this Act.

42. No suit or criminal prosecution shall lie against any officer specially empowered under this Act for anything done in good faith under this Act.

Immunity for acts done in good faith.

STATEMENT OF OBJECTS AND REASONS.

The law relating to the demarcation and survey of boundaries and to the settlement of boundary disputes is contained in Act XXVIII of 1860 and Madras Act II of 1884, the latter enactment having been framed in order to amplify the provisions of the former in regard to the maintenance of boundary marks already erected. The existing law contains no provision enabling a Boundary Settlement officer to summon and enforce the attendance of witnesses or to require the production of documents, and does not require him to record the evidence upon which his decision is based. The Act of 1860 contemplates a rough and ready settlement of boundary disputes, and with a view to expediting the conduct of survey operations leaves the Boundary Settlement officer free to arrive at his decision without any definite method of procedure.

2. It is desirable to amend this law in many essential respects. The older enactment is devoid of logical arrangement, and while the more recent law, as contained in Madras Act II of 1884, has been practically reproduced in the present Bill, the provisions of both have been consolidated and amended, and the law recast in a manner more suited to present requirements. Experience has shown that the existing provisions in regard to the settlement of boundary disputes have worked badly, and in several cases the Government has been put to considerable loss by the irresponsible and unsatisfactory nature of the original decision. The sections of the earlier Act providing for a reference to arbitration have been excised, as it has been found that these provisions are seldom or never used in practice, and the decision of a non-official jury or committee is in any case likely to lack promptitude and precision. The Bill accordingly proposes to submit the decision of all disputes to the Boundary Settlement officer in the first instance, and prescribes the method in which he shall adjudicate thereon: it however enables him with the consent of the parties to refer any dispute to arbitration, if he considers it desirable to do so, under the provisions of the Code of Civil Procedure.

3. In order to remedy the evils noted above, the Bill proposes to enact that the decision of the Boundary Settlement officer who is to be styled "Survey Officer" shall be arrived at in a judicial manner, and power is taken to make rules for the regulation of all proceedings taken by Survey Officers under the Act.

4. The decision of the Survey Officer in the case of a boundary dispute arising otherwise than in the course of a regular survey has been made final until reversed or modified by means of a regular suit in a civil court. This provision is in accordance with a ruling recently promulgated by the High Court, to the effect that the decision against which an appeal is allowed in the form of a regular suit is the original decision of the Survey Officer, and not that of his superior passed on revision.

5. Under the "Miscellaneous" chapter of the Bill, a section has been inserted securing to the Collector or Survey Officer immunity for anything done or omitted in good faith under the Act.

6. The definition of Survey Officer has been framed so as to enable the Government to select any person it may think fit for this duty. This power has been taken in view of the fact that doubts have from time to time been raised as to whether an officer, such as the manager of an estate under the Court of Wards, could legally be appointed as a Survey Officer under the Act. It is deemed advisable to leave the hands of Government entirely unfettered in this respect.

7. As already noted, the provisions relating to the maintenance of boundary marks have been taken practically as they stand from Act II of 1884; the duties of village officers in this respect are prescribed in a new section (18) which is modelled on section 27 of Act V of 1880 (the Burma Act). The sections relating to the conduct of surveys of Government lands have, however, been slightly amplified, in order to meet the difficulty brought to notice by the Superintendent of Revenue Survey, in regard to the levy of survey charges from the owners and occupiers of lands surveyed. In the survey of a village the labour of chainmen and flagmen for Field Surveyors has hitherto been supplied by the villagers, while the labour of these individuals when required for Deputy or Head Surveyors or for Sub-Assistants has recently been charged to the State. This forms a heavy additional item in the cost of survey, and in view of the fact that difficulty is now experienced in obtaining such labour free, even when required for Field Surveyors, the existing law has been amended and brought into conformity with the law relating to this subject in the Bombay Presidency (Bombay Act V of 1879, section 97).

8. The provisions contained in Act XXVIII of 1860 prescribing penalties for disobeying summons, for making false statements, for erasing, altering, removing or injuring boundary marks, and for obstructing operations undertaken under the Act, have been omitted as superfluous. In like manner, the sections of the same Act declaring Regulations IX of 1822 and VII of 1828 applicable to persons acting under that Act have been omitted. The Indian Penal Code and Code of Civil Procedure provide the necessary powers in these respects, and their provisions are simple in procedure and final in effect.

9. Advantage has at the same time been taken of the present opportunity to extend the application of the law relating to survey and to the settlement of boundary disputes to lands in the interior of permanently-settled or other estates. This power has been held to be non-existent under the present law, and it is especially desirable that the provisions of this law should be applicable to lands comprised in estates under the management of the Court of Wards. The want of this power has, in many instances, caused considerable inconvenience to the efficient administration of such estates, and while the main object of the present extension is to render it possible to include the estates of incapacitated owners, it is thought desirable also to empower Government to undertake the survey of *any* zémíndári tract on the application of the proprietor, or for other recorded reasons. Where the proprietor himself desires the survey, he is rendered liable to defray the cost, but in other cases it is provided that the cost shall be borne by Government unless otherwise laid down in any other enactment.

[G. 25]
500—3-10-96.

Legal Department.

C. No .....

H. E. THE GOVERNOR.
THE HON'BLE MR. BLISS, C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

Madras Survey Bill.

Go No. 3 Legal 26.1.97

FOR ORDERS.

Fair copies of the G.O., are submitted for Signature, the draft having been approved by His Excellency.
The original of the G.O in the Revenue Dept has been procured, & it is seen that the draft letters to India Govt & to the Secretary of State, have been settled. The however seem to require revision & are accordingly submitted for orders.
May the translators to Govt be asked to have the translation published in the next Gazette if possible.?

CRW
27/1/97

One. 4/2/97 Yes

[G. 24.]
500—28-10-96.

Legve DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. of 189 , dated , from

" " " 189 , " , "

" " " 189 , " , "

ORDER. No 3 Legve dt 26.1.97

P.S. Under Rule 32 of the Rules for the conduct of business at meetings of the Council of the Governor of Fort St George for making laws and Regulations, His Excellency the Governor directs the publication, in the Fort St George Gazette in English & in the Vernaculars, of a Bill to amend the law relating to Survey and the Settlement of boundary disputes, in this Presidency.

2. The Honble Mr J. Grose, C.S. will be requested to take charge of the Bill.

A.SH 26.1.97

Grose ?

3. The following letters will be addressed to the Govt of India & the Rt Hon. the Secretary of State for India

S/E. 26

[Here Enter drafts letters to India & to Secy of state.

29.6.2.97 with No 5 dt 3.2.97

omit See Go Nos 5 dt 3.2.97

To
The Revenue Dept
" Honble Mr Thorpe C.S.
" Supdt Sorthars with
" Translators to Govt.

27/1/97

Note The wording of Section 5 of the Indian Councils act 1892, when read with that of Sec 43 in the Indian Councils act, 1861, seems to give room for the introduction of the bill previous to the receipt of the Sanction that is required

P.T.O.

c 26/1/97 | 29/1/97 | C.1/2
R 26/1/97 | R 1/2 | R 3/2/97
C Rv 26/1/97

Y.E.

It is not necessary that previous sanction shd. be obtained before introducing the measure either under Sec 32, or ~~Sec 33~~ by publication under Sec. 33.

If Y.E. accepts the draft above the publication can be made in today's gazette.

The pp. have been transp to this dept with drafts to the Govt of India & the S. of State. These have not yet been settled, so far as I can make out, but this can be done after Y.E's orders on the above. I do not think the point at the end of the draft letter to the L.G. I. is sound. The repeal in Madras will not affect the question of the Act in Coorg, if the L.G.I. have adopted it for that province. at any rate the point seems to require further consideration. H.L. 26/1/97

Yagna.
A.94
26.1.97

Not stamped by the Secy.
L. Ell 15/2/97

Revenue (1897) Department.

LEGISLATIVE DEPARTMENT ORDER. ROUTINE SERIES No. 16 Date 18-2-1897

CURRENT No. 1359

CURRENT No. 47 Leg Dp 1397-97

From the Board of Revenue (Land Revenue)

Endorsement misc No. 919.
Order

Transferred to the Legislative Department

Lionel Davidson Esq Under Secy to Govt.

Fort St. George
15th Feb 1897

No. 543 Mis.

Dated 12th February 1897.
Received 14-2-1897
Registered 15-2-1897
Enclosures
Spare copies

Draft 15.II.97

Read 16/2/97

Rec'd copies just after the Act was left Offices 15/II/97

Rs 3 1/2 26.1.97

SUBJECT.

Informing Government that the Board has no remarks to offer on the Madras Survey Bill as revised in G.O. No. 4 of 4th January 1897.

Order R No 16 Legis dt 18.2.97
R.
Recorded
H.L. 18/2/97

CRV
17/2/97.

Draft 15/2/97

F/ IKD. K.D. Asst / Secretary.

BACK PAPERS.

G.O.	No.	Department.	Date.
G	4	Rev	4-1-97
O.M.	33	"	10-2-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Date taken out.	For what purpose.	Initials of

2,000
28-1-97.

REVENUE BOARD OFFICE. MADRAS.

Proceedings of the Board of Revenue

(Land Revenue),

Dated 12th February 1897.

No. 573 Miscellaneous.

Read G. O, Revenue Department, No. 4 dated 4th January 1897.

" — also official Memorandum from the Under Secretary to Government, Revenue Department, No. 33, dated 10th February 1897.

—

Resolution:- With reference to the G. O. and the official Memorandum read above, the Board submits that it has no remarks to offer on the Survey Bill as now revised.

/True extract/

M D Swaminadhan

12 FEB 1897

To The Secretary to Govt., R. D.

Asst Secretary.