M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 87	Press / ~~Mis.~~
Hog — 172	
Dated 11 — 1 —	18 61.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
11th January 1861.

Read the following papers:—

No. 169. Proceedings of the Board of Revenue, dated 31st October 1860, No. 5,010.

From H. NEWILL, Esq., Director of Revenue Settlement, to J. D. SIM, Esq., Secretary to the Board of Revenue, dated Nursarowpet, 6th August 1860, No. 757.

SIR,

1. I have the honor to submit the following arrangements for the sanction of Government with reference to the provisions of Act XXVIII of 1860.

2. In reference to the Memorandum accompanying my letter of 24th May last and to paragraph 1 of yours accompanying your letter of 25th idem to the Members of the Legislative Council of India, it is necessary that each of my* Deputies should be appointed "to be Sub-Collectors and Joint Magistrates for the purposes "of Act XXVIII of 1860, to take effect from 29th June "1860," the date of passing the Act.

* *Mr. R. E. Master.*
„ *R. K. Puckle.*
„ *E. C. G. Thomas.*
„ *F. W. Morris.*

3. The power vested in the Inspectors of boundaries under the Resolution of Government, dated 22nd October 1858, No. 1,428, to enforce by fine the attendance of persons for the demarcation of boundaries under Act XX of 1855, has expired with the repeal of the same. I would recommend that the Inspectors of boundaries and supervisors of Assessment should under Section 30 of Act XXVIII of 1860, be invested by the Governor in Council with the power to fine under Section 4 of the same to the extent of 5 Rupees with the alternative of imprisonment for ten days, and also that they should be authorized to exercise under the control and revision of the Deputy Directors the powers described in Sections 5, 6, and 7 and in the latter part of Section 9 so far as relates to the levy of the cost of marks, to take effect from the passing of the Act.

4. In the event of European or other Assistants being placed under my Deputies in the manner proposed in my letter of 25th June last, I would propose that they should be invested with power to fine to the extent of twenty (20) Rupees with the alternative of imprisonment to the extent of one month under Section 4 and also with the powers described in Sections 5, 6 and 7, and the latter part of Section 4 as in the previous cases.

5. I have not yet received the opinion of the Superintendent of Revenue Survey as to the powers he considers necessary to be conferred on Officers in his Department, and intend to submit a separate recommendation on this account as I am desirous not to defer the Act brought into full operation.

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From H. NEWILL, Esq, Director of Revenue Settlement, to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 24th August 1860, No. 783.

SIR,

1. In continuation of my letter of 6th instant, No. 757, I have the honor to submit the following proposition for the delegation to certain Officers of the Survey Department powers under Act XXVIII of 1860.

2. The Superintendent and Deputy Superintendents of Revenue Survey to be invested by the Governor in Council under Section 30 with such general powers of the Act as may be necessary for the conduct of the Survey, and for securing the requisite Survey and boundary marks being put up, repaired, or maintained.

3. Assistant Superintendents of Revenue Survey when in charge of a party to have the same powers as a Deputy Superintendent of Revenue Survey.

I will proceed to

4. Two or more Surveyors belonging to each Survey party, whose names are to be selected or approved by the Superintendent of Revenue Survey, and published in the local District Gazette for the purpose, to be invested with power to fine under Section 4 of the Act to the extent of Rupees 5, with the alternative of imprisonment for ten days, and also to be authorized to exercise under the control and revision of the Deputy Superintendent of Revenue Survey, the powers described in Sections 5 and 6, and the latter part of Section 9, so far as relates to the levy of the cost of marks.

5. The Superintendent of Revenue Survey is included in the above recommendation according to his Memorandum on the subject, as it may be convenient for him to be invested with the powers on his occasionally taking the field in the organization of new parties, or undertaking any of the more important processes in connecting the work with the Grand Trigonometrical Survey.

Herewith sent.

6. It is not proposed to confer any powers upon the Survey Assistants generally, many of whom are young and as yet only probationary.

NOTIFICATION.

Under Section 31 of Act XXVIII of 1860 the Honorable the Governor in Council is pleased to appoint the undermentioned gentlemen to exercise within the Districts in which they are or may be employed, any of the powers ordinarily exercised by a Sub-Collector, provided, however, that they shall only have cognizance of cases and offences connected with the duties of the Settlement and Survey Departments.

Mr. R. E. Master.
,, F. W. Morris.
,, E. C. G. Thomas.
} Deputy Directors of Revenue Settlement.

2. The Governor in Council is further pleased to vest the undermentioned gentlemen with the powers conferred in Sections 2, 4, 5, and 6, and the latter part of Section 9 of the said Act No. XXVIII of 1860.

Captain F. J. B. Priestley, Superintendent of Revenue Survey.
,, W. H. Hessey.
,, W. Crewe.
,, R. T. Pratt.
,, G. A. Searle.
Mr. F. C. Puckle.
} Deputy Superintendents of Revenue Survey.

The Board beg to make the following recommendations:—

I. That the different Deputy Directors of Revenue Settlement be nominated Sub-Collectors and Joint Magistrates of the Districts in which they may be employed, to take cognizance only of cases and offences connected with the duties of the Survey and Settlement Departments under Section 31, Act XXVIII of 1860.

Mr. R. E. Master.
,, F. W. Morris.

II. That Captain Priestley and his Deputies be vested with the powers mentioned in Sections 4, 5 and 6 of the Act.

Captain Priestley.
,, W. H. Hessey.
,, W. Crewe.
,, R. T. Pratt.
,, G. A. Searle.
Mr. F. C. Puckle.

2. The Board do not think that under Section 30, Government can delegate to Mr. Newill or Captain Priestley the general authority of investing their Subordinates with powers under the Act. The Board apprehend that his Subordinates must be specially invested by Government itself. Mr. Newill is, therefore, requested to submit the names of the Subordinates on whom he considers it necessary to confer powers with a Memorandum in each case of the extent of the powers required.

3. A draft notification is herewith submitted in accordance with the recommendations above stated.

4. The Board are of opinion that annual returns should be made to Government by the Director General of the extent to which the Settlement and Survey Officers have exercised the powers, &c., mentioned in Sections 4, 6, 9, and 29.

(A true Extract.)

(Signed) J. D. SIM, *Secretary.*

No. 170. Memorandum from H. NEWILL, Esq., Director of Revenue Settlement, on Proceedings of the Board of Revenue, dated 31st October 1860, No. 5,010, to J. D. BOURDILLON, Esq., Secretary to Government Revenue Department, Fort Saint George, dated Madras, 3rd November 1860, No. 1,149.

SIR,

1. The Director of Revenue Settlement begs leave to point out the embarrassment which may arise from deferring orders as to the powers to be exercised by the Subordinates of the Settlement Department as explained in his letter to Government, dated 6th August 1860, No. 757, the Supervisors and Inspectors, who were invested by Government with powers under the former Act XX of 1855 repealed on 29th June by Act XXVIII of 1860, since that date are no longer legally empowered to exercise the same though they have done so in anticipation of immediate sanction to have retrospective effect.

2. On paragraph 2 it may be remarked that the Act makes it lawful for the Government to "invest any of the Subordinates" of the Establishments or Departments, with powers; but it seems to rest with the Government to say how this investiture is to be made whether by delegation to particular individuals or to the particular grades of ranks.

3. The latter has been the case hitherto in the Settlement Department. It has worked well; and it may be reasonably concluded that no person will be selected for the Office of Supervisor or Inspector who will be unfit to be entrusted with the proposed powers.

4. Tahsíldárs are not individually empowered by Government to exercise their Magisterial or Police powers, but assume them by virtue of their appointment, and it would save repeated references to Government for individual appointments to the exercise of the powers, if they were attached as proposed and has hitherto been the case, to the Office of Supervisor and Inspector.

5. The delay also of reference to Government for each change of appointment would also necessitate the suspension of the exercise of the powers till formal sanction is obtained, a course which might involve serious impediment to the work.

6. The case of the Surveyors in the Survey Department is different, as Captain Priestley proposes to invest only two of them with powers, which, therefore, cannot conveniently be attached to the grade of rank. The only way apparently of meeting this is that proposed in paragraph 4 of my letter,* an alternative would be to invest the Assistant Superintendents instead of the Surveyors with limited powers, but Captain Priestley has not advocated this.

* *Dated 24th August* 1860, *No.* 783.

7. On paragraph 4 it is to be remarked that the exercise of the powers under the Sections of the Act there quoted come in some cases under the scrutiny of the Judicial tribunals, and that the same is not confined to Officers of this Department, but extends to Magistrates generally.

8. It is further observed that the name of Mr. E. C. G. Thomas, Deputy Director has been omitted by the Board in the 1st paragraph of their Proceedings.

No. 171. Proceedings of the Board of Revenue, dated 16th November 1860, No. 5,342.

Read Memorandum to Government of Director Revenue Settlement, dated 3rd November 1860, No. 1,149.

(In Cons. 14th November 1860, No. 5,880.)

1. The only parts of the above Memorandum on which the Board think it necessary to offer any remarks are paragraphs 2, 4, 7 and 8.

2. The Board have again looked over the boundary Act (XXVIII of 1860) and they still think that Section 30 clearly intends that the powers there referred to shall be delegated to

Circulated with Board's Proceedings, dated 25th October 1860.

particular individuals and not to general classes or grades of Subordinates. In support of this view the Board would refer to the Order dated 19th October 1860, No. 1,913, in which Government ruled that the Deputy Collectors to be invested with the powers conferred by Section 23 of Act XXXII of 1860 should be specially nominated by them the wording of the Section being "the Collector may with the sanction "of the Local Government delegate * * * to any Deputy Collector." The Section (30) of the boundary Act is in similar terms. "It shall be lawful for the Governor in Council to invest any "of the Subordinates of the ordinary Revenue Establishments or of the Settlement or Survey "Departments with any portion of the powers conferred under this Act." With regard to paragraph 4 the Board would remark that competency to exercise the Judicial powers of his position is one of the qualifications kept in view when a person is selected to be a Tahsíldár. The Survey and Settlement Officers on the other hand are not primarily selected because they are conversant with law but because they are acquainted with Survey and Settlement questions. Further they do not undergo the preliminary training which is gone through by almost every Tahsíldár, before he becomes the chief Officer of a Táluq. Moreover while the Tahsíldár occupies an independent and disinterested position in his judicial functions the Survey Officer is at once complainant and Judge and lastly the powers conferred by Sections 4 to 6 of the Act are large, may be abused without much danger of discovery and effect all classes of the community. The Board also had all these circumstances in view when they urged the delegation of the powers in question to particular individuals only.

3. This course may occasionally be productive of slight inconvenience but the Board do not by any means share Mr. Newill's apprehensions as to its extent or seriousness in this respect.

4. As regards paragraph 7 the Board remark that regular returns of cases under Regulation IX of 1822 are now laid before Government although they come under the cognizance of other tribunals. The powers given by this Act are large and somewhat indefinite and are to be exercised by a less trained Agency. The Board, therefore, think it particularly desirable that returns of the kind they have suggested should be periodically submitted. At present Government have no means of knowing whether these powers are fully exercised or only with forbearance and discretion.

5. The Board omitted Mr. E. C. Thomas' name from their list in consequence of his absence on Medical Certificate.

(Signed.) W. HUDLESTON, *Acting Secretary.*

No. 172. ORDER THEREON, 11th January 1861, No. 87.

1. The Governor in Council is pleased under Section 31 of Act XXVIII of 1860, to appoint the Deputy Directors of Revenue Settlement whose names are entered in the margin to be Sub-Collectors of the Districts in which they are respectively employed, their jurisdiction extending only to cases connected with the Survey and Settlement.

Mr. R. E. Master.
,, *F. W. Morris.*
,, *E. C. G. Thomas.*

2. He considers it inexpedient that they should be vested with Magisterial powers under the Act (Sections 9 and 29).

3. The first and second Assistant Deputy Directors will be vested (when their names are reported) under Section 4 with power of fine up to 20 Rupees and imprisonment t the extent of one month, and also with powers under Sections 5, 6, 7 and the latter part of Section 9.

4. The Probationary Assistants will not need any of the powers mentioned in the Act, as they are merely learning their future duties.

5. The Governor in Council considers it inexpedient to vest Inspectors of Boundaries and Supervisors of Assessment with the powers proposed by Mr. Newill. Where such powers are necessary they can be exercised by the Deputies and Assistants.

6. The Superintendents and Deputy Superintendents of Survey will be invested with general powers under Sections 2, 4, 6 and the latter part of Section 9.

7. Assistants in charge of parties will be treated similarly with Assistant Directors of Settlement on their names being reported.

8. The Governor in Council deems it inexpedient to vest Surveyors with powers to fine and imprison.

9. The Governor in Council concurs in the Board's interpretation of Section 30. The powers given by the Act are large and the security of the public must be regarded as well as the convenience of the Department. All powers must therefore be specially granted by Government, and gazetted for the information of the public, and application must from time to time be made for them as occasion arises.

10. The Governor in Council concurs with the Board as to the advisability of returns being submitted to Government of the cases in which the powers granted to Settlement and Survey Officers are exercised. The returns should be half-yearly, as in cases under Regulation IX of 1822.

11. There are two points of consequence needing special notice :—

I. Section 2 of the Act empowers "any Revenue Settlement Officer" to do certain acts. This language is much too broad, especially when among the acts which may be done, is the punishing by fine and imprisonment any person who shall "wilfully refuse or neglect, when called upon, to give any information in his power with respect to a boundary under enquiry" an offence more easily charged than proved. The Governor in Council, therefore, rules that the passage in question applies only to Officers *specially* authorized by Government to exercise the powers granted in the Act.

II. Section 26 makes no provision for appeals from the proceedings of the Survey Officers. The Superintendent has powers of *revision* under that Section, appeals must of necessity be taken up by the Director of Revenue Settlement.

(Signed) J. D. SIM,
Acting Secretary to Government.

No 87

Proceedings of the Madras Government under date the 11th January 1861

Pro. of the Board of Revenue from 2d of Rev Settlement

Pro. Board of Revenue

Read the following Papers

(Rec'd enter 31 Octr /60 to 6016)

(Rec'd enter 2 Novr /60 " 6119)

(Rec'd enter 10 " " " 5342)

2509

2630

Mr A.C. Master
" F.W. Morris
" C.G.G. Thomas

Read

The Sub Collector under Sect XXXI of Act XXVIII of 1860 & addressed the Dep.t Director of Rev.e Settlement whose names are entered in the Margin & the Collectors of the districts in which they are respectively employed - Their jurisdiction extends only to cases connected with the Survey & Settlement.

2 He considers it unnecessary that

they should be
vested in the Mu-
nicipal powers
under the Act-
(Sects IX & XXIX).

The 1st and
2d Assistant
Clerk & Directors
will be elected
(when their names
are to be printed) with
from under Sect
II in the manner &
time up & 20 &
in print on March
& the Extent of
the Month - and
also in the powers
under Sect V. VI
VII. and the latter
part of Sect IX.

The Penalties re-
lative to Acts which
not specifically
of the powers men-
tioned in the Act.
as they are merely
bearing their present
Rules.

5 The first Condi-
tion or Article
Expedient to
elect Inspectors
of Boundaries
& Inspectors of
Nuisances in the
powers Inspector
by Nuisance - Where
such powers are
necessary they
can be exercised
by two Deputies

and R&S in Force.

The Sup.t & Asst Supt.s & Survey will be inserted with present powers under Sect ~~XXX~~ II. IV. ~~VIII~~ & the latter part of Sect IX.

7 Asst.s in charge of parties will be instructed to commence Settlement Surveys in the Dist. Div.s of Settlement ~~Tracts~~ A - on their manner being to part.

8 The first duties, each & every Assistant & each Surveyor with powers & fine and imprison - ~~they~~

9 The first concurrence in the B.d.s interference Extension of Sect ~~XXX~~ IX.

7 The powers given by the Act are large & the security of the parties must be regarded as well as the convenience of the Dept.. All powers must therefore be specially granted by Dept. and regulated for the information of the parties and application made from time to time be made for them as occasion arises.

10 The first concurrence with the W.d as to the advisability of ~~annual~~ returns being submitted to Dept. ~~through them~~ of the cases in which the powers granted & Settlement & Survey Notices are

?

[illegible] exercised - The
Returns should
be half yearly, as
in Cases under
Act IX. of 1822 -

There are two points
of importance
requiring special
notice -

I. Sect II of the
Act empowers "any
Rent Settlement
Officer" to do certain
acts - This lan-
guage is much
too broad, especially
when among the
acts which may
be done at pleasure
by fine & imprison-
ment among
persons who shall
~~commit the~~
"wilfully refuse or
neglect, when called
upon by Rent
information in his
power with respect
to a boundary under
Enquiry" are offences
more exactly charged
than present - The
principle therefore rules
that the Statute
applies only to those
Specially are limited
by first to exercise
the powers granted
in the Act.

II. Sect XXVII makes
no provision for
appeals from the pro-
ceedings of the Survey
Officer - The Supt.
has power of revision
under that Section -
appeals must of
necessity be taken
up by the Dr. of Rent

Settlement

S. R. S

13 Copies to the
Bd of Rev
Cir No 17
12 — Dr. of Rev Settlers
1 — Supr Rev Surveyor

Revenue 1861 Departt.

Proc: of Govt for January.

No 87.

Proc: of the Madras Govt.

Dy 11th January 1861

Encloses Rep. of Sir Chas. Trevelyan Dated 30th Dec. 1860

Encl: 2972.

Forms Distr of Rem Settlemts 23/24

Index Ct Nos 240 (Apply to Encl 30 of the Index in Proc: 18th January No 678.

Proc: Dto 8 January 61 Ct Nos

Dto 12 July 61 Ct Nos 2085

Relative to the powers to be exercised by the Subordinates of the Settlement Depts

No 169 at 172