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TO

*Provide for the Conservancy of Rivers in
the Madras Presidency.*

(As amended by the Select Committee).

WHEREAS it is expedient to make provi-
sion for the conser-
vancy of rivers in
the Presidency of Madras; It is hereby
enacted as follows:—

1. This Act may be cited as "The
Madras Rivers Conservancy Act, 1882."

2. The Governor in Council may from
time to time declare,
Notification as to the con-
servancy of rivers as by notification in
provided by this Act. the *Fort St. George*
Gazette and any District Gazette, that the
conservancy of any specified river requires
to be provided for in manner prescribed
by this Act.

3. The Governor in Council may at
the same time direct
that a survey be
made of such river
for the purpose of determining the limits
within which this Act is to be applied,
and for such purpose may direct that
proper charts and registers shall be
prepared, setting forth the channel and all
boundaries and land-marks and all other
matters necessary for the purpose of ascer-
taining such limits.

4. The charts so prepared shall be
submitted for the
approval of the
Governor in Coun-
cil; and when they are approved, the
Governor in Council may, by notification
as aforesaid, declare that the provisions of
this Act shall apply to the said river
within the boundaries and limits prescribed
in the said charts.

The land within the limits so defined
and approved by the
Governor in Council
shall be deemed to be the river-bed, and
the limits shall, when necessary, be defin-
ed by boundary stones or other suitable
marks to be set up.

5. Copies of such charts shall be deposited in the office of the Collector of the District in which any part of the river so defined is situated, and shall be open to the inspection of the public at all reasonable times.

6. The Governor in Council may from time to time, by like notification, alter, extend, or restrict the limits of any such river-bed, and the altered limits shall be marked in the charts and defined in manner prescribed in section 4.

7. All persons authorized to make a survey under section 3, shall have the like powers to enter upon land and to do all acts necessary for the survey as are given in sections 4 and 5 of "The Land Acquisition Act, 1870," and subject to the provisos therein contained.

8. For the purpose of carrying out this Act in respect of any river, the Governor in Council may appoint as many officers as may be deemed necessary, to be styled "Conservators of Rivers" and may from time to time define, by order to be notified in the Gazettes of the districts in which any part of such river is situated, the limits of their several jurisdictions.

Such officers shall be liable to removal by order of the Governor in Council.

9. It shall be the duty of the Surveyor appointed to make a survey of any river to note upon the charts thereof all cultivation existing or ordinarily carried on at the time of the survey within the surveyed limits of the said river, and all groynes, plantations, constructions or obstructions or works of every kind which may affect the course of the stream of the said river, and to prepare a register, to be styled the Survey Register, containing the above particulars. The Surveyor shall also mark upon the charts the ordinary channel as it exists at the date of the survey so far as it can be ascertained.

10. When the Survey Register affecting any portion of a river is completed, it shall be handed over with the charts to

the Conservator of Rivers within whose jurisdiction the said portion is situated, and shall form part of the records of his office.

The Conservator shall thereupon furnish to the Collectors of the districts, in which any part of such river is situated, certified copies of the Survey Register and Charts.

11. After such survey shall have been completed and approved and the notifications as provided by this Act made by the Governor in Council, no new cultivation of any kind shall be attempted or carried on by any person within the limits of such river-bed without the previous permission of the Conservator of Rivers in writing.

Whoever carries on or attempts to carry on any new cultivation in contravention of this section, and of a notice from the Conservator to desist from such cultivation, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 500, or, in default of payment, to simple or rigorous imprisonment, not exceeding three months for every such offence.

12. The Conservator of Rivers may at any time, by an order in writing, require any owner or occupier of land usually cultivated, or cultivated with the permission of the Conservator of Rivers under section 11 within such river-bed to abstain from cultivating such land; and it shall be the duty of such owner or occupier to act in obedience to such order.

Whoever fails to obey any order made by the Conservator of Rivers under this section, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 500, or in default of payment, to simple or rigorous imprisonment not exceeding three months for every such offence.

13. Upon the survey being completed and the notification made as provided by this Act, no new groynes, buildings or constructions of any kind, or plantations, grasses or trees shall be made, formed or extended or grown within such river-bed without the previous permission of the Conservator of Rivers in writing.

Whoever does any act prohibited by this section shall be liable on conviction before a Magistrate to a fine not exceeding Rs. 1,000, or in default of payment, to simple or rigorous imprisonment for a period not exceeding six months for every such offence.

14. The Conservator of Rivers may, by an order in writing, require the owner or occupier of any land within any such river-bed to remove any groynes, buildings, constructions, plantations, grasses, trees or other thing which the said Conservator may deem to be an obstruction to the course of the stream of such river; and it shall be the duty of such owner or occupier to act in obedience to such order.

Whoever fails to comply with any order issued by the Conservator of Rivers under this section, shall be liable on conviction before a Magistrate to a fine not exceeding Rupees 1,000, or in default of payment to simple or rigorous imprisonment for a period not exceeding six months for every such offence.

15. The writings prescribed in sections 11 and 13 shall define and describe the kind and extent of the cultivation and the nature of the works or things authorized to be made or done, and it shall be the duty of the Conservator of Rivers from time to time to record or cause to be recorded the particulars contained in such writings in the Survey Register, and in the certified copies thereof in the possession of the Collector.

The Conservator of Rivers shall also furnish the Collector of the District with copies of all orders made by him under sections 12 and 14 of this Act.

16. Whenever under sections 12 and 14 of this Act the Conservator of Rivers directs the owner or occupier of any land to abstain from cultivating any land or to remove any groynes, buildings, constructions, plantations, grasses, trees or other obstructions or works existing at the time of the survey or subsequently authorized by the Conservator of Rivers, such owner or occupier shall be entitled to compensation for any damage sustained by him by reason of such direction.

17. The Conservator of Rivers may do any acts in connection with any river to which this Act has been applied 5

which may appear to him to be necessary to prevent erosion or breach of embankments, encroachments by the stream, or danger to life or property, and for such purpose he may alter the course of any such stream. 10

Provided that compensation shall be made to any person who shall sustain any damage by reason of any act authorized by this section. 15

18. All or any of the powers conferred upon the Conservator of Rivers by the preceding section may be exercised by such of his subordinates as may be nominated by him, provided such nomination be notified in the Gazettes of the districts in which any part of the river is situated. 5

19. Any person who obstructs the Conservator of Rivers in doing any act authorized by this Act shall be deemed to have committed the offence described in Section 186 of the Indian Penal Code. 5

20. All disputed claims to compensation for acts done or losses incurred under this Act shall be heard and determined by a Collector or by a competent Civil Court under the provisions of "The Land Acquisition Act, 1870." 5

21. Conservators of Rivers under this Act shall be deemed and taken to be officers in charge of rivers within the meaning of Act I of 1858 (*An Act to make lawful compulsory labour for the prevention of mischief by inundation, &c.*). 5

22. Whenever the Conservator of Rivers in accordance with the provisions of this Act requires the owner or occupier of any land to do any act or to remove any obstruction, and such owner or occupier fails to do what he is required to do within a reasonable specified time, such Conser-

10 vator may cause such act to be done or
obstruction to be removed and charge the
expense of such act or removal to such
owner or occupier.

15 The expenses so incurred by the Conserva-
tor of Rivers shall be
Recovery of expenses of such removal. certified by him to
the Collector of the
District, who shall recover the same from
such owner or occupier in the manner
20 provided by law for the recovery of arrears
of land revenue.

23. The Governor in Council may from
Power to make bye-laws. time to time make
and when made alter,
add to, and repeal bye-laws not inconsis-
5 ent with this Act for the prevention of
any injury to works constructed upon any
river to which this Act may be applied,
and for the prevention of acts or omissions
likely to affect injuriously the conservancy
10 of such river; provided that no penalty
for any one infringement of any bye-law
shall exceed Rupees 50.

All bye-laws made under this section
shall be inserted in three successive issues
15 of the *Fort St. George Gazette* and of the
Gazettes of the districts in which any
river-bed is situated to which such bye-
laws relate and shall thereupon have the
force of law.

24. All Conservators of Rivers, Survey-
Conservators, &c., to be or, and subordinates
public servants. duly authorized
5 of this Act, shall be deemed to be public
servants within the meaning of the Indian
Penal Code.

25. All fines imposed by this Act may
Fines to be recovered under be recovered in the
the Code of Criminal manner provided in
Procedure. the Code of Criminal
5 Procedure.

26. No suit shall be brought against
any Conservator, Surveyor, or subordinate,
or any person acting under his direction,
5 Period of limitation for for anything done
suits against Conser- or intended to be
vators, &c. done under this Act
until after the expiration of one month
next after notice in writing shall have
been delivered or left at the office of such
10 Conservator, Surveyor, subordinate or
person, or at his place of abode, explicitly
stating the cause of action and the name
and place of abode of the intended plaintiff
and of his agent in the cause, if any, and
15 upon the trial of any such suit the plaintiff

shall not be permitted to go into evidence of
No evidence of cause of any cause of action
action except of that except such as is
stated in notice. stated in the notice

so delivered, and, unless such notice be 20
proved, the Court shall find for the defend-
ant: and every such suit shall be commenced
within three months next after the accrual
of the cause of action.

If any person to whom any such notice 25
of suit is given shall, before suit brought,
tender sufficient amends to the plaintiff,
such plaintiff shall not be entitled to
recover in any such suit when brought.

It shall be lawful for the defendant, 30
before issue joined,
Payment into Court. by leave of the Court
in which any such suit is pending, to pay
into Court such sum of money as he shall
think fit, and thereupon such proceedings 35
shall be had as in other cases where defend-
ants are allowed to pay money into
Court.

M. 12/10/82

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

A

BILL

TO

Provide for the Conservancy of Rivers in the
Madras Presidency.

(As amended by the Select Committee).

To

THE HON'BLE THE COUNCIL OF THE GOVERNOR OF
FORT ST. GEORGE FOR MAKING LAWS AND REGULATIONS.

We, the Select Committee, to which the Bill "to provide for the Conservancy of Rivers in the Madras Presidency" was referred, have considered the Bill and have the honor to present the following report.

2. We have made no modification in the principle of the measure; the alterations are chiefly verbal amendments, requiring little or no explanation.

3. In section 3, and throughout, the word "maps" is omitted as being virtually redundant.

4. Section 11 prohibits new cultivation within the bed of a notified river without the previous permission of the Conservator, and we have modified the penal clause so as to make a notice from the Conservator, to desist from such cultivation, requisite, before liability to punishment is incurred.

5. We have transposed sections 14 and 15; and to section 15 (old section 14) we have added a clause providing for the Collector being furnished with copies of orders made by the Conservator under section 12, prohibiting future cultivation, and section 14 (old section 15), directing removal of groynes or other obstructions; it seems proper that that officer should be kept informed of such orders.

6. In sections 16 and 17 we have allowed compensation for "damage," instead of for "loss," sustained in consequence of the removal of groynes and other constructions from, or of the discontinuance of, cultivation in a river bed, under the orders of the Conservator; and we have excised, as unnecessary, the words requiring the owner or occupier to show a good title. This alteration will make it clearer that an aggrieved person is entitled to compensation only for legal damage and only so far as his interest is affected.

7. It was suggested to add a clause to section 17, declaring the liability of the Conservator for all loss or injury caused to individuals in consequence of his neglect or omission to take the necessary steps to render the embankments of rivers under his charge secure, or to do what was requisite to prevent the stream encroaching upon and damaging private property. It was finally agreed to leave the section as it stands, and reserve the question for the consideration of the Council.

8. We have amended section 23 so as to provide for due publication of all bye-laws made under the Act.

9. We recommend that the Bill, as amended by us, be passed by the Council.

R. DAVIDSON.
D. F. CARMICHAEL.
P. O'SULLIVAN.
H. E. SULLIVAN.
HUMAYUN JAH.

27th March 1882.

Michael
2112/2

No. 23 Routine



Legislative DEPARTMENT.

Official Memorandum.

Dated the 31st/₇ March 1882

The undersigned is directed to forward a copy of the Bill "to provide for the conservancy of Rivers in the Madras Presidency," as amended by the Select Committee, together with their report for information.

(By order.)

J. B. F. J. J. J.
By Appt^d Secretary.

To,
Colonel R. H. Lankey, C.B. R.E.
Secretary to Govt. W.D.
Madras.

Legislative (1882) Dept

To P. N. C. No 2110

Col. R. H. Sawyer C.B., R.E.

Secy. to Govt. P. W. D.

2-2

Dated 31st March 1882

Recd. 1st April

No 23 Routine

Send to J.

ASR

3.4.82

Forwarding a copy of
the Rivers Conservancy
Bill as amended by the
Select Committee together
with their Report for
information

B. No 919 May 13 April 1882

Received

2/4/82 Att. 9

Subd. in Receipt Reg.

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9-11.38 III ✓

Public Works Department

Cr. 6 919 W mis

Dated 13. 4. 1882