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Govt. of (1883) Madras

PUBLIC WORKS.

Dated Urgent 6/8/5/83

Reca. Encl.

G. O., 4th May 1883, No.

4-May 1310 W

Nos.

Irrigation Act

Their draft ——— for the Presy: referred to the Advocate General

Ack 1310 W of 4-5/83

110
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80

Entered in Receipt Register

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

21st May 1881, No. 326 I.

Irrigation.

Read the following paper:—

No. 50. From C. L. TUPPER, Esq., Officiating Under Secretary to the Government of India, (Home, Revenue and Agricultural Department—Revenue), to the Secretary to the Government of Madras, dated Simla, the 27th April 1881, No. 245.

I AM directed to forward the accompanying extracts from the Report* of the Indian Famine Commission on the question of an Irrigation Law for the Madras Presidency, and to request that after duly considering the remarks of the Commission in connection with the Report† of the Madras, Orissa and Midnapur Irrigation Committee, the Government of Madras will favor the Governor-General in Council with a full expression of its opinion upon the subject.

* Part II, Chapter V, Section II, paragraphs 58 and 60 to 66.

† *Vide* letter from Government of India, Public Works Department, No. 92 C, (Famine), dated the 18th March 1879.

Extract from Report of the Indian Famine Commission—(Part II).

CHAPTER V.

Section II.—Irrigation Works.

Para. 58. The question of reviving the custom of statute labor, and imposing on the ryots the obligation of doing the ordinary work necessary to maintain their tanks and channels in proper order, has been carefully examined, and its desirability is enforced by a large number of local authorities, and we feel no hesitation in recommending that this reform be at once carried out. In the actual circumstances such a revival would be less burthensome to the people and more effectual than any other system under which the necessary work could be done. If in any case the change were found to throw on the cultivators a burden which was inconsistent with ancient custom, or with the demands which can be equitably made on them under existing assessments, a suitable compensation must be granted, but we apprehend that this would rarely be the case.

* * * *

60. There is a general agreement that great inconvenience is occasioned by the absence of any Irrigation Law for Madras. Act VII of 1865 empowers the Government to levy a water-rate, in addition to the land-revenue, wherever water is supplied for irrigation. But, with this exception, no special provision is made by law for the grant of sufficient powers to carry out the various administrative arrangements which the introduction of canal irrigation necessarily involves; and there are, in our opinion, several particulars as to which the absence of express enactment has produced evils of a very serious nature.

61. In the first place, there are at present no means of enforcing on Zemindars the obligation of maintaining their tanks and other irrigation works in proper efficiency, or even of contributing their share of expenses incurred by Government in the improvement of irrigation works by which their estates are benefited. As an instance of this, the case of the Jaghirdar of Arni, the holder of a large Zemindari Estate, may be mentioned, part of whose land has received considerable benefit from a series of tanks constructed in North Arcot, but who declines, and cannot, as the law stands, be compelled to contribute to the outlay involved.

62. The obligation on the part of the Zemindars to keep their tanks in repair is strengthened by the consideration that the land forming the bed of the tank was excluded from consideration when the permanent assessment was fixed. The object of this exemption has been, unfortunately, lost sight of, and the Zemindar often puts the tank bed to what purposes he pleases, and ignores his obligation to maintain it as a means of irrigation. Every Zemindar should, we think, be bound to keep every tank on his estate in complete repair, under rules similar to those that are made applicable to tanks on Government lands. If he fails to do so, the Government should do it, the outlay thus incurred being made a first charge on the land along with the revenue.

63. An abuse, which requires correction, has arisen by which the Zemindars benefit at the cost of the State. Lands which, on the introduction of canal irrigation, were in the enjoyment of any means of irrigation, however inferior and precarious, are now supplied with canal water without any additional charge. The consequence is that a Zemindar gets a continuous and unlimited supply for the whole of the area which, under the most favorable circumstances, he had ever brought under irrigation. There seems no reason why this benefit should be gratuitously conferred. In those cases in which the supply is enlarged or otherwise improved, a corresponding payment should be enforced, and any difficulty in doing this should be removed at once by proper legislation.

64. Where persons hold land rent free on condition of keeping certain tanks in good repair, the duty is seldom properly performed, and the tanks accordingly are a constant menace to the tanks below, and often, by breaching, cause the Government tanks to breach also. Power should be taken either to carry out the necessary repairs, charging the responsible person with the cost, or to buy up his right at a fair price.

65. There is great difficulty in dealing, under the general criminal law, with various offences which interfere materially with the proper management of a canal. Stopping up other people's channels, improperly opening one's own, tampering with banks, &c., are acts of this nature. The Irrigation Acts of other provinces provide for such cases, and a corresponding enactment is very necessary to secure effective canal administration in Madras.

66. In short we consider that in the Madras Presidency the subject of irrigation requires a more comprehensive and systematic treatment than it has ever yet experienced.

No. 51. ORDER THEREON, 21st May 1881, No. 326 I.

COMMUNICATED to the Chief Engineer, Public Works Department, and to the Chief Engineer for Irrigation, who are requested to favor the Government with an expression of their views on the subject of an Irrigation Law.

2. Their replies will subsequently be communicated to the Board of Revenue for such remarks and proposals as they may desire to offer prior to final consideration of the subject by Government.

(True Extract.)

(Signed) J. O. HASTED, Lieut.-Colonel, R.E.,
Ag. Joint Secy. to Govt., P.W.D.,
Irrigation Branch.

To the Chief Engineer, Public Works Department.
" Chief Engineer for Irrigation.
" Revenue Department.
" Board of Revenue.
" Legislative Department.

Exd. E. C. Shunker.

Spare Copies

IRRIGATION.

Govt. of {1881} Madras.

PUBLIC WORKS.

To

THE CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT,

&c., &c., &c.

Dated May, 21*st.*

Issued

Recd. *Encl.*

G. O., 21st May 1881, *No.* 326 I.

MAY.

Nos. 50-51.

Irrigation Law for the Madras Presidency. —The Chief Engineer, Public Works Department, and the Chief Engineer for Irrigation requested to favor the Government with an expression of their opinion on the subject of an —.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT

26th September 1881, No. 2,358 W.

General.
Establishment.

Read again :—

No. 158. Proceedings of the Madras Government in the Public Works Department, dated 21st May 1881, No. 326 I.

No. 159. ORDER THEREON, 26th September 1881, No. 2,358 W.

ON reconsidering the subject of the above paper, the Honorable the Governor in Council is of opinion that the best and most practical way of meeting the demand of the Government of India will be by framing drafts of Acts for regulating Kudimaramut, and prescribing the law and obligations relating to Irrigation, to suit the requirements of the Madras Presidency.

2. The following gentlemen will therefore be requested to form themselves into a Committee to consider the subject, and to draw up the drafts proposed after review of that relating to Kudimaramut, which will be found in the Report of the Irrigation Famine Committee, dated 27th December 1878, and of the various Canal Acts in operation in other Provinces :—

Members of Committee.

C. G. Master, Esq.
Colonel R. H. Sankey, C.B., R.E.
E. Forster Webster, Esq.
Colonel J. Mullins, R.E.

3. The drafts will, on receipt by Government, be forwarded to the Board of Revenue for their remarks before being dealt with by Government.

(True Extract.)

(Signed) R. H. SANKEY, Colonel, R.E.,
Secretary to Govt., P.W.D.

To C. G. Master, Esq.
„ Colonel R. H. Sankey, C.B., R.E.
„ E. Forster Webster, Esq.
„ Colonel J. Mullins, R.E.
To the Board of Revenue.
„ Revenue Department.
„ Legislative „

Exd. S. T. Austin.

Spare Copies

GENERAL.
ESTABLISHMENT.

Govt. of {1881} Madras.

PUBLIC WORKS.

To

C. G. MASTER, Esq.,

&c., &c., &c.

Dated September, 26th.

Issued

Recd. *Encl.*

G. O., 26th September 1881, *No.* 2,358 W.

SEPTEMBER.

Nos. 158-159.

Acts for regulating Kudimaramut and prescribing the law and obligations relating to Irrigation.—A Committee appointed to draw up and submit drafts of — to suit the requirements of the Madras Presidency.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Buildings and Roads.
Civil Works.

Nos. 176-177.

Proceedings of the Madras Government, Public Works Department, dated 28th August 1882, No. 2209 W :—

The Committee appointed in G.O., No. 2358 W., dated 26th September 1881 having now submitted the draft of an Act to provide for Irrigation and Navigation in the Madras Presidency, the draft will in the first instance be forwarded to the Board of Revenue for their remarks.

2. The present draft has been framed in accordance with the Bombay Act, which was based on that in force in the North-West Provinces.

3. The attention of the Board is particularly drawn to

(1) Part V, Sections 36 to 40—and their opinion is desired as to whether the adjudications should be made by the District Judge instead of the Collector as provided for.

(2) Part VIII.—The Board are requested to state whether they consider this part necessary, or whether Act I of 1858 makes all requisite provision.

4. The draft should be returned with remark as early as possible.

(True Extract.)

(Signed) R. H. SANKEY, Colonel, R.E.,
Secretary to Govt., P.W.D.

To the Board of Revenue, with Draft.
„ Chief Engineer for Irrigation.
„ Revenue Department.

Exd. S. T. Austin.
Spare Copies

BUILDINGS AND ROADS.
CIVIL WORKS.

Govt. of {1882} Madras.

PUBLIC WORKS.

Dated August, 28th.

Recd. *Encl.*

G.O., 28th Aug. 1882, No. 2209 W.

AUGUST.

Nos. 176-177.

Act.

Draft of an — to provide for Irrigation and Navigation in the Madras Presidency forwarded to the Board of Revenue for remarks.

PROCEEDINGS OF THE BOARD OF REVENUE.

READ—again the following Proceedings of the Board of Revenue, dated 2nd September 1882, No. 5068 :—

ABSTRACT.—Returning for reference the draft Act to provide for Irrigation and Navigation.

READ—the following G.O., dated 28th August 1882, No. 2209-W, Public Works :—

The Committee appointed in G.O., No. 2358-W, dated 26th September 1881, having now submitted the draft of an Act to provide for Irrigation and Navigation in the Madras Presidency, the draft will in the first instance be forwarded to the Board of Revenue for their remarks.

2. The present draft has been framed in accordance with the Bombay Act, which was based on that in force in the North-West Provinces.

3. The attention of the Board is particularly drawn to—

(1). Part V, Sections 36 to 40, and their opinion is desired as to whether the adjudications should be made by the District Judge instead of the Collector as provided for.

(2). Part VIII. The Board are requested to state whether they consider this part necessary, or whether Act I of 1858 makes all requisite provision.

4. The draft should be returned with remarks as early as possible.

(True Extract.)

(Signed) ROSS THOMPSON, Lt.-Colonel, R.E.,
Ag. Under Secretary to Govt., P.W.D.

To the Board of Revenue, with draft.

ENCLOSURE No. 1.—Draft Act.

READ—the following G.O., dated 14th September 1882, No. 2384-W, Public Works:—

ABSTRACT.—Referring to the Board of Revenue, for remarks, draft of rules framed under the Madras Irrigation Act of 1882.

ENCLOSURE No. 1.—Draft Rules.

READ—the following letter from the Secretary to Government, Public Works Department, to the Secretary to the Board of Revenue, dated 16th September 1882, No. 1673-C :—

ABSTRACT.—Returning the draft Act to provide for Irrigation and Navigation in the Madras Presidency.

RESOLUTION—dated 26th October 1882, No. 2590.

In forwarding for the Board's remarks the draft of "An Act to provide for Irrigation and Navigation in the Madras Presidency," the Government invite special attention to (*a*) Part V, Sections 36 to 40, inquiring whether, in the Board's opinion, the adjudication of compensation should be made by the District Judge instead of the Collector, and (*b*) whether Part VIII is necessary, or whether Madras Act I of 1858 contains all requisite provision for obtaining labor on emergency. In reply, the Board beg leave to offer the following observations and suggestions :—

2. *Part II, Sections* 4, 5, 6 *and* 7.—The Board think that these sections may with advantage be modified and considerably shortened by the adoption of the following suggestions :—

Section 4.—To the first clause of this section they would add "or that any inquiry as to the propriety or desirability of such application or use should be made." After the word "used" in the fourth line of the second clause, they would insert "in such villages to be specified by name, taluk and district, as are likely to be affected by the application or use of the said water," and would add as a third clause to the section :—"This notification shall be deemed to be a notification under Section 4, Act X of 1870 (Land Acquisition), so far as regards any land included within the limits of any of the villages specified as aforesaid ; and thereupon any canal officer, duly empowered in that behalf, may in respect of such lands exercise for the purposes aforesaid all the powers conferred by Section 4 of the Land Acquisition Act, and shall in addition have power to—

(1) Close any existing channel.
(2) Remove any obstruction.
(3) Do any other thing necessary for such application or use of the said water or for the purposes of the said enquiry."

This addition would embrace everything provided for by Sections 5, 6 and 7 of the draft : the last sentence (3) of the proposed clause would include the setting-up of gauges, and also the inspection and measurement of lands irrigated and the regulation of water-supply contemplated by Section 7.

3. *Section* 9.—The alterations suggested above would render necessary the substitution of the word "two" for "three" in the fourth line of this section, and the Board would further propose that the following clause be added to the section :—"Provided that when the entry on such premises is made only in the course of an enquiry as aforesaid, the notice to be given to the owner or occupier shall be in writing and shall be served not less than seven days before entry. (Ex. Proviso to Section 4, Act X of 1870). The Board would lay stress upon the need for some such restriction as this, believing that the section as at present worded might be so used as to cause great and unnecessary annoyance to householders.

4. *Section* 14.—If the suggestions regarding Sections 4 to 7 be adopted, some verbal alteration of the second clause of this section would be required.

5. *Part III, Sections* 15 *to* 19.—The policy indicated in these sections appears to the Board to be a wide departure from the principles and procedure prescribed by Act X of 1870 for the acquisition of land on behalf of Companies. Under Part VII of that Act, the notification of Section 4 is required in the case of Companies as in the case of Government; the provisions of Sections 6 to 45 cannot be put in force unless with the previous consent of the Local Government, and unless the Company have executed the agreement prescribed by Section 49. Moreover, the consent of the Local Government cannot be given unless it is satisfied, after special inquiry, that the conditions prescribed by Section 48 are satisfied. But by the Bill now proposed to be enacted, no prior notification, either under Section 4 of the Land Acquisition Act or under Section 4 of the Bill itself, is required for the sanction of preliminary dealings with land in connection with the construction of water-courses by Government officers at the suggestion and cost of private speculators; and a canal officer can of his own motive in such cases use powers that no officer could in any other case exercise

except under the authority of a preceding notification of Government. By Section 18 of the Bill again, a Collector is authorized to acquire all land needed for a private water-course on receipt of the canal officer's notification referred to in Section 17, just as if a declaration had been made by Government under Section 6 of the Land Acquisition Act. The preceding part of the Bill contains no such provision regarding the acquisition of lands wanted for works of irrigation to be constructed by Government; in that case the land is acquired under the ordinary procedure of the Land Acquisition Act, and the Board fail to understand what reason there can be for the exceptional procedure laid down in the Bill for the acquisition of lands required for private water-courses. Section 17 directs that the canal officer, when issuing the notification prescribed by the section, shall "call upon any person who wishes to share in the ownership of the water-course to make his application in that respect" within a given time. Now, it would appear from Section 16, that the person at whose suggestion the construction of a private water-course is undertaken need not have any interest in the land to be irrigated from it, apart from such interest as attaches to the work as a speculation. And it would seem to be clear from Section 17, that the only interest which the person invited to claim a share in the ownership need have is "a wish to share." Neither of these persons is required to have any separate interest in the land affected by the speculation. This being so, it appears to the Board that the necessary effect of these provisions will be to constitute the canal officer a promoter of Joint-stock Companies ; and they do not understand why a general invitation to share should be issued to the public, when, by the supposition of Section 16, the speculator, on whose suggestion the canal officer is acting, has already undertaken to defray all expenses, and must, under Section 17, deposit any sum which the canal officer may deem necessary.

6. This provision of the Bill may be due to the idea that, as the water supplied to the water-course comes from a Government source, it is only proper that the canal officer should have the power of regulating its distribution. If there were any limitation on the qualification for ownership in the work—if, that is to say, the invitation to become joint owners of the water-course were limited to persons having a beneficiary interest in the lands irrigated from it—the Board would have no objection to offer to the issue of the contemplated invitation ; but as it stands at present, the effect of such notification might be to deprive a projector with brains, energy and money of his legitimate reward, which might, by the decision of the canal officer, who is entirely unrestrained, be snatched from him in an arbitrary manner.

7. Section 19 of the Bill contemplates the possibility of a balance being found against the speculator on the completion of the work, but it does not appear from what source are to be provided the funds which the fact of such a balance would show to have been expended in excess of receipts from the applicant. No provision is made for the protection of Government against loss. The Bill allows works of a perhaps costly nature to be undertaken on the mere application of a person who expresses his willingness to bear all costs and his wish that Government should carry out the work, but notwithstanding the provisions regarding the "rights and obligations of owners" (Sections 20 to 24), Government does not seem to be adequately secured against possible loss, nor is the promoter sufficiently protected by securing to him the legitimate reward of his enterprise.

8. The proposed enactment has reference only to works and water-courses which may be hereafter constructed, and has no application to works which may be in existence when the Bill becomes law. The Board think that an irrigation law should embrace all irrigation under the control of Government, but the question arises whether the possibilities of future irrigation in this Presidency justify or demand special legislation of this kind. It may be taken for granted that all schemes of any magnitude will be undertaken by Government, and that only works of very minor importance will be constructed as contemplated in the Bill. This being the case, it may be doubted whether special legislation is called for, and it might be sufficient to modify the Land Acquisition Act (Part VII) in such manner as to meet

all requirements in this direction. "The rights and obligations of owners of water-courses" which the Bill proposes to define and control would in that case be embodied in agreements to be executed under Section 49 of the Land Acquisition Act, the sub-heads of which might be further modified as follows :—

To (1) add "of the land and of the construction of the water-course and necessary works."
(2) *For* "land to the Company" *read* "land and water-course to the party."
(3) *For* "land shall be held by the Company" *read* "land and water-course shall be held by the party."
(4) Should be omitted, the work being constructed by Government.

Thus by a slight modification of the existing law, it would seem to be quite possible to provide in regard to private water-courses all that the Bill contemplates ; and the Board submit the point for the consideration of Government.

9. *Part IV.*—The Board do not think that rules relating to the supply of water should form part of the text of the Bill ; these fall more properly within the domain of the administrative orders of the executive Government, and if it be thought necessary to give to such orders the sanction of law, it would be better to frame them under Section 61. Such rules need modification from time to time as circumstances change, and it is well to be able to do this without recourse to legislation.

10. *Part V, Section* 35.—The Collector's decision should be final on the question of compensation due for the entry referred to at Section 33, as it is in the parallel case provided for in Section 5, Land Acquisition Act.

11. *Sections* 36 *to* 40.—In the award of compensation for which this section provides, the Board would follow strictly the procedure laid down by the Land Acquisition Act ; indeed, they see no ground for providing a special course of procedure in regard to compensation for land taken up for irrigation, and are disposed to regard these sections as superfluous.

12. *Part VI.*—For the reasons given at paragraph 9 above, the Board would relegate the whole of the provisions contained in Sections 43 to 47 to the Code of Rules to be framed under Section 61.

13. *Part VIII.*—In the opinion of the Board, there is nothing in this Part which cannot be effected under Madras Act I of 1858. The Bill, indeed, gives to the canal officer power to do himself what the present Act requires him to do by requisition on the village headman, but in practice the canal officer's power is not restricted by this provision. The Bill differs from the present Act in the following respects :—

(1.) In permitting the impressment of *all able-bodied persons* resident in the vicinity. This will include *women* and all *men*, whether of the laboring classes or not, whereas Act I of 1858 limits impressment to *males of the laboring classes.* This latter provision, if it should be thought desirable, might reasonably be extended by further imposing the obligation of labor in person or by substitute on all males interested in the lands supplied with water by the work.

14. *Section* 51 contains a mere administrative direction, the insertion of which in the body of the Act seems to be unnecessary.

15. *Part IX, Sections* 52 and 53.—Several of the provisions of these sections, for instance (4) and (5), Section 52, appear without doubt to fall within the definition of mischief in the Indian Penal Code, and would seem to be opposed to the provisions of Section 42 of 24 and 25 Vic., Cap. 67. In Clause (7), the Board would insert after "cattle" the words "of which he is the owner or in charge ;" otherwise a stranger who failed to interfere would be responsible. It is further observed that, for damaging or obstructing a canal, a person is liable under Section 52 (1) to a less penalty than for damaging or obstructing it under Section 53 (1) and 53 (3), and that for opening or attempting to open a sluice, a person is liable to a much heavier penalty under Section 53 (2) than under Section 52 (5) for destroying it.

16. *Sections* 55 *to* 57.—The powers proposed to be conferred upon every—even the lowest—canal officers are, in the Board's opinion, far too great, and would place a powerful weapon of oppression in the hands of petty subordinates, who are to be authorized to arrest without warrant any persons whom they think fit to accuse of an offence ; and Section 57 supplies a distinct incentive to action by holding out the promise of reward to the informer.

17. Turning to the *Rules*, the Board observe regarding Nos. 11 and 12, that the charge is greater for water profitably used without authority than for water allowed to run to waste. So far as the owner of the water is concerned, there has been the diversion of it from its legitimate use, and if a penalty is to be levied, there would seem to be no good ground for making a difference in the mode of calculating it. *Rule* 11 (*c*), Rule 13 quoted in this paragraph, appears to be a misprint, as that rule refers to remissions.

18. With these remarks, the Board remit to Government the draft Bill and the Rules framed under it received with the Orders read at the head of this Resolution.

(A true Copy and Extract.)

(Signed) E. GIBSON,
Acting Secretary.

To the Secretary to Government, Public Works Department,
with draft Bill and Rules returned.

Exd. A. Raitt.

1882.

Board of Revenue.

MADRAS.

Printed October, 31st.

Proceedings, 26th October 1882, *No.* 2590.

Submitting remarks on *draft Bill and Rules to provide for Irrigation and Navigation in the Madras Presidency.*

PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

~~Under date the~~

Read the following:—

Proceedings of the Board of Revenue.

No. 2590 dated 26th October 1882.

Order thereon No. 3003 W dy. 13th Nov. 82.

The remarks of the Board of Revenue will be referred to the Committee appointed in G.O. 2358 W dated 26th September 1881 for Consideration, and for preparation of a revised draft Bill embodying such of the suggestions as are concurred in by the Committee. Any of the suggestions not adopted should be specially referred for the orders of Government.

Three

A True Extract,

Wm Thompson Lt Col R.E.

ag Under Secy to Govt P.W.D.

To

The Honorable C. G. Master

Colonel R. H. Sankey. C.B.R.E. } With copies of

Forster Webster Esqr. } papers.

In exercise of the power conferred by the Madras Irrigation Act, 1882, the Governor in Council is pleased to make the following Rules for the administration of Canals in the Madras Presidency :—

I.—Application for Water for Irrigation.

Applications not required.

1. No application is required for water for land which has been irrigated for wet crop in the preceding year.

Applications under Section 26 how to be made.

2. For the irrigation of land not before irrigated, or for which irrigation has been relinquished, application must be made in duplicate in the form of Appendix No. I to the Executive Engineer of the Division, or to some other canal officer duly empowered to receive such applications. Blank copies of the form will be supplied to intending applicants free of charge.

Similar applications will be required for all second wet crop irrigation, and for all dry crop irrigation.

Both copies of the application will, if the application be granted, be forwarded by the Executive Engineer to the Divisional Revenue Officer after column 8 has been duly filled in, and the Divisional Revenue Officer will, after filling in column 9, transmit the original to the applicant, and return the duplicate to the Executive Engineer.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer of the Division, or other officer aforesaid.

Rejection of application.

3. If an application for water be rejected, the cause of rejection will be noted in column 10 of the form.

Causes of rejection.

4. The causes of rejection which are authorized are—

(1) the water not being available;

(2) the means of irrigating the land entered in the application not being available, *i.e.*, there being no Government distribution channel capable

of supplying the applicant's water-course;

(3) the land to be irrigated not being levelled and embanked for irrigation.

Priority of right to water when supply proves deficient.

5. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer of the Division:

Provided always that the claims of those whose lands were irrigated in the preceding year shall have priority over all claims dating from the current year.

II.—Closing of Canals for Repairs, &c.

Except in cases of emergency, canal not to be closed without sanction of Chief Engineer for Irrigation.

6. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency, without the previous sanction of the Chief Engineer for Irrigation, who shall fix the period, or periods, for which the supply of water may be stopped under Section 27 (*d*) on account of the execution of such repairs, &c., due notification being made in the District Gazette at least one month previous to such closure wherever feasible. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

III.—Water-supply Rates for Irrigation.

Rates how to be fixed.

7. The rates leviable for canal-water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated, and according as the water is obtainable from the canal by lift or flow.

Provisions applicable to supply from escape channels.

8. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

Rate leviable for such supply.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall

be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

Rate leviable for supply of water obtained without permission.

9. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer of the Division, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

Water-supply Rates for Non-irrigational purposes.

For non-irrigational purposes rates will be charged for by volume or otherwise.

10. Water supplied from a canal for any purpose other than irrigation will be charged for by volume or otherwise at such rate as Government shall from time to time determine.

IV.—Occasional Rates.

Charge to be imposed when water supplied through a water-course is unauthorizedly used.

11. The charge to be made under Section 44 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely):—

(*a*) if the water so used has flowed on any land, and such land has derived benefit therefrom,	double the highest rate leviable for a single crop;
(*b*) if the water has flowed on any land, but such land has not derived benefit therefrom,	double the lowest rate leviable for a single crop;
(*c*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been used.

The above charges will be leviable in addition to any penalty which may be

imposed under the Act on the person who unauthorizedly used the water.

Charge to be imposed when water supplied through a water-course is suffered to run to waste.

12. The charge to be made under Section 45 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

(*a*) if the water has flowed on any land,	double the lowest rate leviable for a single crop;
(*b*) in any other case ...	double the rate chargeable under Rule 13 on the volume of water estimated by the Executive Engineer to have been wasted.

V.—Remissions.

Remissions under last paragraph of Section 30 may be granted by Collector.

13. Remissions of water-rate under the last paragraph of Section 30 may be allowed by the Collector, and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

Claims for such remissions to whom and when to be made.

14. Claims for such remissions shall be preferred to the Collector, who, before granting such remission, shall in every case take measures to obtain the opinion of the Executive Engineer of the Division.

VI.—Miscellaneous.

Free grants of water-supply.

15. Applications for free grants of water-supply shall be referred for the orders of Government in the Public Works (Irrigation) Department, and no such grant shall be made without the previous sanction of Government.

Readings of water-gauges and meters set up by Public Works Department to be accepted as authoritative.

16. In cases of dispute regarding water-supply, or remission, or abatement of water-rate, the water-gauges and meters set up by the Public Works Department shall, if certified by the Executive Engineer of the Division to have been in good

order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Certain acts forbidden to canal officers, &c.

21. No canal officer or other officer or subordinate shall—

(1) acquire, directly or indirectly, any share or interest in the distribution of water from any canal; or,

(2) purchase, or bid, either in person or by agent, or in his own name or in the name of another or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under Section 52, Clause (10) of the Act.

Returns.

17. The Collector shall furnish the Executive Engineer of the Division with annual returns in the form of Appendix II not later than 20th September each year.

APPENDIX No. I.

Form of Application for Water for Irrigation for the Year 18 .

Name of Village.	Name of Canal.	Name of Distributary.	Survey Number of Field.	Area of Field to be irrigated.	For what Crop required.	Date from which Water is required.	Order of Executive Engineer whether Application is granted, or otherwise.	Water-rate chargeable per Acre.	Remarks.
1	2	3	4	5	6	7	8	9	10
				ACS. CENTS.					

Columns 1 to 7 to be filled in by Applicant.
Column 8 to be filled in by Executive Engineer.
Column 9 to be filled in by Divisional Revenue Officer.

APPENDIX No. II.

Statement of Revenue from Irrigation Works for the Year 18 .

Taluq.	Name of Canal.	Name of Distributary.	Area cultivated.	Assessment.	Water-rate.	Total.	Remissions.	Net Demand.	Remarks.
1	2	3	4	5	6	7	8	9	10
					RS.	RS.	RS.	RS.	

Collector.

Remarks on Proceedings of the Board of Revenue
No. 2590 - 26th October 1882.

The proposed addition to the 1st clause of Section 4 Part II viz, 'or that any inquiry as to the propriety or desirability of such application or use should be made' is not considered necessary as under Section 6 'entry for Enquiry' is fully provided for.

It does not seem possible to specify the names of the villages likely to be affected by the application or use of the water, as the river or stream might flow through more than one district, several Taluqs and a large number of villages which could not be named without a Survey.

It may however be a question whether the greater part of Part II may not, as suggested by the Board of Revenue, be omitted, and whether Act X of 1870 may not be sufficient for the purpose. This point should, it is considered, be referred to the Advocate General for opinion. It is to

be noticed that the present draft Act agrees very closely with the Irrigation Act in the Bombay Presidency, which was based on the N. W. Provinces Act, and that it has been considered necessary in these places to retain Part II.

Para 3. If it is decided that the draft Act should stand the proposed addition to Section 9 is agreed to.

Paras 5 to 8. It seems doubtful whether the circumstances of this Presidency are such as to require Sections 15 to 19. The opinion of the Advocate General will be requested on the suggestion made by the Board of Revenue that 'it might be sufficient to modify the Land Acquisition Act (Part III) in such manner as to meet all requirements in this direction.'

Para 9. Part II should, it is considered, stand as it is, it does not contain rules relating to the supply of water which will need modification from time to time.

Para 11. It would appear that the Board of Revenue are of opinion that the adjudication of compensation should be made by the District Judge - this is considered not objectionable: One of the main objects of this act is to prevent litigation which hitherto has caused much vexation and trouble.

Para 12. Part II - Sections 43 to 47 should stand. it is intended to give power to fix the rates to be charged under different circumstances. The rules state how the rates are determined.

13. It is contemplated that when the Kudimaramut Bill and Irrigation Act are passed, Act I of 1858 will be superseded. To meet the objection in the second clause it is proposed to add to the words all 'able bodied persons' the following; 'of the working Classes'.

Para 14. Section 57 should, it is considered stand, it really forms part of the directions for procedure.

Para 15. The opinion of the Advocate General will be asked on the first clause. The insertion of the words 'of which he is the owner or in charge' in (7) para 52, suggested by the Board

is approved. In regard to the observations in the latter part of the para, it is observed that the Board seem to have omitted to notice the reference to the Indian Penal Code in the latter part of each Section, the penalties are provided only, 'when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code.'

Para 16. To meet the objection here urged by the Board it is proposed to omit the words 'or employed upon' in the first and second lines of Section 55, and to add after 'any Canal' in the second line the words 'or Section of a Canal.'

Para 17. The charge for water profitably used is purposely made greater than the charge for water allowed to run to waste, as when it is profitably used the person diverting the water profits thereby.

Rule 13 referred to in the latter part of the para, is a misprint as supposed. it should be Rule 7.

Ootacamund
27 April 1883.

R. A. H. Sunbury [?]

G. Webster [?]

E. F. Webster [?]

Johnstone [?]

P.W.C. No. 3776

Go. 326. J. 21.5. A ✓
" 2358. W. 26.9. A
" 3003. W. 13.11. R ✓
" 2209. W. 28.8. R ✓

Recd 4/5/83

En.

Draft for Signature

Hon Ch: Master
E. Foster Webster Esq
Col J. O. Hasted

The within memo gives the results of our Committee meeting on the Mutation Law draft of 25th inst:

When returned to me signed it will be referred with the file to the Advocate General for an early expression of his opinion

[signature]

27.4.83

Recd 28/4/

OLS 37.4

OLS 37.4

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Buildings and Roads.
Civil Works.

READ—the following paper :—

Report of the Committee appointed in G.O., No. 2358 W., dated 26th September 1881.

Remarks on Proceedings of Board of Revenue, No. 2590, *dated* 26*th October* 1882.

The proposed addition to the first clause of Section 4, Part II, viz., " or that any inquiry as to the propriety or desirability of such application or use should be made," is not considered necessary, as under Section 6 " entry for inquiry" is fully provided for.

It does not seem possible to specify the names of the villages likely to be affected by the application or use of the water, as the river or stream might flow through more than one district, several taluks, and a large number of villages which could not be named without a survey.

It may, however, be a question whether the greater part of Part II may not, as suggested by the Board of Revenue, be omitted, and whether Act X of 1870 may not be sufficient for the purpose. This point should, it is considered, be referred to the Advocate-General for opinion. It is to be noticed that the present draft Act agrees very closely with the Irrigation Act in the Bombay Presidency, which was based on the North-West Provinces Act, and that it has been considered necessary in these places to retain Part II.

Paragraph 3.—If it is decided that the draft Act should stand, the proposed addition to Section 9 is agreed to.

Paragraphs 5 *to* 8.—It seems doubtful whether the circumstances of this Presidency are such as to require Sections 15 to 19. The opinion of the Advocate-General will be requested on the suggestion made by the Board of Revenue that "it might be sufficient to modify the Land Acquisition Act (Part VII) in such manner as to meet all requirements in this direction."

Paragraph 9.—Part II should, it is considered, stand as it is ; it does not contain rules relating to the supply of water which will need modification from time to time.

Paragraph 11.—It would appear that the Board of Revenue are of opinion that the adjudication of compensation should be made by the District Judge ; this is considered most objectionable. One of the main objects of this Act is to prevent litigation, which hitherto has caused much vexation and trouble.

Paragraph 12.—Part VI, Sections 43 to 47, should stand ; it is intended to give power to fix the rates to be charged under different circumstances. The rules state how the rates are determined.

Paragraph 13.—It is contemplated that when the Kudimaramut Bill and Irrigation Act are passed, Act I of 1858 will be superseded. To meet the objection in the second clause, it is proposed to add to the words all " able-bodied persons " the following : " of the working classes."

Paragraph 14.—Section 51 should, it is considered, stand ; it really forms part of the directions for procedure.

Paragraph 15.—The opinion of the Advocate-General will be asked on the first clause. The insertion of the words " of which he is the owner or in charge " in (7), paragraph 52, suggested by the Board is approved. In regard to the observations in the latter part of the paragraph, it is observed that the Board seem to have omitted to notice the reference to the Indian Penal Code in the latter part of each section; the penalties are provided only " when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code."

Paragraph 16.—To meet the objection here urged by the Board, it is proposed to omit the words " or employed upon " in the first and second lines of Section 55, and to add after " any canal " in the second line the words " or section of a canal."

Paragraph 17.—The charge for water profitably used is purposely made greater than the charge for water allowed to run to waste, as when it is profitably used the person diverting the water profits thereby.

Rule 13 referred to in the latter part of the paragraph is a misprint as supposed ; it should be Rule 7.

(Signed) R. H. SANKEY.
(,,) C. G. MASTER.
(,,) E. F. WEBSTER.
(,,) J. O. HASTED.

OOTACAMUND,
27th April 1883.

ORDER—dated 4th May 1883, No. 1310 W., Public Works.

The draft Act as amended by the Committee will, with previous correspondence, now be referred to the Advocate-General for an expression of his opinion.

(True Extract.)

(Signed) R. H. SANKEY, Colonel, R.E.,
Secretary to Govt., P.W.D.

To the Government Solicitor, with copies of the undermentioned papers :—
G.O., No. 326 I., dated 21st May 1881.
,, 2358 W., ,, 26th September 1881.
,, 2209 W., ,, 28th August 1882, with draft Act.
Board's Proceedings, No. 2590, dated 26th October 1882.
G.O., No. 3003 W., dated 13th November 1882.

,, Members of the Committee.
,, Board of Revenue.
,, Revenue Department.
,, Legislative do.

Exd. A. F. Goodall.
Spare Copies

BUILDINGS AND ROADS.
CIVIL WORKS.

Govt. of {1883} Madras.

PUBLIC WORKS.

Dated May, 4th.

Recd. *Encl.*

G.O., 4th May 1883, No. 1310 W.

MAY.

Irrigation Act

The draft — for the Madras Presidency referred to the Advocate-General.

No. 1310 W PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 4th May 1883 of

Read the following:—

Report of the Committee appointed pr. G.O. 2358 W dy 26th September 1881 (Dated 27th April 1883)
(Encl Draft Act).

The draft Act as amended by the Committee with the previous correspondence now be referred to the Advocate General for an Expression of his opinion.

30/4/83

To,
The Govt Solicitor with copies of the undermentioned papers:—
G.O. 3263 dy 21st May 1881.
" 2358 W dy 26th Septr "
" 2209 W dy 28th Augt 1882 with draft Act.
Board's Proc^dgs No. 2590 dy 26th Octr 82.
G.O. 3003 W dy 13th Novr 1882.
The Members of the Committee.
" Board of Revenue.
" Revenue Dept.
" Legislative Dept.
& Ext.

3776

Govt. of (1883) Madras

PUBLIC WORKS.

Dated ~~Urgent~~ 8/5/83

Reca. Encl.

G. O., 4th May 1883, No.

4-May-1310 W

Nos.

Irrigation Act

The draft — for the Presy: referred to the Advo[cate] General

Ak 1310 W of 4-5/83

110 / 80

Entered in Receipt Register

Paper taken out of the Record...

Press / Miscellaneous / Routine No. 1311 W, Dated 5-5-1883

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