M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1345 Press ~~Mis.~~

121-122

Dated 3-10 1859.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, from 24th September to 4th October 1859.

No. 121. Read the following Proceedings of the Board of Revenue; dated 3d September 1859, No. 3482.

Read Proceedings of the Madras Government, dated 14th May 1859, R. D. No. 662.

(In Con. 17th May 1859, No. 2232.)

In the above order of Government, the Board were instructed to obtain from all Collectors Lists, in forms prescribed, of all instances in which recourse had been had to the powers conferred by Act I. of 1858 "to make lawful compulsory labor for the prevention of mischief by inundation (Sections 1 to 5) and to provide (Sections 6) for the enforcement of customary labor on certain works of irrigation" in this Presidency.

Paras. 2-3.

2. The Collectors were further to give their opinion on the Act generally, and to state whether it had on all occasions been worked in strict accordance with its terms and intentions, and what means had been taken and when, to make its provisions generally known.

3. EXTENT TO WHICH ACT HAS BEEN APPLIED.—From the reports herewith submitted it will be seen that with two exceptions, no occasion has yet arisen in any of the Districts for bringing the act into operation. The excepted Districts are Nellore and Salem, and even in them it has never been formally applied.

4. NELLORE.—In Nellore Sections I. to V. of the Act have never been put in force; nor, strictly speaking, has Section VI. "It has for many years been customary to levy fines from those holding lands, under river channels especially, who neglect or refuse to furnish their quoto of labor according to immemorial custom or the terms under which their lands are held; and these have continued to be levied since the passing of Act I. of 1858 as they were long before it was enacted." The total amount of the fines thus levied, according to the Collector's return, was Rupees 223-1-7; and it would appear that in only one case was it necessary to enforce payment. This was done by withholding water, till the fine (Rupees 5-7-0) was paid. These proceedings seem opposed to para. 3 of the Circular of Government, dated 3d June 1858, No. 749.

In Con. 19th June 1858, No. 2363.

5. The Collector states that the joint village labor in clearing the channels periodically of silt, is most necessary in Nellore, and is on the whole freely given, though of course there are many who endeavour to evade the burden. On the other hand, the least work beyond what is customary is absolutely refused. In illustration of this, the Collector states that by usage the silt from the channels is piled upon their sides, from whence of course, it is liable to be again washed down by rain. Every effort to induce the ryots to carry the silt beyond the bank has failed, notwithstanding the offer of payment for the extra work.

6. CHINGLEPUT.—The Collector of Chingleput makes a return of one case. A Calingula leading into the Mylapore Tank and which had been opened by the Madras authorities was reclosed by the villagers of Nungumbaukum, and as the parties were within the jurisdiction of the Magistrate of Chingleput, application was made to that officer. The work was of so trivial a character that neither "labor" nor payments were required, and in fact the case cannot be regarded as coming within the scope of the Act.

7. SALEM.—In Salem no accounts or Registers have been kept of the instances in which the Act has been applied. The District Engineer complains of the extreme difficulty of getting village labor, notwithstanding the punishment of several Moonsiffs for refusing to aid the department. This apparently applies to labor under Section VI. of the Act; the other Sections evidently cannot have been brought into operation, or some account of payments, &c., under them must have been forthcoming. The Board consider it very unsatisfactory that the local officers should be unable to furnish any more definite information regarding their exercise of the power conferred by an Act of such an exceptional character.

8. OPINIONS OF COLLECTORS REGARDING THE ACT.—As regards the Act generally only a few of the Collectors have given any opinion owing no doubt to its actual operation having been so very limited. The districts in which such an enactment would be particularly necessary, are Tanjore and Trichinopoly. The Collector of the latter, Mr. Bird, while reporting that the people are so fully alive to the danger from their embankments giving way during inundations that they come forward spontaneously for their repair, still declares it necessary that the authorities should have legal power to enforce labor in cases of emergency, as well as to compel the recusants to render their share of customary village labor. Mr. Smith in his letter gives an instance which occurred while he was Head Assistant of Trichinopoly, in exemplification of this necessity.

Dated 22d June 1859, paras. 4 and 5. In Con. 27th June 1859, No. 3059.

9. The Collectors of Nellore, Bellary, Madura and Tinnevelly, are also in favor of the continuance of the Act.

10. PROMULGATION OF ACT.—The replies of the Collectors show that the Act was generally promulgated at varying dates; in some instances by Circulars and in others by publication in the local Gazettes.

11. The exceptions are Vizagapatam, Nellore, Cuddapah, Chingleput, Kurnool, North Arcot, South Arcot, Trichinopoly, Canara and Malabar.

12. The Collector of Chingleput states that the Act will be published in the next issue of his Gazette.

13. The Collector of Trichinopoly states that the readiness of the people to come forward in the cases contemplated by the Act and the order of Government 3d June 1858, No. 749. P. W. D., induced him to abstain from promulgating it. He has been informed that all legislative enactments affecting this Presidency should, as a matter of course, be published in his Gazette, and that exceptional Acts, such as this one, should further be specially promulgated, and explained, if necessary, to his subordinates. The Circular of Government (3d June 1858) appears to the Board to have been intended merely to prescribe strict adherence to the terms of the Act and forbearance in bringing it into operation. The Collector of Nellore has fallen into the same error as the Collector of Trichinopoly as regards the publication of Sections I. to V.

In Con. 19th June 1858, No. 2363.

In Con. 19th June 1858, No. 2363.

14. The Collectors of the other Districts abovementioned, have not noticed this point and have been required to meet the call of Government, and promulgate the law if this has not already been done.

15. OPINION OF THE BOARD.—It only remains for the Board to state their opinion on the Act. They consider Sections I. to V. absolutely necessary at present.

16. These provide for emergencies of an extraordinary nature, where life or property would be endangered if the necessary labor or materials were not forthcoming, immediately and sufficiently. In such critical circumstances, the executive must, for the public good, be armed with legal power to resort to compulsion if necessary. But the Act should obviously be called into operation *only* in real emergencies of this character and when other means fail. The Board think that occasion for exercising the powers conferred by the Act will rarely arise; the knowledge that the executive possess them, and a sense of their own danger will, generally, as experience shows, induce the people to come forward voluntarily; but it would not be safe to depend entirely on this, and, in the absence of such an Act, many would no doubt evade their liability.

17. There is, however, one defect in these Sections, viz., that no provision is made for the possible absence of the head of the village or even for his refusing to make the call for labor, &c. In the latter case the recusant officer might, of course, be dismissed; but, meanwhile, serious mischief ensue.

18. The last Section is also necessary and without such a provision, gratuitous village labor would soon cease to be rendered.

19. Lastly, the Board would suggest annual Returns of cases in which the Act may be brought into operation, in order that the extent and mode of its application may be duly supervised.

(A true Extract.)

(Signed) W. HUDLESTON.

PRECIS OF COLLECTORS' LETTERS.

Mr. G. S. Forbes, 8th in Con. 8th June 1859, No. 2851.

GANJAM.—1. There has been no necessity for bringing the Act into operation. It was duly published in the District Gazette of the 13th March 1858, and made known to the villagers through the talook officials.

Mr. Reade, 4th in Con. 10th June 1859, No. 2710.

VIZAGAPATAM.—2. No occasion has arisen for putting the Act in force.

Mr. Purvis, 22nd in Con. 28th June 1859, No. 3095.

RAJAHMUNDRY.—3. Do. do. The system of joint village labor does not obtain in this district. The Act was published in the local Gazette of 27th February and 27th March 1858, and 1,500 vernacular copies issued to the village officers.

Mr. T. A. N. Chase, 1st in Con. 6th June 1859, No. 2614.

MASULIPATAM.—4. No occasion has occurred for applying the Act. A translation of it was published in the District Gazette, which has a circulation of 700 copies.

Mr. C. G. Master, 1st in Con. 4th June 1859, No. 2574.

GUNTOOR.—5. Act never applied. It was published in the District Gazette of 6th May 1858. Considers it well calculated for the purpose for which it was framed.

Mr. Elton, 14th and 20th in Cons. 17th and 24th June 1859, Nos. 2827 and 3015.

NELLORE.—6. Sections I. to V. have never been applied. Submits statements in the form B. of fines levied, according to usage, from ryots who negleeted or refused to furnish their quota of customary labor: regards these as now coming under Section VI. of the Act, though recourse to that Section has not been formally had. The simultaneous labor of large bodies of men most necessary to remove the large quantities of silt brought down by the Pennar. Government would incur a heavy expense if the Public Works Department attempted to do this; moreover, considers it improbable that a sufficient number of laborers could be procured, or that the ryots would work regularly for hire. The customary labor is, on the whole, freely given, though there are numerous defaulters who endeavour to evade their share; the least work beyond what is customary is absolutely refused, even when payment for it is tendered. Section VI. of the Act was promulgated on the 19th February 1858, but the Collector did "not consider it necessary at that time to issue any orders regarding the other Sections, which were not likely to be called into requisition at that time of year, and since then Government have shewn it to be their wish that the operation of the Act should be confined to the narrowest limits circumstances admit of." Considers the Act useful, but Sections I. to V. should be very sparingly applied and only in cases of real emergency. Section VI. should be regarded as merely legalising customary labor, and should be used to enforce only such work as benefits the people as well as Government.

Mr. Fraser, 14th in Con. 18th June 1859, No. 2852.

CUDDAPAH.—7. The Act never applied.

Mr. Hathway, 3rd in Con. 9th June 1859, No. 2863.

BELLARY.—8. The Act has never been applied. Its provisions were made known to all the Tahsildars by a circular. Collector states that "although it may be useful to retain the powers conferred under the Act, to meet exceptional cases," he "does not thik that, so long as the demeanor of the subordinates of the Department of Public Works towards the villagers is conciliatory, there will be any necessity for enforceing them."

Mr. Arbuthnot 13th in Con. 18th June 1859, No. 2853.

KURNOOL.—9. Sections I. to V. never applied.

Mr. Shubrick, 26th May in Con. 3d June 1859, No. 2554.

CHINGLEPUT.—10. Mentions one case. Considers the procedure in Section VI. cumbrous and would rather empower the Magistracy to decide the amount of fine summarily than leave it to the agency of Punchayets. Remarks that the requisition for labor in Sections I. to V. should emanate from the officer in charge of the work; the Tahsildar or other local Revenue or Public Works officer as the head of the village may be absent or may refuse to make it. Will publish the Act in his next Gazette.

Mr. Whittingham, 8th in Con. 10th June 1859, No. 2709.

NORTH ARCOT.—11. The powers conferred by the Act have never been applied.

Mr. McDonell, 7th in Con. 9th June 1859, No. 2682.

SOUTH ARCOT.—12. The Act has never been applied.

Mr. Cadell, 16th in Con. 20th July 1859, No. 3598.

TANJORE.—13. Do. "The requisite supply of labor or materials has always been willingly furnished in accordance with local usage." The Act has been genenrally made known.

Mr. J. Bird, 30th May in Con. 2d June 1859, No. 2524.

TRICHINOPOLY.—14. The Act has never been applied. The people are so alive to the danger from their embankments giving way that they readily supply labor and materials, and owing to this as well as with reference to the Government Circular 3rd

June 1858, the Collector abstained from promulgating the Act, but on receipt of Extract Minutes Consultation 7th October 1856, Public Works Department, No. 1826, he issued Circulars to all the Collectors informing them that the transfer of the executive to the Department Public Works did not relieve them of the obligation to take immediate steps for the repair of breaches. Considers the Act necessary.

Mr. T. Clarke, 9th in Con. 13th Aug. 1859, No. 4051.

MADURA.—15. The Act never brought into operation. In June 1858, a translation of it was published in the District Gazette. A circular embodying its provisions was similarly published on the 16th August following. In October and November Circulars were again issued on the subject to the Tahsildars who were also empowered to make immediate advances up to Rupees 50 to meet the expensess that might be incurred by the villagers in the prevention or repair of breaches. Considers "that it is very desirable that Collectors should be armed with the powers conferred by the Act." "The knowledge that they possess such powers acts as a wholesome check" to factious pposition.

Mr. Levinge, 30th May in Con. 30th June 1859, No. 2560.

TINNEVELLY.—16. The Act never applied. It was made known in July 1858, by beat of drum. Considers that in cases of emergency the Act should be enforced.

Mr. E. B. Thomas, 4th in Con. 8th June 1859, No. 2656.

COIMBATORE.—17. Act never applied. Translated copies were furnished in July 1858 to all the Tahsildars who were directed to give it due ublicity. Their attention was drawn to it again in August 1858. Considers the Act "to be generally clear both in its terms and intentions and sufficient to meet the object in view, but the powers conferred by it require to be exercised with forbearance and caution." Is of opinion that a specific clause declaring that a public officer misusing or exceeding the powers conferred by it, is answerable for such misconduct, would "greatly add to its efficiency."

Mr H. G. Smith, 22d June and 7th July in Cons. 27th June and 12th July 1859, Nos. 3059, and 3406.

SALEM.—18. The Act was circulated to all the Tahsildars with instructions to give it full publicity. No registers or accounts of cases coming under it have been kept. Encloses a letter from District Engineer, Captain Gahagan, to the same effect, and complaining of want of assistance from the village officers and people.

Mr. Fisher, 28th May in Con. 6th June 1859, No. 2615.

CANARA.—19. The Act never applied; there are no irrigation works of the character contemplated by it in the district.

Mr. P. Grant, 30th May in Con. 4th June 1859, No. 2575.

MALABAR.—20. The Act has never been brought into operation.

Mr. Cunliffe, 6th June and 23d July in Cons. 7th June and 23d July 1859, Nos. 2625 and 3667.

MADRAS.—21. Explains the character of the case referred to by the Collector of Chingleput.

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

No. 122. ORDER THEREON, 3rd October 1859, No. 1345.

The Government approve the Proceedings of the Board of Revenue, and request that the annual returns of cases brought under the operation of Act I. of 1858 which they propose to call for, may be properly scrutinized.

(Signed) T. PYCROFT,
Chief Secretary.

Rev. Depart

Cancelled

Proceedings of the Madras Government

Under date the

Read the following

Proceedings of the Board of Revenue

Submitting in reference to the Proceedings of Govt. dated 16th May 1859 No. 662 the report of the Collectors on the operations of Act I of 1858 regarding compulsory labour for the prevention of mischief by inundation &c.

(Here enter 3d Sel. Pg. 3485)

This Draft appears to me to be open to the charge of over-administration.

I have marked the Papers in which further Reports and Returns have been called for and as it is evident from the tenor of the Proceedings of the Board of Revenue that they take a just view

Sel. Pp. 3@5.

In these proceedings the Board of Revenue report on the extent to which Act No. I of 1858 has been made use of, in the Provinces of this Presidency, with other particulars of information called for in the order of Govt. dated 16th May last.

2 It is stated that the act has been used only in two Districts

viz Nellore and Salem, it but in point of fact it would seem not to have been used at all in the former District. It appears that in Nellore the usual practice as to the enforcement of customary labour for the cleaning out of channels has continued, and it was never intended that the act should interfere with this practice. ~~The feeling noticed in paras viz the unwillingness of the villagers to render any work beyond the customary labour it is believed is not confined to Nellore alone but prevails in the District.~~

3 The proceedings in Salem under the act need further explanation & the Govt request that the Board will obtain & submit a full report on the subject from the Collr as well as from the Dist. Engr stating the class of cases in which the act has been put in force and the mode of proceeding adopted.

The District Engineer should

of the object of the act and are watching its application, we should by [illegible] prolonging correspondence unnecessarily consume much valuable time of many public officers. I cannot answer approve the proceedings of the Board and [illegible] request that the Annual Returns may [illegible] be carefully scrutinised, seems to be all that is wanted

By order
Madras 26 Sept 59

I quite concur in the above remarks & would wish in addition to the Govt Resolution to call the B. of R. attention to the

should also be required to explain more fully his meaning as to the difficulty experienced in procuring Village labour.

District Engineers

4. Looking at the letter of the ~~District Engineers~~ ~~dated~~ 4th July, it seems ~~have~~ ~~seen~~ doubtful whether the cases reported to have come under the operation of the Act were not similar to those in Nellore and not real applications of the Act.

5. With reference to para 4 of the District Engineer's letter the Government desire to call the attention of the local revenue authorities to their order of the 20th July 1859 No 1747. The Tahsildars seem either ignorant or negligent of the duty enjoined on them by that order, and it should be

Inclosure to Board's Proceedings

In letter from Asst Collector in charge of Salem dated 7th July 1859 No 123

be the especial care of the Collector that these officers understand and perform it.

6. The Government fully agree with the Board, that it is unsatisfactory to find that the local officers especially of the Collectors department have wholly omitted to make any record of proceedings under so exceptional an Act.

7. The Government observe also, with regret that in many Collectors have wholly omitted to make the Act generally known in their Districts, though they have the efficient means offered by the District Gazette for doing so. They fully agree in the remarks of the Board on this subject contained in para 13 and desire that the same may be made known to all Collectors.

P II c 13

The

8. The Board as well as some of the Collectors have some what misunderstood the intention of Govt in the order of the 11th May. The object of that order was not to learn whether the Act was necessary, but whether it was generally known, whether it was found sufficient, and whether it needed any and what amendment. The Boards views in para 16 as to the provisions of the act and as to the occasions on which recourse should be had to it have the full concurrence of

Para 16

the Government. Some
Suggestions for the improve-
ment of the act are con-
tained in the reports
of some of the Collectors
especially on that of the Coll-
of Chinglefut.
7 The Government
would wish the Board
to watch the operations
of the act. On the one
hand strict care should
be taken that it is
never stretched beyond
its proper intention;
and on the other de-
fects in its provisions
or machinery to meet
actual cases should
be noticed and point-
ed out. They fully
agree in the propri-
ty of requiring an-
nual returns shew-
ing the cases in which
the act has been brought
into operation. It is
necessary

Para 19.

necessary that for
this purpose the
Collectors should
keep regular registers
of cases occurring
under the act in the
Forms A and B for-
warded with the
proceedings of Govt.
the 14 May 1859 No 66
but they should no
include cases of the
description referred
to by the Collector of
Nellore which did
not in reality fall
under the operation
of the act. The re-
turns which the
Board propose to
call for may be in
the same form or
simple extracts fro
the

the District Re-
gisters for the year.

10. The Government
desire to be informed
with reference to the
statement in para
of the Bombay Progs
6. whether any penal
notice was taken of the
unlawful violence
of the Nungumbau-
kum ryots in closing
the Calingulah lead-
ing to the Mylapore
tanks. ~~Though the~~
~~village is within the~~
~~Madras Collectorate~~
~~the act would seem to have~~
~~been committed~~
~~within the Chingleput~~
~~District.~~

M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1346 Press ~~Mis.~~

123-124

Dated 3 - 10 - 1859.

Not to be folded or roughly handled

1123

Read 29th May 1858 Rept. 1858 Aug. 2nd
Read 29th June 1858 No. 7 Para 4 1st Oct.

From
Boundaries of the
Board of Revenue

Dated 3rd Dec 1858
Recd 5-3
E.I.

No 3482.

A/1345 - 3rd Oct 1859.

Submitting with the reference
to the Proceedings of Govern-
ment dated 29th May 1858 Code
the Returns of the Collection
on the Coolcolam Act XXI
of 1858 regarding emolument
taken for the performance
of ministerial duty by members

Mitchell Porter

6 Oct

A/1345

Copied
the Government Resolution
the Proceedings of the Board of Revenue
and requested that the annual return
of cases brought under the provisions
of Act XXI of 1858 which they propose
to call for, may be forwarded
=ingen.=

Sent copies
3rd October 1859

6 Collectors Bound Rept.