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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 465—466 Press
~~Mis.~~

61-70

Dated 27 — 3 — 1860.

Not to be folded or roughly handled

No. 66. From W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, to T. PYCROFT, Esq., Chief Secretary to Government, dated 23rd September 1859, No. 3858:—

From Director of Revenue Settlement, 8th, in Con. 8th July 1859, *No.* 3307.

The Director of Revenue Settlement having brought to the notice of the Board the insufficiency of the provisions of the existing Act XX of 1855, for the establishment and maintenance of Boundary marks, to meet the numerous cases that arise in the course of the operations on which his department is engaged, was requested by the Board to prepare such a Draft Act as would in his opinion supply the defects of the existing Law, and this Draft Act, together with the correspondence noted in the margin which led to it, I am now directed by the Board of Revenue to submit for the orders of Government.

From Director of Revenue Settlement, dated 11th May 1859, *No.* 389 *in Con. 16th May* 1859, *No.* 2191.
Extract Proceedings Board of Revenue, dated 20th May 1859, *No.* 1843.

2. The emendations proposed by the Board in Mr. Newill's original draft, are noted on the margin of the draft and interlined in the text, and in all these with two exceptions which are noticed below, Mr. Newill now agrees with the Board.

3. The reasons which have induced the Board's amendments are so evident from the nature of the alterations themselves, as to call for no explanation.

4. The two points on which the Board and Mr. Newill are not agreed are,

1st. The provision inserted by him in Section 3 of the Draft Act, for commuting to imprisonment without labor for a period of not more than one month, the fine proposed to be levied for non-attendance when summoned, or for giving false information, or refusing to give information at enquiries held under the Act.

The Board do not think that such an offence is properly punishable by imprisonment, and they accordingly propose to retain the provision of the existing Law, under which such fines are leviable in the same manner as an arrear of revenue.

2d. Mr. Newill's proposal in Section 8 of the Draft Act, to give to the Revenue or Settlement Officers exercising the powers conferred by the Act, authority, in the event of Boundary or Survey marks being injured or effaced, and the immediate perpetrator of the act being undetected, to levy a *fine* from the villagers, in addition to the cost of restoring the mark.

The Board are of opinion that when the offence is not brought home to any individual, it is sufficient to charge the community with the expense of restoring the i ured mark, and they object to the proposed addition of a fine.

5. These points the Board beg to leave for the decision of Government.

6. I am also directed to remark that there are some provisions in Sections 4, 5 and 6, relating to the mode in which the cost of erecting, or restoring Boundary marks shall be borne which may appear in some degree at variance with the Proceedings of Government, dated 8th September 1859, Revenue Department, No. 1202, resolving that such charges should be defrayed by the State, and which may, therefore, need to be somewhat modified in practise, but while the Board were uncertain of the extent to which Government intended those orders to apply, they see no objection to retaining the liability under the Act, the concession if subsequently made by Government of relieving the persons concerned from this expense, being thus an act of grace, and not of right.

In Consultation, 9th September 1859.

7. The Board understand the meaning of Section 7 to be that the expense of defining all such land, not the property of individuals, or of a community, but of the State as it may be thought desirable to distinguish by Boundary marks, will be borne by Government.

8. It will be observed that the amendment of Section 9 proposed by the Board and agreed to by Mr. Newill, restricts the operation of the Act within its legitimate limits, excluding those more extended powers which Mr. Newill was at first disposed to think would prove useful,

and be desirable in the Wainád country, but which on further consideration he agreed with the Board in thinking might tend to hamper his considerations.

From H. NEWILL, Esq., Director of Revenue Settlement, dated Masulipatam, 11th May 1859, No. 380.

I have the honor to place before the Board the case of disputes of Boundaries between Zámíndari and Government Estates, and to point out what appears to me insufficient provision for the disposal of the same, under Act XX of 1855.

2. The disputes do not generally come up directly as between the Government and Zámíndars, but are brought by the villagers of the neighbouring Estates, who also have their claims of occupancy independent of the rights of the proprietor or the soil. I have now a case before me in which the Raiyats of Gonnoor, a village of the Chevendra Zámíndar, have appealed against the summary decision of my Deputy in Masulipatam, allotting certain disputed land to the adjacent Government village. His decision also involves the question of Boundary between the Zámíndari and Government land.

3. On referring to Act XX of 1855, it will be seen, that in Sections 1 and 6, it is provided, that all disputes of Boundaries whether of fields, holdings, estates or villages, shall be disposed of by the Settlement Officers under the provisions of Regulation 12 of 1816. On reference to this again, it appears to me that the case in point is scarcely contemplated, though Section 6 of Act XX of 1855, brings it under the procedure therein prescribed, viz, village or district Panchâyats.

4. I can hardly think, that it was intended, that rights of property contested between the Zámíndar and Government should be disposed of by Panchâyat selected by a village Munsif, or that the determination of the mere occupancy of the conflicting villagers, which alone seems to have been contemplated in Regulation 12 of 1816, should be held to decide also the graver rights of proprietorship, still Section 6 of Act XX of 1855, leaves no other course open for the adjudication of Boundaries of Estates.

5. As I believe this Act was drawn up by the Board, perhaps they could inform me more specifically as to how it was contemplated under it to deal with such cases as that now under discussion, which are likely to be of not unfrequent recurrence in the Northern Circars.

6. To enable my Deputies to carry on the demarcation with expedition, it is necessary that some prompt course of procedure should be adopted for disposing of disputes. In no case are they at present authorized to make any summary decision, where the Boundaries proposed are objected to, and the recourse to village and district Panchâyats in the prescribed way is a very tedious process, and moreover, the final decision of disputes may be put off indefinitely, in cases where the parties do not consent to a village or a district Munsifs Panchâyat, as they are then simply referred in Section 5, Clause 8, to the Civil Courts, which leaves the dispute as open as it was at first.

7. In such case, however, I conclude, the Boundary as decided by my Deputy, would stand until upset by a decree of a Civil Court, or until the parties might afterwards come forward with an agreement to refer the matter in dispute to a Panchâyat, which thus might at any moment set aside the decision of the Deputy Director. Perhaps the Board would also favor me with their views on these points.

Extract from the Proceedings of the Board of Revenue, dated 20th May 1859, No. 1843.

Read letter from the Director of Revenue Settlement, dated 11th May 1859, No. 380.

(In Con. 16th May 1859, No. 2191.)

In the above letter, Mr. Newill points out the insufficiency of Act XX of 1855 for the adjustment of Boundary disputes in certain cases.

2. The Board observe that the original Draft Act made no other provision for the adjustment of disputed Boundaries than that contained in Section 1, whereby Collectors and certain

other Officers are empowered to *fix* the Boundaries of fields, estates, holdings or villages, "whenever they may be of opinion that such demarcation is necessary for the *prevention* or *adjustment of disputes.*" The nature of the enquiry on which the demarcation was to be based was left to the discretion of the adjudicating Officer. Section 6 was added in consequence of its having been suggested in the Legislative Council, that disputes regarding Boundaries should be settled according to Section 5, Act I of 1847. The difficulties attending the operation of Regulation 12 of 1816, were not overlooked, but it was thought of importance that the Act (XX of 1855) should be passed speedily and the revision of Regulation 12 of 1816 was reserved for separate consideration.

To Government, 1st March 1855.

From Government, 29th March 1855, R. D. No. 375, in Con. 5th April 1859, *No.* 868.

3. So far, therefore, as difficulties caused by that Regulation are concerned, the only remedy is a new Act. Mr. Newill's experience of the requirements of his Department will enable him to point out both the defects of the existing Law and the best mode of remedying them, and the Board would suggest that he should draw up a rough draft of what he would propose as the future Law on this point.

4. In regard to the case briefly put in paragraph 2 of Mr. Newill's letter, the Board think the best plan would have been to have treated the dispute as between Government and the Zámíndar. The possession and all other rights enjoyed or claimed by the Raiyats would remain unaffected by the Boundary, the only difference to them being that in one case they would hold of the Zámíndar, in the other of Government. The Zámíndar would probably agree to a settlement by arbitrators to be named by himself and the Collector in the usual way.

5. It does not appear, however, that the Raiyats here in the first instance asked to agree to such a reference, a course which may often save time where the dispute is one of long standing. With regard to paragraph 7, the Board think the summary decisions of Mr. Newill's Deputies hold good until set aside by the decision of a Panchâyat or of a Court, but the possibility of their being reversed is a serious inconvenience.

6. The Board would suggest that Mr. Newill should at once communicate with the Collectors of Districts about to be surveyed with a view to such disputes being ascertained and settled before the Survey commences. If left to the time of actual demarcation, much valuable time may be lost. The only effectual remedy, however, would be a new Act, and the Board think the best principle to follow is arbitration. If the parties concerned cannot agree to the appointment of a single arbitrator, the Collector should have the power of nominating not less than three arbitrators whose decision should be final. Where Government and Proprietors are interested, the selection of arbitrators must of course be mutual, the arbitrators themselves naming a referee.

From H. NEWILL, Esq., Director of Revenue Settlement, dated Madras, 8th July 1859, No. 589.

I have the honor, in reference to the correspondence noted in the margin, to enclose a Draft Act for the demarcation of Boundaries, with remarks and explanations on the opposite page. Some emendations will doubtless occur to the Board, and I should be glad to have intimation of the same, before the Draft is passed on to Government, in order to the re-consideration of such points as may appear to the Board to require it, or to offering further explanation of the grounds on which the provisions are prepared.

Letter to Board, 11th May 1859, *No.* 380.

Proceedings of the Board, 20th May 1859, *No.* 1843.

Act No. of
Passed on the

An Act for the establishment and maintenance of boundary marks and for facilitating the settlement of boundary disputes in the Presidency of Fort Saint George.

Whereas it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of

Preamble.

permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, and for facilitating the settlement of boundary disputes and claims ;—It is enacted as follows :—

I. Act XX. of 1855 is hereby repealed.

II. It shall be lawful within the said Presidency for a Collector of Land Revenue, or person exercising the powers of Collector, or for any Revenue Settlement Officer, and also for any other Officer appointed by the Government for the purpose, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes (or for conducting and perpetuating a survey or a settlement of land revenue,) to fix the boundaries of fields, holdings, estates, or villages, and to require the owner or occupant of the field, holding, or estate, or the headman (by whatever name designated) of the village, to clear the boundary line where overgrown with jungle, and also to set up, form and maintain boundary marks, of such materials, and in such number and manner, as may be determined by such Officer under the direction of the Board of Revenue, or of the Director of Revenue Settlement, as the case may be, to be sufficient to distinguish the limits of the field, holding, estate, or village.

III. It shall further be lawful for such Officer aforesaid to call upon the owners or occupants of lands about to be surveyed, and also on all persons claiming to have any rights or interests in such lands, to register the rights and titles exercised or claimed by them in the lands, and to produce before him for inspection and registry all grants, title deeds, and other documents, connected with their claims.

IV. Any occupant or owner of land or other person whose attendance may be considered necessary for the purposes of this Act, who, on being summoned by such Officer aforesaid shall refuse or fail to attend at the demarcation, measurement, or assessment of his field, holding, or estate, or for the determining and marking the village boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate, or property, or for the investigation and determination of any boundary, and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect when called upon to give any information in his power, with respect to a boundary under enquiry, shall be liable by order of such Officer aforesaid, to a fine not exceeding fifty Rupees, to be levied, by warrant under the hand of Officer imposing it, in the same manner as a fine imposed by a Magistrate for a misdemeanor, and with a like alternative of imprisonment in default, as defined in Act II. of 1839.

V. When a survey is in progress, notices shall be served on the persons owning or occupying the fields, holdings, estates, or villages concerned, requiring them to clear the boundaries, and to set up, form or repair, or to render such aid and labor as may be necessary to form or repair under the supervision of the Government Officers, such boundary marks as may be required, within a reasonable time ; and in the event of such persons not being found in their village, the notice shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners, or occupants, were not correctly named or designated in the said notice.

VI. In default of the owners, or occupants of the fields, holdings, estates, or villages complying with such requisition, the said Officer may give directions for the erection and repair of the necessary boundary marks, the cost of which shall be equitably appointed on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages in such manner as such Officer aforesaid may consider just, and shall be levied in the same manner as arrears of land revenue.

VII. Whenever such owners or occupants of any fields, villages, holdings, or estates, may generally signify their wish for the boundary marks to be erected on the part of Government and the cost to be charged to them, or where in arrangements for the demarcation of the general survey of a village, estate, táluq, or district, it may appear to such Officer aforesaid to be desirable to undertake the demarcation of lands under a uniform system by the Officers of Government, the Officer aforesaid may proceed without the previous notice prescribed in Section ~~IV.~~ to the clearing of boundaries, and the erection and repair of the boundary marks, and may recover the cost of the same if unpaid in the manner described in Section ~~V.~~

VIII. In the case of unoccupied fields, and of extensive hills and jungles in Government lands the cost of marks for such fields, hills, and jungles, shall be charged to Government.

IX. Any person convicted before a Magistrate or person exercising Magisterial powers, of wilfully, and without lawful excuse, erasing, altering, removing, or injuring any boundary marks whatsoever, whether established under this Act or otherwise existing, or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an Officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty Rupees for each mark so erased, removed, or injured, of which fine a portion not exceeding one-half may be awarded to the informer and the remainder shall be chargeable with the cost of restoring the mark ; the fine to be levied in the mode prescribed above in ~~Clause~~ V. Provided always that a Magisterial Officer shall have power to impose a fine under this clause only to the amount to which he is competent to fine in misdemeanor under his general powers. Whenever it may not be possible to detect the person who erased, altered, removed, or injured such boundary or survey marks, the Officer as aforesaid may give directions for the restoration or repair of the marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands in such shares as may appear to him proper, or apportioned among the Rayats of the village in proportion to their land assessment as he may consider just and equitable, the same to be levied in the manner prescribed above in ~~Clause~~ IV.

X. If the parties interested in boundaries under dispute are desirous that the matter shall be referred to the final decision of one or more arbitrators, they may apply in writing to the Settlement or other Officer aforesaid either in person or by their agents especially authorized on their behalf, and the Settlement or other Officer aforesaid shall proceed to dispose of the case as hereafter provided.

XI. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Settlement or other Officer aforesaid, such Officer shall appoint the arbitrator or arbitrators.

XII. Where an equal number of arbitrators shall be appointed on each side, they shall collectively appoint another arbitrator to act with them, or in the event of their not agreeing or failing to appoint such further arbitrator, he shall be appointed by the Settlement or other Officer aforesaid,—and in all matters the majority shall rule the decision.

XIII. The Settlement or other Officer aforesaid shall by an order under his signature, refer to the arbitrator or arbitrators the matters in dispute, which he or they may be required to determine, and shall fix such time as he may think reasonable for the delivery of the award, the time so fixed being specified in the order.

XIV. When a reference is made to arbitration by an order of the Settlement or other Officer, such Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the person so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

XV. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Settlement or other Officer aforesaid may enlarge the period for the delivery of the award, if he shall think proper. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Settlement or such other Officer aforesaid, unless the award shall have been made after the issue of an order by the Settlement or other Officer aforesaid superseding the arbitration and revoking the institution of the enquiry.

XVI. If, in any case of reference to arbitration by an order of the Settlement or other Officer, the arbitrator or arbitrators shall die, or refuse, or become incapable to act, it shall be lawful for the Settlement or other Officer to appoint a new arbitrator or arbitrators in the place of the person or persons so dying, or refusing or becoming incapable to act.

XVII. When an award in any matter referred to arbitration shall be made, it shall be submitted to the Settlement or other Officer aforesaid under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and other records, or authenticated copies thereof relating to the matter.

XVIII. The Settlement or other Officer may on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision.

XIX. In any of the following cases the Settlement or other Officer aforesaid shall have power to remit the award or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators upon such terms as he may think proper: (that is to say)

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

If the award is so indefinite as to be incapable of execution;

If an objection to the legality of the award is apparent upon the face of the award.

XX. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators. Any application to set aside an award, shall be made within ten days after the same has been submitted to the Settlement or other Officer aforesaid,

XXI. If the Settlement or other Officer aforesaid shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid, and if no application shall have been made to set aside the award, or if the Settlement or other Officer aforesaid shall have refused such application, the Settlement or other Officer aforesaid shall proceed to pass a decision according to the award, and after duly furnishing the parties with a copy thereof, he shall proceed to mark out the boundary in accordance therewith subject to the provisions contained in this Act. In every case the decision given according to the award shall be final.

XXII. Where the claims and disputes relate to the occupancy of Rayats of Zamíndári and Proprietary lands, the consent in writing of the Settlement or other Officer aforesaid on behalf of Government and of the Zamíndárs, or Proprietors interested, shall be necessary for referring the disposal of such claims and disputes to arbitration, and the question of the disputed extent of such Zamíndári estate shall be determined as between the Zamíndár or Proprietor on one part, and the Government on the other, the Government being represented by the Collector, Settlement or other Officer aforesaid.

XXIII. The Settlement or other Officer aforesaid shall not be considered incompetent by virtue of his office to undertake the duty of an arbitrator in cases in which the conflicting parties may be desirous to nominate him as such.

XXIV. A certified copy of every decision passed in accordance with the award of arbitrators under this Act by such Officer aforesaid shall be forwarded by him to the Civil Court and be filed on its records.

XXV. Where the conflicting parties may not signify their agreement to refer the dispute to the final decision of arbitrators, or where any of the parties interested or concerned shall after due notice fail to attend for the investigation of the same, the Settlement or other Officer aforesaid shall proceed to investigate the claims, and in the case of any party failing to attend as aforesaid, shall make an *exparte* investigation and after examination of the witnesses and documents shall record his decision, and the grounds for arriving at it, and after duly informing the parties of the same, he shall proceed to mark out the requisite boundaries in accordance with the decision, which, subject to the revision of the authority to whom the said Officer is immediately subordinate, shall be considered as the determination of all claims and disputes until set aside by a formal decree of a Civil Court. An appeal shall lie to the Civil Courts from this decision by regular suit, provided it be preferred within two calendar months from the passing of the same. Provided also that it shall be lawful for the Governor in Council on just and reasonable cause for the same being shewn, to extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the Civil Court to entertain such appeal beyond the limit above specified.

XXVI. The proceedings of Officers imposing charges or fines other than Magisterial, under (Sections ~~III. V. VI. VIII. and XIII.~~ of) this Act, shall be recorded in writing, and shall be subject to revision by the authorities to whom such Officers shall be immediately subordinate. A final appeal shall further lie to the Head of the Department to which the Officer imposing the charge or fine shall belong.

XXVII. All fines levied under this Act shall be carried to the credit of Government.

XXVIII. It shall be lawful for all Officers of Survey and Assessment, Revenue Officers or other persons appointed by the Government for the purpose of investigating, settling, or marking boundaries of fields, holdings, villages and estates or measuring and assessing the same, and for all persons acting in aid and under orders of such Officers, whenever it may be necessary in the performance of their duty,—to enter, examine or measure, without let or hindrance, all lands whatever, whether such lands be the property of Government or of private companies or individuals, and such Officers aforesaid, as well as workmen, or other persons acting in aid of and under their orders, are hereby indemnified for what they or any of them shall do under the provisions of this Act.

XXIX. If any person shall obstruct, molest or in any way interfere with any public servant conducting the demarcation, measurement, or assessment of lands, or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate, or person exercising Magisterial powers, to a fine not exceeding 50 Rupees or in default, imprisonment not exceeding two months for the first offence, and for a repeated offence, to a fine not exceeding Rupees 150, or imprisonment not exceeding six months. Provided however that a Magisterial Officer shall have power to punish under this clause, only to the extent to which he is empowered to punish in cases of ordinary misdemeanor, under his general powers.

XXX. 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.

(Signed) J. D. BOURDILLON,
Secretary to Government.

No. 67. Memorandum from H. NEWILL, Esq., Director of Revenue Settlement, dated 21st November 1859.

Paragraph 1. For the Ordnance Survey of Great Britain and Ireland, and for the general valuation of Ireland, Legislative Enactments were considered necessary.

The Survey and Settlement operations for the whole of this Presidency are not of a less important character, and require *suitable* legal provisions to facilitate their progress and secure their success.

2. The present Enactment, viz., Act XX of 1855, was adapted as an experiment, and the Board of Revenue at the time admitted the insufficiency of its provisions as regards the adjudication of disputes by Panchâyat according to the Regulations, but did not like to defer the passing of it till their proposed revision of the latter was matured.

3. I consider the present Legislation to be deficient in the following important points:—

1st. Boundary disputes can under Act XX of 1855, only be settled under the provisions of Regulation 12 of 1816. This in pratice is found to invole endless delay; táluqs cannot be handed over to the Survey Department, owing to disputes remaining undisposed of in the

cumbersome process of Panchâyat as elaborately prescribed in the above Regulation. There is also no provision for the disposal of disputes, if the parties do not agree to the Panchâyat, except in a suit in a Civil Court to be brought at any indefinite period. Our Boundaries thus will be often left in uncertainty, although surveyed and mapped. I advocate Panchâyat or arbitration by Natives, and have provided in the Draft Act for a simple* mode of arbitration, but the process as laid down in existing Regulations is quite unworkable. It does not, moreover, contemplate cases in which Zámíndari rights come into conflict with those of Government.

* *Based on the Civil Procedure Act.*

2nd. The provision in Act XX of 1855, that 10 days notice must be given before the Government servants can take action in setting up Boundary marks, in case of any default on the part of the owners or occupants of lands, is entirely out of place, and necessitates a great delay, when a single day or even a few hours are generally sufficient for placing the marks. The Gumáshtás must thus wait 10 days for every recusant Raiyat to put up his marks, and as the whole operations rest, as regards expense, on the daily out-turn of work, the consequences may be easily seen.

3rd. The attendance of persons for any other purpose than putting up the marks on their own lands cannot be secured. Their attendance is necessary on the measurement of lands, and at their classification. This cannot now be enforced. It will often be the interest of the Raiyat to attend at the classification, but the reverse as regards the measurement, where excesses of area are expected, as in Rajahmundry, &c. The absence will render it impracticable in some cases to accurately ascertain the limits of the fields, and will afford an ample source of complaint afterwards.

4th. Persons cannot now be compelled to attend to register their claims to property. Without some provision of this kind, I do not see how the business in the Wainád can progress satisfactorily. A great many persons there, are conscious of imperfect and fraudulent titles, and will keep aloof from any thing that will tend to bring them to the test, and, if this is the case, a main object of the present expensive operations, which are not directly to benefit the Government materially, will be lost.

5th. Persons cannot be compelled to clear their Boundaries under the present Law, and the Government resolved that this should be done in the Wainád in a recent Order.

6th. There is nothing to prevent an action or charge of tresspass being brought against any Survey or Settlement Officer entering the grounds of Raiyats or proprietors, and the servants should not tread on such uncertain and dangerous ground, particularly as there are found to be many litigious and contumacious persons to be dealt with. Acts of aggression on the part of the Raiyats show also that it is necessary to protect the establishments from ill treatment in their duty.

4. There are other less important points which require to be provided for.

No. 68. Memorandum from H. NEWILL, Esq., Director of Revenue Settlement, dated 22nd November 1859.

The inconveniences pointed out in my memorandum, are mostly practical difficulties actually experienced.

For instance:

On point 1st and paragraph 3, I may state that in the three Districts under Survey, whole táluqs could not be handed over as required for the arrangement and Survey of main circuits, owing to disputes not being settled, and their settlement being in several cases protracted by the dilatory process of Panchâyat, according to the present Law. My Deputy in Rajahmundry was employed month after month, before getting some cases through the Panchâyat.

In my letter to the Board belonging to the correspondence, I gave an instance of cases of disputes regarding Government and Zámíndari lands, which do not seem to be provided for in the Regulation about Panchâyats, quoted in the present Act.

There is reason to expect many disputes of this kind, as we progress in Salem, where the Proprietary Estates pay about ⅓rd or ¼th of the whole land revenue. Both Panchâyat and arbitration as proposed are *final* without appeal, and the only appeal proposed to be allowed is within a limited period, so that the new Act would secure the settlement of all disputes and their being recorded in the Survey and Settlement records, instead of leaving every thing indefinite as at present after the Survey is made, except the cases decided by Panchâyat.

On the 2d point, the incessant inconvenience and delay of the 10 days notice pervades the whole operations. It is not worth-while generally to wait 10 days, and the only alternative is to visit the default on the village Officers, who are in reality fined extensively in one shape or another for the short-comings of the Raiyats generally. This evil has swollen to a great extent, but it is the only alternative the Executive Officers can pursue, to letting the work be stopped altogether. The Raiyats cannot reasonably be served with notices to put up their marks, till the Gumáshtás show them where and how they are required to be made. The option of a delay not exceeding 10 days, is fatal to all dispatch. The experiment was made of serving general notices for each man to mark his own field according to the rules within the prescribed period of 10 days, and the result always was, that marks were put up in such a way that their revision is almost as troublesome as doing the work *de novo*, both to the Raiyats and Gumáshtás. My conviction is, that we shall not get on satisfactorily till we have regular staff of demarcation coolies as contemplated in the Draft Act. Much evil has so far been patiently endured, particularly that of generally visiting delinquencies on the village servants, who alone can be legally fined, in hope of a speedy remedy in a new Act.

On the 3rd point, I have incessant complaints from the Survey Department, that its Officers have no power to compel the attendance of the requisite persons at the measurement of the fields, and that delay is constantly occasioned by their absence. This delay tells very seriously on the out-turn of work, and does not appear to be diminishing in the party longest established. The default is often with the Raiyats, the cases are reported to the Settlement Officers; but there is no authority to fine or punish Raiyats for such non-attendance, and the default is, as in the previous case, visited on the village authorities on the ground that they ought to use their influence in securing such attendance; though in reality they cannot compel it. The Survey Officers complain that they are often helpless, particularly when at a distance from my Deputies. They ought to have the power of compelling attendance for their work. As regards both the Survey and Settlement Departments I do not hope for any more satisfactory procedure without the remedy of a new Act against existing evils, and my hopes of the future improved rate of work will certainly be damped without such provision. The Act as it now stands does not practically admit of any example being made of Raiyats' default in putting up Boundary marks, and also does not make any provision for attendance at measurement and classification; so is almost useless for these threefold operations.

The 4th and 5th points are only prospective; but deserve consideration.

On the 6th point, I am informed, though it has not been placed officially on record, that the Demarcation Establishment has been threatened by influential people with actions for tresspass in the Munsif's Court, for marking out lands in the Trichinopoly District. If half a dozen or a dozen hands are thus called away from their work to defend themselves in frivolous suits in the Civil Court, there is nothing to prevent a serious check being made to operations by contumacious persons, and much valuable time of my Deputies and others being employed in litigation.

No. 69. ORDER THEREON, 27th March 1860, No. 465.

Ordered that the above papers and the Draft Act as amended by Government be forwarded to the Legislative Member of Council for the Madras Presidency, with the particular request of this Government that it may be passed into law with as little delay as possible, as the powers to be conferred by it are urgently required in the prosecution of the Revenue Survey.

(Signed) J. D. BOURDILLON,
Secretary to Government.

Ordered in consequence that the following letter be despatched.

No. 70. From J. D. BOURDILLON, Esq., Secretary to Government of Fort Saint George, to H. FORBES, Esq., Member of the Legislative Council for the Madras Presidency; dated 27th March 1860, No. 466.

I am directed by the Honorable the Governor in Council to forward to you the papers noted in the margin respecting a new Act, to be substituted for Act XX. of 1855, "for the establishment and maintenance of Boundary Marks, and for facilitating the Settlement of Boundary Disputes in this Presidency."

From Board of Revenue, 23rd Sept. 1859, *No.* 3858, *enclosing, letter from Dir. of Rev. Settlement,* 11*th May* 1859, *No.* 380.
Board's Proceedings, 20th May 1859, *No.* 1843.
From Dir. of Rev. Settlement, 8th July 1859, *No.* 589.
Draft Act.

Two Memoranda from Mr. Newill, dated 21st and 22nd November 1859.

2. In his letter of the 11th May 1859, the Director of Revenue Settlement pointed out that the provisions of Act XX. of 1855 are insufficient to meet cases where disputes relating to boundaries occur between Zamindári and Government Estates, inasmuch as the only agency available under the Act is that of Village and District Panchâyats, which he rightly considers wholly unsuited to the disputes in question. Even disputes of this kind between ordinary Raiyats now remain unsettled for months, in consequence of the defective means for deciding them, and this greatly impedes the progress of the Survey and Settlement operations. These defects are remedied in the Draft Act (Clauses 9 to 23), by providing other means of appointing Arbitrators, and also regulating their powers, these provisions are taken chiefly from Acts VI. of 1857 and VIII. of 1859. In cases where the parties do not consent to refer the dispute to arbitration it is provided (Clause 24), that the Settlement Officer shall have power to pass an award, which shall hold good unless set aside by a Decree of Court, on an Appeal to be preferred within two calendar months.

3. The other defects found in the working of the present Act, which it is proposed to remedy in the new Act, are enumerated in Mr. Newill's Memorandum dated November 21st; and the Memorandum of November 22nd gives instances of the actual inconveniences and hindrances experienced in the Survey, in consequence of those defects. Act XX. of 1855 was avowedly only tentative; the Survey had not then commenced, and there was no experience to guide this Government in framing the Act. It contained, therefore, only some certainly necessary provisions, leaving further provisions to be inserted after experience. The Government believe the additions now proposed to be necessary; and I am instructed to request that you will bring them under the consideration of the Council without delay. Further, as it is of consequence to the progress of the Survey, that the Bill should become law at an early date, I am instructed to request that you will move the Council to suspend the Standing Orders, so as to expedite its passing, as the powers to be conferred by it are essentially necessary in the Survey of Wainád in Malabar which has just been commenced.

R. C.

No. 465

Proceedings of the Madras Government

Under date the 27th March 1860

Read the following Papers

Letter from the Actg Secy to the Bd of Rev:

Submitting with the Board's remarks correspondence from the Dr of Rev: Settlement promising a draft Act for the establt and maintenance of Boundary marks (Here enter 23rd Sep: 1859 No 3858)

Memo from the Dr of Revenue Settlement

Stating that the survey & settlement operations require suitable legal provisions the present legislation being deficient in certain important points (Here enter 21st November 1859)

Dr from Do Do Do

Giving instances of the difficulties experienced in the Survey operations from the deficiencies pointed out by him in the present Legislation (Here enter 22nd Novr 59)

Ordered that the above papers and the draft Act as amended by Government be forwarded to the Legislative Member of Council for the Madras Presidency with the particular request of this Govt that it may be passed into Law with as little delay as possible, as the powers to be conferred by it are urgently required in the prosecution of the Rev: Survey.

Dispd 28 with Draft Act

11 Copies to the Board of Revenue
11 " Director of Rev: Settlement

Rev. Dept.

Ent. Copied
Desp. by Steamer 26th

No. 466

H. Forbes, Esqre.
Member of the Legislative Council
for the Madras Presidency.

Sir,

I am directed by the Honorable the Governor in Council to forward to you the papers noted in the margin respecting a new act, to be substituted for Act XX of 1855 for the establishment and maintenance of boundary marks, and for facilitating the settlement of boundary disputes in this Presidency.

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Fort St. Geo. 27 March 1860