M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 851	Press ~~Mis.~~
75-76	
Dated 25 — 5 —	18 69.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, for the month of May 1860.

No. 75. Read the following letter from H. NEWILL, Esq., Director of Revenue Settlement, to J. D. BOURDILLON, Esq., Secretary to Government, dated Madras, 24th May 1860 :—

Within the last day or two some important questions have arisen as to the powers of my Deputies generally, and also specially under Regulation IX of 1822.

I have stated them briefly, but I hope clearly, in the accompanying Memorandum. I have added a Clause which I propose should, after approval, be inserted in the Draft Act now before the Legislative Council, if it has not passed into Law. A Telegraph Message might be sent to Calcutta to ask Mr. Forbes to detain the Bill till the arrival of next Steamer, which may take up a communication on the subject.

The matter has become a very serious one, as the competency of my Deputies to take up cases of corruption under Regulation IX of 1822 is questioned; and in some cases of appeal before the Revenue Board, I have good reason to anticipate that the charges will be thrown over on the technical ground described in my Memorandum, viz., that our Establishments, do not come within the scope of Regulation IX of 1822. Corruption and all kinds of irregularity will become rampant, and we need every proper means of keeping under such practices.

MEMORANDUM.

Regulation XI of 1803, Section 2, provides that Collectors are to be Covenanted Civil Servants.

Regulation VII of 1828, *Section* 3, *Clause* 1.

A Sub-Collector when in charge of a *particular portion* of a District has ex-officio authority to exercise within the division under his charge, all the powers granted to the Collectors by the Regulations and Acts.

Clause 2.

But when he has no such charge, the *Collector* is authorized to delegate to him any of the powers he himself may exercise under the Regulations.

Clause 3.

The Collector may also extend the powers of the subordinates in charge of particular divisions beyond the limits of the divisions under their charge.

Regulation II of 1827, *Section* 2.

Similar provisions are enacted in the case of Assistant and Joint Magistrates, the Magistrate being the authority by whom the powers are delegated.

Act VII of 1857.

In regard to Deputy Collectors also, it is the Collector and Magistrate that prescribe the duties they are to perform and the powers they are to exercise as Assistant Collectors and Magistrates.

It appears, therefore, that while the Government may appoint the Deputy Directors of Revenue Settlement to be Sub-Collectors and Joint Magistrates, it is for the *Collector* of the District in which they are employed to delegate to them the exercise of any of the powers of Sub-Collectors and Joint Magistrates within the District, either in ordinary matters or in special cases such as those coming under Regulation IX of 1822, inasmuch as they have no Revenue charge of any particular portion of the District. The Government, it is apprehended, are not competent "to vest* in the Deputy Directors the powers of Sub-Collector and Joint Magistrate" to be exercised by them in any District in which they have not particular charge, although they appoint them to these Offices.

* *Orders of Government have been passed to this effect in the cases of my Deputies.*

The incompetency of the Government in this respect seems to be admitted in the case of Military Officers appointed Magistrates and Assistant Magistrates. Regulation IV of 1847 empowers them to make these appointments and to confer on any Assistant Magistrate, by a

special Order, any of the powers of a Magistrate. There would have been no necessity for this Law had the Government the authority to do so previous to its enactment.

It is questionable, further, whether the Settlement and Survey Establishments come under the description of persons who can be tried under Regulation IX of 1822, for corruptly receiving money and other malversation. There are peculiar temptations to such offences in these Departments, and it is necessary that they should be included along with the Collectors' Establishments under the summary process provided by the above Regulation; otherwise it will be impossible to check bribery, corruption and extortion, of which instances already have not been wanting.

It appears, therefore, desirable to prevent any technical objection being raised to the Judicial powers of the Deputy Directors of Revenue Settlement, that some such provision as the following should be introduced in the Draft Act now before the Legislative Council:—

It shall be lawful for the Governor in Council to vest in any Settlement or other Officer aforesaid, any or all of the powers granted to Collectors and Magistrates under any Laws now in force or hereafter to be enacted, in so far as the Governor in Council may deem such to be necessary to be exercised in the execution of the duties of a Settlement Officer, and likewise to empower such Settlement or other Officer aforesaid to take cognizance of the offences specified in Regulation IX of 1822, arising in reference to the Settlement and Survey Establishments, in the manner therein prescribed; the proceedings in such cases being subject to the control and revision of the Director of Revenue Settlement, in the manner described in Clause 3 of Section 3 of Regulation VII of 1828, and the appeal lying to the Board of Revenue in the manner prescribed in Regulation VII of 1828 and Regulation III of 1832.

No. 76. ORDER THEREON, 25th May 1860, No. 851.

Ordered that the following Telegram be despatched to H. Forbes, Esq:—

"Delay the final passing of the Boundaries Bill till receipt of a letter about to be despatched "forwarding some new Sections to be added."

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

Ordered in consequence that the following letter be despatched.

No. 77. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, to H. FORBES, Esq., Member of the Legislative Council of India, dated 25th May 1860, No. 852.

1. I am directed to transmit for your information copy of a letter and Memorandum received from the Director of Revenue Settlement suggesting the addition of some new Provisions to the "Bill for the establishment and maintenance of Boundary Marks, and for "facilitating the settlement of Boundary Disputes in the Presidency of Fort Saint George." I also enclose a draft of three Sections, intended to supply the defect in the Bill, noticed by Mr. Newill; together with a Memorandum of the reasons for the several parts of the Draft.

2. The Governor in Council requests that you will bring these new Sections before the Legislative Council, to be passed as a part of the Boundaries Act.

Proposed additional Sections to the Bill for the Establishment and Maintenance of Boundary Marks, and for facilitating the Settlement of Boundary Disputes, in the Presidency of Fort Saint George.

Section XXXI.—Any Deputy Director of Revenue Settlement being a Sub-Collector and Joint Magistrate, shall be competent to exercise within the District in which he shall be employed, any of the powers ordinarily exercised by a Sub-Collector

Proceedings of the Madras Government, Revenue Department, for the month of May 1860.

and Joint Magistrate within his charge; provided, however, that such Deputy Director shall only have cognizance of cases and offences connected with the duties of the Survey or the Settlement Department. In cases occurring under Regulation IX of 1822 before a Deputy Director under this Section, the power of control and revision provided by Clause third, Section 3, Regulation VII of 1828, shall be exercised by the Director of Revenue Settlement.

Section XXXII.—All servants of the Survey and Settlement Departments shall be subject to the provisions of Regulation IX of 1822 and VII of 1828 of the Madras Code; and those Regulations shall apply to the Survey and the Settlement Departments in the same way as they apply to the ordinary Revenue Department.

Section XXXIII.—The provisions of the preceding two Sections shall apply to all cases not finally decided at the time of the passing of this Act.

MEMORANDUM.

Section 31.—1. Various cases have occurred to show the necessity of bringing the Members of the Survey and Settlement Departments under the provisions of the Regulation for the punishment of Bribery, Extortion, Embezzlement and Falsification of Accounts, when committed by servants of the Revenue Department. Several such cases have been tried by the Deputy Directors, being also Sub-Collectors, and sentence passed; but the convictions are likely to be reversed in appeal by the Board of Revenue, both because the servants of the Survey and Settlement Departments are not now subject to the Regulations above referred to; and also because it is held that though the Government can appoint an Officer to be Sub-Collector, such Sub-Collector has no powers, not being in separate charge of a part of the District, except such as the Collector of the District may assign to him.

2. It is intended that the Appeal shall be to the Board of Revenue as provided by Regulation VII of 1828; but that the control and revision exercised by Collectors, under the same Regulation, over the proceedings of Subordinate and Assistant Collectors, shall be exercised in the cases now in question by the Director of Revenue Settlement.

Section 32.—3. It is necessary to bring the servants of the Survey and Settlement Departments under the Regulations in question, which now do not include them; and it is necessary to bring under them also as respects the Survey and Settlement Departments the servants of the Revenue Department and all other persons, for acts which would be cognizable under these Regulations if connected with the Revenue Department. See in particular Article 3rd, Clause third, Section 2, Regulation IX of 1822.

Section 33.—4. This Section is intended to prevent the escape, on technical grounds, of persons who have been charged with offences intended to be provided for by these Sections but whose cases shall not have been finally decided when the Act shall be passed.

No 852

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Do receive
the envelope

To the Sec. to Govt
Read the following letter from A
Report, Dep. Director of Revenue Calcutta
re duty to be levied on Foundation Cogs.

~~My dear Boundaries~~

Within the last
day or two, some important
questions have arisen as to
the powers of my Deputies
generally, and also especially
under Reg IX of 1822.
I have stated them briefly, but
I hope clearly in the accompanying
Memo: I have added
Clauses which I propose should,
after approval, be inserted in
the Draft act now before
the Legislative Council, if
it has not passed into law.
A Telegraph Message might
be sent to Calcutta & ask

The

No 852

4

Forbes to obtain the Bill till the arrival of the next Steamer which may take up this communication on the subject.

The matter has become a very serious one, as the competency of my Deputies to take up cases of Exemption under Reg IX of 1822 is questioned in some cases of appeal before the Revd Board, I have good reason to anticipate that the charges will be thrown over on the technical ground directed in my memo: of that date & establishes not only the scope of Reg IX of 1822. Exemption of all kinds of inquiries will become rampant, & at the present moment we need every proper means of keeping under such practices, ~~such, and keep to~~ penal sums, as are in my opinion at least.

I am
Sir
Your most
obedient
Servant
J Hamilton

Madras
24 May 60

Ordered that the Bill

Revenue 1860 Dep.
Pro. of Govt 31st May
No 1082.

From
The Director of
Rev. & Settlement

Dated 24th } May 1860
Rec'd 25 } from Do. 8th Aug. 60 C. No. 161

Encl.
Forwards a Memorandum
on the powers of the
Deputies generally and
also specially under
Reg.n IX. of 1822, and
proposes a clause
for insertion in the
Salt Boundary Act
now before the Legisla-
tive Council.

From the Secretary of Legislative Co
No 1201. in. 29th June
No 116 14th July

No 851. 25th May

W. Mauverer

Ordered that the
despatched to Revenue Dep.t
Secretariat Fort St. George
the Boundaries Bill, the
Draft Act, and Memo
Legislative Office
25th May 1860

No 75 of 76.

No 852

H. Forbes, Esq.re
Member of the Legislative Council
of India

Sir,

I am directed to trans-
mit for your information copy
of a letter and Memo received
from the Director of Revenue
Settlement suggesting the ad-
dition of some new Provisions
to the Bill for the establish-
-ment and maintenance of
"Boundary Marks, and for fa-
"cilitating the settlement of
"Boundary Disputes in the
"Presidency of Fort St. George".
I also enclose a draft of three
Sections, intended to supply
the defect in the Bill, no-
-ticed by Mr. Newill; together
with a Memo of the reasons
for the several parts of the
Draft.

The

2. The Governor in Council requests that you will bring these new sections before the Legislative Council, to be passed as a part of the Boundaries act.

Fort St. Geo. 25th May

19-7-15

Revenue 1860 Departt
Pro of Govt. 31st May

No 852.

To the Member of the Legis-
lative Council of India.
Dy 25th May 60.

From the Member Legislative Council
of 29th June 60 No 1401

Forwarding 3 new
sections to be passed as a
part of the Boundaries act.

No 77.