

PRESS SERIES.

G.O., No. 857

Dated 8 th October

[Despatch Abstract.]

Directing that payment of wages & advance
of yarn to weavers in respect of any kind
of cloth should not be made oftener than once
in a time shown in the work-table as necessary
for weaving that cloth.

not made oftener than
once in a day.

BACK PAPERS.

G.O.	No.	Department	G.O.	No.	Department

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images and advance of
arm in respect of any kind
- cloth should not be made
cleaner than once in the
- time shown in the
- as necessary for
earring such cloth.

Read again G. O. $\frac{4612}{3-9-87}$.

G. O. (Press) No. 857 of 8th Oct. 1897.

The Govt. has reason to believe
that the lightness of the tasks
imposed in some of the affected
districts enables weavers to finish
their work in a shorter time than
that allowed in the task-tables
and thus to earn considerably
more than C images; the system
has thus practically become one
of piece-work which is opposed
to the principles of the Code. The
Govt. is therefore of opinion that
payment should be limited to
the work ~~shown~~ prescribed in
the task-table - that is to say -
if the task-table shows that ~~for~~
weaving a particular kind of cloth
requires the labour of one man
for a day for weaving and
of one woman for h days and
of one child for c days for
subsidiary operations, advance
of yarn and materials should
not be made ~~after~~ more
than once in a day.

Government {1897} of Madras.
REVENUE.

Recd.

Regd.

} 1897.

Enclosures

Spare copies

G.O., No. 857, 8th October 1897.

OCTOBER.

Payment of wages and advance of yarn.

Directing that — to weavers in respect of any kind of cloth should not be made oftener than once in the time shown in the task-table as necessary for weaving that cloth.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again the following G.O., Mis. No. 4612, Revenue, dated 3rd September 1897:—

Order—Mis. No. 4612, Revenue, dated 3rd September 1897.

The Government observes that, notwithstanding the recent improvement in the season, the number of weavers relieved at their own trade is steadily increasing in almost all the affected tracts, and resolves to direct that this relief shall, in future, be restricted to weavers with single looms and that all persons owning more than one loom now in receipt of relief should be eliminated from the relief lists.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Famine Commissioner.

ORDER—No. 857, Revenue, dated 8th October 1897.

Miscellaneous.

The Government has reason to believe that the lightness of the tasks imposed in some of the affected districts enables weavers to finish their work in a shorter time than that allowed in the task-tables and thus to earn considerably more than C wages; the system has thus practically become one of piece-work which is opposed to the principles of the Code. The Government is therefore of opinion that payment of wages and advance of yarn in respect of any kind of cloth should not be made oftener than once in the time shown in the table as necessary for weaving that cloth.

2. The Famine Commissioner is requested to issue instructions accordingly.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Famine Commissioner.

Wid. P. Seetharam.

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REVENUE G.O. No.
104

REVENUE No.

REVENUE G.O. No.

REVENUE G.O. No.

REVENUE G.O. No.

REVENUE G.O. No.

REVENUE G.O. No.

M.B.—

A—Printed in full.

B—Not to be printed.

P—Printed in full only.

9TH OCTOBER 1897
ends, it will be
tration office
(al).

No. 858, REVENUE, 9TH OCTOBER 1897.

Read—also the following papers:—

From the Collector of Arcot, North, dated 4th June 1891, No. 799-In.					
"	"	of Kistna,	"	12th "	" 4245.
"	"	of Malabar,	"	11th Apr. "	" 249-Gl.
"	"	of Salem,	"	11th Mar. "	" 462.
"	"	of Tanjore,	"	20th Jan. "	" 131.
"	"	of Tinnevelly,	"	8th Dec. "	" 715.
"	"	of Vizagapatam,	"	2nd Mar. "	" 601.

Resolution—dated 26th April 1892, No. 193.

The papers read above relate to a proposal made by the Inspector-General of Registration to extend the powers of officers of the Registration Department in the matter of receiving applications for the transfer of pattas.

2. Under existing orders, these officers are empowered to receive such applications only in cases where documents evidencing the transfer of the lands concerned are presented to them for registration (*vide* Government Order, No. 19, dated 8th January 1885). The Inspector-General now proposes that his subordinates should be authorized to receive such applications in all other cases also, i.e., even where no documents relating to the transfer are brought for registration, his proposed procedure being that the parties should produce the patta with their applications to "enable the registering officer to satisfy himself that the land is correctly described in the application and that the person desiring to transfer the registry is the registered holder."

Vizagapatam.	Tanjore.
Kistna.	Tinnevelly.
North Arcot.	Malabar.
Salem.	

3. The proposal was referred to the Collectors of the marginally-noted districts for an expression of their views and their letters are submitted for perusal.

Very one of them, it will be seen, is against the proposal. All of them, except with the Collector of North Arcot, point out that even under the existing practice which is transacted to as being so successful, the applications received through registration are often fail to give correct or sufficiently full descriptions of the lands concerned, that the bulk of the work of effecting the transfer still falls on the Revenue Department. The Collectors of North Arcot and Tinnevelly remark that the proposal can hardly be worked without calling in the aid of village officers to identify the parties. The Collector of Kistna further points out that the pattas produced before registration officers may often not be the latest ones, and that they will therefore not be of much use in identifying the lands. The Collectors of Vizagapatam, Kistna, North Arcot and Salem observe that at almost every Sub-Registrar's station, there are revenue officers such as Taluk Sheristadars, who are authorized to receive such applications and that there is no reason why people desiring to effect revenue registry should not go to them. Lastly, the Collectors of Tanjore and Malabar think that the proposal may lead to mischievous consequences as it is likely to be used mainly by parties who wish to bring about improper changes in revenue registry, to enable them to accomplish their object by avoiding proper inquiry.

The Board concurs in the views summarized above. That, at the time of registering a document evidencing a transfer of property, the registration officer should be empowered to record an application by the parties for the simultaneous transfer of revenue registry, i.e., of patta, is a matter of common sense and the results of that concession, however satisfactory, only prove that persons having official business to transact, prefer to do it all in one office instead of going to two. That the same officer, however, should be empowered to dispose of transfer applications in cases, with which in their capacity of officers of the Registration Department they have nothing whatever to do, is a totally different matter, and one which is on the face of it, open to strong objections. The only reason given for it, with the exception of the Udamalpet case, which must be very exceptional, is that the existing practice has been a success. The existing practice is, however, as has been stated, a totally different affair, and even if looked at from the point of view of saving work, is not so entirely

Original.

G.O. No. 858 Rev. 9. 10. 1897

successful as is claimed. There are grave objections to allowing the officers of the Registration Department to interfere in the details of revenue work and to use authority over revenue officers, and yet without such interference and authority, it is virtually impossible for a registration officer to do anything more than take the very first step in the direction of effecting a valid transfer. All he can do is to register the allegation of consent, the identity of the parties; the identity of the holding, and the right to transfer still remain to be investigated by the revenue officials. There can, therefore, be very little saving of trouble to the applicant and there is practically none to the revenue authorities.

6. The Board does not consider that any case for the change suggested has been made out, and as there are patent reasons against it, it recommends that the change should not be made.

7. The Collector of Coimbatore will be requested to report on the statement made by the Registrar of Coimbatore that the ryots in the Udampalpet taluk "evade" resorting to revenue cutcherries for effecting transfer of pattas, and for this purpose execute a release of patta right on a nominal stamp of 2 annas; and having this ingenious device brought it within the power of registering officer to receive applications for the transfer of patta, present the applications to him to be sent on to the Revenue authorities in the usual manner. One hundred and eight releases of the kind executed solely for the purpose of creating an occasion for effecting patta transfers through registering officers were registered in Udampalpet against 109 in the previous year."

(A true Extract.)

(Signed) H. A. SIM,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with Collectors' letters in original (to be returned).

Copy to the Collector of Vizagapatam.

"	"	"	of Kistna.
"	"	"	of North Arcot.
"	"	"	of Salem.
"	"	"	of Tanjore.
"	"	"	of Tinnevely.
"	"	"	of Malabar.

Read—the following Proceedings of the Board of Revenue (Land Revenue)
dated 30th May 1892, No. 235:—

THE HON. MR. H. W. BLISS.

MR. E. GIBSON.

Read—the following Government Order, dated 28th January 1891, No. 156,
Judicial:—

Read—the following paper:—

From M.R.Ry. S. SRINIVASA RAGHAVAIYANGAR Avergall, Dewan
Bahadur, Inspector-General of Registration, to the Chief Secretary to Government, dated Ootacamund, 2nd October 1890, No. 4526-T.

Adverting to the concluding portion of paragraph 19 of my Administration Report for 1889-90, I have the honour to submit, for the orders of Government, a note containing proposals for preparing the indexes maintained in the Registration Department in such a manner as to show in one view the encumbrances on, and the transactions effected with, lands forming part of ryotwar holdings in surveyed districts.

2. The feasibility of the proposal depends, it will be seen, on the Revenue Department being able and willing to furnish registration officers with copies of register of holdings (Statement No. 10 of the Village Manual).

3. If the proposal meets with the approval of Government, I beg that orders may be issued for the plan recommended being experimentally tried in the districts mentioned in paragraph 25 of my note from 1st July next, i.e., the commencement of the next fasli year. Some additional establishment will probably be necessary for working the scheme in registration offices.

4. It will be observed that the scheme is of importance in connection with the establishment of a cultural banks, which, I understand, will be one of the subjects brought up at the agricultural conference to take place very shortly at Simla.

ENCLOSURE.

Note.

I submit for perusal the following papers, viz:—

1st.—A memorandum on the registration system in force in the French territory of Karikal, prepared at my request some years ago. The memorandum, however, is incomplete in some respects.

2nd.—A description of a Swiss Land Credit Bank extracted from a paper read by Mr. O'Brien before the Statistical and Social Enquiry Society of Ireland.

3. The Government is aware that the object of the Indian registration system is two-fold, viz:—

1st.—Authentication of documents and securing authentic evidence of their contents in cases in which the original documents may not be available.

2nd.—Affording facilities to persons desirous of purchasing or lending money on landed property for tracing out titles to, and charges and encumbrances on such property.

3. The first object has been completely attained, or nearly so, under the present system, the absence of forgery being now of rare occurrence. Even in this respect, however, the law does not provide complete safeguard. For example, A mortgages his property to B on a certain date, with a view to defraud B, subsequently executes another mortgage to C, and falsely gives registration, all that the registering officer has to do is to ask A whether he executed the document, and on his admission, he must register it. The document will, nevertheless, be a forged document under the definition given in the Penal Code.

4. The second object of the registration system, viz., affording facilities for the investigation of titles to landed property, has been imperfectly, if at all, realized. The reasons for this state of things are the following:—

1st.—Section 22 of the Registration Act precludes registering officers from insisting on a uniform manner, as it is laid down that any description sufficient for identification of property must be accepted. This being so, an officer making a search for documents relating to any particular property can never be sure that he has found them all, as the same property might be described in different ways in different documents. For instance, a piece of land may be described by its survey number, if there is one, or as being bounded on the north by A's property, on the east by B's property, and so on. Now if the same plot of land be described in one way in one document, and in another way in another document, or if A's or B's property, which is mentioned as the boundary change hands and become the property of either X or Y, an officer making a search cannot know without making extensive inquiries (which, of course, is entirely out of the question) that the property referred to in all the above documents is one and the same.

2nd.—The indexes are not prepared so as to show all documents relating to a property in one view. The indexes show all documents relating to all properties in a village, and they are entered in chronological order. In searching through the indexes, therefore, there is a considerable chance of missing a document required, and the chances of error increase with the number of years in the records of which the search has to be made.

5. The officers making general searches incur, therefore, great responsibility, and there is reason to believe that the public view with considerable distrust this portion of the work of registration officers. The Registrar of the Gódvári district has reported that the certificates of encumbrances granted under the rules framed by the High Court under section 287 of the Code of Civil Procedure in respect of property which is proposed to be sold in execution of decrees, are viewed with dissatisfaction by the public and the Judges. This is unavoidable for the reasons above pointed out.

6. It may be doubted whether searches in registers relating to officers of the Registration Department are searches only in Book III (Register of immovable property). However, the details of revenue work and to use being made by officers trained to the work without such interference and authority, it upon private individuals making the searches or to do anything more than take the individuals to handle registration records would be a valid transfer. All he can do is to

7. The remedy for the present unsatisfactory of the parties; the identity of the adoption of a system of registration of titles, or (2) he investigated by the revenue indexes, so as to show in one view all documents relating to the applicant and

8. The system in force in the French territory of Karikal is, the execution of mortgages or other documents relating to immovable property before a Notary Public secures the authenticity of transactions to the fullest extent and prevents fraud of the kind referred to in paragraph 3. The title to the property is also cleared up before the document relating to it is drawn up, and the execution before the notary gives the document the force of a decree of a court.

9. The introduction of a system of registration of titles, such as that in force in the French territory of Karikal, is, however, attended with great difficulties and will require extensive changes in the law. It will be seen that the French Government has simplified the Hindu law of inheritance and has made the Hindu father the absolute owner of his ancestral as well as self-acquired property, to the exclusion of the rights of his sons. The widow of a Hindu takes his property absolutely and has not merely a life estate in it. Not only mortgages but also payments made therefor are registrable. Mortgages are liable to be set aside, unless registration of them is renewed every ten years. The responsibility also of the notary who makes inquiries in regard to title to properties, and draws up documents concerning them, is very great as he has to make good any loss that may be incurred owing to his neglect to make proper inquiries regarding titles. In view of these difficulties, the question of introducing a system of registration of titles requires very careful consideration. I may, however, quote the opinion of

* Page 405.

of Landlord and Tenant," after giving an account of the registration system introduced in South Australia by Sir R. Torrens, he remarks as follows: "The South Australian system combines registration of titles and a cheap and effectual means of transfer. It possesses numerous advantages over mere registration of assurances, against which Lord St. Leonards urged

† Under section 47 of the Indian Registration Act, a registered document operates from the date of execution, and not from the date of registration. Under this provision, however, there is room for fraud, in that the seller or mortgagor may resell or mortgage the property already sold and antedate the transaction.

by its own weight. The soundness of both these objections has been exemplified under the system of registration of assurances introduced into India in 1864, at a great cost and continued outly. The one single benefit obtained in return is the certainty that any particular document was in existence at a particular date. But with no greater outlay and by using native institutions and the means ready to our hands, we might, as I pointed out years ago, have established a system of registration as complete as the South Australian or any of the continental systems. There is, in the head Revenue office of every district a complete register of estates paying revenue to Government; and, in the rent office of each of these estates there is a similar local register of subordinate estates or interests. These existing materials might easily have been utilized to construct a system combining registration of title and cheap and effective means of transferring all interests in immovable property."

10. The alternative course, viz., the improvement of the indexes so as to show all documents relating to property in one view, is the only one available, at all events, for the present.

11. Some years ago, Mr. Nicholson suggested that the registration indexes should be so prepared as to show the transactions connected with each survey number in one view, a separate page or pages being allotted for each field in the indexes, and a volume allotted to each village. The Government considered Mr. Nicholson's suggestion an important one; but thought that it aimed at the introduction of a register of titles in lieu of a register of assurances, and that, in the present state of the law, the complete introduction of a register of titles was impossible. In the first place, there was no obligation laid by the present Act on parties bringing documents for registration to specify the survey numbers of the fields dealt with therein. Mortgages of lands for amounts below Rs. 100 were only optionally registrable.

G.O., dated 14th May 1888, No. 1116, Judicial.
Vide also G.O., dated 14th Feb. 1889, No. 276, Judicial.

2. The feasibility of the proposal depends, it will be seen, on the Government being able and willing to furnish registration of the indexes so as to facilitate the dis-holdings (Statement No. 10 of the Village Manual) to be had in view by the Registration

3. If the proposal meets with the approval of the Government, the introduction of a register of the plan recommended being expected one for the introduction of a register of the transactions which tioned in paragraph 25 of my note from 1st J. showing in one view all the transactions which next fasli year. Some additional establishments would be required in regard to any particular plot of land; but it ing the scheme in registration offices. mortgages subsist at any particular date, or have been

4. It will be observed that whether the persons who created the charge had the right to establish so. In the vast majority of cases all that persons who desire to purchase, or to lend money on landed property, want to know is what documents relating to such property are in existence, in view to calling upon the vendor or borrower to give satisfactory proof that he has a legal title to the property he proposes to sell or mortgage, and that the encumbrances thereon have been discharged.

5. The objection, however, made by Government to the enormous expenditure which the maintenance of registers, such as those suggested by Mr. Nicholson, would entail, is a serious one. There are between 2,000 and 3,000 fields in each village, if not more; and if one or two pages are to be allotted for each field, about 5 or 6 volumes of registers consisting of 500 pages each will have to be opened for each village; and there are upwards of 25,000 ryotwar villages in the Presidency. Large portions of these registers may also remain blank for several decades for want of transactions to be noted in them.

6. It seems to me, however, that Mr. Nicholson's scheme will be more manageable if the following of each ryot, i.e., the lands entered in each patta, be treated as one property for the purposes of registration indexes, and the encumbrances, &c., on each property be noted against the entry regarding the property in the indexes. The work will be reduced to about one-fifth of what it would be when a fieldwar index is maintained. For this purpose, the Revenue authorities will have to furnish copies of section I of Statement No. 10 of the Village Manual to the registering officers concerned. One copy is now prepared by the karnams of the villages, but a second copy should be directed to be prepared for transmission to registration officers. The statement is a very bulky one; but, it is not written *de novo* every year, an account once written being kept for five years or more, the alterations necessary each year being alone noted in it; and it is only when the alterations are very numerous that the Tahsildar directs the whole account to be re-written. If registering officers be supplied with copies of Statement No. 10 at the outset, and a correction memorandum, showing the alterations made in the account, be sent by the Tahsildar to the Registering officer after jamabundy every year, it will suffice. As the indexes kept in the Registration Department must be written on durable paper, arrangements may be made in the Registration Department for supplying the Revenue Department with the required quantity of paper.

7. The registers above referred to will not, however, include house property in villages and towns, as also lands in Inam and Zemindari villages and to that extent will be incomplete. As regards lands in Inam and Zemindari villages, it will not be possible to include them in the registers, unless steps are taken to survey the estates and to record the subordinate interests in the lands situated within them. In villages and towns, houses may be permanently numbered and a separate register maintained for them. Whether this is done or not, the registers suggested will be of the greatest use in tracing out encumbrances on lands included in ryotwar holdings, which constitute about four-fifths of the landed property of the country.

8. To admit of a complete register of the kind referred to being maintained, it is necessary—

1st.—That section 22 of the Registration Act should be repealed and power conferred on Government to frame rules for compelling owners of documents concerning landed property to describe such property for purposes of registration by reference to Government survey numbers in all cases in which it is possible to do so. Where a survey has not been made, any description sufficient to identify the property must be accepted.

2nd.—Deeds of mortgages of value less than Rs. 100 should be made compulsorily registrable. The necessity for making all instruments affecting interests in land compulsorily registrable, in view to rendering the maintenance of complete registers of landed property possible, was strongly urged by the Hon'ble

Supplement to Fort St. George Gazette, 18th July 1876, Mr. Cockerell, when the provisions of the present Registration Act were under discussion in the Supreme Legislative Council in

1876. Mr. Cockerell's proposal was negatived, as it was thought that, looking to the vast number of transactions connected with the transfer of small landed properties, the ignorance of the great mass of the agricultural population, their limited means, the insufficiency of the registration machinery, and the consequent expense and loss of time which would be entailed

Whether the legislature intended that the responsibility for making immovable property (Book I) should be undertaken by the at, however, 14 years have elapsed, and if wills, and in Book IV (Register of documents not relating with the system of registration, as will be seen, there is great convenience in the searches registered has more than trebled—237,262 to 440,000. The risk of fraud in allowing private large numbers and by substituting special documents for revenue officers, who could attend to the state of things seems to be either (1) in the of revenue and magisterial business. Thus, in 1875-76, the number of documents of the registration 213 in 1875-76, the number is now only 18. A large territory, it will be seen, one of the registered on the day of presentation, and the people are accustomed to the least delay in attending to the work. Since 1882, deeds of sale of value less than Rs. 100 are compulsorily registered, and although it is open to parties under section 54 of the Transfer of Property Act to effect the conveyance of land of less value than Rs. 100 by mere transfer of possession without any written instrument. The number of documents optionally registered has also enormously increased. Thus, the number of mortgages of value not less than Rs. 100 was 71,159 in 1875-76 and 155,967 in 1889-90; the increase being 119 per cent. The number of mortgages of value less than Rs. 100 registered increased from 28,627 to 155,236, or by 442 per cent. I think, therefore, that the time has arrived when all documents affecting interests in immovable property may be made compulsorily registerable irrespective of value. At any rate, the present law is entirely anomalous and is provocative of fraud. If it is considered a hardship to compel people to register mortgages of less value than Rs. 100, section 50 of the Registration Act giving priority to registered over unregistered transactions should be repealed. As the law at present stands, a mortgagee who leaves his mortgage unregistered does so at his peril, and the mortgagor can take advantage of non-registration to defeat the mortgagee's claim by his selling or mortgaging the same property to another person by a registered instrument. Section 50 of the Registration Act was evidently intended to be applicable to a transitional stage, and a system not to be permanent. If it is considered undesirable to make registration of documents of small values relating to land compulsory in all parts of the country all at once, Government might take power to carry out the measure in parts of the country where the registration system has developed, and extend it to other portions of the Presidency gradually. There is reason to believe that nearly all mortgages of value less than Rs. 100 are now registered, and it is hardly necessary that, if the registration of such mortgages is made compulsory, the law should be declared applicable to mortgages already executed and subsisting.

17. The advantages of the system of registration indexes suggested are the following:

- 1st.—It will enable registering officers to furnish accurate certificates of encumbrance on landed property, so far, at least, as ryotwar lands are concerned, and will prepare the way for the introduction of a system of registration of titles, should it ever be resolved upon.
- 2nd.—It will make the establishment of agricultural banks, for lending money on equitable terms to agriculturists on security of landed property, possible.
- 3rd.—It will facilitate the collection of information regarding the economic condition of the agricultural classes, and especially regarding the extent to which peasant properties are under mortgage.
- 4th.—It will bring about closer correspondence between actual ownership of landed property and registry for revenue purposes.

18. As regards the 1st point, it is needless to say more on the subject than has already been said. The certificates of encumbrances now granted by registering officers are incomplete and unsatisfactory, and must necessarily be so under the present system. The responsibility incurred by the officers concerned, too, is very great.

19. The 2nd point is one of the greatest importance in connection with agricultural reform. It is, I believe, generally admitted that the agricultural improvement needed in this country consists of two things, viz., 1st, the extension of irrigation by wells; and 2ndly, a more liberal use of manure than obtains at present; and in both cases, the expenditure involved is beyond the means of the great majority of ryots. The Government is willing and even anxious to lend money for permanent improvements, but to prevent money lent being lost, it has to insist on adequate security being taken beforehand, and on repayments being punctually enforced. For the excavation of wells, the Government has framed rules for the grant of loans on very favourable terms; it being open to ryots to repay the loans in very small instalments spread over a long period of years. The simplification of enquiries as to security offered for the loan has also been carried to the furthest extent possible. Still applications to Government for loans are not very numerous. The reason is (as has often been explained) that, as Government grants loans for land improvement alone, the ryot cannot, when he needs money for other purposes, such as, for instance, the payment of revenue to Government, dispense with the assistance of the sowkar, who becomes his banker for all purposes, and who enforces re-payment of the loans with exorbitant interest, it may be, when the ryot is in funds, but in adverse seasons does not enforce the claim. What the country greatly needs is, therefore, agricultural banks, similar to the Swiss

ENCLOSURE.

MEMORANDUM.

1. In paragraph 2 of the Government of India letter, it has been suggested that the Registrar might be authorized by executive order—

- (1) to require the parties to insert the survey number in all cases in which no sufficient reason to the contrary is shown;
- (2) to note it himself in the margin of the document, authenticating the entry by his signature, whenever that course is found convenient; and
- (3) to decline to register, unless directed to do so by a Civil Court, in every case in which the parties refuse, without sufficient cause, to allow either of the above courses to be adopted.

As regards the first suggestion, I beg to state that instructions have been issued in my letter No. 23, of 19th September 1891, to Registering officers to advise parties, in all possible cases, to insert in documents the survey numbers of lands in settled districts; but as there is no legal obligation on the part of the parties to documents to describe lands in a particular way, there is no obligation on the part of the parties to documents to describe lands with reference to survey numbers alone.

2. As regards the second suggestion, I beg to state that the Registering officers have no means of knowing the survey numbers of lands which have been described in documents with reference to their boundaries or otherwise than by reference to survey numbers, and it is therefore impracticable to carry it out.

3. As regards the third suggestion, as already stated, Registering officers have been directed to advise parties to describe lands in settled districts by survey numbers as far as possible; but the difficulty arises when the parties do not choose to do so. The documents are not to be refused registration for non-compliance with this direction in the face of the provisions of section 22 of the Act. In this connection, I beg to bring to the notice of Government the enclosed copy of judgment, from which it will be seen that the Madras High Court has passed a distinct ruling to this effect. It was for this reason that it was proposed that section 22 should be amended.

In paragraph 3, the Government of India states that the amplification of section 89 of the Act, as regards uniform description of lands in orders, certificates and instruments sent to the Registrar, is also unnecessary, as the object can be secured by means of executive orders.

In regard to this suggestion, I beg to state that the documents referred to in section 89 are copies of certificates of sale of immovable property granted under section 316 of the Code of Civil Procedure; in this section, it is provided that the Courts should state in the orders for attachment of immovable property under section 237, and in the proclamations issued under section 287 of the Code. The former section requires that applications for attachment shall contain at foot a description of the property sufficient to identify it, and under section 237 the Courts have power to ascertain and enter in proclamations as fair and accurate a description of the land to be sold as possible. There is therefore no apparent objection to the Courts being directed to enter in copies of sale certificates sent to Registering officers under section 89 of the Registration Act, survey numbers of surveyed and settled lands in the districts. As a matter of fact, it is provided in section 207 of the Code of Civil Procedure, as regards decrees for immovable property that "if such property is identified by survey numbers in a record of settlement or survey, the decree shall specify such survey numbers."

As regards copies of documents received from Revenue officers under section 89 of the Act, the lands in settled districts are being invariably described therein with reference to their survey numbers, and separate instructions are not necessary.

(Signed) S. SRINIVASA RAGHAVAIYANGAR.

Endorsement, No. 1578, Judicial.

Transferred to the Revenue Department in continuation of endorsement, No. 1578, dated 12th July 1897.

July 1897.

(Signed) W. FRANCIS,
Ag. Under Secretary.

Endorsement, R. No. 1512, Revenue.

Referred to the Board of Revenue for remarks.

PACAMUND,
August 1897.

(Signed) G. STOKES,
Ag. Secretary to Government.

Resolution—His. No. 3234, dated 31st August 1897.

In its endorsement read above, Government calls for the remarks of the Board of Revenue on the memorandum submitted by Dewan Bahadur S. Srinivasa Raghavayyar on the question of making it obligatory to describe, by means of survey numbers, any landed property referred to in documents submitted for registration.

2. Four suggestions were made by the Government of India as shown below

(1) That the Registrar might require the parties to insert the survey number in cases in which no sufficient cause to the contrary was shown ;

(2) That he might decline to register, unless ^{be seen, one of registra- hee} least del

(3) That he might decline to register, unless at least one of the parties refuse without, direct to do so by a Civil Court in cases in which the parties refuse without, direct to do so by a Civil Court above courses to be adopted; and

(4) That the entry of the number of the above courses to be adopted, and the number of the above courses to be adopted, might be insisted on in respect of documents sent to be filed under section 89 of the Registration Act.

3. The late Inspector-General of Registration points out that the second of the above suggestions is impracticable, and that the third is opposed to the provisions of the law and to a ruling of the High Court. The Board has nothing to add to the late Inspector-General's objections.

4. As regards the other suggestions, it is understood that instructions already been issued to Registering officers to advise parties, in all possible cases, to insert the survey numbers of lands, and that, in documents sent by Revenue officers to their survey numbers. The Board considers that, if Civil Courts with reference to adopt a similar procedure in respect of sale certificates, the number of documents, in which landed property is described otherwise than with reference to survey numbers, will so far as surveyed tracts are concerned be exceedingly small.

(True Extract.)

(Signed) R. C. C. CARR,
Secretary

To the Secretary to Government, Revenue Department,
with the referred papers returned.

ORDER—No. 858, Revenue, dated 9th October 1897.

Miscellaneous

Miscellaneous.

One of the main objects of the registration system is to afford facilities to persons desirous of purchasing landed property and to enable them to trace out titles to and charges and encumbrances on such property. But the complete attainment of this object will be hindered if the law is not uniform and consistent.

(b) if all transactions affecting such property are brought on the record of the Registration Department.

The first of these requisites is liable to be defeated under the present law because section 22 of the Registration Act leaves it to parties to adopt any description they choose provided it is sufficient for identification and because certain sales forwarded by Civil Courts under section 89 of that Act do not contain a description of property. Accordingly, the Government of India was requested to amend the law so as to secure transactions in immoveable property described by survey numbers wherever possible.

No. 858; HEWANKNE, 9TH OCTOBER 1897.

for the August 1893, No. 466.

Requests to reply to paragraph 16 of G.O., dated 13th October 1897.

Similarly, in cases where the documents are to be transferred to the Registrar, it is suggested that the documents should be retained for sub-division of the land, and it seems to me that space should be provided for buildings, trees, and wells forming part of the land. In the case of the Registrar, it is suggested that the documents should be retained for a period of 10 years, and it seems to me that space should be provided for buildings, trees, and wells forming part of the land. In the case of the Registrar, it is suggested that the documents should be retained for a period of 10 years, and it seems to me that space should be provided for buildings, trees, and wells forming part of the land.

9. Viewing the question entirely as one of furnishing a reference index as a guide to searches, apart from the desirability of developing the registration system on lines which will eventually admit of all the transactions relating to particular estates or parcels of land being recorded consecutively, a much simpler plan than either of those above discussed seems to me to be to retain the present Index II and to provide a subsidiary index similar to the subsidiary index proposed by the Board showing the pages on which documents relating to survey numbers consecutively arranged are to be found in Index II. In this subsidiary index a whole line ruled breadthwise or two lines, if necessary, in offices in which registrations are numerous, may be allotted to each survey number. One line will contain references to about 10 or 15 entries in the indexes and serve for about 10 years. In this manner about 30 numbered registers entered on a page, and if a village contained 600 survey numbers, twenty, therefore, additional stationery required for this index will not be much more than what Sir Henry kept for each village for a year in which 156 documents affecting 815 survey numbers were registered. If this subsidiary index be written up at the same time as the Index Codification of Village for a year in which it is excepted in offices in which as many as 100 registers were registered. With this subsidiary index in Index II and the registers will have to be looked up every time the enclosure, on documents relating to a particular land are required. To obviate this defect for ice certificates granted after search for documents relating to specified property, or thus the results of searches once made are made available when searches applied to two pages facing each other for the survey fields contained in each patta, as per real I be entered, and alterations referred to in section I of statement No. 10 of the Village Manual to). Taking up of lands for cultivation from waste, as well as transfers from one holding to another, will be entered. When the whole holding consequent on relinquishment of lands can be a subsidiary index for survey fields arranged consecutively, similar to that set forth in paragraph 5, showing the pages of the patta number is transferred from one entry to another, the page in which the second patta is entered will be noted and a corresponding note referring to the first holding will be entered in the second. If a paton wishes to know the registered transactions relating to a particular field, he will look at first sight as if it would involve a great deal of scriptory work in noting the alterations in pattas in addition to noting up the particulars of registered

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kept by him. Elaborate rules also exist in the register of property Revenue to secure the interest of the owner of land to compel the registry

Revenue Code were required to be registered under the provisions of the Bombay Land Revenue Code, &c. In the Bombay Land Revenue Code, &c.

90 of the Registration Act. By

changes in the law or alteration of the existing machinery or much additional machinery rendered easy, and this without any great expense did not exist. show of machinery or much additional machinery rendered easy, and this without any great expense did not exist.

to be affected, or a Court's decree, or under the provisions of such correspondence. If the property changes hands under the provisions of such correspondence, the necessary steps to be taken in Board's Standing Orders for the purpose of succession, or a Court's decree, or under the provisions of such correspondence.

appear in the registration index, but the value is to be retained in the registration index less than Rs. 100 is to be retained in the case of oral transfers.

any revenue code the duty is laid on proprietors of reporting transfers. Under the

... would then, if not a register of absolute titles, for all practical purposes, and would give all needed information. The pat-

Mr. Mr. Nicholson, and I need not say anything more on the point of the economic condition of the

additional work which may be thrown on the registrars, that adequate provision should be made

...establishments will not be taken in hand at once. I have, in the pre-

information concerning their economic condition and

connection with the scheme for the establishment of a new comprehensive subject on the last occasion, there was a question being taken in hand.

While, I propose to introduce at once in all universities a simple plan of reference index referred to:

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13. As regards my proposal referred to in paragraph 10 of the report, I authorize registering officers to receive and the omission supplied by Act No. XII of 1891, schedule 2.

(4) Since my last report was written the necessity for provision for the transfer of Government offices of revenue sale certificates was brought to the notice of Government and the omission supplied by Act No. XII of 1891, schedule 2, authorize registering officers to receive applications for transfer of revenue registry in cases in which no conveyances concerning the lands are presented for registration, as it does not commend itself to the Board. I do not wish in any way to press it, any way to relieve the revenue officers of any work appertaining to them. The Government is aware, the plan of getting applications for transfer of registry, in cases in which ownership of lands had previously been transferred without a transfer them and execute before the registering officers applications for the transfer of Tahsildar in the whole Presidency in 1892-93 was 2,286, of which 536 were 66 in Salem. It seemed to me that this showed that the public had special es for executing the applications before registering officers, as parties were ad to go to the expense of writing documents of this kind and paying the stamp and registration fees thereon for this purpose, when they might effect their applications to be attested by the karnams in the first instance and it is y to get the karnams to attest them, but, when the applications are sent y registering officers and are referred to the karnams, the latter cannot evade.

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(2) I concur with Mr. Nicholson in thinking that sections 48 and 49 of the Transfer of Property Act should be amended so as to render it obligatory for all transfers of immovable property being effected by registered instruments irrespective of the limit of the value of Rs. 100 now prescribed, though I do not take quite the same view as Mr. Nicholson does as regards the course of legislation in regard to this matter. He seems to consider that all sales of immovable property could originally have been effected only by a registered instrument, and section 54 rendered sales of property of the value less than Rs. 100 made orally valid when accompanied and followed by possession. What actually occurred appears to have been this. Originally no contracts or transfers affecting immovable property were required to be in writing. Section 48 of Act XX of 1866 enacted that all registered instruments relating to immovable and immovable property shall take effect against any oral agreement or declaration relating to the same property. It was found that the wording of provided section went beyond the intention of the legislature, and the courts refused to hold the oral transfers of movable and immovable property were invalid when accompanied by delivery of possession. In section 48 of Registration Act of 1871, the words "or sub" was amended by declaring the law to be in conformity with the decisions of the courts prior to transfer by sale transactions and this section has been re-enacted in the Registration Act of 1877. Prior to transfer by sale transactions

The following clause may be inserted at the end of section 23:—

"Provided, however, that in districts or tracts of country which have been surveyed and demarcated by Government and lands are identified by survey numbers in the records maintained of such survey, it shall be lawful for the Local Government to declare that when lands surveyed are dealt with in documents presented for registration, such lands shall be described by the numbers assigned in such records of survey or maps maintained in connection therewith, so as to identify the documents to registration."

Persons

(1) Section 22 of the Registration Act should, of course, be amended so as to make it obligatory, in districts in which lands have been surveyed and demarcated, for immovable property, when referred to in documents presented for registration, being described by numbers and other marks assigned in the registers kept of such survey for their permanent identification. There is no difficulty or hardship for parties in doing this, and it is, as a matter of fact, now done. Where, however, for any reason this is not done, it should be open to a registering officer to insist on the land being described by survey numbers before accepting the documents brought for registration. I would accordingly add the following proviso to section 22 in the terms of the provision in section 207 of the Code of Civil Procedure:—

12. As regards the amendments in the Registration law referred to in paragraph 8 of the Government Order, I submit as follows:—

Endt. No. 2019.
Transferred to the Revenue Department.
(Signed) LIONEL DAVIDSON,
Acting Under Secretary.
To the Secretary to Government, Revenue Department,
30th August 1895.
Ootacamund,
with seven spare copies of the current.

The suggestions made by the Government of India in paragraphs 2 and 3 of the letter read above will be referred to the Inspector-General of Registration. Remarks which he is requested to submit through the Board of Revenue.

Order—Mis. No. 4464, Revenue, dated 8th November 1895.

Letter read above will be referred to the Inspector of the Government of India. Remarks which he is requested to submit through Revenue.

To the Inspector-General of Registration,
through the Judicial Department.
Copy to the Board of Revenue (Land Revenue).
" " (Revenue Settlement).

Read—the following Proceedings of the Board of Revenue (Lan.
No. 3234, dated 31st August 1897:—

2. I agree generally in the views expressed in the memorandum.

As regards the security of less than Real property Act

TH OCTOBER 1901

expected to be in constant readiness to receive documents and applications, must attend to the parties and their witnesses at once and cannot detain them, while revenue officers who have multifarious duties to perform cannot always be expected to do this; and detention in the case of ryots means inconvenience and expense. This being so, I considered that the expense of executing and registering these documents, called "releases of patta rights," might be saved to the public and the accumulation of useless records prevented, if registering officers were authorized to receive applications for transfer of revenue registry, even when no conveyances were registered in connection with the lands. It was, of course, to be entirely at the option of the parties whether to execute the applications before registering officers or present them to the taluk offices. The registering officers were to forward the applications presented to the revenue officers as they do now, and the applications were to be disposed of in the usual course in the Revenue Department. If the patta concerns lands referred to in the applications were produced along with the applications, the registering officers were to compare the entries in the patta with the particulars given in the application to ensure the latter being accepted; and no interference by the registering officers with the duties of a registering officer was contemplated. This, however, is certainly a work outside the scope of the duties of a registering officer, and I do not now consider that it would be worth while to carry out the proposals made by me except in connection with the patta-index scheme.

ENCLOSURES.

From P. A. NICHOLSON, Esq., Acting Collector of Amnatapur, to the Inspector-General of Registration, dated 25th June 1893, No. (Serial).

I have the honour to forward my remarks on the points referred to in G.O., No. 102050 of Revenue, dated 5th October 1892, viz. —

(a) the improvement of the registration indexes;

(b) the alteration of the law;

(c) the proposal to extend the powers of registration officers in the matter of receiving applications for the transfer of patta.

2. I must premise that the subjects are of the greatest difficulty for the reason that registration system is a mere rudimentary and transitory system and that the alterations be proposed should take cognizance of this and of the fact that the system is necessarily developing or drifting towards further necessary stages just as the country itself is drifting economically. The question of the indexes is not one of mere form; the two methods now considered belong to two different systems; the proposed alteration of the law regarding sales without documents is a matter of the highest economic importance, while the question as to the enlargement of the jurisdiction of Sub-Registrars in patta transfers involves a consideration of our whole position in the matter of land administration. I shall develop the considerations under each head.

3. (a) Our registration system is a mere registration of assurances; its object avowedly was to minimize fraud by transcribing documents in public registers and thus securing proof of the fact of their existence and of their genuine contents. A second, and I think then secondary, object was the facilitation of transfers and of credit by providing a record of titles and a complete record of incumbrances: I do not know indeed if this was actually in contemplation in 1864. But as years go by, it is obvious that the registers are tending to become records of, at least, possessory title; a purchaser by registered title of 1877 is practically secure in its title if hitherto unassailed. In matters of land and the books would afford inestimable information, if made practically useful by proper indexing. Still further, it is certain that the tendency of the country is towards individualism, that the family property, that the land of the country is rising enormously and rapidly in value, while the need of the agriculturists for credit is equally growing. These are the natural but necessary developments. But if this be so, there arises the equally necessary work for a simultaneous development of the administrative system, and I hold that we are so at the point when, in order to meet the above developments, we must introduce the register, titles in correspondence with our land revenue and survey systems, that we must take of, steady and prepared for, such a system so that it may be introduced of deliberate forethought and not by incidental developments. I may add that as landlords we are to take steps for ascertaining the position of our tenants individually and not merely en bloc on villages; it is not merely properties but proprietors that we must study. The question of the patta-index scheme is a matter of the greatest importance, and I shall develop the considerations under each head.

2. That Government, while recognising the desirability of securing a uniform description of property, considered that the object in view can be attained by means of executive orders, and accordingly made the following suggestions:—

- (i) That parties may be required to insert the
- (ii) That parties may be required to insert the

- It is observed that suggestion (i) has already been anticipated by that office in the instructions issued by that office in early September 1891 to advise parties in all settled districts. As the obligation on the parties to the settlement is to furnish the necessary information to the settlement authorities, it is not necessary for the settlement authorities to furnish the necessary information to the settlement authorities.

[illegible]

improved by the Board or to support your patia-index system as a distinct effort towards a title registration system and towards a new economic register. My own system is a mere method of securing ease, rapidity, cheapness and certainty in searches, and accepts the registration system as it stands, viz., as one of mere documents. Yours is the beginning of an attempt to show each man's status as regards his holding; it is to become a record of estates with their burdens and *part passu* of the proprietors of those estates and their individual prospects, from which, when studied in combination, we may deduce inference which are national. Now, on first consideration, I was inclined to advocate your patia system because of the tempting familiarity of the index form proposed to the Prussian and Torrens' land registers, and because it was evident that in a few years these patia indexes would become more important than the volumes of transcribed documents, a long step towards the introduction of a real system. But on further consideration I think it would be better to introduce these registers as a real system, and that that system should be studied and proposed not in fragments but as a whole. I would not introduce a wholly novel index form which really belongs to a different system. I would not introduce a copy of the registers of that system, but I would introduce the system itself with its registers—not necessarily the whole system, but an adapted system, which, as I have said above, is rapidly becoming an absolute necessity. Intro-duced as an "index," it involves much additional work without being based on the system to which it really belongs, while it involves much additional work *without* the establishment which would be appointed for the work if it formed part of a system. As a mere index I see considerable difficulties which I will discuss below. Hence, though I highly approve of the eventual intro-duction of your form as a register, I am not inclined to favour it as an index. Moreover, I think that Government have reserved this matter as a question simply of indexes; they did not contemplate any change in system, and the reference to myself in paragraph 7 merely relates to the index question; if the main suggestion of your letter of 2nd October 1890, paragraphs 8, 9, were to be discussed, it would involve the preparation of a complete scheme, which could take months of continuous thought and work. But, as stated, the introduction of the patia-index form is equivalent to the adoption of a new system to be developed piecemeal by orders and additions from time to time, whereas such system should be introduced as an organic whole, on a consideration of the conditions, habits, requirements and laws of the country. I believe that such a system ought now, in view of the development of the country, to be at once worked out at any cost. I cannot see the advantage of growing a custom and

Government is of opinion that the time has not come for the introduction of any of the system, and desires a more improvement of the indexes, then I prefer my own proposal. Many, &c.; it is based on the principle of the modern Land Record system of ped boundaries as its unit, and is therefore identifiable at a glance, while it may be used separately for all purposes of sale, transfer, credit, &c. Even in countries where the widely-spread Prussian system is not yet in force, I find that, wherever there is a survey, Registration officers provide an index to the document registers based simply on the key units: e.g., in Holland and in Latin-Switzerland, every Registration officer (Bureau d'hypothèque) keeps an index or list of survey numbers, against which are entered references to documents transcribed in the Registration books. This does not altogether dispense the need of reference to the documents themselves, but "it serves as the guide to much is still without appreciable transfer value, the indexes as originally proposed would be by slight alteration the indexes become manageable and even economical; at of entering every survey field consecutively in a huge register, giving a page to each left only such fields and places in it as are the subject of a document; adopt the present Index form in its entirety leaving out only the first column; slightly compress the present us so that they may be printed perpendicularly on a foolscap page instead of hori-ly as at present. Then rule off each page horizontally into six sections, so as to guide the reader and the searcher. As each document is transcribed, enter each field consecutively in the index, giving one section to each field. So far the index does not much differ from present No. II. The essential difference is as follows: all subsequent documents affecting field, whether in that or in a subsequent year, are to be entered up in that same section same page, and in that same book, so that when a search is to be made, every trans- during (say) 10 or 20 years will be found noted up against that field in that section plain at least six entries, and if more are necessary, a fresh section may be taken, with and back references in each such section. To this must be added the Board's my index—a mere printed list, consecutively, of all numbers in the village with space to allow of sub-numbers; whenever a field is noted in the index proper, its could be entered up against the field number in the subsidiary index. It is clear that, indexes were made for only ten years, searches would take minutes when they e hours; they would cost annas when they now cost rupees; they would be as certain

Government and published in the Official Gazette pursuant to section 80 of the Registration Act has the same force as if it had been inserted in the Act, and that therefore section 21 for the purposes of this case must be read as if in lieu of the words "in the territorial division in which they are situate,"—the words of the 57th rule had been inserted—and the section had required a description of the property as situate "in the district of Madras and in one or other of the divisions or villages" in that rule mentioned; of which certainly the Luz is not one. Therefore to comply strictly with section 21 and the rule 57, the property ought to have been described as situate in the district of Madras and in the division or village of Mylapore, but the question is whether the omission so to describe it prevents its registration. In my opinion it does not. Upon carefully considering section 21, it appears to me that the two things which by that section are absolutely required as conditions without compliance with which registration is prohibited, are first that the instrument shall contain a description of the property sufficient to identify it, and secondly, that if the instrument contains a map or plan, then a copy or copies of that map or plan shall accompany the instrument, when presented for registration. The other provisions of the section are I think directory only, indicating the intention of the Legislature as to the kind of description ordinarily to be required, but not imparting the absolute necessity of strict compliance therewith in order to entitle an instrument to registration, if the description which is given be sufficient to identify the property. It seems to me improbable that the Legislature should have intended so strictly to define the particular method of description, when the consequences of so holding are considered. Those consequences may be illustrated by the circumstances of the present case. The executing party who by the terms of the instrument appears to have received Rs. 12,000 from the petitioner fails to appear when summoned to the Registration office and his attendance not being procurable the Instrument cannot be altered however slight the variation required, so as to make the description of the parcels comply with the rule. The Instrument therefore cannot be registered; and by the operation of section 49 of the Act it becomes waste-paper in the hands of the party who has advanced his money upon it. The absence of negative words in the part of section 21 which mentions the particulars of the required description, confirms in my view that that part of the section is directory only, and I refer to the case of Cole v. 1, 7 Scott's new Reps. 682-704, as an authority for the construction which I have put on the section.

A subordinate registering officer may consider himself bound and perhaps may be misled by the orders of his superiors not to pass for registration any document which does not comply with the rules, taking such compliance as the only test which he can apply to identify the property, but in this Court at all events

1. Both the parties should be bound to ascertain whether the document should be registered, and the failure to supply some evidence to issue and serve the process.

7. The inability therefore to compel the attendance of Mr. Bowie alleged property Registrar does not in my opinion exist; but I agree with the Registrar-General that the practical difficulties which in this Presidency alone appear to arise in the way of a compulsory process, formed a very good reason why the Registrar in the exercise of his discretion should refuse to make the attempt; and the matter is not of the same importance as it is correctly held that upon petition to this Court the non-attendance of the executant either at the Registration office, or in the Court, is not a sufficient ground for refusing registration. Upon proof of the execution of the document, the order will go for its registration.

Exd A. Rungaswamy Aiyangar.

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HOME DEPARTMENT.

The Government of Fort St. George.

1897.

Enclosures

Spare copies

Letter, No. 859, 9th October 1897.

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to the Government of India on certain points in connection with the amendment of the Registration Act III of 1877 in certain particulars relating to the registration of property.

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REVENUE DEPARTMENT.

From

THE HON'BLE MR. G. STOKES, I.C.S.,
Acting Secretary to the Government of Madras,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT,

Dated Ootacamund, 9th October 1897.

SIR,

Adverting to the correspondence ending with Mr. Hewett's letter, No. 1184, dated 10th August 1895, communicating the views of the Government of India on the suggestions made by this Government in the matter of amending, in certain

Miscellaneous.

particulars, the Registration and the Transfer of Property Acts, I am directed to state that instructions have already been issued in this Presidency requiring registering officers to advise parties producing documents for registration in newly settled districts to insert the survey numbers of lands. I am, however, to point out that, under the law as it stands, registration cannot be refused for non-compliance with the direction and this view is confirmed by the judgment of the High Court which is printed as an

Appendix to the Proceedings, * copy of which is herewith forwarded. With reference to the suggestion of the Gov-

* No. 858, dated 9th October 1897.

ernment of India that Registering officers may be required to themselves enter the survey numbers of lands which have been described in documents with reference to boundaries or otherwise than by reference to survey numbers, I am directed to point out that they have no means of knowing what the survey number is and that it is no part of their duty to make entries in the margin of documents which may turn out to be incorrect. It will be seen from the Proceedings above referred to that the High Court of Madras has been requested to issue instructions to Civil Courts requiring them to enter the survey numbers of lands wherever possible in the case of certificates of sales forwarded by them under section 89 of the Registration Act.

2. In view of the decided opinion of the Government of India against making compulsory the registration of transfers of immoveable property of the value of less than Rs. 100 by sale or mortgage, I am to state that His Excellency the Governor in Council will not, for the present, press for the suggested amendment of the law.

I have the honour to be,
Sir,

Your most obedient servant,

(Signed) G. STOKES,
Ag. Secretary to Government.

Encl. W. D'Moss.

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REVENUE DEPARTMENT.

CONNECTED WITH G.O., Nos. 858-59, REVENUE, DATED
9TH OCTOBER 1897.

[SUBJECT.—*Amendments to the Registration Act (III of 1877) and the transfer of Property Act (III of 1872).*]

Proceedings of the Board of Revenue (Land Revenue), Mis. No. 3234, dated 31st August 1897.

To Secretary—

Reference is solicited to the notes under G.O., No. 4464, dated 8th November 1895.

In this Government's letter to India, No. 1025, Judicial, dated 30th April 1894, the following suggestions were made for amending the Indian Registration Act and the Transfer of Property Act:—

- (1) that section 22 of the Registration Act should be repealed and power given to the Local Government to frame rules prescribing that in documents relating to landed property, the property shall be described, for purposes of identification by reference to Government survey numbers in all cases in which it is possible to do so;
- (2) that section 89 of the same Act should be amplified—
 - (a) by the addition of a clause to the effect that the provisions of sections 21 and 22 shall, as far as practicable, be applicable to descriptions of property entered in the orders, certificates and instruments sent to be filed in Book No. I;
 - (b) by a provision requiring the civil courts to send to registration offices copies of decrees for possession which have been executed; and
- (3) that sections 54 and 59 of the Transfer of Property Act should be amended so as to require that all sales and mortgages of immoveable property, even of the value of less than Rs. 100, shall be effected only by deeds which shall be compulsorily registerable.

2. The reply of the Government of India was sent to the Inspector-General of Registration and the Board for remarks. The Board generally concurs in the remarks of the late Inspector-General with which the present Inspector-General also agrees. The observations of the Government of India and the remarks of the late Inspector-General of Registration on the several suggestions made by this Government and set forth in paragraph 1 above will be noticed below.

3. With regard to suggestion (1) in paragraph 1 *supra*, the Government of India says that the registering officer may be authorized by *executive order*—

- (a) to require the parties to insert the survey number in all cases in which no sufficient cause to the contrary is shown;
- (b) to note it himself in the margin of the document, authenticating the entry by his signature whenever that course is found convenient; and

(c) to decline to register unless directed to do so by a civil court in every case in which the parties refuse without sufficient cause to allow either of the above courses to be adopted.

The Inspector-General states that as regards suggestions (a) and (c), instructions have been issued * to registering officers to advise parties, in all possible cases, to insert the survey numbers of lands in sections 21 and 22, requiring the description of lands in a particular way, there is no legal obligation on the part of the parties to describe lands with reference to survey numbers alone and the documents cannot be refused registration for non-compliance with this direction in the face of the provisions of section 22 of the Act. He at the same time forwards copy of a judgment of the Madras High Court to this effect.

As regards suggestion (b), the Inspector-General states that registering officers have no means of knowing the survey numbers of lands which have been described in documents with reference to their boundaries or otherwise than by reference to survey numbers, and it is therefore impracticable to carry it out.

Submitted that the Government of India may be informed that as section 22 of the Registration Act stands at present, there is no legal obligation on the part of the parties to describe lands with reference to survey numbers alone, that registration cannot be refused for non-compliance with this direction in the face of the High Court judgment mentioned above and that it is not possible for registering officers to enter the survey numbers in the margin of the document.

4. With regard to suggestion 2 (a) in paragraph 1 above, the Government of India

Yes. Besides, what business has a registering officer to make entries in the margin of documents which may turn out to be incorrect.

H. B[LISS].

officers. The documents sent by courts are copies of certificates of sale of immoveable property granted under section 316 of the Code of Civil Procedure, and the description of the property therein generally follows the description given in the application for attachment of immoveable property under section 237 and in the proclamations of sale issued under section 237 of the Code. These sections require that there shall be a description of the property sufficient to identify it and that it shall be as fair and accurate a description of the land to be sold as possible respectively. Moreover it is provided in section 207 of the Code of Civil Procedure as regards decrees for immoveable property that "if such property is identified by boundaries or numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers." In these circumstances the Inspector-General of Registration considers that there is no apparent objection to civil courts being directed to enter in copies of sale certificates sent to registering officers under section 89 of the Registration Act survey numbers of surveyed and settled lands in settled districts. The Board states that if this were done the number of documents in which landed property is described otherwise than with reference to survey numbers will so far as surveyed tracts are concerned be exceedingly small.

Submitted that the High Court may be addressed to issue instructions accordingly.

Unless it is put very carefully to the High Court, they will refuse.

G.S.
18-9-97.

The High Court should be addressed "carefully" accordingly.

J. G[ROSE].
H.B.

As regards copies of documents received from Revenue officers under section 89 of the Registration Act, the Inspector-General says that lands in settled districts are being invariably described therein with reference to their survey numbers and that separate instructions are not necessary. The attention of the Board may, however, be drawn to this matter.

5. With regards to suggestion 2 (b) in paragraph 1 above, the Government of India states—

(a) that a decree for possession has not necessarily any connection with the right to the property; as, for instance, in a case in which it is given pending a suit for the right to the property;

(b) that as pointed by the Inspector-General of Registration there may be cases in which possession is voluntarily given in obedience to a decree; and

(c) that in provinces where a complete record of right in land exists, a copy of the decree should, if sent anywhere, be sent to the Land Record, and not to the Registration Department.

Seeing that the amplification of the section in the manner suggested will not conduce to the realization of the object with which it was proposed, viz., affording facilities for the investigation of titles to landed property, it is submitted that it need not be pressed for.

G.S.
18-9-97.
J.G.
H.B.

6. With regard to the third suggestion in paragraph 1, the Government of India says it is still premature to give effect to it and that "the number of transactions to be registered would be so great that the plan would be liable to destruction from its own weight." It seems useless going

Quite useless.

J.G.
25-9-97.
H.B.

up to India again with the suggestion, seeing how pronounced its opinion is.

A.K.
17-9-97.

To Hon'ble Mr. GROSE, C.I.E.

To Hon'ble Sir HENRY BLISS, K.C.I.E.

A scheme which I, for one, consider unsound.

H.B.
27-9-97.

The truth is that India won't accept any of these proposals because it wants to force Madras to start a record of rights such as exists elsewhere.

G. STOKES.
18-9-97.

Draft so.

G.S.
20-9-97.

To Secretary—

Please see drafts.

A.K.
4-10-97.

To the Hon'ble Mr. GROSE, C.I.E.

G.S.
5-10-97.

J.G.
7-10-97.

Issue.

G.S.
7-10-97.

[Issued as G.O., No. 858, Revenue, dated 9th October 1897 and letter No. 859, Revenue of the same date.]

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. NO. 4464, REVENUE, DATED
8TH NOVEMBER 1895.

[SUBJECT.—*Amendments to the Registration Act (III of 1877) and the transfer of Property Act (IV of 1882).*]

To Secretary—

The Government of India considers the amendments of the law suggested by this Government in its letter No. 1025, Judicial, dated 30th April 1894, to be either unnecessary or inexpedient—

I. With respect to the proposed amendments of sections 21 and 22 of the Registration Act (III of 1877) as to requiring description of the landed property by survey numbers, the Government of India suggests that the desired object may be secured by *executive orders*. It states that the Registering officer may be authorised by executive order—

- (1) to require the parties to insert the survey number in all cases in which no sufficient cause to the contrary is shown;
- (2) to note it himself in the margin of the document, authenticating the entry by his signature whenever that course is found convenient; and
- (3) to decline to register unless directed to do so by a Civil Court in every case in which the parties refuse without sufficient cause to allow either of the above courses to be adopted;

and it adds that the suggested amplification of section 89 of the Registration Act (namely, of adding a clause to the effect that the provisions of sections 21 and 22 shall, as far as practicable, be applicable to descriptions of property entered in the orders, certificates and instruments sent to be filed in Book No. I) is also unnecessary as the object in view can be equally attained by means of executive orders.

It looks somewhat strange that India should make a suggestion of this kind.

So long as section 22 remains as it is, the Civil Courts will, it is thought, direct the registration of documents in all cases in which registration has been refused merely on the ground that the property to which the documents relate has not been described by survey numbers; and it seems hard to put parties to the expense of getting a decree of a Civil Court to compel Registering officers to do their duty under the existing Act.

It remains to be seen how the Civil Courts would view the attitude suggested for adoption by the Registration officers; and whether the High Court would be willing to pass a rule such as is required in connection with sale certificates granted under section 316 of the Civil Procedure Code.

II. As to the suggestion that section 89 of the Registration Act should be further amended so as to require Civil Courts to send to Registration offices copies of decrees for possession which have been executed, India says that it is of very doubtful expediency. It observes—

- (a) that a decree for possession has not necessarily any connection with the right to the property, *e.g.*, where possession is given pending a suit for the right to the property;
- (b) that (as has been pointed out by the Inspector-General) there may be cases in which possession is voluntarily given in obedience to a decree; and
- (c) that in Provinces where a complete record of right in land exists a copy of the decree should, if sent anywhere, be sent to the Land Record and not to the Registration Department.

III. Nor is India prepared to entertain the proposal to amend sections 54 and 59 of the Transfer of Property Act (IV of 1882) so as to require compulsory registration of all transactions relating to immovable property.

Referring to paragraph 10 of the Inspector-General's note printed in G.O., No. 1020, dated 5th October 1892 (page 67), India points out that some of the objections to the proposed legislation, which were considered as insuperable obstacles thereto when the provisions of the Registration Act of 1877 were under consideration in 1876, have not yet lost their force.

Another objection now urged by India is that the number of transactions to be registered would be so great that the plan would be liable to destruction from its own weight.

"The proposal, however," adds the Government of India "is open to objection on other and wider grounds."

These grounds are stated in paragraph 5 of India's letter. Briefly India's view is that the ultimate aim should be to perfect the record of right and *not* the registration of assurances.

It is thought that before passing final orders on India's suggestions as to securing some of the objects aimed at by executive orders, the views of the Inspector-General may be obtained.

Reference will have to be made to the High Court as to the suggested executive order in respect of the certificates issued under section 316 of the Civil Procedure Code; but this may be deferred until the Inspector-General's and the Board's views have been obtained.

Please see in this connection Revenue C. No. 7028 put up in the file with a separate draft and note.

R.V.S.
29-10-95.

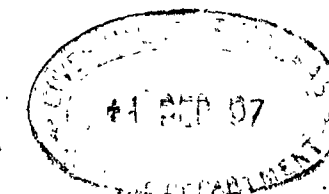
To the Hon'ble Mr. Grose—

E. GIBSON.
2-11-95.
J. G[ROSE].
6-11-95.

[Draft issued as G.O., Mis. No. 4464, Revenue, dated 8th November 1895.]

Revenue (189) Department.

CURRENT No.



From

The Board of Revenue,

Land Revenue,

Madras.

No. 5834 Misc.

Order

Dated 31st August 1897.

Received

Registered

Enclosures

Spare copies

SUBJECT.

Submitting the Board's remarks on the Memorandum submitted by the late Inspector General of Registration on the question of describing by survey Nos. *landed* property coming the subject of documents filed or registered in the Registration Department.

10. 24/9

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

REGISTRATION DEPARTMENT.

CIRCULAR.

No. 23, 19th September 1891.

MADRAS.

THE District Registrar of Tanjore brought to notice that the description of immovable property entered in index II was unsatisfactory and insufficient for identifying the property described therein, for the purpose of making searches in the registers and indexes, and the Inspector-General found, during his inspection of Registration offices, the same defect to exist more or less in other districts also. Before, however, issuing instructions for remedying these defects and improving the indexes, District Registrars were requested to report in what detail, particulars of immovable property have been entered in the indexes prepared in the several offices under their control, and what instructions should, in their opinion, be issued to secure completeness of the indexes as far as possible.

2. Having regard to the suggestions made by the several Registrars, with reference to the above requisition and in view to facilitating reference to the registration records and to making the information afforded by the entries in index II as serviceable for the purpose of making searches as it is possible to make them in the present state of the law, the Inspector-General resolves to issue the following instructions.

3. The different classes of immovable property affected by registered instruments are:—

- (1) Fields.
- (2) House-sites.
- (3) Houses.
- (4) Trees.
- (5) Wells.
- (6) Whole inam villages, mootahs, jaghirs, &c., and zemindaries.
- (7) Shares in the above.
- (8) Ferries.
- (9) Fisheries.
- (10) Easement rights.

In describing the property the particulars given below should be entered in index II.

1.—Fields—

(a) Where surveyed—

- (1) Survey number, sub-number or letter.
- (2) Whether Government or inam.
- (3) Extent.
- (4) Dry, wet or garden.
- (5) Houses, buildings, trees, wells, &c., if any thereon.
- (6) If the property referred to is a portion of a field not bearing a sub-number or letter, in what part situated and the portion of the field such as $\frac{1}{2}$, $\frac{1}{4}$, &c.

(b) Where the field is unsurveyed—

- (1) Name, if any.
- (2) Paimash number. (if any).
- (3) Boundaries where the field does not bear a recognized name.
- (4) Whether Government, inam or zemindari.
- (5) Extent.
- (6) Whether dry, wet or garden.
- (7) Houses, buildings, trees, wells, &c., if any thereon.

Note.—In the case of a series of fields, it is sufficient if the word "Government" is prefixed to the first number of the series, if all the fields are Government lands; the same course should be adopted where the fields are "Inam" or "Zemindari."

2.—*House-sites, houses, in villages and Municipal towns.*—

- (1) Name of street.
- (2) On what side of the street situated.
- (3) Boundaries.

N.B.—Four boundaries should be given.

- (4) Municipal numbers and also in Madras survey numbers.

3.—*Trees and wells* should be described with reference to the fields on which they stand or in which they are situated.

4.—*Shares in villages, kandrigas, &c.*—

- (1) Boundaries of the villages.

N.B.—The boundaries may be omitted in cases in which the village is entered in the printed list of villages published by the Registration Department.

- (2) The number of shares out of the total number into which the village is divided.
- (3) The extent, if possible.

5.—*Ferries* should be described by their recognized names and the rivers to which they appertain and the villages in which they are situated.

6.—*Fisheries* should be described with reference to the rivers, tanks, &c., to which they relate, and the local limits to which the right of fishing extends should be described.

7. Rights of easements should be described with reference to the dominant and servient tenements in regard to which the rights are created.

No special description is needed in respect of a whole inam village, a mootah, jaghir or zemindari. If the village is included in or forms part of a principal village, the boundaries should be given.

In cases where the description specified above is insufficient to identify the property, such other description as will ensure its identification may be given.

4. In indexing documents relating to immovable property in Municipal towns and large villages, the towns or villages should be divided into Municipal wards or suburbs or hamlets or other recognized sub-divisions, and the documents relating to each entered in column 1 of index II and underneath it and within brackets, the name of the town or the principal village. Registrars should prepare lists of such sub-divisions and forward them to the Sub-Registrars for adoption.

5. In cases where the description of property has to be repeated in the indexes, i.e., when duplicates and counterparts of documents have to be indexed, it is unnecessary to repeat the particulars of property in the indexes of the duplicate or counterpart, a reference to the index of the original document being sufficient.

6. The District Registrar of North Arcot states that the practice in regard to the preparation of index II in some other respects is not uniform, and requests instructions regarding them. The Registrar's questions with the replies to them are noted below:—

ANSWERS.

Yes. The information should be given.

Yes. The property assigned to each sharer should be described separately and there should be cross references in columns "Description of property" and "Nature and value of transaction" to show the shares assigned to every one of the parties to the transaction.

The information is necessary, for, without it, the index will be unintelligible.

QUERIES.

- (1) Whether any reference need be given to movable property in the column "Nature and value of transaction"?
- (2) Whether in the case of partition deeds, each sharer's property should be described separately in the column headed "Description of property" with the necessary marks and reference made in column "Nature and value of transaction" to show which property is allotted to which shares?
- (3) Whether in the case of releases, maintenance deeds, &c., the column "Nature and value of transaction" should show how the property is affected by the terms of the documents?

ANSWERS.

The particulars referred to should be given.

The description should be sufficiently full to explain the nature of the transaction.

The index II should contain in column 1 a reference to all the villages and sub-districts in which the immovable property dealt with in the document is situated. This does not obviate the necessity for entering the same particulars in index I.

The rule is imperative and must be obeyed.

QUERIES.

(4) Whether in the case of mortgages, the rate of interest and the time of repayment should be mentioned or not?

(5) Whether in the case of miscellaneous documents, the simple description of them as given in return A or a more detailed description setting forth the main terms of the documents should be given in the column "Nature and value of transaction."

(6) Whether in cases where immovable property disposed of is situated in several villages of different sub-districts, a reference should be made in index II to all the villages, whether situated in the same or in different districts and sub-districts?

(7) Whether in the Sub-Registry offices where work is heavy, the rule enjoining the simultaneous preparation of the original and duplicate indexes cannot be relaxed?

7. In the Malabar District, the description of the properties dealt with in documents is given in a schedule at the foot of the documents themselves in the subjoined form:—

- (1) Name of sub-district.
- (2) Name of principal village.
- (3) Name of hamlet.
- (4) Name of the property, if any.
- (5) Paimash or survey number.
- (6) Inam, Zemindari or Government.
- (7) Dry, wet or garden.
- (8) Trees, buildings, wells, &c., if any.
- (9) Bounded, north by
south by
east by
west by
- (10) Former occupation.
- (11) Remarks.

8. The Inspector-General is aware that under present law persons executing documents cannot be compelled to describe the properties dealt with in any particular manner, provided that the description given is sufficient for the purpose of identifying the property, but he has no doubt that if Registering officers take pains to explain to persons who draw up documents, the obvious convenience of describing the properties in a schedule such as that above referred to, this course will be universally adopted, as has been the case in Malabar. Registrars will arrange for the circulation of printed notices explaining the advantages of the above course.

9. The certificates showing the results of general searches made for documents affecting properties should be filed in a separate file and paged consecutively. An index should be kept of these certificates showing for each village the properties affected and referring to the page of the file of certificates in which the entries of the properties are found. This will be a great help in conducting the searches when applications for searches are made in respect of properties which have formed the subjects of search on previous occasions.

S. SRINIVASA RAGHAVAIYANGAR,
Inspector-General of Registration.

To all Registering officers.

23/9/11

No. 1184

FROM

J. P. HEWETT, ESQ., C.I.E.,

Offg. Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS.

Home Department.
Public.

Simla, the 10th August 1895.

SIR,

I AM now directed to reply to your letter No. 1025, dated the 30th April 1894, with which were referred, for the consideration of the Government of India, proposals for amending the Indian Registration Act, No. III of 1877, and the Transfer of Property Act, No. IV of 1882, in certain particulars relating to the registration of transfers of landed property. The amendments suggested by the Governor in Council were—

- (1) that section 22 of the Registration Act should be repealed and power given to the Local Government to frame rules prescribing that, in documents relating to landed property, the property should be described, for purposes of identification, by reference to Government survey numbers in all cases in which it is possible to do so;
- (2) that section 89 of the Act should be amplified (1) by the addition of a clause to the effect that the provisions of sections 21 and 22 shall, as far as practicable, be applicable to descriptions of property entered in the orders, certificates and instruments sent to be filed in Book No. I; and (2) by a provision requiring Civil Courts to send to Registration offices copies of decrees for possession which have been executed; and
- (3) that sections 54 and 59 of the Transfer of Property Act should be amended so as to require that all sales and mortgages of immovable property, even of the value of less than Rs. 100, shall be effected only by deeds which shall be compulsorily registrable.

His Excellency the Governor in Council did not propose that these amendments should be made compulsory in the case of any other Province, but only that power should be given to the Local Government to introduce the changes which they would permit into such parts of the Madras Presidency as from time to time might be considered to require them.

2. The Governor General in Council sympathises with the object which the Madras Government have in view in suggesting the repeal of section 22 of the Registration Act so as to enable the Local Government to require that the survey number in which the land is included shall be specified in all instruments presented for registration which relate to land that has been surveyed, but it appears to His Excellency in Council that it would be feasible to secure the end desired without resorting to legislation. Under the Act as it stands a reference to the survey numbers cannot be made compulsory in every case, but the Governor

3
201-1603

General in Council thinks that the Registrar might be authorized by executive order (1) to require the parties to insert the survey number in all cases in which no sufficient cause to the contrary is shown; (2) to note it himself in the margin of the document, authenticating the entry by his signature, whenever that course is found convenient; and (3) to decline to register, unless directed to do so by a Civil Court, in every case in which the parties refuse, without sufficient cause, to allow either of the above courses to be adopted. Executive instructions of this nature would, it appears to the Government of India, be sufficient to ensure landed property being described in a uniform manner while they would be free from the objections which would attach to a hard and fast rule of law upon a point depending so largely on the ever varying conditions of individual cases.

3. The amplification of section 89 of the Registration Act, suggested at the end of paragraph 6 of the letter under acknowledgment, seems to the Governor General in Council to be also unnecessary as the object in view can, it would appear, be equally attained by means of executive orders. The further proposal that this section should also be amplified, so as to require Civil Courts to send copies of decrees for possession which have been executed to Registration offices for record, seems to the Government of India of very doubtful expediency. A decree for possession has not necessarily any connection with the right to the property; as, for instance, in a case in which it is given pending a suit for the right to the property. The Governor General in Council thinks that there would, in such a case, be no advantage in having the possessory decree on the register after the suit to the ownership had been decided. * Vide paragraph 12 (3) of his letter dated the 27th September 1893. The Inspector-General of Registration has also pointed out* that the proposed amplification of section 89 would not cover cases in which possession of property is voluntarily ceded in obedience to a decree of Court, and there is, in the opinion of the Government of India, a further objection to the proposal, viz., that, in Provinces where a complete record of right in land exists, a copy of the decree should, if sent anywhere, be sent to the Land Record and not to the Registration Department.

4. Lastly, I am to refer to the suggestion that sections 54 and 59 of the Transfer of Property Act should be amended so as to require that all sales and mortgages of immoveable property, even of the value of less than Rs. 100, should be effected by means of compulsorily registered deeds. I am to observe that this proposal appears to extend very much beyond the scope of the present registration law. As stated in paragraph 16 of the note of the Inspector-General of Registration, forwarded with his letter dated 2nd October 1890, which is one of the enclosures of your letter under reply, the matter was fully discussed when the late Council in 1876. It is said that many of the objections then raised are no longer applicable so far at least as the Madras Presidency is concerned. It is true that there has been a very large comparative increase in the number of registrations effected since 1876, but the Governor General in Council does not feel assured that the objections, based upon the ignorance of the great mass of the agricultural population and their limited means, have been so far removed during the last 20 years as to justify their not being regarded as insuperable obstacles to the proposal now again put forward. Moreover, the number of transactions to be registered would be so great that the plan would be liable to destruction from its own weight.

5. The proposal, however, is open to objection on other and wider grounds. In the greater part of India two systems of registration are maintained side by side; a registration of assurances by officers appointed under Act III of 1877, and a registration of titles in the record-of-rights which is maintained by the land-record agency. It will always be advisable to provide for optional registration of assurances; and, at present, the registration of titles being imperfect, the registration of all titles wherever the land-record system has been completely established. This maintenance of two concurrent system of compulsory registration is in theory indefensible and is only justified by the fact that the one is necessary in order to supplement the defects of the other. Thus the ultimate

aim to be kept in view is, so to perfect the land-record (which, unlike a register of assurance, includes all titles of whatever sort) as to render it possible to dispense eventually with compulsory registration of assurances. The attainment of this perfection is not yet within reach, and it may never become possible in India. But it has been found by experience in other Provinces that, as the record-of-rights is improved, the confidence of the people in it increases, and that as their confidence in it increases, they are more careful to see that it is maintained accurately; and that already there is a tendency to dispense with registration, when optional, and even with instruments, and to trust to the record as evidence of title. In Madras, no record-of-rights in land, as distinct from a record of liability for revenue, can yet be said to exist. But the Madras Government have recently made great efforts and incurred considerable expenditure for the improvement of the local agency by which alone a true record-of-rights can be maintained. The next step will undoubtedly be to create and maintain such a record; and the Government of India would deprecate any measures which would tend to detract from the importance, and therefore from the efficiency, of that record.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. HEWETT,

Offg. Secretary to the Government of India.

No.

COPY of correspondence forwarded to the Department of Revenue and Agriculture for information.
Original papers returned.

By order,

L. M. THORNTON,

Depy. Secy. to the Govt. of India.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read Endorsement of the Judicial

Department, dated 30th August 1895, No 2019, transferring to the Revenue Department, letter from the Government of India, Home Department (Public), dated 10th August 1895, No 1184.

copy attached

Order thereon dated 8th November 1895, No 4464 Dis

The suggestions made by the Government of India in paras 2 and 3 of its letter read above will be referred to the Inspector General of Registration for remarks, which he is requested to submit through the Board of Revenue, Land Revenue
(True Extract)

David Davidson
Ag. Under-Secretary to Government

To

The Inspector General of Registration through the
Judicial Department

Copy to the Board of Revenue, Land Revenue
" (Revenue Settlement

Mr.

9/5/1603

GOVT. of Madras.
REVENUE.

To
The Inspector General of
Registration
Through
The Judicial Department

Dated
Recd. 14 } 11-25
Encl. /

Mis. G.O., 8th Novr 1895, No. 4464.

Referencing to the Inspector
General of Registration for remarks
Government of India's suggestion
that the objects aimed at by the
proposed amendments of Section
21, 22 and 89 of the Registration Act
may be better secured by means
of executive orders.

Encl. No. 2830 & 25-11-95

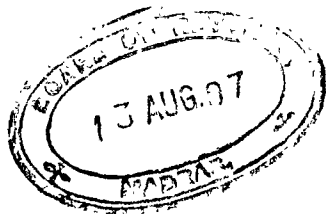
Forwarded to the Inspector General of
Registration.

Francis
ag. Under Secretary

To the Inspector General of Registration.

Judicial (1897) Department.

1603
CURRENT No.



From
The Inspector General of
Registration,
Madras.

Transferred to the Rev. Dept.
in continuation of Encl. No. 1436 J.D. of
12 July 97.

11/24-7-97

Francis
ag. Under Secretary.
Endorsement No. R No. 1512.

Referred to the Board of Revenue for
remarks.

Noted
11th Aug. 1897
To the Board of Revenue, L.R.

Note: The Inspector General of Registration was requested
to forward his remarks through the Board of Revenue, but
he has sent them direct to Govt. Hence the present
reference.

1-2
Secy. R. 1031
G. L. 24/7 1897

Dated 19 July 1897.
Received 22 } 7-97
Registered 23 }
Enclosures 3 + Encl. No. 5399 & 46
Spare copies

SUBJECT.

Submitting a memorandum
from Dewan Bahadur
Srinivasa Raghavaiyanga
regarding the proposed
amendment of Sections
21, 22 & 89 of the Registration
Act.

BACK PAPERS.

G.O.	No.	Department.	Date.
2112	2812	2812	8.11.75

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Memorandum.

I. In para 2 of the Government of India letter, it has been suggested that the Registrar might be authorized by executive order

(1) to require the parties to insert the survey number in all uses in which no sufficient cause ^{to the contrary} is shown,

(2) to note it himself in the margin of the document, authenticating the same by his signature, whenever that course is found convenient, and,

(5) to decline to register, unless directed to do so by a Civil Court, in every case in which the parties refuse, without sufficient cause, to allow either of the ^{above} courses to be adopted. As regards the first suggestion, I beg to state that instructions have been issued in my Circular No. 25, of 19th September 1891, to registering officers to advise parties, in all possible cases, to insert in documents the survey numbers of lands in settled districts, but as there is no provision in sections 21 & 22, requiring the description of lands in a particular way, there is no legal obligation on the part of the parties to documents to describe lands with reference to survey numbers alone.

2. As regards the second suggestion, I beg to state that the registering officers have no means of knowing the survey numbers of lands which have been described in documents with reference to their boundaries or otherwise than by reference to survey numbers, and it is therefore impracticable to carry it out.

3. As regards the third suggestion, as already stated, registering officers have been directed to advise parties to describe lands in settled districts by survey numbers as far as possible; but the difficulty arises when the parties do not choose to do so. The documents could not be refused registration for non-compliance with this direction in the face of the provisions of section 22 of the Act. In this connection, I beg to bring to

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to the notice of Government the enclosed copy of judgment, from which it will be seen that the Madras High court have passed a distinct ruling to this effect. It was for this reason that it was proposed that section 22 should be amended.

4. In para 5, the Government of India state that the amplification of section 89 of the Act, as regards uniform description of lands in orders, certificates & instruments sent to be filed in Book I is also unnecessary, as the object can be secured by means of Executive Orders. In regard to this suggestion, I beg to state that the documents referred to in section 89 are received either from the Civil Courts or from Revenue officers. The documents sent by Courts are copies of certificates of sale of immoveable property granted under section 516 of the Code of Civil Procedure; in this section, it is provided that the Courts should state in the certificates the property sold, and the description generally follows the description given in the applications for attachment of immoveable property under section 257, and in the proclamations of sale issued under section 287 of the Code. The former section requires that applications for attachment shall contain at foot a description of the property sufficient to identify it, and under the latter section the Courts have power to ascertain and enter in proclamations as fair and accurate a description of the land to be sold as possible. There is therefore no apparent objection to Civil Courts being directed to enter in copies of sale certificates sent to registering officers under section 89 of the Registration Act, survey numbers of surveyed and settled lands in settled districts. As a matter of fact, it is provided in section 207 of the Code of Civil Procedure, as regards decrees for immoveable property that "if such property is identified by boundaries or numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers".

5. As regards copies of documents received from Revenue officers under section 89 of the Registration Act, the lands in settled districts are being invariably described therein with reference to their survey numbers, and separate instructions are

not necessary.

(Signed) S. Srinivasa Raghavaiyengar

(True Copy)

M. J. Srinivasan
S. S. R.

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REGISTRATION DEPARTMENT.

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G. No. 3969

26P

From

The Honorable P. Rajaratna Mudaliyar,

Dewan Bahadur,

Inspector-General of Registration, Madras,

To

The Honorable J. F. Price, C.S.I.,

Chief Secretary to Government, Ootacamund.

Dated, Madras, 19th July 1897.

Sir,

In continuation of my letter, G.No. 5624, dated 6th July 1897, I have the honour to enclose a memorandum received ^{in 175th} from Dewan Bahadur Srinivasa Raghavaiyengar, containing his remarks on the suggestions of the Government of India, regarding the proposed amendment of sections 21, 22 & 29 of the Registration Act, called for in G.O.No. 4464, ^{Rev} dated 8th November 1895.

2. I agree generally in the views expressed in the memorandum.

I have the honour to be,

Sir,

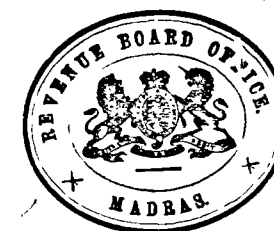
Your Most Obedient Servant,

M. J. Srinivasan
Insp: Genl: of Regn.

T. H. V.

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Proceedings of the Board of Revenue
(Land Revenue)

No. 5254 Misc., dated 21st August 1897.

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Read Endorsement of the Acting Secretary to Government, Revenue Department, No. R. 1512, dated 11th August 1897.

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Resolution

In its Endorsement read above, Government calls for the remarks of the Board of Revenue on the Memorandum submitted by Dewan Bahadur S. Srinivasaswami Iyengar on the question of making it obligatory to describe by means of survey Nos. any landed property referred to in documents submitted for registration.

2. Four suggestions were made by the Government of India as shown below:-

- (1) that the Registrar might require the parties to insert the survey Nos. in cases in which no sufficient cause to the contrary was shown;
- (2) that he might note the Nos. himself in the margin of the document, authenticating the entry by his signature;
- (3) that he might decline to register, unless directed to do so by a civil Court, in cases in which the parties refused without sufficient cause to allow either of the above courses to be adopted;
- & (4) that the entry of the Nos. might be insisted on in respect of documents sent to be filed under section 80 of the Registration Act.

3. The late Inspector General of Registration points out that the object of the above suggestion is to

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impracticable and that the third is opposed to the clear provisions of the law and to a ruling of the High Court. The Board has nothing to add to the late Inspector General's objections.

2. As regards the other suggestions, it is understood that instructions have already been issued to registering officers to advise parties, in all possible cases, to insert the survey Nos. of lands, and that, in documents sent by Revenue officers to be filed in registration offices, lands in settled districts are invariably described with reference to their survey Nos.. The Board considers that, if civil Courts be also required to adopt a similar procedure in respect of sale certificates, the No. of documents, in which landed property is described otherwise than with reference to survey Nos., will be so far as surveyed tracts are concerned be exceedingly small.

(True Extract)

Reelin

Secretary.

To

The Secretary to Govt. R.D., with the enclosed papers returned.

M.P.H.

the High Court of Judicature at Madras.

In the Matter of the Petition of NARAYANA-
SAWAMY PILLAY, under the Registration Act XX
of 1866, Section 84.

Judgment.

The 1st question which I have to consider is whether the requirements of the law have been applied with on the part of the Petitioner, so as to entitle the document to registration. Both the Registrar of Madras and the Registrar General on appeal have stated in their reasons for refusing registration, that the description of parcels in the mortgage deed presented to them for registration is insufficient to satisfy the provisions of the Act and of the Rules 57 and 58 made under the Act. The Registrar General specifies the points in which the description is defective. One of the parcels is described in the deed thus: "as also the Bungalow and Garden in the Luz bearing No. 3, and 4, situated in the 4th Division of Police of the Madras District, formerly occupied by H. Bill and at present occupied by Mrs. Doctor Sherman and bounded on the North by a road, South by a house, formerly belonging to Mr. R. D'Silva, and at present to Singara Moodelly, East by a lane, West by a house belonging to Mr. C. D'Silva containing 1 Cawny &c. as for the conveyance in my favour, dated 11th March 1865." and the objection taken to that description is that "the Luz is not one of the 36 Divisions or Villages named in amended Rule 57." Now whether that is or is not a fatal objection, wholly disentitling the Petitioner to have the document registered, depends upon the proper construction of Section 21 of the Act.

That Section provides as follows: "No Instrument relating to immoveable property shall be accepted for registration unless it shall contain a description of such property sufficient to identify the same. Houses in towns shall be described as situate on the North or other side of the street, or by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their occupancies, and also, whenever it is practicable, by reference to a Government map or survey. No document containing a Map or Plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the Map or Plan, or, in case such property shall be situate in several Sub-Districts, by such number of true copies of the Map or Plan as shall be equal to the number of such Sub-Districts, and, in case the property shall be also situate in several Districts, by such further number of true copies of the Map or Plan as shall be equal to the number of such Districts." Now I agree that Rule 57, having been made by the Registrar General, approved by the local Government and published in the Official Gazette pursuant to Section 80 of the Registration Act has the same force as if it had been inserted in the Act; and at therefore Section 21 for the purposes of this case must be read as if in lieu of the words "in the territorial division in which they are situate,"—the words of the 57th Rule had been inserted—and Section had required a description of the property as situate "in the District of Madras and in other of the Divisions or Villages" in that Rule mentioned; of which certainly the Luz is not one. Therefore to comply strictly with Section 21 and the Rule 57, the property ought to have been described as situate in the District of Madras and in the Division or Village of Mylapore, but the question is whether the omission so to describe it prevents its registration. In my opinion it does not. Upon carefully considering Section 21, it appears to me that the two things which by that section are absolutely required as conditions without compliance with which registration is prohibited are that the Instrument shall contain a description of the property sufficient to identify it, and so that if the Instrument contains a Map or Plan, then a copy or copies of that Map or Plan shall accompany the Instrument, when presented for registration. The other provisions of the section I think directory only, indicating the intention of the Legislature as to the kind of description or Plan to be required, but not imparting the absolute necessity of strict compliance therewith in order to entitle an Instrument to registration, if the description which is given be sufficient to identify the property. It seems to me improbable that the Legislature should have intended so strictly to define the particular method of description when the consequences of so holding are

4. In order to enable the Registering Officer to register, the attendance of executing party or his representative assign or agent is in general necessary under Section 36 of the Act but it is not in my opinion necessary that the executing party should attend in Court pursuant to the notice served upon him under Section 84 in order to authorise the Court to order registration of the Instrument; for Section 36 is in express terms made subject to the provisions of Section 84. On the other hand the Court is not bound under Section 84 to direct registration of the instrument, even

7. The inability therefore to compel the attendance of Mr. Bowie alleged by the District Registrar does not in my opinion exist ; but I agree with the Registrar General that the practical difficulties which in this Presidency alone appear to arise in the way of executing compulsory process, formed a very good reason why the Registrar in the exercise of his discretion should refuse to make the attempt ; and the matter is not of the same importance if it be correctly held that upon Petition to this Court the non attendance of the executing party either at the Registration Office, or in the Court, is not a sufficient ground for refusing registration. Upon proof of the execution of the document, the order will go for its registration

impracticable
of the law

9-10-97

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① Shikhar with G.O.

The House for 2 rose C.I.E.
The House for 2 rising lines C.I.E.

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Read again G.O. No 4464 of

C No 7697 of 1897

For orders.

Ref is submitted to the notes under G.O. No 4464 of 8th Nov/95

In this Govt letter to India No 1025

Just, of 30th April 1904, the following
suggestions were made for amending the
Indian Registration Act and the Transfer
of Property Act:—

(1) that Section 22 of the Registration Act
should be repealed and power given to the local Govt
to frame Rules prescribing that in docu-
ments relating to landed property, the
property shall be described, for purposes
of identification by reference to Govt
survey numbers, in all cases in which it
is possible to do so;

(2) that Section 89 of the same Act should
be amplified

(a) by the addition of a clause to the
effect that the provisions of sections 2
& 22 shall, as far as practicable, be
applicable to descriptions of property entered
in the orders, certificates & instruments
sent to be filed in Book No I.

(b) by a provision requiring the
Civil Courts to send to Registration
offices copies of decrees for possession
which have been executed; and

(3) that sections 54 & 59 of the Trans-
fer of Property Act should be amended so as to

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of the all sales and mortgages
of immovable property, even of the value
less than Rs100, shall be effected only
if deeds which shall be compulsorily
registrable:

2. The reply of the Govt of India was sent
to the Insp. General of Registration & the
Board for remarks. The Board finally ^{concurs}
in the remarks of the Insp. General with
which the present Insp. General also agrees.
The observations of the Govt of India & the
remarks of the ^{late} J.G. of Regn on the several
suggestions made by this Govt & set forth
in para 1 above will be noticed below.

3. With regard to ^{(1) suggestion} first suggestion, the
Govt of India says that the Registering

officer is to be guided by executive order
in the parties to use
survey numbers in all cases in which
there is no sufficient cause to the contrary; and
(b) to note it himself in the margin
of the document authenticating the entry
his signature whenever that course
is found convenient; and
(c) to decline to register unless directed
to do so by a Civil Court in every case
in which the parties refuse without
sufficient cause to allow either of
the courses to be adopted.
The Insp. General states that
the suggestions (a) & (c) are

* Copy of Circular issued is
enclosed in the Insp. Genl's
letter in the Current

Of course this is perfectly plain. Insp.
suggested what it knew to be illegal.

11/19/1917.

in the Current

Yes
JG

have been issued to registrars of 1900
to advise parties, in all possible cases,
to insert the survey numbers of lands in
settled districts, but as there is no provision
in sections 21 & 22, requiring the description
of lands in a particular way, there is no
legal obligation on the part of the parties
to describe lands with reference to survey
numbers alone and ~~and~~ the documents
cannot be refused registration for non-
compliance with this direction in the face
of the ~~existing~~ provisions of section 22 of
the Act. He at the same time forwards copy
of a judgment of the Madras High Court
to this effect.

As regards suggestion (b), the J.G.
states that registering officers have no
means of knowing the survey numbers of
lands which have been described in documents
with reference to their boundaries or otherwise
than by reference to survey numbers, and, it
is therefore impracticable to carry it out.

Submitted that the Govt of India may
be informed that as section 22 of the Regn.
Act stands at present, there is no legal
obligation on the part of the parties to
describe lands with reference to survey numbers
alone, that registration cannot be refused
for noncompliance with this direction
in the face of the High Court judgment.

The truth is that India want accept
any of these proposals because it
wants to force leaders to start a
record of right such as exists elsewhere.

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25/9/97

27/9/97

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The first of these requisites is liable to be defeated under the present law ^{because} section 22 of the Registration Act leaves it to parties to adopt any description they choose provided it is sufficient for identification and ^{because} ~~a~~ certificates

of sales forwarded by civil courts under Section 89 of that Act do not contain a uniform description of property. Accordingly the Govt of India was requested to have the law amended so as to secure transactions in immovable property being described by survey numbers wherever possible.

As regards the second requisite it will be observed that sales and mortgages of property of less than Rs 100 in value ~~and~~ are not now compulsorily registrable; in view to securing this object the amendment of Sections 54 and 59 of the Transfer of Property Act was urged on the attention of the Govt of India.

2. That Govt, while recognising the desirability of securing a uniform description of property, considered that the object in view can be attained by means of executive orders and accordingly ^{de} make the following suggestions:-

(i) That parties may be required to insert the survey number in all cases in which no sufficient cause

cause to the contrary is shown;

(ii) That the Registering Officer may be required to note it himself in the margin of the document authenticating the entry by his signature whenever that course is found convenient;

(iii) That he may decline to register the document unless directed to do so by a civil court in every case in which the parties refuse without sufficient cause to allow either of the above courses to be adopted; and

(iv) That it would be sufficient if the civil courts are required by an executive order to enter the survey numbers in the case of certificates forwarded by them under Section 89 of the Regt. Act 3. It is observed that suggestion

(i) ~~and (iii)~~ ^{had} already been anticipated by the Inspector General and that instructions were issued by that officer to registering officers so early as September 1891 to advise parties in all possible cases to insert the survey numbers of lands in settled

Is not this, and iii, a mistake? It may be that it is legal & has been anticipated. iii is illegal

If
as the two suggestions were discussed together, they were considered. But please see next page

The A. M. is correct. 19/10/97

settled districts. There is, ~~however~~,
no legal obligation on the parties
to describe lands with reference
to survey numbers alone seeing
that sections 21 and 22 of the
Registration Act do not require
the description of lands in a
particular way. Registration
cannot therefore be refused for
non-compliance with this direction,
and this view is confirmed by the
judgment of the High Court a
copy of which has been forwarded
by the Inspector General and which
is printed as an Appendix to this
order.

4. As regards suggestion (ii)
the Inspector General rightly points
out that registering officers have
no means of knowing the survey
numbers of lands which have been
described in documents with reference
to their boundaries or otherwise
than by reference to survey numbers.
Moreover, it is no part of the duty
of the registering officers to make
entries in the margin of documents
which may turn out to be incorrect.
In these circumstances it is
impossible

as suggested 3. two 3 of 9

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impossible to carry out the suggestion
of the Govt of India and it will
be informed accordingly.

5. With regard to (iv) it is shown
that documents referred to in section
89 of the Registration Act are
received either from Revenue
officers or the Civil Courts.
In the former case, lands in
settled districts are pointed out
by the Inspector General, invariably
described with reference to their
survey numbers and no action
is therefore called for in respect
of them. In the case of the latter
the documents sent are copies
of certificates of sale of immovable
property passed under section 316
of the Code of Civil Procedure
and the description of the property
therein generally follows the
description given in the application
for attachment of immovable
property under section 237 and
in the proclamation of sale
issued under section 287 of the
Code. The former section requires
that applications for attachment
shall contain at foot a
description

description of the property sufficient to identify it and under the latter section the Courts have power to ascertain and enter in proclamation as fair and accurate a description of the land to be sold as possible. Again in section 217 of the Code it is provided as regards decrees for immovable property that "if such property is identified by boundaries or numbers in a record of settlement or survey, the decrees shall specify such boundaries or numbers". There would therefore appear to be no objection to Civil Courts being required to enter in Copies of sale certificates sent to Registering officers under section 89 of the Reg. Act, survey numbers of surveyed and settled lands in settled districts. Having in view the facilities that will be afforded for tracing encumbrances on immovable property by the adoption of this measure and the immense advantages that will accrue by affording such facilities, the Hon. the Judges of the High Court will be moved in

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in the judicial dept. to issue orders to the Civil Courts as indicated above. The instructions issued by the Inspector General in 1891 and referred to infra 3 supra coupled with the introduction of the measure now suggested for the consideration of the Hon. the Judges of the High Court will considerably minimise the number of documents in which landed property is described other than with reference to survey numbers. His Excellency the Governor in Council has no doubt that these reforms will eventually lead to a considerable fall in the volume of litigation in this Presidency and trusts that the High Court will see fit to issue orders as suggested.

b. In view of the decided opinion of the Govt. of India against making compulsory the registration of transfers of immovable property of less than Rs 100 in value by sale or mortgage His Excellency in Council will not for

in present press & for the suggested amendment of the law.

I ordered that the following letter be despatched to the Govt of India.

5-10-97

ack 4/10/97

The Honble the Chief Justice through the Judicial Rep^{ts}

The Board of Revenue (L.R.)

The Inspector Genl of Repts through the Judicial Rep^{ts}

60/5
26-11-97

No 859

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The Secy to the Govt of India.
Home Dep^t

Sir,

Adverting to the correspondence ending with Mr Bennett's letter No 1164 of 10.8.95 communicating the views of the Govt of India on the suggestions made by this Govt in the matter of amending in certain particulars the Registration and the Transfer of Property Acts, I am directed to state that instructions

instructions have already been issued in this Presidency requiring Registering officers to advise parties producing documents for registration in newly settled districts to insert the survey numbers of lands. I am, however, to point out that under the law as it stands registration cannot be refused for noncompliance with the direction and this view is confirmed by the judgment of the High Court which is given as an Appendix to the Prop^{ty} Act, of which is herewith for perusal. With reference to the suggestion of the Govt of India that Registering officers may be required to themselves enter the survey numbers of lands which have been described in documents with reference to boundaries or otherwise thereby reference to survey numbers I am directed to point out that they have no means of ^{knowing} ~~knowing~~ what the survey number is and that it is no part of their duty to make entries in the margin of documents which may turn out to be incorrect.

N. 958
9-1-97

the present bill is from the Prop
 amendment referred to that the High
 Court of Madras has been
 requested to issue instructions
 to Civil Courts requiring them
 to enter the survey numbers of
 lands whenever possible in the
 case of certificates of sales
 forwarded by them under Section
 27 of the Registration Act.

In view of the decided
 opinion of the Govt of India
 against making compulsory
 the registration of transfers of
 immovable property of the
 value of less than Rs 100 by
 sale or mortgage I am to
 state that His Excellency the
 Governor in Council will
 not for the present press for
 the suggested amendment of
 the law.

15/10/97

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A=Partial
 B=Notified
 P=In the
 Q=Notified