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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. Nos 284 - 285 Press / Mis

585 - 588

Dated 30 - 1 - 1877.

Not to be folded or roughly handled

3/11/38

Proceedings of the Madras Government, Public Works Department,
30th January 1877. *No.* 284.

Read the following papers :—

No. 585. Proceedings of the Board of Revenue, dated 7th January 1876, No. 32.

Read again the following papers :—

G.O., dated 15th February 1875, No. 296, Revenue Department, recorded in Board's Proceedings, dated 15th March 1875, Miscellaneous No. 2,105.

G.O., dated 19th April 1875, No. 1,106, Public Works Department, recorded in Board's Proceedings, dated 19th May 1875, No. 1,358.

Read also the following papers :—

Proceedings of the Madras Government, dated 28th August 1875, No. 1,827, Revenue Department.

Abstract.—Communicating to the Board of Revenue, for their information and guidance, Proceedings, Public Works Department, on the subject of conservancy of rivers in the Madras Presidency.

From H. G. PRICHARD, Esq., Government Solicitor, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Madras, 7th July 1875, No. 326.

I have the honor to acknowledge the receipt of the Proceedings of the Board of Revenue, dated 19th May last, No. 1,358, together with their enclosures, requesting the Advocate-General's opinion relative to the claim for compensation made by the proprietor of Chedipi Village, in Godavery District, on account of his having been prevented from cultivating some ground in the bed of the Godavery.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward, herewith, a copy of his Opinion, and return the enclosures which accompanied the above Proceedings.

Enclosure No. 1.

Opinion.

In G.O., No. 69, 28th August 1874, No. 2,442, (Irrigation No. 63,) my opinion was desired as to the rights of Government on the one hand, and riverain proprietors on the other, in respect of accretions on river sides and beds of rivers, which vary considerably in width at different times of the year.

2. The opinion which I submitted in obedience to that order indicates the rules which, in my opinion, govern this subject and the difficulties which beset it. The Government has issued orders (11th February 1875, No. 250-2) for the preparation of a Bill to deal with these difficulties.

3. The present case, if I understand the facts aright, falls clearly within the general rule that all riverain rights must be so enjoyed as not to interfere with, or endanger the rights of, other persons similarly interested. The grass appears to have been planted in the actual channel of the river for the purpose of checking an erosion which endangered the existence of a neighbouring village; and compensation is now claimed by the riparian proprietor on the ground of interference with his alleged right of rooting up this grass for the purpose of planting tobacco. I am of opinion that no such right can be maintained, and that the claim should be

resisted on the grounds: first, that there can be no right, prescriptive or other, to cultivate the bed of a river; and, second, that even, if any such right existed, the rooting up of the grass endangered the course of the river and the right of other riverain proprietors.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

5th July 1875.

(True Copy.)

(Signed) H. G. PRICHARD,
Government Solicitor.

From the Collector	of Godavery,	17th April 1875,	No.	139.
,, ,,	of Kistna,	27th Oct. ,,	,,	1,455.
,, ,,	of Nellore,	23rd June ,,	,,	1,698.
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In the first Government Order read above, Government ordered the preparation of a Bill, for the conservancy of rivers, by the Advocate-General, in communication with the Board of Revenue and the Chief Engineer for Irrigation, and communicated a memorandum by the latter officer setting out the principal matters which in his opinion should be provided for in the proposed enactment; and with the G.O. of 28th August 1875, a precis of remarks by Superintending and District Engineers of certain districts, with Colonel Mullins' comments, was furnished for the Board's information. The letters from Collectors above recorded are replies to the Board's call for reports on the subject referred to them.

2. Colonel Mullins' proposal contemplated action with regard to deltaic rivers only, which definition was to include the lower parts of all rivers liable to spill in high flood. It is suggested by several officers that there is no object in confining the scope of the proposed Act to such portions of rivers, and the Board fully agree in this opinion. There are many rivers and portions of rivers which are not deltaic or lower portions, but in which nevertheless it might be necessary to adopt systematic measures of conservancy requiring special powers; and the adoption of Colonel Mullins' proposal would induce a formidable difficulty as to definition of a deltaic river or the lower portion of one.

3. The question as to what constitutes the bed of a river cannot as stated by the Advocate-General be decided by means of any general definition; but the facts of each case must be considered. Several definitions, such as the tract comprised between embankments; the area submerged in ordinary floods, or maximum ordinary floods; or up to the lip of the lunka washed by the stream have been suggested; but all seem to the Board to be unsatisfactory, and they would not attempt any definition.

4. The difficulties referred to in the last two paragraphs can best be met by making the Act applicable only to such rivers or portions of rivers as the Government may declare; and providing that before the application of the Act, a survey and river chart shall be prepared, and that the limits within which the Act confers special powers shall be marked on the map and on the ground by special marks when necessary.

5. As to the property in marginal or mid-stream accretions, which Colonel Mullins thinks should be conferred on Government, the Board observe that there seems to be at present a more or less settled rule of law on the subject, which they think ought not to be abrogated so completely as Colonel Mullins proposes. So long as suitable powers are conferred upon conservancy officers for the regulation of the use of such accretions or formations, the question of property is of secondary importance; and it is clear that, though the use of the land for some purposes, for example, cultivation, might prejudice conservancy, the property in it might be very valuable for others, such as pasture which would be in no way injurious. Colonel Mullins' suggestion seems to be made in order that if it be hereafter necessary to take up any of these formations for conservancy purposes, Government may be saved the expense of paying compensation. But it seems to the Board unjust to confiscate valuable and extensive private rights to secure a mere contingent benefit to the State, of a value which will probably be but a fraction of that so confiscated. The Board think that it would be well to enact in the proposed new law an express provision as to proprietary rights in alluvial formations, similar to the law contained in Bengal Regulation XI of 1875.

6. The proposed law need not contain any special provisions for the acquisition of land for conservancy purposes, as the ordinary Land Acquisition Act is sufficient. With reference to Colonel Mullins' suggestions I.-c, the Board are decidedly of opinion that compensation should be paid in all cases when there is a valid private title, whether under putta, title-deed, or survey registry; or merely acquired by prescription; and they think that it is undesirable to rule as proposed in I.-d, that the property in land reclaimed by conservancy works carried out at the public expense should vest in the Government. It might be difficult to prove that the reclamation was due to the particular work; and it may be assumed that the work having been undertaken in the interests of conservancy, it will suffice if that object is attained. The Board would leave the property in such accretions to be determined by the ordinary rule.

7. The Board do not attach importance to the remark by the Collector of Kistna that the beds of the rivers are shown by old surveys to belong to the riparian villages, some of which are Zemindari and some foreign. It is probably beyond doubt that the beds are in all cases registered as poramboke, or land reserved for public purposes, in Zemindaris as well as Government villages, and is not available for cultivation or private appropriation. The theoretical point as to whose the property is is not important; the practical question is to obtain adequate powers to regulate the use of the bed. Where part of the river is foreign territory no Act can apply, and conservancy must be made matter of negotiation. The Board do consider that it is objectionable to enact that new formations in mid-stream shall

belong to Government even where both banks are Zemindari. The rights of Zemindars to porambokes are not very clearly defined.

8. There seems to be a pretty general agreement as to the nature of the powers to be conferred by the Act on conservancy officers, viz,. power to permit or prohibit cultivation or plantation, or the construction of any works or buildings whereby the course of the stream may be affected, with adequate remedies and penalties for disobedience or contravention of rules on these points. The petty injurious practices referred to in some of the reports, *e.g.*, digging wells within fifty yards of the toe of the embankment, making sluices temporary or permanent therein, cutting trenches for deposit of river silt, &c., might be left to be embodied in bye-laws for each particular river which Government might be empowered to pass, on the proposal of conservancy officers.

9. The Draft Act is to be prepared by the Advocate-General; and the Board resolve to forward to him the accompanying paper containing the heads of the Bill as the Board would frame it, with marginal notes explaining, where this seems necessary, the reasons which lead the Board to propose particular provisions. The general principle of the Act should be that the conservancy officer should have ample power to do what may seem to him necessary, subject to compensation being scrupulously awarded where private rights are invaded or private property damaged in the interests of the Public, or of the riparian proprietors as a body. If the Advocate-General desires a personal conference with the Board and the Chief Engineer, such can no doubt be arranged.

10. The Advocate-General's opinion in the Chedipi case (G.O., 19th April 1875, No. 1,106, Public Works Department) received with the letter from the Government Solicitor will be submitted for the information of Government. There appears to be no doubt as to the course to be pursued; and such cases are amply provided for in the Board's proposals.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Acting Secretary.

Heads of proposed Draft Bill for the Conservancy of Rivers Act.

PREAMBLE.—Recite expediency of the proposed legislation.

1. Government may declare by notification in *Fort St. George* and *District Gazettes* that the conservancy of every river within the Presidency within limits to be described in general terms in the notification is desirable, and may direct a survey with a view to define the limits within which this Act is to be applied.

2. Surveyors to have powers of entry, &c., as in Section 4, Act X of 1870.

3. Boundaries of area within which the Act is to take effect to be marked upon the chart and upon the ground where existing land-marks are insufficient. Government then to issue a notification declaring this Act in force within such limits. The notification to give the description of the limits on each side of the river and to refer to the chart, copies of which shall be deposited in the offices of the Collectors and District Engineers, and be open to inspection at reasonable times. The area comprised within such limits to be considered the river-bed within the meaning of this Act. Government to have power to add to or take from the area so placed under the Act, by a similar procedure and notification.

4. Government to appoint officers to be vested with the powers of a river conservator under this Act, within the areas to which it is extended.

5. The limits of all cultivation existing or ordinarily carried on at the time of the survey, and all groynes, plantations, and constructions of any kind affecting the course of the stream, shall be marked upon the survey map as far as possible, and a register prepared thereof.

Query.—"Or of land which has been cultivated within some specified period."

6. No land to be newly brought under cultivation within the river-bed without the permission of the river conservator in writing. Permits granted to be entered in the survey register. Any person making such new cultivation without permission to be liable to fine of Rupees 500; and no compensation or damages to be recoverable for any thing which may be done by the River Conservator, or under his orders, to the land or crops upon it, to obviate the effects of the cultivation on the course of the stream.

This will confiscate in some cases the right of the holders of existing waste land in the bed to bring it under cultivation. But the right is very precarious, and it is probable that most lands in the river-bed which are cultivable are already cultivated. The hardship will probably not be great in extent, and cannot be avoided.

7. The River Conservator to have power to order, by a writing to be served upon the owner of any land within the river-bed which was cultivated at the time of survey, or since brought under cultivation with permission, to discontinue such cultivation. Penalty on conviction before a Magistrate for disobedience to be fine not exceeding Rupees 500.

8. No groynes, buildings or constructions of any kind, or plantations of nanul lunka or other river grass, or of trees, which may affect the course of the stream, to be formed or extended without permission of the River Conservator in writing. Such permits which shall sufficiently describe the works or plantations thereby authorized to be registered in the Survey register.

9. Penalty on conviction of contravention of Section 8, or for material divergence from the description authorized in the permit, to be fine not exceeding Rupees 1,000.

10. The River Conservator to have power to order the proprietor or occupier of any land on which works or plantations, such as specified in Section 8, exist, or the person who has constructed them, to remove them within a reasonable time; and in case of failure to comply, may himself cause this to be done. The expense incurred, as certified by him to the Collector, to be recovered as arrears of land revenue.

11. No suit to be maintainable to compel the River Conservator to issue or recall any order permitting or prohibiting any cultivation, or the construction of works or formation of plantations within the river-bed.

12. In all cases in which the River Conservator may direct the discontinuance of cultivation or the removal of works and plantations, either existing at the time of the survey or subsequently duly authorized, compensation for the loss so caused shall be paid when there is a valid private title, prescriptive or other, to the land. The onus of proving his title to lie upon the party claiming the compensation.

13. In case of emergency the River Conservator may do any act which may seem to him necessary to prevent encroachments by the stream, erosion or breach of embankments, or imminent danger to life or property, and may direct or modify the course of the stream as may seem to him expedient for that purpose. Persons obstructing him to be deemed guilty of an offence under Section 186 of the Indian Penal Code. For any acts done by a River Conservator in good faith under this section, no damages to be recovered in excess of reasonable compensation for the loss which may have been caused, and which would not otherwise have occurred.

14. River Conservators to be deemed officers in charge of rivers under Act I of 1858.

15. Powers under Sections 12 and 13 may be exercised by such of his subordinates as may be designated by the River Conservator by notification in the District Gazette.

16. All disputed claims to compensation for acts done or losses caused under this Act to be adjudicated upon by competent Civil Court under the provisions of Act X of 1870 as far as they apply.

17. Government to have power to frame bye-laws, not inconsistent with this Act, and to be duly notified for the conservancy of rivers to which it may be applied, and prohibiting, under penalties not exceeding 50 Rupees, any acts which may cause injury, or be likely to cause injury to works constructed for the regulation of the river, or be prejudicial to its conservancy.

18. In all rivers, whether or not placed under the operation of this Act, the property in all land formations shall be determined in accordance with the provisions of Section 4, Bengal Regulation XI of 1825.

(Signed) H. E. STOKES,
Acting Secretary.

No. 166.

No. 585-A.

Note by the Chief Engineer for Irrigation.

It appears to be necessary to make a few remarks on the Proceedings of the Board of Revenue, No. 32, 7th January 1876.

Paragraph 2.

Proceedings, Madras Government, 11th February 1875, No. 380.
No. 49, 11th January 1875.
I (*a*).

2. It is not at all probable that systematic conservancy of rivers which are not deltaic, or which do not come under the definition given in the memorandum as per margin, will be attempted. It would not be at all difficult to define the part of any river coming under the definition, as levels would indicate the conditions absolutely. The undersigned has no objection, however, to rivers generally being brought within the scope of the Act.

Paragraph 4.

3. An important objection which suggests itself to the arrangements proposed by the Board in this paragraph is that what is the river one year may not be so another year, and will certainly not be so in numerous cases after 10 or 15 years. Consequently, unless the limits include considerable margins on either side of the river, the Act may become inapplicable in cases in which action under it may be very necessary.

Paragraph 5.

4. The undersigned believes that it is of the greatest importance to the successful working of any Act which may be framed, that the proprietary rights of private persons should be strictly confined to fixed boundaries, and that all temptation to extend their holdings should be removed. It is altogether improbable that the conservancy establishment in charge of rivers will be able to manage them effectually if the numerous riverain landholders have an interest in accretions. The whole difficulty hitherto has been caused by the desire of individuals to foster and create accretions, and as long as they have a direct interest in such formations the difficulty will continue.

Paragraph 6.

5. The Board consider that compensation should be paid in all cases in which there is a valid private title, whether under putta, title-deed, or survey registry, or merely acquired by prescription. Unless this latter qualification be carefully limited to a given date, before which the right must have accrued, the provision would practically mean that for the removal of encroachments compensation would require to be paid. There are numerous instances in which there have been serious encroachments in the last few years, and it would seem to be a great injury to public rights to expend public money on account of such.

6. It would be the exception, and a rare exception too, when it would not be clear that reclamations were due to particular works. It is intended to lay down proper alignments for all rivers, the conservancy of which is to be regularly and systematically undertaken, and these alignments will be in many places in the present beds of the rivers and away from their banks. The spaces between the banks and these lines will be reclaimed, and the property in the reclamation should be vested in Government, who should be able to retain or dispose of the ground as may be considered advisable. Any other rule would make the retention of the margins for conservancy purposes impracticable, except upon payment of compensation. Moreover, over all reclamations the conservancy officers should exercise entire control, until it is deemed safe to allow of their being handed over to the Revenue officers for disposal. In no other way can the results of reclamations be secured.

7. The undersigned unfortunately differs fundamentally from the views enunciated by the Board of Revenue.

Paragraph 3 above.

The Board would not define rivers, because of the difficulties in the way of definition; but, as has been pointed out, there are difficulties in the way of laying down the limits within which the Act is to operate, if the river limits be not those of the Act.

The Board wish to continue the present indefiniteness of private rights, while the undersigned desires to see them made definite and to limit them strictly.

Accretions are, to whomsoever they belong, an uncertain property, usually existent in any specified locality for only a short period. They may be harmless or even beneficial, in which case they should be secured. On the other hand, they may be prejudicial and need removal. In both cases the conservancy officers would have to operate upon them, and they can do so effectually only if they be deemed to be the property of Government. In the Chedipi case, referred to in the Board's Proceedings, the private and conservancy interests were diametrically opposite, and so they would often be. The Board propose to so far restrict private rights in accretions as to prohibit their cultivation when necessary, or, in other words, to curtail or do away with the more valuable exercise of private rights. The rights left would hardly be worth the endless disputes and trouble, the decision of the extent to which they might safely be exercised in any particular instance would occasion. To be of any use, there must be a general and entire prohibition of the use of accretions for any purpose without leave being first obtained, and even this would not meet the case of prejudicial accretions requiring to be removed. To say that landholders must not look to the river for extension of their holdings is a direction which can be understood, and which would be at most only a slightly greater interference with private rights, which rights are incapable of fixity and are problematical, than to take away the beneficial use of those rights and render them nugatory. If the Board's views be adopted, there can, in the opinion of the undersigned, be no successful river conservancy without the acquisition by Government of the margins to which the accretions would adhere, or, in other words, the difficulty would be got over only by Government becoming the sole riverain proprietor.

PUDUVOIL, (Signed) JOHN MULLINS, Lieut.-Col., R.E.,
8th February 1876. *Chief Engineer for Irrigation.*

To the Secretary to Government, Public Works Department.

No. 1-W.

No. 585-B. *Note by the Chief Engineer for Irrigation.*

WHEN my Note No. 166 of the 8th February 1876 was written, I had not seen either the "Heads* of proposed Draft Bill for the Conservancy of Rivers' Act," or the replies* of Collectors on the requirements of such an Act. The Act, if passed in conformity with the provisions in the "Heads," will indirectly, if not directly, give most of the authority over river-beds, which has been suggested in that note to be necessary; and it may be noticed that a definition of the "newly brought under cultivation" of head 6 would seem to be necessary, for, as the accretions for the most part vary from year to year so considerably as to be virtually new land, which cannot have before been cultivated, the cultivation of all accretions which have not taken a tolerably permanent form before the Act comes into force, will be barred unless directly permitted.

2. I still think that the settlement of claims to compensation for interference with prescriptive rights, which have no definiteness and no fixity, will lead to difficulty; and that as the onus of proving his title will lie upon the party claiming, a greater sense of injustice may result from the impracticability of establishing a title, than would follow from a restriction of rights once for all within definite limits, determined by, or exhibited upon, a survey.

3. As the cultivation of lands reclaimed by conservancy operations cannot, if head 6 be adopted, be undertaken without direct permission of the Conservator in writing, the chief object of the suggestion that all such reclamations should vest in Government will be attained; and it is of less consequence with whom, under such circumstances, the ownership may be deemed to lie.

CUDDALORE, (Signed) JOHN MULLINS, Lieut.-Col., R.E.,
2nd March 1876. *Chief Engineer for Irrigation.*

To the Secretary to Government, Public Works Department.

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* Since received from Revenue Department.

No. 586. ORDER THEREON, 30th January 1877, No. 284.

ESTABLISHMENT.
Irrigation, No. 61-*A.*

THE Government resolve to accept the emendations of the Board of Revenue as detailed in their Proceedings above recorded, modifying the terms of the proposed Bill for the conservancy of rivers, and they direct the preparation of a project of law on the basis of the draft forwarded by the Board.

(True Extract.)

Lieut.-Colonel, R.E.,
Secretary to Government.

To District Engineers.
To the Chief Engineer for Irrigation.
" Revenue Department.
" Legislative Department.

Exd. A. Grubert.
Spare Copies

Govt. of {1877} Madras.

PUBLIC WORKS.

To

DISTRICT ENGINEERS,
&c., &c., &c.

Dated January 30th.

Issued

Recd. *Encl.*

G. O., 30th January 1877, No. 284. .

JANUARY.
Nos. 585-586.

Conservancy of Rivers.—Passing orders on the subject *of* the proposed Bill for —.

Proceedings of the Madras Government, Public Works Department,
30th January **1877.** *No.* 285.

No. 587. Read again Public Works Proceedings, dated the 30th January 1877, No. 284.

No. 588. ORDER THEREON, 30th January 1877, No. 285.

ESTABLISHMENT.
Irrigation, No. 61-B.

THE case of the claim for compensation by the owner of the Chedipi village, on the Godavery River, is an incident connected with the general question of the conservancy of rivers on which the orders of the Government have been passed in separate Proceedings. The proprietor claims compensation because he was prevented from cultivating adjacent land in the river-bed which had previously been planted with grass by the Public Works Department to prevent erosion of an embankment. The Chedipi proprietor had a legal right to the use of this land, and no legal right had been acquired by the Government officers to enter upon it and adapt it to their use. Under these circumstances, reasonable compensation should be paid, and further, if the continued use of the land is required for purposes of conservancy, it must be purchased at a fair valuation, or rented from the owner, as may be found most expedient.

No. 284, dated 30th January 1877.

(True Extract.)

Lieut.-Colonel, R.E.,
Secretary to Government.

To the District Engineer, Godavery.
" Chief Engineer for Irrigation.
" Revenue Department.
" Examiner of Public Works Accounts.

Exd. A. Grubert.
Spare Copies

Govt. of {1877} Madras.

PUBLIC WORKS.

To

THE DISTRICT ENGINEER,
GODAVERY,
&c., &c., &c.

Dated January 30th.

Issued

Recd. *Encl.*

G. O., 30th January 1877, No. 285.

JANUARY.

Nos. 587-588.

Claim for Compensation by Owners of Chedipi Village on the Godavery River.—Passing orders on the —.

13x

No. 32.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th January 1876.

Read again the following papers :—

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2. I submitted the matter for the consideration of the Advocate-General, and I now forward, herewith, a copy of his Opinion, and return the enclosures which accompanied the above Proceedings.

ENCLOSURE No. 1.

Opinion.

IN G O., No. 69, 28th August 1874, No. 2,442, (Irrigation No. 63), my opinion was desired as to the rights of Government on the one hand, and riverain proprietors on the other, in respect of accretions on river sides and beds of rivers, which vary considerably in width at different times of the year.

2. The opinion which I submitted in obedience to that order indicates the rules which, in my opinion, govern this subject and the difficulties which beset it. The Government has issued orders (11th February 1875, No. 250-2) for the preparation of a Bill to deal with these difficulties.

3. The present case, if I understand the facts aright, falls clearly within the general rule that all riverain rights must be so enjoyed as not to interfere with, or endanger the rights of, other persons similarly interested. The grass appears to have been planted in the actual channel of the river for the purpose of checking an erosion which endangered the existence of a neighbouring village; and compensation is now claimed by the riparian proprietor on the ground of interference with his alleged right of rooting up this grass for the purpose of planting tobacco. I am of opinion that no such right can be maintained, and that the claim should be resisted on the grounds: first, that there can be no right, prescriptive or other, to cultivate the bed of a river; and, second, that even if any such right existed, the rooting up of the grass endangered the course of the river and the right of other riverain proprietors.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

5th July 1875.

(True Copy.)

(Signed) H. G. PRICHARD,
Government Solicitor.

From the Collector of Godavery, 17th April 1875, No. 139.
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3. The question as to what constitutes the bed of a river cannot as stated by the Advocate-General be decided by means of any general definition; but the facts of each case must be considered. Several definitions, such as the tract comprised between embankments; the area submerged in ordinary floods, or maximum ordinary floods; or up to the lip of the lunka washed by the stream have been suggested; but all seem to the Board to be unsatisfactory, and they would not attempt any definition.

4. The difficulties referred to in the last two paragraphs can best be met by making the Act applicable only to such rivers or portions of rivers as the Government may declare; and providing that before the application of the Act, a survey and river chart shall be prepared, and that the limits within which the Act confers special powers shall be marked on the map and on the ground by special marks when necessary.

5. As to the property in marginal or mid-stream accretions, which Colonel Mullins thinks should be conferred on Government, the Board observe that there seems to be at present a more or less settled rule of law on the subject, which they think ought not to be abrogated so completely as Colonel Mullins proposes. So long as suitable powers are conferred upon conservancy officers for the regulation of the use of such accretions or formations, the question of property is of secondary importance; and it is clear that though the use of the land for some purposes, for example cultivation, might prejudice conservancy, the property in it might be very valuable, for others such as pasture which would be in no way injurious. Colonel Mullins' suggestion seems to be made in order that if it be hereafter necessary to take up any of these formations for conservancy purposes, Government may be saved the expense of paying compensation. But it seems to the Board unjust to confiscate valuable and extensive private rights to secure a mere contingent benefit to the State, of a value which will probably be but a fraction of that so confiscated. The Board think that it would be well to enact in the proposed new law an express provision as to proprietary rights in alluvial formations, similar to the law contained in Bengal Regulation XI. of 1875.

6. The proposed law need not contain any special provisions for the acquisition of land for conservancy purposes, as the ordinary Land Acquisition Act is sufficient. With reference to Colonel Mullins' suggestions I.-c, the Board are decidedly of opinion that compensation should be paid in all cases when there is a valid private title, whether under putta, title-deed, or survey registry; or merely acquired by prescription; and they think that it is undesirable to rule as proposed in I.-d, that the property in land reclaimed by conservancy works carried out at the public expense should vest in the Government. It might be difficult to prove that the reclamation was due to the particular work; and it may be assumed that, the work having been undertaken in the interests of conservancy, it will suffice if that object is attained. The Board would leave the property in such accretions to be determined by the ordinary rule.

7. The Board do not attach importance to the remark by the Collector of Kistna that the beds of the rivers are shown by old surveys to belong to the riparian villages, some of which are Zemindari and some foreign. It is probably beyond doubt that the beds are in all cases registered as poramboke, or land reserved for public purposes, in Zemindaries as well as Government villages, and is not available for cultivation or private appropriation. The theoretical point as to whose the property is, is not important; the practical question is to obtain adequate powers to regulate the use of the bed. Where part of the river is foreign territory no Act can apply, and conservancy must be made matter of negotiation. The Board do consider that it is objectionable to enact that new formations in mid-stream shall belong to Government even where both banks are Zemindari. The rights of Zemindars to porambokes are not very clearly defined.

8. There seems to be a pretty general agreement as to the nature of the powers to be conferred by the Act on conservancy officers, *viz*:—power to permit or prohibit cultivation or plantation, or the construction of any works or buildings whereby the course of the stream may be affected, with adequate remedies and penalties for disobedience or contravention of rules on these points. The petty injurious practices referred to in some of the reports, *e.g.*, digging wells within fifty yards of the toe of the embankment, making sluices temporary or permanent therein, cutting trenches for deposit of river silt, &c., might be left to be embodied in bye-laws for each particular river which Government might be empowered to pass, on the proposal of conservancy officers.

9. The Draft Act is to be prepared by the Advocate-General; and the Board resolve to forward to him the accompanying paper containing the heads of the Bill as the Board would frame it, with marginal notes explaining, where this seems necessary, the reasons which lead the Board to propose particular provisions. The

general principle of the Act should be that the conservancy officer should have ample power to do what may seem to him necessary, subject to compensation being scrupulously awarded where private rights are invaded or private property damaged in the interests of the public, or of the riparian proprietors as a body. If the Advocate-General desires a personal conference with the Board, and the Chief Engineer, such can no doubt be arranged.

10. The Advocate-General's opinion in the Chedipi case (G.O., 19th April 1875, No. 1,106, Public Works Department) received with the letter from the Government Solicitor will be submitted for the information of Government. There appears to be no doubt as to the course to be pursued; and such cases are amply provided for in the Board's proposals.

(True Copies and Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department, with file of
Collectors' reports, and paper containing proposed heads of Draft Bill;
also copy of Board's Proceedings, dated 19th May 1875, No. 1,358.
,, the Secretary to Government, Public Works Department, with six
enclosures to G. O., dated 19th April 1875, No. 1,106 returned.
,, the Advocate-General, with paper containing proposed heads of Draft Bill.
Copy to the Government Solicitor.
,, to the Collector of the Godavery District, with copy of G.O.,
dated 28th August 1875, No. 1,827, Revenue Department.
,, to the Collector of the Kistna District, with do.
,, to the Collector of Nellore, with do.
,, to the Collector of Chingleput, with do.
,, to the Collector of North Arcot, with do.
,, to the Collector of South Arcot, with do.
,, to the Collector of Tanjore, with do.
,, to the Collector of Tinnevelly, with do.

Exd. W. H. French.

PM. 1071/7/76

1876.

Board of Revenue,

MADRAS.

PROCEEDINGS, 7TH JANUARY 1876, No. 32.

Despd Febr 1/76

Encl. 6

Received

JANUARY.

No. 32.

Conservancy of Rivers.—Submitting to Government, with Board's remarks, reports from Collectors regarding preparation of a Bill for —, and Opinion of Advocate-General on a claim for compensation preferred by a party in Godavery District for his having been prevented from cultivating some land in Godavery River; also forwarding to Advocate-General a paper containing heads of Draft Bill as Board would frame it.

SP

Heads of proposed Draft Bill for the Conservancy of Rivers Act.

PREAMBLE.—Recite expediency of the proposed legislation.

1. Government may declare by notification in *Fort Saint George* and *District Gazettes* that the conservancy of every river within the Presidency within limits to be described in general terms in the notification is desirable, and may direct a survey with a view to define the limits within which this Act is to be applied.

2. Surveyors to have powers of entry, &c., as in Section 4, Act X. of 1870.

3. Boundaries of area within which the Act is to take effect to be marked upon the chart and upon the ground where existing land marks are insufficient. Government then to issue a notification declaring this Act in force within such limits. The notification to give the description of the limits on each side of the river and to refer to the chart, copies of which shall be deposited in the offices of the Collectors and District Engineers and be open to inspection at reasonable times. The area comprised within such limits to be considered the river bed within the meaning of this Act. Government to have power to add to or take from the area so placed under the Act, by a similar procedure and notification.

4. Government to appoint officers to be vested with the powers of a river conservator under this Act, within the areas to which it is extended.

5. The limits of all cultivation existing or ordinarily carried on at the time of the survey, and all groynes, plantations, and constructions of any kind affecting the course of the stream shall be marked upon the survey map as far as possible, and a register prepared thereof.

Query.—"Or of land which has been cultivated within some specified period."

6. No land to be newly brought under cultivation within the river bed without the permission of the river conservator, in writing. Permits granted to be entered in the survey register. Any person making such new cultivation without permission to be liable to fine of Rupees 500; and no compensation or damages to be recoverable for anything which may be done by the River Conservator or under his orders to the land or crops upon it, to obviate the effects of the cultivation on the course of the stream.

This will confiscate in some cases the right of the holders of existing waste land in the bed to bring it under cultivation. But the right is very precarious and it is probable, that most lands in the river bed which are cultivable are already cultivated. The hardship will probably not be great in extent, and cannot be avoided.

7. The River Conservator to have power to order, by a writing to be served upon the owner of any land within the river bed which was cultivated at the time of survey or since brought under cultivation with permission, to discontinue such cultivation. Penalty on conviction before a Magistrate for disobedience to be fine not exceeding Rupees 500.

8. No groynes, buildings or constructions of any kind, or plantations of nanul lanka or other river grass, or of trees, which may affect the course of the stream, to be formed or extended without permission of the River Conservator in writing. Such permits which shall sufficiently describe the works or plantations thereby authorized, to be registered in the Survey register.

5

9. Penalty on conviction of contravention of Section 8, or for material divergence from the description authorized in the permit, to be fine not exceeding Rupees 1,000.

10. The River Conservator to have power to order the proprietor or occupier of any land on which works or plantations such as specified in Section 8 exist, or the person who has constructed them, to remove them within a reasonable time; and in case of failure to comply, may himself cause this to be done. The expense incurred, as certified by him to the Collector, to be recovered as arrears of land revenue.

11. No suit to be maintainable to compel the River Conservator to issue or recall any order permitting or prohibiting any cultivation, or the construction of works or formation of plantations within the river bed.

12. In all cases in which the River Conservator may direct the discontinuance of cultivation, or the removal of works and plantations, either existing at the time of the survey or subsequently duly authorized, compensation for the loss so caused shall be paid when there is a valid private title, prescriptive or other, to the land. The onus of proving his title to lie upon the party claiming the compensation.

13. In case of emergency the River Conservator may do any act which may seem to him necessary to prevent encroachments by the stream, erosion or breach of embankments, or imminent danger to life or property, and may direct or modify the course of the stream as may seem to him expedient for that purpose. Persons obstructing him to be deemed guilty of an offence under Section 186 of the Indian Penal Code. For any acts done by a River Conservator in good faith under this Section, no damages to be recovered in excess of reasonable compensation for the loss which may have been caused, and which would not otherwise have occurred.

14. River Conservators to be deemed officers in charge of rivers under Act I. of 1858.

15. Powers under Sections 12 and 13 may be exercised by such of his subordinates as may be designated by the River Conservator by notification in the District Gazette.

16. All disputed claims to compensation for acts done or losses caused under this Act to be adjudicated upon by competent Civil Court under the provisions of Act X. of 1870 as far as they apply.

17. Government to have power to frame bye-laws, not inconsistent with this Act and to be duly notified, for the conservancy of rivers to which it may be applied, and prohibiting under penalties not exceeding 50 Rupees any acts which may cause injury or be likely to cause injury to works constructed for the regulation of the river, or be prejudicial to its conservancy.

18. In all rivers, whether or not placed under the operation of this Act, the property in all land formations shall be determined in accordance with the provisions of Section 4, Bengal Regulation XI. of 1825.

(Signed) H. E. STOKES,
Acting Secretary.

Exd. W. H. French.

No. 166

Note by the Chief Engineer for Irrigation

It appears to be necessary to make a few remarks on the Proceedings of the Board of Revenue No. 32, 7th January 1876.–

Para 2.

2 It is not at all probable that systematic conservancy of rivers which are not Deltaic, or which do not come under the definition given in the memorandum as per margin will be attempted. It would not be at all difficult to define the part of any river coming under the definition, as levels would indicate the conditions absolutely. The undersigned has no objection however to rivers generally being brought within the scope of the Act.–

Pros: Madras Govt 11th Feby: 1875 No. 380.–
No. 49 – 11th Jany 1875 –
I (a).

Para 4.

3 An important objection which suggests itself to the arrangements

proposed by the Board in this paragraph is that what is the river one year may not be so another year, and will certainly not be so in numerous cases after 10 or 15 years. Consequently unless the limits include considerable margins on either side of the river, the Act may become inapplicable in cases in which action under it may be very necessary.

perh. declarations can be made— whenever a Radical change makes it necessary.

Para 5

4 The undersigned believes that it is of the greatest importance to the successful working of any Act, which may be framed, that the proprietary rights of private persons should be strictly confined to fixed boundaries, and that all temptation to extend their holdings should be removed.— It is altogether improbable that the Conservancy establishment in charge of rivers will be able to manage them effectually if the numerous riverain land holders have an interest in accretions. The whole difficulty hitherto

We ought not to confiscate property but regulate its use — Many of these riverain land-holders have acquired a prescriptive right to these accretions —

hitherto has been caused by the desire of individuals to foster and create accretions, and as long as they have a direct interest in such formations the difficulty will continue.—

Para 6.

5 The Board consider that compensation should be paid in all cases in which there is a valid private title, whether under putta, title-deed or survey registry; or merely acquired by prescription. Unless this latter qualification be carefully limited to a given date before which the right must have accrued, the provision would practically mean that for the removal of encroachments compensation would require to be paid. There are numerous instances in which there have been serious encroachments in the last few years, and it would seem to be a great injury to public rights to expend

I think there is some force in this and that an equitable prescriptive limit may be prescribed in the Act

I doubt this There must be no confiscation of prescriptive rights — but all [illegible] accruing [illegible] future [illegible] be [illegible] expend public money on account of such.–

6 It would be the exception, and a rare exception too, when it would not be clear that reclamations were due to particular works. It is intended to lay down proper alignments for all rivers, the conservancy of which is to be regularly and systematically undertaken, and these alignments will be in many places in the present beds of the rivers and away from their banks. The spaces between the banks and these lines will be reclaimed, and the property in the reclamation should be vested in Government, who should be able to retain or dispose of the ground as may be considered advisable. Any other rule would make the retention of the margins for conservancy purposes impracticable except upon payment of compensation. Moreover over all reclamations the Conservancy Officers should exercise entire control until it is deemed safe to allow of their being handed over to the Revenue Officers for disposal. In no other way can the results of reclamations be secured.–

Para 6.

I do not agree here [illegible]
[illegible]

If the part [illegible] by the defensive works makes a new formation I think it equally belongs to Govt. The Board agree to this above see para 7

Perhaps para 6 is intended to meet the above pencil remark but I think the Board's remarks differently.

7 The undersigned unfortunately differs fundamentally from the views enuntiated by the Board of Revenue.–

The Board would not define rivers because of the difficulties in the way of definition, but, as has been pointed out, there are difficulties in the way of laying down the limits within which the Act is to operate, if the river limits be not those of the Act.–

para 3 above.

The Board wish to continue the present indefiniteness of private rights, while the undersigned desires to see them made definite and to limit them strictly.-

Accretions are, to whomsoever they belong, an uncertain property usually existent in any specified locality for only a short period. They may be harmless or even beneficial in which case they should be secured. On the other hand they may be prejudicial and need removal. In both cases the Conservancy officers would have to operate upon them, and they can do so effectually only if they be deemed to be the property of Government. In the Chedipi case, referred to in the Boards' Proceedings, the private and Conservancy interests were diametrically opposite and so they would often be. The Board propose to so far restrict private rights in accretions

see remark above Let us secure accretions where we can do so justly - but don't [illegible] [illegible] by a Conservancy act.

accretions as to prohibit their cultivation when necessary, or in other words to curtail or do away with the more valuable exercise of private rights. The rights left would hardly be worth the endless disputes and trouble, the decision of the extent to which they might safely be exercised in any particular instance would occasion. To be of any use there must be a general and entire prohibition of the use of accretions for any purpose without leave being first obtained, and even this would not meet the case of prejudicial accretions requiring to be removed.- To say that land holders must not look to the river for extension of their holdings is a direction which can be understood, and which would be at most only a slightly greater

For the common good of the riverain proprietors greater interference with private rights, which rights are incapable of fixity and are problematical, than to take away the beneficial use of those rights and render them nugatory. If the Boards' views be adopted there can in the opinion of the undersigned be no successful river conservancy without the acquisition by Government of the margins to which the accretions would adhere, or in other words the difficulty would be got over only by Government becoming the sole riverain proprietor.—

Camp at
Puduvoil
8° February
1876.

John Mullins Lieut. Col. R.E.
Chief Engineer for Irrigation

To
The Secretary to Government
P. W. D.

FORMER CASES.

Current No. of 187
" "
" "
" "
" "

M. WORKS FORM No. 3.

Current No. 1071

From The Chief Engr. for Irrigation

No. 166
Dated 8th } Feb. 1876.
Recd. 11th }

Rev 1/669/76

Subject:— Note on Pro: of the Board of Revenue regarding preparation of a Bill for conservancy of Rivers &c.

LATER CASES.

Current No. of 187
" "
" "
" "

ENCLOSURES. 7

From to
" "
" "
" "

No. 585 A

R C 25-1-77 [illegible]-1-77
C 2d-12-76 R 25-12-76
12-12-76 R 23-12-76
Rem 8-12-76 R 9-12-76
[illegible]

Orders and Proceedings in file.

Department.	No.	Date.	ENDORSEMENTS.		
			Department.	No.	Dated.
P.W.D.	2442	28.8.74			
"	247	27.1.75			
"	380	11.2.75			
"	1106	15.4.75			
"	2274	6.8.75			

No/3

P 9
29x

No. 1W

Note by the Chief Engineer for Irrigation.

When my Note No. 166 of the 8th February 1876 was written, I had not seen either the "Heads of proposed Draft Bill for the conservancy of rivers Act" or the replies* of Collectors on the requirements of such an Act. The Act, if paſsed in conformity with the provisions in the "Heads," will, indirectly if not directly, give most of the authority over river beds which has been suggested in that Note to be neceſsary, and it may be noticed that a definition of the "newly brought under cultivation" of head 6 would seem to be neceſsary, for as the accretions for the most part vary from year to year so considerably as to be virtually new land, which cannot have before been cultivated, the cultivation of all accretions which have not taken a tolerably permanent form before the Act comes

* Since received from Revenue Department.

comes into force will be barred unless directly permitted.

2 I still think that the settlement of claims to compensation for interference with prescriptive rights which have no definiteness and no fixity, will lead to difficulty; and that as the onus of proving his title will lie upon the party claiming, a greater sense of injustice may result from the impracticability of establishing a title than would follow from a restriction of rights once for all within definite limits determined by or exhibited upon a survey.

3 As the cultivation of lands reclaimed by Conservancy operations cannot, if head 6 be adopted, be undertaken without direct permission of the Conservator in writing, the chief object of the suggestion that all such reclamations should vest in Government will be attained, and it is of less consequence with whom under such circumstances

the

the ownership may be deemed to lie.

Camp at
Cuddalore
2d March 1876

John Mullins Lieutt. Col. R.E.
Chief Engineer for Irrigation

To,
The Secretary to Government
P. W. D.

P W 1876 Dept
No 1671

From
The Chief Engr. for
Irrig:

Dated 2 } March 1876
Recd. 6 }

No 1. W.

Relative to preparation
of Bill for conservancy of
rivers.

No. 585-B

25-1-77
23-12-76 / 28-12-76
12-12-76 / 23-12-76
8-12-76 / 9-12-76

From W. S. FOSTER, Esq., Acting Collector of the Godavery District, to the Acting Secretary to the Board of Revenue, dated Amalapur taluq, 17th April 1875, No. 139.

I HAVE the honor to acknowledge the receipt of the Board's Miscellaneous Proceedings, No. 2,105, dated 15th March 1875, communicating the Order of Government in the Public Works Department, No. 380, dated 11th February 1875, on the conservancy of the Deltaic rivers.

2. I cannot say I like the introduction of a new law which curtails the rights and property of some people without giving them any compensation.

3. The definition of the bed of a river will require a great deal of consideration: that given by the Chief Engineer for Irrigation, "the defined channel within which its waters ordinarily flow," is far too indefinite to be of use. In the Godavery there is a deep channel within which the water keeps in ordinary floods: then there are embankments built at some distance back from the banks of that channel to keep the water within proper limits in high freshes; for the greater part of the year the water does not cover half the breadth of what I have called the deep channel.

4. Now cultivation is carried on on the sides of the deep channel and on the space between its edge and the embankment; it would be a serious loss to proprietors if this cultivation is stopped, and I do not think it necessary to stop it altogether, and probably the conservancy officer would not wish to do so; but if the Act is to prohibit all plantations within the bed of the river except under the orders of the conservancy officer, then I suppose every one wanting to cultivate would have to get the permission each year of the conservancy officer before cultivating, and I fancy this would give the officer more work than he could do. If then we made the bed very large, we could not work the Act well; if we made it too small the Act would be of no use: we should continually be falling into one of these errors if we adopted a rigorous definition. I should be inclined not to attempt a proper definition of the bed; but I would give Government the power of deciding the limits and, if necessary, setting up marks along the edge of the bed; of course this would require some survey, but I think a survey must be made before the Act comes into operation, if it is to provide that marginal accretions, from the time the Act comes into force, are to be the property of Government.

5. The chief damage done to the banks of the Godavery is caused by the planting of lanka grass; it is generally almost impossible to say who did this, and thus ordinary penal clauses against the planters would be useless; the grass may be regularly planted, or a man may throw some seed on the water where he wants the grass, or the seed may be cast on the water or the ground by the wind. If the accretions in future are to be the property of Government, there will be less inducement to plant this grass; but yet grass may still be planted, either with a view to protecting the existing land, or of causing accretions which might escape the observation of the Government Officers. I think that the proprietor should be responsible to Government for the expense incurred in removing this grass, but that he should have the power of getting damages in a Civil Court, or some other Court from the actual planter; it might be left to him to prove who that planter was.

6. Most of the works built for the protection of one bank will cause damage somewhere to the opposite bank; the Act should mention whether the parties who thus suffer loss from Government works should, or should not, be entitled to compensation for their loss.

7. If Government taking the accretions can hereafter let them out and derive revenue from them, I think that the owners of lands washed away should receive some compensation; but considering the difficulty of establishing in a Court that the damage done to one side of a wide river is caused by works some distance above and on the opposite side, it might be expedient not to allow such suits to be brought against Government for this, as the plaintiffs would generally lose their suits if they were opposed by Government on the ground that the damage was not caused by those works. Government might still give compensation without any suit in cases where the District Engineer recommended it.

Exd. S. C. Shunker.

From G. D. LEMAN, Esq., Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 27th October 1875, No. 1,455.

I HAVE the honor to reply to Board's Proceedings, Miscellaneous No. 2,105, dated 15th March 1875, circulating G.O., No. 380, dated 11th February 1875, Public Works Department.

2. In regard to the Advocate-General's opinion, I am not aware whether or not he was cognizant of the fact that all the surveys, from the very earliest, of the Kistna river show that its bed, and in fact those of all other rivers and streams, has always been considered to belong to the adjacent villages. Mr. Newill's survey of the Kistna river was made in 1850; there was also a prior survey by Captain Gresly; in each of these the boundaries of the riparian villages (in some cases zemindari, in some cases the property of His Highness the Nizam, and in some of Government) are carried into the river bed and for the most part run down the centre of the stream.

3. It seems to me that the claim that the bed of the Kistna is the property of the Crown as against any Zemindar is not tenable. At the same time it seems quite clear to me that, as far as Government villages are concerned, any further damage can be prevented by the Government declaring that no lands within such boundaries as may be decided on are to be newly cultivated by the villagers in future.

4. All this, however, as the Advocate-General says, matters little as long as it is clear that nothing may be done which in any way interferes with the natural flow of the river.

5. With reference to Colonel Mullins' memorandum, it seems impossible that Government can confer on themselves the property in any accretions marginal or midstream (I. *b*) or the power of acquiring land formations (I. *c*) without compensation when the riparian villages are zemindari or the acknowledged property of His Highness the Nizam. If compensation is to be paid, the Government must be ready with a very large sum for the Zemindars of Nuzid, Vullur, and Devaracotta, while it must also be laid down how the compensation is to be settled. I presume, as it would be a curtailment of their usual rights, it would be deemed right to pay the compensation due in a certain fixed sum once for all. In the case of the Nizam special arrangement would be necessary. He has villages on the Kistna bank to the west of Pondugole in Palnad Taluq and three, which are diamond villages, in Nandigama Taluq.

6. I think, therefore, the Act should be first definitive, *i.e.*, defining clearly (1) what is to be considered the bed of a river, *viz.*, that part which is submerged in the ordinary floods, or, if a river has been already embanked, such part as lies between the *embankments*; (2) the power of Government as riparian proprietors to prevent interference or damage to the rights of themselves or others; (3) creating a new power to Government in cases (if any such exist) where the Government does not happen to be a riparian proprietor of exercising the same control which they would have if they were riparian proprietors; (4) giving the Government the power under a penalty to forbid the execution of any work or the making any fresh cultivation or planting which may be, in their opinion, an interference with their rights as riparian proprietors.

7. It might also be well to forbid under a penalty the construction in future of any work or the planting of any grass or trees without notice first given to Government of the intention.

8. Of course the persons hindered would be at liberty to obtain redress in the Courts if they considered themselves aggrieved. An Act such as this will enable the Government to protect their rivers in future. As for what is done Government must sue to remove, or have removed, such works as do interfere with their rights as riparian proprietors or purchase under the Land Acquisition Act.

9. Section 432 of the Indian Penal Code is ample provision for the punishment of the offence of cutting a flood bank. The destruction of the bank must be mischievous.

10. I regret the report has not been made sooner. The Government are aware that I went on leave early in April and only returned here about a week ago.

Exd. J. W. Fischer.

From G. VANSAGNEW, Esq., Collector of Nellore, to the Acting Secretary to the Board of Revenue, dated 23rd June 1875, No. 1,698.

ADVERTING to the Proceedings of Board, Miscellaneous No. 2,105, dated 15th March 1875, I have the honor to state that the rivers in this district have all been demarcated, and that, as far as I have been able to ascertain, the Government authorities have never experienced any embarrassment from the existence of private rights in connection with them.

2. Legislation does not therefore seem to be necessary as far as this district is concerned, and in regard to the preparation of a general bill for the conservancy of rivers, I do not think have any suggestions as to details to add to those recorded by Colonel Mullins.

Exd. W. H. French.

From **R. J. MELVILLE**, Esq., Acting Collector of the Chingleput District, to the Acting Secretary to the Board of Revenue, dated Sydapet, 28th May 1875, No. 289.

REFERRING to Board's Miscellaneous No. 2,105 of the 15th March last, communicating G. O., No. 380, of the 11th February, I have the honor to state that there are no navigable rivers in this district, and no difficulty has arisen in respect to the rights of the Crown as to accretions in non-navigable rivers, the fact that the proprietary right of all rivers vests in Government is generally undisputed, as river porumboke lands are specially excluded from the assets of all proprietary estates. My experience in other districts leads me to think that the legislation now proposed is much wanted, not only in regard to deltaic rivers but also in respect of all rivers on which Government have expended money in irrigation works. I have in mind an instance which occurred, while I was in the Godavery District, in which to preserve a small anicut erected by Government across a jungle stream from being rendered useless I had to order a wealthy ryot to fill up a channel which he had dug at his own expense, and which was rapidly altering the course of the stream. The ryot obeyed the order, but had he refused to do so I should have been puzzled how to enforce compliance with it. The scope of the proposed Act should be much that suggested by the Chief Engineer for Irrigation, but the provisions should be made applicable to all streams, on the utilization of which Government are likely to expend money. The proposals of the Chief Engineer as to compensation appear to me to savour of confiscation.

Exd. J. Tulloch.

From W. S. WHITESIDE, Esq., Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Palmanair, 27th May 1875, No. 272 :—

With reference to the Board's foot-note, No. 2,105, dated 15th March last, appended to Proceedings of Government, Public Works Department, dated 11th February last, No. 380, I have the honor to state that I have to add no suggestions beyond those contained in the Chief Engineer's Memorandum, dated 11th January last, embodied in the said Proceedings, on the subject of legislation with regard to the conservancy of Deltaic rivers in this Presidency. I would, however, remark that the proposed enactment may not be confined to *Deltaic* rivers only, but may deal with advantage with all rivers and channels in the Presidency. Even in the absence of such an enactment, the present practice in this district, and I believe in those of Tanjore, Trichinopoly, &c., is that the beds, margins, and banks of rivers and channels being generally entered as Government Poramboke in the ancient Pymaish and other Revenue Accounts, are strictly understood, both by the officers of Government and the ryots in general, as the property of Government, and any act of encroachment thereupon, or mischief thereto, is punished magisterially under the general penal law of the country. In this district, there has been no difficulty whatever in establishing the rights of Government to such accretions to rivers, &c., and people fully recognize the rights of Government. Legislation, however, would remove any possible doubts on the subject, and I recommend it with the modification suggested above.

Exd. W. H. French.

From J. H. GARSTIN, Esq., Collector of South Arcot, to the Acting Secretary to the Board of Revenue, dated Cuddalore, 28th April 1875, No. 179.

In reply to the Board's Miscellaneous Proceedings, No. 2,105, of the 15th March last, communicating Government Order in the Public Works Department of the 11th February 1875, No. 380, I have the honor to state that the only addition to the provisions proposed by Colonel Mullins to be embodied in the River Conservancy Bill, which I can suggest, is, that when it is difficult to decide what is the "defined channel" within which the waters of the river ordinarily flow it shall be competent to the District Engineer or Collector to mark out the boundaries of the said channel.

Exd. W. H. French.

From H. S. THOMAS, Esq., Collector of Tanjore, to the Acting Secretary to the Board of Revenue, dated Point Calimere, 21st May 1875, No. 187.

WITH reference to the Board's Proceedings, Miscellaneous No. 2,105, dated 15th March 1875, I have the honor to state that the legislative measure sketched by the Chief Engineer for Irrigation is so comprehensive that I have no suggestion to add as to the details to be provided for with respect to the power which Government ought to possess in respect of the conservancy and control of deltaic rivers.

2. The only question which seems to me to require a more detailed discussion is how rights of private property, where such have grown up by prescription, should be dealt with.

3. In the case of existing land formations, which it may be found necessary to remove, Colonel Mullins' sketch confers on Government the power of acquiring such formations with or without compensation according as their proprietary occupancy is or is not evidenced by putta or other title-deed granted by competent authority, or by any revenue survey map, pymaish, or other similar account. This, no doubt, meets most cases of right acquired by prescription, but there is a class of private property in the Tanjore delta, in the case of which such documentary evidence of prescriptive title is not likely to be forthcoming.

4. I refer to the villages and lands belonging to the estate of His Highness the late Rajah; these are not of the class of ryotwari properties, and are, therefore, not held on putta, neither have they been treated as inams in the recent inam settlement, and have, therefore, no title-deeds as such. As for the pymaish account, which is the standard authority as regards the area of holdings, in the great majority of cases the land formations in the beds and margins of rivers are shown therein; but it is to be observed that the pymaish account is now nearly half a century old, and there is no later record of similar authority. It would be rather hard to ignore prescriptive occupancy however long because it is not evidenced by a public record.

5. It is to be observed that, while on the one hand reclamations from the beds of rivers have slowly progressed, on the other gradual loss of land by the like action of streams has also gone on; and the Rajah's estate presents the feature of gain and loss thus combined. It seems unequal that the loss only should be left for its acceptance, the corresponding gain being appropriated by Government.

6. Possibly cases analogous to these may be met with in proprietary estates in the Godavery and Kistna deltas, and I would include, therefore, among those for which compensation is to be allowed cases in which land formations, though not entered in a public record, may be proved by local inquiry to date beyond a certain term of years, say twenty.

7. The general idea that a landlord could not himself execute protective works, but must leave them to the Engineer in charge of the river, has prevented owners from guarding against erosion. Their having thus been practically prevented from protecting themselves from loss is another reason for the above consideration being shown them with reference to corresponding gains.

8. It is matter for consideration whether the proposed Rule II. will protect the Government from civil action in the case of sanction for protective works being even *unavoidably* delayed till too late and for the excuse that the Government officers were too much engaged to visit the spot or sanction the work before the coming down of the rivers would be no satisfaction to the owner who had suffered erosion to hold himself ready to perform the protective work if only it had been sanctioned.

Exd. J. W. Fischer.

From W. H. COMYN, Esq., Acting Collector of Tinnevelly, to the Acting Secretary to the Board of Revenue, dated 14th April 1875, No. 171.

WITH reference to the Proceedings of Government, Public Works Department, dated 11th February 1875, communicated with Board's Proceedings, Miscellaneous No. 2,105, dated 15th March 1875, I have the honor to report that there are no special circumstances connected with the rivers of this district requiring consideration in framing the proposed Act for the conservancy of rivers.

2. The banks of the rivers are clearly defined, and there are no mid-stream accretions as in the case of the Godavery and Kistna.

Exd. E. C. Shunker.

Opinions of Collectors
on River Conservancy

1
Rev: 435/76

51x

River Conservancy

The due Conservancy of rivers
such as Godavery from
the hills to the sea is
of great ~~a very~~ importance ~~on~~ — ~~as~~
~~both sides~~ ~~of revenue~~ ~~to~~
~~system~~ ~~the irrigation revenue~~ —
and ~~the safety of the~~
~~lands on either side~~ —
~~but~~ It does not however appear
to me after reading the
whole of these papers
that ~~for that object~~ there
is any necessity to such
any arbitrary powers ~~as are proposed~~
~~in proposed bill~~ —
The cases giving rise to
the present discussion
have chiefly arisen in the
Godavery — I saw one
of the principal points
of erosion near Mallapudi — ~~I~~
~~also saw~~ many
cases of encroachment
I also examined ~~and~~ on the spot some
portions of the large
[illegible] of the river above
the Anicut —

For the purpose of considering the question I am inclined to assume as the fact that the whole soil of the river above the flow of tide ~~down to tide mark~~ whether always covered with water or occasionally dried belongs to riparian owners. ~~unless~~ except where by ~~some special~~ purchase or other special arrangement the ~~public~~ Govt or the Crown have become possessed of ~~some~~ particular ~~specified~~ portions.

I do not think the doctrine that the alveus of a navigable river belongs to the Crown ~~applies~~ ~~belong in~~ can be relied on in this case of Godavery - The river is not a navigable river in the ordinary sense ~~above tide of flow~~ - it has been made so by artificial means - & by artificial channels in the same way that the upper Thames and other rivers have in

England - in which the above doctrine undoubtedly does not apply -

Now ~~what is wanted~~ there is needed for the escape of the ordinary flood water a certain river section - This section apparently has on the whole been maintained by the natural force of the water although the particular ~~line~~ of channel has varied from time to time -

This ordinary channel is more or less ~~clearly~~ defined on either margin ~~with~~ but has many lunkas some inhabited ~~occupying~~ in the midstream -

~~The~~ In the dry season the water falls within a comparatively narrow portion of the bed - in some ~~places~~ forming a tortuous channel across the usual river bed & sometimes very narrow & deep ~~[illegible]~~ channels carrying much

Erosion of The banks —

The most desirable form
of channel or bed would
no doubt be — one lowest
in the centre so that the
water should flow ~~the~~ along a central channel
~~... in the centre~~ — &
the more the operations of Govt. & of riparian ~~steps taken tend~~
owners tend to that ~~end~~
~~the~~ better — but it is not
an object for which Govt. shd incur
any expense —

The object of Govt. should be
~~to~~ secure that a fair
average sufficient section for the river
bed is maintained. ~~&~~
absolutely free from any
encroachment or obstruction by
artificial means and as far
as may be from encroachment
or obstruction by natural
means —

If legal rights were
enforced through the Courts
I entertain little doubt
that these objects could be
attained without any

---

1 River Conservancy

55×

Government House.

The conservancy of the river ~~bed~~ such
as Godavery ~~between the Hills & the mouth~~
and through the Delta is a very
important one — & the necessity for
some ~~regulation~~ changes was very apparent
to me during my ~~recent~~ short visit to that
Delta — The prominent causes giving
rise to the present ~~Nuisance~~ disappear
~~Legislative Interference in the~~
~~form and to the extent of clause 6~~ have arisen on that river
~~7 — 10 — 11. appears to me uncalled~~
for and to ~~savour too much of confiscation~~
~~clause 10 is too extensive in its purposes~~
~~& may become very costly in its the consequences of operation~~
~~of its operation~~

720
1 60/53

a.m.
6 -
10 a.m.
Rainton - 1.35 - 6.30 = 18 hours
16 hours

I saw ~~except to~~ some of the points of the river referred to: I had ~~the~~ advantage of also seeing a portion of the large scale survey & ~~also~~

What is apparently needed is ~~that the~~

1st River bed be kept absolutely secure from artificial encroachment ~~that~~ or obstruction — and as far as may be from ~~either~~ obstruction by Natural ~~or artificial~~ causes

2nd that the flood embankments necessary to prevent damage in any high flood to extensive inland tracts be protected from ~~damage~~ injury ~~of land~~

(I am not sure whether these bunds ~~between~~ in the case of the Godavary upwards from the Anicut have been govt. works erected at Govt. expense in connection with the irrigation. or are old works erected ~~by~~ previously by the former

further legislation. Let a summary jurisdiction ~~over persons causing~~ in cases of artificial encroachment or obstruction will lessen litigation & save time in decision ~~&~~ this be for the public benefit — & a power to

Let therefore the river bed be taken as it now is — Let plain visible marks be set at the edges within sight of each other —

Let similar ones be placed at the edges of old & inhabited lunkas.

Let it then be made an offence punishable by pecuniary penalty to do anything within the river bed thus defined. ~~&~~ which can ~~cause~~ or is likely to raise the level of any part of the bed cause an accumulation therein or in any other way be an obstruction to the free flow of the water —

~~to prevent any other~~

~~than natural causes~~

within the river bed
or except with the previously obtained written
consent of the district
Engineer ~~or of~~ the Collector
confirmed by

This will preserve the
present sectional area
for the water ~~[illegible]~~ from further
encroachment —

to plant any other crop
than tobacco or similar annual
crop —

from any special cause

If it be desired to
& fill
ground ~~[illegible]~~ off corners — ~~[illegible]~~
up creeks — plant [illegible] or
do any ~~other~~ works impinging
in any way
upon private rights. ~~[illegible]~~ or affecting occupation of any land &c
~~[illegible]~~
the land be acquired or
~~the~~ compensation ~~be~~
ascertained in the ordinary
way before the land is
entered upon — but very great care & forethought
should be exercised before any
such steps should only be taken
~~with~~ very great caution
such steps are taken — as
they ~~will~~ are ~~always~~ be ~~[illegible]~~ frequently
found to have been uncertain
in their effect — & will almost
always have come

There is one other point
touched upon
in the protection & maintenance
of flood banks or bunds
placed some little way
back from the river
to prevent spill in
margin ~~of~~ ~~certain~~ excessive
floods ~~from~~ over ~~causing~~ in lying ~~injuring~~
~~[illegible]~~ land &c

If these banks are
found necessary by
Govt. and are constructed
under Govt. authority — the
sites shd be carefully
selected — & at points
where there are indications
of erosion taking place
be aligned a sufficient
distance inland to be
free from danger —

Now it may be assumed for the purpose of considering this question that the soil of the river as in England belongs to some riparian owner — in the upper part — in the lower part — partly to riparian owners & partly — within tide mark — & in naturally navigable portions partly to the Crown —

Say a Collector — allow to decide finally — as between the Govt. & the villagers

To take the stream as it now is — demarcate it — connect it with present area — remove all govt. Lunkas — or parts of Lunkas within the bed which are objectionable

if any portions hitherto cultivated are objectionable deal liberally with claimants call on them to remove all permanent growth & ~~to mark down the~~ if lunka is still objectionable to the river let it be taken under our own my powers be reduced to level flat

II

It seems unfortunately to have happened that every step taken ~~with~~ in furtherance of these objects has been in antagonism to some right or ~~[illegible]~~ ~~right~~ customary use —

the ~~[illegible]~~ landowner is prevented from growing tobacco a paying crop on his own land. instead of Nanal grass a non paying crop —

In another case — an owner is prevented planting Nanal grass — which first are planting in many parts

The

Notice

~~that whereas~~ / ~~some parts of the Banks have been seriously damaged~~ & no person

Let notice be given in every village 3 weeks previously that it is intended on a certain day to fix the matter – determining the limits of the river bed in . . . village of Taluq / & requiring the Zemindar or other principal persons to attend & point out any objections

& let an superior officer of ability & discretion

The Chedipi claim may not be free from difficulty – but I see no advantage in litigation —

The landowner desires to cultivate land "which he has been in "the habit of renting "out annually" with tobacco instead of Nanal grass – the former crop paying a good return the latter nil —

We prohibit his doing so – our prohibition must be based on one of the grounds. ~~either~~ 1st. that it is not his land —

or 2°. that it became his subject to ~~certain~~ ~~certain~~ limitations as to the crops to be grown

D.E. I

for draft of an order in accordance with the views of the Members of G. of I.

22/11/71

Circulated for orders

Lt. Col. R.E.

these objects, which are for the general good & for the security of the public revenue, with as little interference with vested rights as possible. It would of course be more convenient for purely Conservancy purposes to take great powers - & to with-hold all recognition of prescriptive rights - but I cannot but think that all useful objects can be secured without the Act taking the form of confiscation which lurks in many of Col. Mullens suggestions. I wd. therefore express general concurrence with the Board ~~[illegible]~~ & wait till the Bill comes before the Legislature for such amendments as may be
Ci 11-2-76 necessary - R.K. 12/2/76

12 Feb 1876

I am disposed to agree with the views of the Board as expressed in their Proceedings of Jany 7/76. The object of the proposed legislation is as stated by the Board - to give Conservancy officers "power to permit or prohibit cultivation or plantation or the construction of any works or buildings whereby the course of the stream may be affected, with adequate remedies and penalties for disobedience or contravention of rules on these points" The Act should be framed to secure

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I. Form No. 22.

67x

Public Works Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

UNDER date the

Read the following :—

This draft has been prepared in accordance with the instructions given, but a good deal of it appears to depend upon a mistaken premiss in para 2 - The papers however are recirculated for such further instructions as the Members of Government may consider necessary

The portion of para 2 may require some modification but the principle laid down in this order is right -

His Excellency in Council observes that the cases giving rise to the present discussion have presented themselves chiefly on the Godavery River. For all rivers a certain section of waterway is necessary for the escape without damage of flood water and the importance of measures directed towards the maintenance and conservancy of the channel is readily recognized. In the case of the Godavery river this section has on the whole been maintained by the natural action of the water and it is more or less clearly defined on either margins but many lunkahs, or islands formed by accretion, exist in mid stream and some are inhabited. During the dry season the level of the water falls and it occupies a comparatively narrow portion of the river bed, in some places forming a tortuous channel across the main bed, narrow and deep and causing much erosion of the banks.

The most desirable form of channel or water way would no doubt be one lowest in the centre so that the flow would always be along the central line, and the operations of the Government and of riparian owners should as far as possible tend towards that end.

There are many considerations however which limit action in this direction and the Government must confine themselves to securing the maintenance of a fair average section. In other words, the object in view should be the absolute preservation of the bed from encroachments or obstructions created by artificial means and the prevention or removal of those which are the result of natural causes. Further the embankments which are necessary in order to preserve extensive inland tracts from injury during high floods require to be protected.

2. With reference to the question of the private rights which are involved the Government are of opinion that the doctrine that the waterway of a navigable river belongs to the crown cannot be relied on in the case of the Godavery [~~for the river is not navigable in the ordinary sense of the word but has been~~

[above the point to which the tidal flow reaches]

I would avoid enunciating an opinion here – I don't think that there is a distinct ruling on this point viz whether a river like the Godavery is a navigable river. I believe that riparian rights affect accretion in the bed of the Ganges or at least of some of its branches. Most of the ~~[illegible]~~ rulings on riparian question have been passed in Bengal Courts I believe.

Speaking broadly [illegible] [illegible] – the flood of is [illegible] navigable

This is a mistake – The river was navigable & navigated before the Anicut was built [illegible]

I [illegible] that the river has always been navigated from the sea to near Budrachellum above the gorge. Similarly the Kistna was navigated from the sea to near the hills many miles above the Anicut.

Wm.

Geo – certainly [illegible]

Such owners however are not entitled to use their soil or land within the ordinary river channel in such a manner as for such purposes as to obstruct ~~the~~ free flow or divert the currents

For the presents ~~purpose~~ of considering ~~made so by artificial~~ the private rights involved ~~means~~] It will be ~~must be~~ assumed ~~as a fact~~ that the whole soil of the river bed so far as it is non-tidal and whether always covered with water or occasionally dry belongs to adjacent riparian landowners except where these have formally divested themselves of their rights by sale or other arrangement. As regards adjacent accretions in general the rights of landowners are by law clearly established.

3. It is proposed that the Legislature shall pass an Act for regulating where necessary the conservancy of rivers and providing for the

Exercise in certain cases of summary jurisdiction by local Magistrates.

The Government entertain no ~~little~~ doubt but that a remedy for encroachments on the river waterway or for other artificial obstructions tending to ~~produce~~ cause injury elsewhere, would be ~~found~~ obtainable through the courts, in the existing state of the law, but an Enactment providing for more summary procedure would tend to prevent litigation and be for the general good.

The project of law should however go no further than to facilitate and expedite the operation of existing law. No existing

73x

[prospective] or contingent riparian rights must be forfeited or restricted without due compensation and no confiscatory policy admitted.

4 His Excellency in Council agrees with the Board of Revenue in considering that the operations of the contemplated act must be strictly limited to rivers or sections of rivers to which it is specially extended by order of Government on good grounds shown, and that it must be based upon a clear demarcation of property boundaries [and a complete survey] and full investigation of [~~inquiry into~~] the riparian rights on the banks of such rivers or portions ~~stretches~~ of river, after ~~of which~~ due notice, which must

be required to be given to the proprietors interested as provided in Act X of 1871.

5. The object of the proposed law as stated by the Board is to give conservancy Officers power to [permit or] prohibit cultivation or plantation or the construction of any works or buildings whereby the course of the stream may be impeded or injurious by affected, with [adequate remedies and penalties for disobedience or contravention of rules on these points] Turning to the heads of the proposed law the Government observe the absence of any provision for appeal from the Acts and Orders

The word permit is wrongly introduced it reads. permit the construction or if not prohibited – it will be allowed –

powers to enforce obedience by adequate penalties

75x

of Executive officers. They consider that such a safeguard is indispensable. Appeals should be to the Collector and Government or by suit to the Civil Courts, to facilitate which it should be ~~directed~~ provided that all orders must be given in writing. They cannot assent to the principle of para 6 of the project. Conservancy Officers should be empowered to give notice to persons that they are not at liberty to exercise any prejudicial right of ownership which they may claim and only acts in contravention of such notice should render them liable to penalties. The Legislature should

not be asked to enact a provision in the sense of para 11 or the last clause of para 12 of the draft.
With these observations the Government resolve to reserve the further discussion of the details of the bill and its amendment for the Legislative Council

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Separate G.O.

6. The case of the claim for compensation by the owner of the Chedé-pidi village on the Godavery River is an incident connected with the general question of the Conservancy of Rivers on which the Orders of the Government have been passed in Separate Proceedings ~~are required.~~

The proprietor claims compensation because he was prevented from cultivating adjacent

77x

land in the river bed, which had previously been planted with grass by the P.W.D. to prevent erosion of an embankment. The Chedipidi Proprietor had a legal right to the use of this land and no legal right had been acquired by the Government Officers to enter upon it and adopt it to their use. Under these circumstances and consistently with the conclusions which His Excellency in Council has already recorded compensation must be paid and further if the continued use of the land is required for purposes of conservancy it must be purchased at a fair valuation or rented from the owner as may be found most expedient.

Adl. S.
Corr 6-12

I observe that my Hon Coll Mr Ellis has not passed the Df. and I think that it wd be better to redraft = simply accepting the Bd. emendation & directing the project of Law to be prepared accordingly. Any deal with the special case by a separate G.O. It is wise to avoid general views in the G.O. when the Law is perhaps not very well defined & is guided by the circumst: of individual cases

28/12

R. 1o 23-12-76. R.C. 23-12-76
Recd 28-12-76.

R.C. 12-12-76

Comp. E.

~~to A. L. Ellis C.S.~~

Amended & circulated to

His Grace the Governor

Hon. Sir W. Robinson K.C.S.I.

Wy. 12/12

12/12

This was received today from the Bd. Rev. Off. whose Office it reached by some mistake. It has not been disposed of and should apparently be again circulated.

Adl. S.
22/12

22/12

Hon'ble Sir W. Robinson K.C.S.I.

D.E.J.

Wy. 18/1

22.12

79

831
10/1
16/1
Recd 25/1/77

Conservancy of Rivers

Draft

The Government resolve to accept the emendations of the Board of Revenue as detailed in their Proceedings above recorded, ~~and~~ modifying the terms of the proposed Bill for the Conservancy of Rivers. & they direct the preparation of a project of Law on the basis of the draft forwarded by the Board.

Adl. S.
19-1

+ Please see note A.S. 20/1

+ 2. G.O.

See latter part of para 6 of draft of former G.O. relating to Chedipe Proprietors

Adl. S.
19-1

Drafts submitted

Now complete

I am unable to agree to the first clause of this Draft G. O. which treats of the Chedipi Proprietors claims, the Advocate General's opinion notwithstanding.

The papers are not put up as they should have been, but if the facts be that the accretion is adjacent to the riparian property in question, there is a legal right to its use on the part of the riparian owner, and no legal right had been acquired by the Govt. Officers to enter upon it and plant naval grass or to prevent its use by the owner. It may be inexpedient to allow the riparian owner to exercise his right and it may be expedient to acquire a public right over the area in question; but in that case the man is entitled to be dealt with in the manner provided by the Law. He should be compensated and not left to an unfair struggle at law to sustain a right in respect to which the presumption of Law is prima facie on his side. I would refer the case back for disposal in this Bureau. I think that the views expressed by my Honble: Colleagues now should be made the basis of the G.O – more especially as two memoranda by the Chief Engineer for Irrigation whose sentiments he does not accept ~~[illegible]~~ appear in the Proceedings.

I entirely agree with the Board that the operation of the Act must be strictly limited to sections of rivers to which it is specially extended by order of Govt on good grounds shown, and must be based upon and be preceded by a complete survey & enquiry into the riparian rights on the banks of such stretches of river &c, of which due notice must be required to be given to the proprietors interested as provided in Act X of 1871.

I think that the Legislature may see reason to doubt whether special legislation is absolutely necessary when the matter comes before them. Be this as it may – the project should go no further than to facilitate and expedite the operations of Existing Law. No Existing, prospective or Contingent riparian rights must be forfeited or restricted without due compensation. No Confiscatory policy such as that suggested by Colonel Mullins (Boards Proceedings Para -5) can be admitted into the Law. Rights over accretion, however arising, follow the Law of the land and if it be desirable to foreclose any Contingent right, it might be done in the usual manner when the necessity arises.

I dissent from the Speculations of the Board in Para 7 of their Proceedings. There is no doubt as to the right of riparian Zamindars and the Law as affecting these rights; and I do not think that any regulation likely to affect the rights of others can be left to bye laws & orders which can only ~~be~~ regulate matters of detail in administration

administration

Turning to the Heads of proposed Law, I miss provision for appeal from the Acts & orders of Executive Officers — who in this case will generally be Executive Engineers. This provision is indispensable, for without it, departments are apt to become a law unto themselves. Appeals should lie to the Collector and Govt. or by suit to the Civil Court; to facilitate which all orders must be given in Writing to the party interested. I do not agree to the principle of Para 6. I think Conservancy Officers should be Empowered to give notice to persons that they are not at liberty to Exercise any rights they may claim & leave the party to Execute the claim.

The Legislature should not be asked to enact a provision in the sense of Para 11 or of the last clause of Para 12.

11/3 W Robinson

FORMER CASES.

No. of 187 .
" "

I FORM No. 20.

Register No.

From

In Circulation

Conservancy of Rivers
M. Pres.

No. Draft Order.
Dated Minute by
Hon'ble Sir Wm. Robinson
dated 11 March 75. KCSI

Subject:—

Receipt No.
Dated

LATER CASES.

No. of 187 .
" "

ENCLOSURES.

From to
" "
" "
" "

REMINDERS RECEIVED.

No. 1, dated 187 .
" 2, " "
" 3, " "
" 4, " "
" 5, " "

Keep-Withs.

Orders and Proceedings in file.

No.	Date.	No.	Date.

---

89 x 11

No 284 *Public Works Department.*

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 30 Jan/77

Read the following :—

Pro: of the Board of Rev: (H.E. No. 32 dated 7th Jany: 1876.)
Chief Engr for Irrigation (" " 166 " 8th Feby: ")
Do Do (" " 1?? " 2d March ")

The Government resolve to accept the emendations of the Board of Revenue as detailed in their Proceedings above recorded, modifying the terms of the proposed Bill for the conservancy of rivers, and they direct the preparation of a project of Law on the basis of the draft forwarded by the Board.

20-1

22/1

D. Engrs. ✓
C. Eff. S. ✓
Rev Dept. ✓
Legislative Dept. ✓

Despd - 17. 2. 77

P.W. 1876 Depr.

M. WORKS FORM No. 3.

FORMER CASES.

Current No. of 187 .
" "
" "
" "
" "

Current No. 831

~~From~~

Board of Revenue

Rev 669/76 2

No. 32
Dated 7th January 1876.
Recd. 2nd February

Subject:— Submitting reports from Collectors regarding preparation of a Bill for Conservancy of Rivers &c

R. C. T.

Adv.
5-2-76

ENCLOSURES. 6

From to
" "
" "
" "

LATER CASES.

Current No. of 187 .
" "
" "
" "

Orders and Proceedings in file.

Depart-ment.	No.	Date.	ENDORSEMENTS.		
			Depart-ment.	No.	Dated.
P.W.D.	2442	28/8/74			
"	247	27/1/75			
"	380	11/2/75			
"	1106	19/4/75			
"	2274	6/8/75			
"	14	4/2/71			
"	941	30/3/71			
"	542	2/3/74			

L C 25-1-77 R 30-1-77
S C 23-12-76 R 25-12-76
L C 12-12-76 R 23-12-76
Recd 8-12-76 R 9-12-76

Cir 11-2-76.

No 285

Public Works Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 30 Jan/77

Read ~~the following:~~

(again P.W. Procgs. No 284 dated the 30th January 1877)

MR
296

No 284 d/30 Jan/77

The case of the claim for compensation by the owner of the Chedipi village on the Godavery River is an incident connected with the general question of the conservancy of Rivers on which the orders of the Government have been passed in separate Proceedings. The proprietor claims compensation because he was prevented from cultivating adjacent land in the river bed which had previously been planted with grass by the Public Works Department to prevent erosion of an embankment. The Chedási Proprietor had a legal right to the use of this land and no legal right had been acquired by the Government Officers to enter upon it and adopt it to their use. Under these circumstances [~~I consistently with the conclusions which His Excellency in Council has already recorded~~,] Govt. compensation must be paid and further if the continued use of the land is required for purposes of conservancy it must be purchased at a fair valuation or rented from the owner as may be found most expedient.

Adopt.

22/1

Hon. R. S. Ellis C.B.
His Grace the Governor
Hon. W. A. Robinson
K.C.S.I.

Issue in type
bring up for
communications
25-1

D. E. Godavery ✓
C. E for I. ✓
Rev Dept. ✓
Ex. P.W.D. ✓
Despd - 17-2-77

Govt. of {1877} Madras.

PUBLIC WORKS.

To District Engineers.

Dated

Issued 3/1/1

Recd.

Encl.

G. O., 30th Jany. 1877, No. 254
285

Nos. 585-586
587-588

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Coml. in Reg.

Desp.- 17-2-77

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