M.R.O. 1—77,000—8-4-37.

(1) Number of pages 7

(2) Date of repair

(3) Initials of the Reference

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No.	Press
	Mis.
Dated	19

Not to be folded or roughly handled

Fort Saint George, Public Works Consultation of 22nd March 1859.

No. 108. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, Madras ; to J. D. BOURDILLON, Esq., Secretary to Government, dated 10th March 1859, No. 322.

SIR,

E. M. C., dated 20th May 1858, No. 956, Public Works Department.

With reference to the Extract from Minutes of Consultation noted in the margin, I have the honor to state that on receipt thereof I applied to the Chief Engineer for detailed statements of the Honorable Company's claims against Masalamany Padatche, Narrainsawmy Naick, Rama Pillay and Streerungum Pillay and others, shewing how they had arisen, &c. : also for separate Accounts Current between the Company and those parties in respect of such claims ; and either the originals or copies of all documentary evidence relating to such claims ; likewise for a statement of the grounds upon which those parties refused to pay the several balances alleged to be due from them.

2. In due course I received from the Chief Engineer a copy of an explanatory letter and enclosures from the District Engineer of Tanjore to his address, and a bundle containing numerous papers, &c., relating to the matter, in the Teloogoo language. I was under the necessity of returning these Teloogoo papers to the Chief Engineer for English Translations, with which he was afterwards good enough to furnish me.

Rupees	238-6-11	due by	Masalamany Padatche.
„	99-6-5	„	Narrainsawmy Naick.
„	66-12-7	„	Rama Pillay.
„	22-5-0	„	Streerungum Pillay.

3. Assuming that the refusal of the parties above named to pay the several sums noted in the margin, and alleged to be due from them, is based upon a difference of opinion between themselves and the Officers of Government as to the measurements of their work (and such I understand is the case,) the expediency of suing them for the sums in question, and the probability of a successful issue to such suits will depend altogether upon the evidence that may be available in support of the accuracy of those measurements, for which the Officers of Government have given the Contractors credit in their respective Accounts Current, and upon Government satisfying the Local Court that their Officers' mode of measurement as well as the results were in all respects correct. If there is conclusive evidence on this point on the part of Government, and there is no other ground of defence open to the Contractors which has not been brought to my notice, Government in the event of suing ought to obtain and I think would obtain Decrees against the several parties for the several amounts claimed from them with costs and, looking at the comparatively small amounts of the several claims, and the security given by the parties for the due performance of their Contracts, would in all probability realise payment of such Decrees.

4. It must however be borne in mind, that the work in question was done so far back as the early part of 1856 ; that many of the Officers of Government and their Subordinates who were then employed in the District have since been removed, and may now be employed at a distance, that the prosecution of the contemplated suits and the obtaining of evidence to sustain them, &c., would occupy much valuable time of those in public employ ; that a very slight difference between the modes of measurement adopted by Streerungum Pillay, Palanyandy Pillay, and Neelamagum Pillay and the Officers of Government, with respect to so large a quantity of work as was done by these Contractors, would soon meet and make up so small a balance as is now claimed from them, viz., Rupees 22-5-0, and that the same observation applies, although with less force, to the balances alleged to be due from Narrainsawmy Naick (Rupees 99-6-5) and Rama Pillay (Rupees 66-12-7). Under these circumstances I *do not recommend* the adoption of any legal Proceedings with respect to these 3 claims, unless the evidence in support of them is most conclusive, but would rather suggest that the amounts be written off to Profit and Loss. If however, the evidence in support of them is conclusive and can be made available without much public inconvenience, I would then recommend that suits be instituted in respect of them.

5. The claim against Masalamany Padatchy (Rupees 238-6-11) is of an amount which looking at the quantity of work done precludes the probability of its being met by any differ-

ence or error of measurement, and if such evidence as I have above pointed out is available in support of it, I would recommend a suit for enforcing its adjustment.

6. It doubtless is expedient that Government should not submit to imposition at the hands of those with whom it deals and should assert its rights even at some cost and trouble; but it also seems to me desirable that Government should not embark in litigation involving the expenditure of the time of public Officers as well as of public money, unless there is a tolerable certainty of success, and this the more especially if the amount in question is small, as failure in such cases on the part of Government would only tend to encourage others to resist legitimate demands.

Letter from the Superintending Engineer S. C., in charge of the Central Office P. W. to the Government Solicitor, dated 15th June 1858, No. 1145, with one Enclosure.
Letter from Officiating Chief Engineer, to the Government Solicitor, dated 22nd September, with four Enclosures.

7. I submit for reference, if desired, the papers noted in the margin, and in conclusion I beg to suggest, that a copy of this communication be sent through the Chief Engineer to the District Engineer of Tanjore, with instructions to apply to me direct or through the Chief Engineer for any further advice he may require.

No. 109. ORDER THEREON, No. 661; dated 21st March 1859.

Ordered to be communicated to the Chief Engineer with reference to his letter of the 30th April 1858, No. 9440. Colonel Faber will be guided by the opinion expressed by the Government Solicitor in the latter part of para. 4 and in para. 5, and will report the result for the information of Government. No time should now be lost in determining the course to be followed, and in taking the proceedings so resolved on.

2. In the event of the District Engineer requiring further legal advice in this matter, he will address the Government Solicitor direct, as proposed in para. 7 of this letter.

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

[redacted]

No 322.

From The Government Solicitor Madras.

To The Secretary to Government
P. W.

Madras 10th March 1859

Sir,

With reference to the Extract from Minutes of Consultation noted in the margin I have the honor to state that on receipt thereof I applied to the Chief Engineer for detailed statements of the Honorable Company's claims against Chasalamanay Vadachey, Paravanasanay, Vank, Perma Pillay and Sowrungurr Pillay and others, shewing from the last account rendered also for a separate account current between the Company and those parties in respect of each claim, and other the originals or copies of all documentary evidence relating to such claim; likewise for a statement of the grounds upon which those parties objected to pay the several balances alleged to be due from them.

2 On due enquiry I received from the Chief Engineer a copy of an explanatory letter and enclosures from the District Engineer of Tanjore

to

to his address and a bundle containing numerous papers rea relating to the matter, in the Telugoo Language.

I was under the necessity of returning these Telugoo papers to the Chief Engineer for English Translations with which he was afterwards good enough to furnish me.

Observing that the refusal of the parties above named to pay the several sums noted in the margin and alleged to be due from them, is based upon a difference of opinion between them and the Officers of Government as to the measurements of their work, and deeds I understand the case, the expediency of suing them for the sums in questions and the probability of a successful issue such suits will depend altogether upon the Evidence that may be available in support of the accuracy of those measurements for which the Officers of Government have given the Contractors credit on their respective Accounts current and upon Government satisfying the Local Court that their Officers' modes of measurement as well as the results were in all respects correct. If there is conclusive evidence on this point on the part of Government and there is no other ground of defence open to the Contractors which has not been brought

Rupees 238. 6. 11. Chetty Mareelanna Pantatekee

— " — 99. 6. 5 — Tarranivasum Naick.

— " — 66. 12. 7 — Rama Pillay

— " — 22. 5 " — Sheerungum Pillay.

to my notice Government in the event of suing ought to obtain and I think would obtain Decrees against the several parties for the several amounts claimed from them with Costs and, looking at the comparatively small amounts of the several claims and the Security given by the parties for the due performance of their Contracts, would in all probability realise payment of such Decrees.

It must however be borne in mind that the work in question was done so far back as the early part of 1856 — that many of the Officers of Government and their subordinates who were then employed on the District, have since been removed and many now employed at a distance: that the prosecution of the Contemplated suits and the obtainment of Evidence to sustain them would occupy much valuable time of those in public employ, that a very slight difference between the modes of measurement adopted by Sheerungum Pillay, Palaniyandy Pillay, and Chetty Marelanna Pillay and the Officers of Government with respect to so large a quantity of work as was done by those Contractors would most assuredly make up to Small a balance as is now claimed from them by Rupees 238. 6. 11. and that the place of Execution appears although with less force, to the balances alleged to be due from Tarranivasum Naick

P.T.

(Rupees 99. 6. 5.) and Rama Pillay A. 66. 12. 71.
Under these circumstances I do not recommend the adoption of any legal proceedings with respect to these 3. claims unless the evidence in support of them is more conclusive but would rather suggest that the amount be written off to Profit and Loss.
If however the evidence in support of them is conclusive and can be made available without much public inconvenience I would then recommend that Suits be instituted in respect of them.

The claim against Masalmanny Padatchy (Rupees 238. 6. 11.) is of an amount which looking at the quantity of work done precludes the probability of its being met by any difference or error of measurement and if such evidence as I have above pointed out is available in support of it I would recommend a suit for enforcing its adjustment.

Doubtless it is expedient that Government should not submit to imposition at the hands of those with whom it deals and should assert its rights even at some Cost and trouble; but it also seems to me desireable that Government should not embark in litigation involving the exhibition of the time of public officers as well as of public money unless there is a tolerable certainty of success and the

the more especially if the amount in question is small, as failure in such cases on the part of Government would only tend to encourage others to persist illegitimate demands.

I submit for reference, if desired, the papers noted in the margin and in conclusion I beg to suggest that a copy of this communication be sent through the Chief Engineer to the District Engineer of Tanjore with instructions to apply to me direct or through the Chief Engineer for any further advice he may require.

Letter from the Supdg Engineer H. in Charge of the Central Office P.W. to the Govt Sec^y dated 15th June 88 No. 1145 with one Enclosure.
Letter from Off^g Chief Engineer to the Govt Sec^y dated 22nd Sept^r 88 with four Enclosure.

I have the honor to be
Sir
Your most Obedient Servant
J Broughton
Govt Sec^y

P 1022

No 661

Extract from the Minutes of Consultations
Under date the 21st March 1809

Read the following
letter from the Govern-
-ment Solicitor.

(Fort William 10th March 1809
No 322)

Ordered to be
communicated to the
Chief Engineer with
reference to his letter of the
30th April 1808 Sign'd
Colonel Faber will
be guided by the opinion
expressed by the Govt
Solicitor in the latter
part of para 4 and
in Para 5, and will
report

Public Works Department
Dated Fort William 22d March 1809

From
The Government Solicitor

To
The Secretary to Govt
Dept

Dated 10th March 1809
Received 11th ——
Ans'd ——

Gentlemen

In reply to your Address No 322 dated the 10th Instant I have the honor to state for the information of Government that I have perused the papers transmitted with your Address above referred to, and am of opinion that the Government will be entitled to the Balance due by the Proprietors of the Calcutta Bridge Company, and that the Proprietors have no claim whatever to the Balance due by the Bridge Company to the Public Treasury.

I am Gentlemen
Your most obedient
Humble Servant
Advocate General

Fort William
10th March 1809

P.W. Dept. Aug. 28 No 22 & 28

suggesting the propriety of taking down all claims in regard to the Calcutta Bridge in order to their being transmitted to Government Solicitor for opinion and direction whether the Balance due by the Bridge Company to Government should be demanded by Government Solicitor or by the Secretary to Government Public Department.

I am directed to request that you will favor me with your opinion whether the Balance due by the Bridge Company to Government should be demanded by Government Solicitor or by the Secretary to Government Public Department.

I am Gentlemen
Your most obedient
Humble Servant
Secretary to Govt

Fort William
10th March 1809

report the result for
the information of Govt.
No time should now
be lost in determining the course to be followed, &
in taking the proceedings
to recommend in.

2. In the event
of the District Engineer
requiring) further legal
advice in this matter,
he will address the
Govt Solicitor direct,
as proposed in Para 3
of this letter.

1 Copy
" Instr. Sol. Dated 22d
with 7 Encls
10 " Ch. Engrs. "

Pn. Cons. 25th May 1858.
22-23

Public Works 1859 Dept.
Pt. Fo Cons: 22d March.

No 661.

Extract Mins of Cons:
Of 21st March 59.

From the Chief Engineer 31/14th October 59 Pt. 27 10 in Cons:

The Chief Engineer to be guided by the opinion of the Govt. Solicitor in regard to the balances alleged to be due to the Hon: Company from certain Contractors in Tanjore and to report the result, and the District Engineer to address to the Govt. Solicitor direct in case he requires any further legal advice.

No 108 & 109.