M.R.O. 1—77,000—3-6-37.

(1) Number of pages

(2) Date of repair

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2287 Press Mis.

Dated 24-9- 18 57

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Works Department, from 24th September to 4th October 1859.

Read again letter from the Chief Engineer dated 25th August and recorded in Proceedings of Government dated 14th September 1859 No. 2207.

No. 9. Read also the following opinion of T. SYDNEY SMYTH, Esq., Advocate General; to J. D. BOURDILLON, Esq., Secretary to Government, dated 16th September 1859.

This is a case which in my opinion admits of no doubt. I entirely concur in the plain obvious and sound view of the question taken by the Chief Engineer in the letter written by his orders to the District Engineer of Chingleput, under date 25th July 1859.

2. Mr. Norton buys a piece of land in 1848 and builds a house on it. Many years afterwards in 1857-58, the Government Engineers consider it necessary to open a channel through the bar very near his house, and they do so. This was about the end of 1857.

3. It is said that in former times there was an opening in this very place; but, with reference to the present case, this fact seems to me wholly beside the question.

4. If indeed the bar had been re-opened at this place by the effects of a flood or storm, Mr. Norton must of course have stood the consequences; but we all know here, that, on this coast, when a bar is opened, either artificially or by a flood, the natural action of the sea and sand generally close it up ere long if it is not kept open by constant care and attention.

5. This part of the bar at all events was closed in point of fact, had so remained for years, and there is nothing to shew that it would not have so remained till doomsday, had Lieutenant Moberly left it alone.

6. Lieutenant F. J. Moberly's letters shew, that on the first mention of this intended cutting, Mr. Norton remonstrated, and expressed his apprehension of the very consequences that seem to have actually occurred.

27th August 1857.
17th October 1857.

7. Lieutenant Moberly on the contrary predicted* that "the current past Mr. Norton's "house" would not "have any effect on a long beach in so open "a part of the lake, there is *nothing* to make *any set* on the is-"land." Again, he considered it† "apparent to any one that Mr. "Norton's island runs *less* risk" from the new channel than from the old one; and says "I should much doubt there being "*any velocity* at the island:" and again‡ "in my opinion my "present operations will tend to make it *more secure than be-"fore.*" And in a later letter¶ he observes that Mr. Norton's servant in charge "did not attempt to attribute even this, (viz. the fall of some trees *near the "lake edge*) to the effect of the current." "The present alarm is simply ridiculous."

* 27th August 1857, paragraph 6.
† 17th October 1857, paragraph 3.
‡ Do. Paragraph 5.
¶ 23rd July 1858, paragraphs 3 and 4.

8. Lieutenant F. J. Moberly‖ says "I have, however, *caused the preparation* of palmyra "trees to make a pile groin at the angle of Mr. Norton's island "to afford that gentleman confidence; but I do not think they "are necessary:" and Captain A. S. Moberly§ "*fancies*" these works were carried out; but Mr. Norton states positively that he "was informed that it was "*intended* to throw out a small groin for the protection of the island; but *nothing has been done.*"

‖ 17th October 1857 paragraph 5
§ 11th July 1859.

9. Mr. Norton states positively that the opening of the bar has resulted in the undermining of his sea wall, the constant cutting away of the bank, a rapid current, a deep channel where formerly the water reached only to the calf of the leg, the constant fall of his trees one after the other into the water as the soil is washed away, and the approach of the lake to within a few yards of his side door, and this in spite of considerable expense gone to by himself: and, as the Chief Engineer observes, the main fact, the deepening of the water "is not denied by any one."

years, and there is nothing to shew that it
would

10. Mr. Kennedy* indeed strongly confirms Mr. Norton; he says, "A bulwark in the "shape of a laterite wall has been thrown up round the front of "the bungalow; the waves *have undermined all that, and broken "it up* and *are breaking ground inside*, and the bungalow is only *some* 15 *or* 20 *yards* from the "*water's edge*.

* 9th August 1859, paragraph 11.

11. Captain A. S. Moberly admits that the ground is "being washed away; *not* however by any action from the *current* or tide, but from the action of the *waves* raised by the "high southerly and south-easterly winds beating on the bank."

12. This is almost silly. The wind did no harm for the ten previous years till deep water was created there, and there was no deep water there till Lieutenant F. J. Moberly opened his new channel; but no sooner is this done than deep water is created and the wind and waves together wash away the island bit by bit. The Chief Engineer has effectually disposed of this point in paragraph 1, clause 3 of the letter† already quoted.

† 25th July 1859.

13. It only remains to notice the point raised in the Chief Engineer's letter to Mr. Secretary Bourdillon, viz. the propriety of giving notice to Mr. Norton that if the works now proposed prove insufficient to protect his property, Government will not do anything more for that purpose.

25th August 1859, No. 4221.

14. In my opinion any such notice would not be worth the paper on which it might be written. Colonel Bell evidently feels that Government is bound, in fairness, to execute the present works; but why so? only in order to preserve Mr. Norton's property from damage resulting from the opening of the new channel? Is it not then obvious, that, on the same principle, similar works must be continued till the proposed object is attained. It will be no fault of Mr. Norton's if the works now proposed should prove insufficient, any more than that Lieutenant Moberly's predictions have been so signally falsified.

15. If his house and island were all required at once for public purposes, Government would have to pay their full value. Equally will they have to do so if for their own purposes they turn a current upon them that eats them away piece-meal.

No. 10.

ORDER THEREON, 24th September 1859, No. 2287.

On the 25th August 1859, the Chief Engineer submitted a plan and estimate amounting to Rupees 500 for constructing groynes for the protection of Mr. J. B. Norton's property on an island in the Pulicat lake.

2. The reason why Government is called on to incur expense for the protection of this private property, is that the cause of damage is a cut made through the Pulicat bar in 1857 by Captain F. J. Moberly then Superintendent of the East Coast Canal; the result of which has been a current which has carried away a part of Mr. Norton's ground and threatens his house.

3. The case was referred to the Advocate General for his opinion as to the liability of Government; and that opinion as given in the paper recorded above, is decidedly in the affirmative. Under this advice, the Governor in Council sanctions for immediate execution the estimate of Rupees (500) five hundred submitted by the Chief Engineer if the works therein provided for are considered by that officer suitable and sufficient for effecting the desired object.

14th September 1859 No. 2207.

4. Adverting to Mr. Kennedy's proposal to take the materials for the groynes from the old fort at Pulicat the Government desire that before authorizing that course, the Chief Engineer will satisfy himself that there is nothing in the fort walls to make it proper to preserve them as an archæological monument, under the general rules for the preservation of such memorials.

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

Opinion

This is a case which in my opinion admit
of no doubt. I entirely concur in the plain ob-
vious and sound view of the question taken by the
Chief Engineer in the letter written by his order
to the District Engineer of Ichingleput under
date 25th July 1859.

2. Mr. Norton buys a piece of land in 18
& builds a house on it. Many years afterwards, in 1857-8
the Government Engineers consider it necessary
to open a channel through the Bar very near
his house, and they do so. This was about the
end of 1857.

3. It is said that in former times there
was an opening in this very place; but, with
reference to the present case, this fact seems
to me wholly beside the question.

4. If indeed the bar had been re-opened
at this place by the effects of a flood or
storm, Mr. Norton must of course have
stood the consequences; but we all know
here, that, on this coast, when a bar is opened
either artificially or by a flood, the natural
action of the sea and sand generally close it
up ere long if it is not kept open by constant
care and attention.

5. This part of the Bar at all events was
closed in point of fact, had so remained for
years, and there is nothing to shew that it
would

would not have so remained till doomsday, had Lt. Moberly left it alone.

6. Lt. F.J. Moberly's letters shew, that on the first mention of this intended cutting, Mr. Norton remonstrates, and expresses his apprehension of the very consequences that seem to have actually occurred. — 27th August 1857 / 17th October 1857

7. Lt. Moberly on the contrary predicts + that "the current past Mr. Norton's house" would not "have any effect on a long beach in so open a part "of the Lake, there is nothing to make any set on "the island". Again, he considered it ‡ "apparent to any one that Mr. Norton's island runs "less risk" from the new channel than from the old one — and says "I should much doubt there "being any velocity at the island" — and again ‖ "in my opinion my present operations will tend to make it more secure than before". and in a later letter # he observes that Mr. Norton's servant in charge "did not attempt to attribute even this "(viz the fall of some trees near the Lake edge) "to the effect of the current." — "The present alarm "is simply ridiculous". + 27th August 1857, Para 4. ‡ 17th October 1857, Para 3. ‖ Do Para 5. # 25th July 1858, Para 3 & 4.

8. Lt. F.J. Moberly + says "I have however caused "the preparation of Palmyra trees to make a pile "groin at the angle of Mr. Norton's island to afford "that gentleman confidence — but I do not think "they are necessary," — and Capt. A.S. Moberly "favours" these works were carried out; but Mr. Norton states positively that he "was informed "that it was intended to throw out a small groin "for the protection of the island; but nothing has "been done". + 17th October 1857, Para 5. ‡ 11th July 1859.

9. Mr. Norton states positively that the opening of the Bar has resulted in the undermining of his sea wall, the constant cutting away of the Bank, a rapid current, a deep channel where formerly the water reached only to the calf of the leg, the constant fall of his trees one after the other into the water as the soil is washed away, and the approach of the lake to within a few yards of his side door, and this in spite of considerable expense gone to by himself: and, as the Chief Engineer observes, the main fact, the deepening of the water "is not denied by any one".

10. Mr. Kennedy + indeed strongly confirms Mr. Norton; he says — "A bulwark in the shape "of a laterite wall has been thrown up round the "front of the Bungalow — the waves have under- "mined all that, and broken it up and are breaking "ground inside, and the Bungalow is only some 15 "or 20 yards from the water's edge.

11. Capt. A. S. Moberly admits that the ground is "being washed away; not however by any action from the "current or tides, but from the action of the waves raised "by the high Southerly and South easterly winds beating "on the Bank". + 25th July 1859.

12. This is almost silly. The wind did no harm till deep water was created there, and there was no deep water there till Lieut. F.J. Moberly opened his new channel. [illegible] The Chief Engineer has effectually disposed of this point in para 1 Clause 3 of the letter already quoted.

13. It only remains to notice the point raised in the Chief Engineer's letter to Mr. Secretary Bourdillon, 25th August 1859, No 4221. viz the propriety of giving notice to Mr. Norton that if the works now proposed prove insufficient to protect his property, Government will not do anything more for that purpose.

14. In my opinion any such notice would not be worth the paper on which it might be written. Colonel Bell evidently feels that Government is bound, in fairness, to execute the present works — but

but why so? Only in order to preserve Mr. Norton's property from damage resulting from the opening of the new Channel? Is it not then obvious, that, on the same principle, similar works must be continued till the proposed object is attained. It will be no fault of Mr. Nortons if the works now proposed should prove insuffici=ent, any more than that Dr. Moberly's pre=dictions have been so signally falsified.

15. If his house and island were all required at once for public purposes, Government would have to pay their full value. Equally will they have to do so if for their own purposes they turn a current upon them that eats them away piece-meal.

I have &c.

Advocate General

September 18th 1857.

To

The Secretary to Government

Revenue & Judicial Department

Fort St. George

Ten Original Enclosures herewith returned.

No. 2287

Proceedings of the Madras Government

Under date the 24th September 1859.

Read again letter from Govt.

the Public Engineer and

25th August and enclosures

and Proc. of Govt. 4th

14th September 59 No. 2246

Read also the Proc.

January Union Fortress

the steps to be

Memorandum of Mr Kennedy's opinion regarding the protection of Mr Norton's property near Coromandel.

Read also Mr Kennedy's letter dated 11th October 1859 and Mr Brodie's letter dated 19th September 1859.

Read also Proceedings of Government dated 4th October 1859 No. 2464.

Read also Proceedings of Government dated 16th September 1859 No. 69-70.

From the Advocate General.

Dated 16th
Rec'd 17th } September 59.

Encls=10 Papers

Stating his opinion regarding the protection of Mr Norton's property near Coromandel.

The Government is clearly liable, and the works proposed by Mr Kennedy, estimated at 500 rupees, should be immediately executed if they are considered by the Chief Engineer suitable and sufficient.

Mr Kennedy proposes that the materials for the groynes should be taken from the old fort at Pulicat. Before this is done we should know whether this fort ought not to be preserved as an historical archæological monument under the general rules for the preservation of such memorials. — W Morgan 19 Sept 59

The work recommended by Mr Kennedy should be commenced without loss of time if the Chief Engineer considers it necessary.

No. 2287. 24th September 1859.

C.P. Bo. of Govt. 16th Septr 59. No 69-70.

C.P. 1859 (Separate) Pro. of Govt. 4th October No. 2464.

From the Advocate Genl.

Dated 16th
Rec'd 17th } 24th Sept. 59.

Encls=10 Papers

Stating his opinion regarding the protection of Mr Norton's property near Coromandel.

C. V. 9.

C17 24 Sept. 59

property on an island
in the Pulicat lake.

2. The reasons
why Government is
called on to incur
expense for the pro-
tection of this pri-
vate property, is
that the cause of
damage is a cut
made through the
Pulicat Bar in 1857
by Captain F. J. Mo-
-berly then superin-
-tendent of the East
Coast Canal. The
result of which
has been a cur-
rent which has
carried away a
part of Sir Charles's
ground and threatens
his house.

The

14 Sept 59 No 2207

3. The case was
referred to the Ad-
-vocate General fo
his opinion as to the
liability of Govt. and
that opinion as
given in the paper
recorded above, is ex
-cisely in the af-
-firmative. Under
this advice, the Gover
in Council sanction
for immediate exe
-cution the estimat
of Rs. (500) Four hun
-ded submitted by
the Chief Engineer
if the works therein
provided for are
considered by the
officer suitable
and sufficient for
effecting the desired objec

Secretary

4. According to Mr Kennedy's proposal to take the materials for the groynes from the old Fort at Pulicat the Govt desire that before authorizing that course, the Chief Engineer will satisfy himself that there is nothing in the fort walls to make it improper to preserve them as archæological monuments under the general rules for the preservation of such memorials.

10 Copies
to
The Chief Engineer
with a copy of the
Honorable Govts opinion
Dept

Public Works 1859 Depth.
Pro: of Govt 4th October.

No 2287.

Pro: of the Madras Govt
Dy 24th Sept: 59.

Rupees 500 for Surgeon
for protection of Mr. J. B.
Norton's property on an island
in the Pulicat lake, sanctioned.

No 9 & 10.