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## MADRAS RECORD OFFICE.

Government of Madras.

*Public Works* DEPARTMENT.

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| G.O. No. | 821      | Press |
|          |          | Mis.  |
|          | 428-429. |       |
| Dated    | 18-3-    | 1864. |

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Public Works Department,  
18th March 1864.*

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No. 428. Read the following Proceedings of the Madras Government in the Revenue Department:—

Stating, that for the reasons given, the land submerged by the Irrigation and Canal Company above Kurnool, owing to their having constructed their Canal with only one bank, should be paid for by the Company; and requesting the Collector to ascertain the amount of compensation. (Here enter 11th March 1864, No. 428.)

No. 429. ORDER THEREON, 18th March 1864, No. 821.

Ordered to be recorded.  
(True Extract)

(Signed) CHARLES A. ORR, Colonel, R. E.,  
Secretary to Government.

Exd. S. T. Augustin.

26

*Proceedings of the Madras Government, Revenue Department,  
11th March 1864.*

Read the following letters:—

No. 130. From Colonel S. O. E. LUDLOW, Consulting Engineer for Irrigation and Canal Company, to Colonel C. A. ORR, R. E., Secretary to Government, Department Public Works, dated Saint Thomé, 18th November 1863, No. 101:—

SIR,

1. When I addressed Government in my No. 46 of 14th August 1863, recommending that the Irrigation Company should, as a matter of favor but not of right, be allowed the extent of submerged land above the Hindry Aqueduct free of payment, I had not been furnished with a copy of the Agreement made between the Secretary of State and the Company.

2. A subsequent perusal of the document leads me to conclude that the Company are legally entitled to the land in question free of payment.

3. In Clause 7 of the Deed it is laid down that the Company shall receive free of charge the land which shall be deemed requisite for such portions of the works the plans whereof shall have been approved of.

4. The Plans and Estimates of the works above Kurnool were submitted to Government by the Consulting Engineer with his letter No. 6, dated 21st May 1861, and in doing so he explained, in paragraph 5, that in that part it would be necessary to carry the Canal for the most part above the surface of the country, thereby submerging the lower lands which, however, were mostly waste or unproductive.

5. Government in their Order No. 1,016, dated 31st May 1861, sanctioned the Plans and Estimates thus submitted without making any remark on the subject of the submerged lands or imposing any condition relative to payment being made for them by the Company, and the land in question was actually handed over to the Company's Officers without any notice that payment would be required for it.

6. I cannot find on the records of this Office any correspondence on this question prior to the date of the Government Order above quoted, or until the submission of the Estimates for the second and third portions of the Canal, in sanctioning which the condition of payment for the submerged lands was clearly imposed.

7. Under these circumstances and unless other correspondence should have passed, which is not recorded in this Office, it appears to me that the submerged land above Kurnool was absolutely and unconditionally made over to the Company without any understanding on either part that it was to be paid for, and that consequently payment for it cannot now be demanded.

8. It is however, a question on which it may perhaps be advisable to take a legal opinion.

Referred to the Revenue Department, with reference to the Orders in that Department, No. 1,784, dated 29th September 1863.

*Chepauk,*  
20th November 1863.

(Signed) CHARLES A. ORR, Colonel, R. E.,  
Secretary to Government, D.P.W.

No. 131. From Major-General S. O. E. LUDLOW, Consulting Engineer for Irrigation and Canal Company, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Kurnool, 10th February 1864, No. 143.

SIR,

1. In reply to your Official Memorandum, dated 16th January last, No. 6, I have the honor to inform you that Colonel Rundall's representation of the small value of the submerged lands above Kurnool (quoted in paragraph 4 of my letter No. 101 of 18th November 1863), appears to have been based upon a statement made by the Chief Engineer of the Madras Irrigation and Canal Company.

2. With his letter No. 6, dated 21st May 1861, (in paragraph 5 of which the representation in question was made), Colonel Rundall forwarded to Government a letter from the Chief

*Proceedings of the Madras Government, Revenue Department,  
11th March 1864.*

Engineer to the Agent, dated 8th May 1861, descriptive of the works in the first portion of the Canal, in the 4th and 5th paragraphs of which he expresses himself as follows:—

"The substratum of rock generally near the surface, and in some parts uncovered, render it necessary to carry the channel for the most part above the surface of the country in order to save expense in excavating. This will be seen by reference to the longitudinal sections. The flooded land is waste and unproductive generally, and as much as possible private and other valuable property is avoided. No villages are flooded, and the District Engineer certifies that no existing irrigation is interfered with, except that from wells near the head of the channel for which compensation must be given."

3. The information which I subsequently obtained from the Deputy Collector and communicated to Government in my letter No. 46, dated 14th August 1863, however confirms that previously given by Colonel Rundall, as it appears that only 400 Acres of land above Kurnool would be submerged the value of them being only 12,000 Rupees.

No. 132. ORDER THEREON, 11th March 1864, No. 428.

1. In their Order dated 29th September 1863, No. 1,784, the Government decided that land submerged by the Irrigation Company above Kurnool, owing to their having constructed their Canal with only one bank, should be paid for by the Company, just as land similarly submerged below Kurnool was to be paid for.

2. Colonel Ludlow the Consulting Engineer who had recommended that Government should waive their claim as an act of grace (the land being of little value), points out in the first of the letters above recorded that the claim appears barred by clause 7 of the Contract between the Secretary of State and the Company.

3. The Government cannot concur in this view. It does not appear to them that the clause of the Contract referred to contemplated a Canal with only one bank. It expressly mentions *banks*. As the Company have constructed the upper part of their Canal with only one bank to save themselves a large outlay on the work, they, and not the Government, are bound to bear the cost of the additional quantity of land required.

4. The Collector will ascertain what the compensation for the land in question will amount to, and the Company should then be required to pay the same.

(True Extract.)



Secretary to Government.

To the Consulting Engineer, Irrigation and Canal Company.

„ Department Public Works.

„ Board of Revenue.

„ Collector of Kurnool.

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