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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No.	91 193	Press Mis.
Dated	17. 11. 18	18

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
10th April 1865.*

No. 178. Read the following Despatch from the Right Honorable Sir C. WOOD, Bart., Secretary of State for India (Public Works), to His Excellency the Honorable the Governor in Council, Fort Saint George, dated India Office, London, 28th February 1865, No. 7 :—

SIR,

1. On receipt of your Excellency's Despatch, No. 82, of 23rd November last, in which the question (raised by the Madras Irrigation Company's Agent) is discussed as to whether the Company possess, under the terms of their Contract, the unconditional right of selecting for execution such portions of their scheme as they may deem it expedient to carry out, or whether the power to decide on the time, the manner, and the order of executing the works comprised within the guaranteed capital of one million sterling is not, under the Contract, reserved to Government, I caused a communication on the subject to be addressed to the Directors. Copies of that letter and of the Board's reply are transmitted herewith.

2. The Board were informed that the construction placed by your Government on the clauses of the Contract on which the question depends, coincides with my own interpretation of them, that, in my opinion, Clause 5, even if taken by itself, by requiring that plans and estimates shall be submitted to the Secretary of State for his approval, conveys to him by necessary implication the power of disapproving, but that, even if it were insufficiently explicit on that point, its deficiency would be amply supplied by Clause 16. The latter clause provides, among other things, that in order that the Secretary of State in Council may exercise such control as will enable him to ensure the proper expenditure of the Company's guaranteed capital of 1,000,000L., it shall be lawful for him from time to time to give to the Company such orders as he shall think fit, with reference to the works to be executed with the said sum of 1,000,000L., and with reference to the manner and time of executing the same; that it being thus competent to your Government, as representing the Secretary of State in Council, to issue such orders as you may deem fit with respect to the time of executing any of the Company's works, your competence to direct the postponement of the Nellore or of any other works might, but for the objection taken by the Company's Agent, have seemed incontestable.

3. It will be seen, that the Board in replying, while guarding themselves against being supposed to acquiesce in these observations, remark that the discussion of the question involved in them is no longer necessary, and is unlikely to lead to any practical results, as they have resolved to confine their operations for the present to works above Nellore, which are not expected to require for their completion more than the unexpended balance of their guaranteed capital of a million sterling, and have instructed their Agent and Chief Engineer accordingly.

4. No inconvenience can apparently result from our suffering the matter to rest in this state, but in your future dealings with the Irrigation and Canal Company, your Government will continue to act on the views stated in this Despatch.

INDIA OFFICE,
2nd February 1865.

SIR,

1. I am directed to acquaint you, for the information of the Directors of the Madras Irrigation and Canal Company, that, in a Despatch recently received by Sir C. Wood, from the Government of Madras, the question (raised by the Company's Agent) is discussed as to whether the Company possess, under the terms of their Contract, the unconditional right of selecting for execution such portions of their scheme as they may deem it expedient to carry out, or whether the power to decide on the time, the manner, and the order of executing the works comprised within the guaranteed capital of one million sterling, is not, under the Contract, reserved to Government.

2. The question originated in the Government having withheld sanction to the estimates submitted by the Consulting Engineer for the first section of the Nellore Division of the Main

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Canal, on the ground of apprehensions entertained by them, the Government, in common with the Secretary of State, that the Company's guaranteed capital would prove insufficient for the completion of the works above Somaishweram. The right of the Government to refuse sanction was disputed by the Agent under the terms of Clause 5 of the Contract, but Government conceive that that clause, particularly if read in conjunction with Clause 16, will not bear the construction placed upon it by the Agent.

3. In reply to their Despatch, Sir C. Wood proposes to inform the Madras Government that their interpretation of the clauses of the Contract to which they refer, entirely coincides with his own. He considers that Clause 5, even if taken by itself, by requiring that plans and estimates shall be submitted to the Secretary of State for his approval, conveys to him by necessary implication the power of disapproving, but even if it were insufficiently explicit on that point, its deficiency would be amply supplied by Clause 16. The latter clause provides, among other things, that in order that the Secretary of State in Council may exercise such control as will enable him to ensure the proper expenditure of the Company's guaranteed capital of £1,000,000, it shall be lawful for him from time to time, to give to the Company such orders as he shall think fit with reference to the works to be executed with the said sum of £1,000,000, and with reference to the manner and time of executing the same. It being thus competent to the Madras Government, as representing the Secretary of State in Council, to issue such orders as they may deem fit with respect to the time of executing any of the Company's works, their competence to direct the postponement of the Nellore or of any other works, might, but for the objection taken by the Company's Agent, have seemed incontestable.

4. The question having nevertheless been raised, Sir C. Wood considers it desirable that he should convey to the Directors of the Company his opinion upon it. He does not apprehend however, that any practical inconvenience can arise in the case referred to, as he understands that the Directors now take the same view as the Madras Government as to the order in which their works shall proceed, and have resolved that until those above Somaishweram are completed, no further works shall be undertaken below. He will be glad to learn whether he has been correctly informed on that point.

J. WESTWOOD, Esq., 27, Cannon Street,

(Signed) DUFFERIN.

MADRAS IRRIGATION AND CANAL COMPANY,
27, CANNON STREET, LONDON, E. C.,
11th February 1865.

No. 6.

S.R.

1. The Board of Directors have desired me to express their thanks to Sir Charles Wood for the information he has afforded to them, in your letter of the 2nd instant, of his intention to convey to the Madras Government, in reply to Despatches received from them, his concurrence in an interpretation given by the latter to the contents of the 5th and 16th Clauses of the Contract made with this Company.

2. Bearing in mind the course which they have lately felt it prudent to adopt regarding the portions of their scheme intended to be executed in the Districts of Bellary, Cuddapah, and Nellore, explained in a former letter* of mine to you, the Directors believe that it is not at the present time advisable or necessary to discuss the question—at the time very properly—raised by their Manager at Madras, viz., whether the right claimed by the Government of Madras, with reference to the control of works proposed to be executed by means of the present guaranteed capital of the Company, is in accordance with the provisions of the executed Contract or not; and they therefore abstain from all remarks thereon, and also from entering upon an explanation of their own interpretation of the contents of the deed in question: at the same time they desire me to state that, whilst thus refraining from all discussion upon the subject, they are anxious it

* No. 5, dated 6th February 1865

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10th April 1865.*

should not be assumed that they thereby acquiesce in the claim put forth by the Madras Government, and now supported by Sir Charles Wood, for indeed they do not so acquiesce, but simply entertain the opinion that discussion is not necessary, and will not be productive of any practical result.

3. The course lately adopted by the Directors, referred to in your letter under reply, and which makes it improbable that a necessity will ever exist to ascertain the correct legal meaning of the Company's Contract upon the point raised, is correctly described in the last paragraph of your letter, that is to say, they have instructed their Manager and Chief Engineer that the operations of the Company for the present are to be confined to—

(1.) The construction of the Main Canal and subsidiary Channels between Soonkasala and the termination of the 9th section at the Pennair river, the plans and estimates whereof have received the approval of the Madras Government.

(2.) The careful and satisfactory completion of the surveys and planning of those sections of the scheme which are intended to traverse and supply the Bellary, Cuddapah, and Nellore Districts; and

(3.) The prosecution of searches for sites for reservoirs, and the proper and careful planning of the requisite dams, &c. They (the Directors) believe that the prosecution of the operations thus described will not require an expenditure of more than £1,000,000, and they have determined therefore to confine their outlay, for the present, thereto.

(Signed) J. WESTWOOD, Secretary.

To the Under Secretary of State for India.

No. 179.

ORDER THEREON, 10th April 1865, No. 979.

CIVIL WORKS, No. 32.

No. 2,859, 4th October 1864.
„ 3,258 14th November „
„ 304, 2nd February 1865.

1. Communicated to the Consulting Engineer Madras Irrigation and Canal Company with reference to the Orders marginally noted.

2. It is observed that in their letter above recorded the Directors of the Company express their belief that one Million Sterling will more

than suffice for the completion of the comparatively limited extent of work which they have ordered to be carried out to bring their canal into profitable operation below Kurnool, and for the prosecution of the costly surveys which are being made for reservoirs, and for those sections of the original scheme which are intended to traverse the Bellary and Nellore Districts. Seeing how small a balance of the paid up capital is unexpended, and looking to the number and large aggregate amount of the supplemental estimates that have lately been submitted, the Government are not of the same opinion. They consider that to lessen the risk of the works on the canal between Kurnool and the Pennar being stopped for want of funds, it is necessary that all expenditure elsewhere should cease, and that the Survey parties in Bellary and the other Districts, on whatever duties they may be employed, should be at once withdrawn. The whole of the means and resources of the Company might then be concentrated on the canal below Kurnool, and on pushing forward the works of distribution which are, it is believed, in a very backward state.

(True Extract.)

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

To the Consulting Engineer Irrigation and Canal Company.

„ Manager for do. do.

Exd. S. T. Augustin.

Civil Works JH 2
 200979
 Proceedings of the Madras Government
 Under date the 10th April 1865
 Read the following.

From the Secretary of State
 for India

N. 2. 28. February 1865 No. 7.

Communicated to
 the Consulting Engineer
 Madras Irrigation and
 Canal Company - with re-
 ference to the orders man-
 ually noted.

No. 2,859. 4th Oct 1864
 " 3,258. 14th Nov. — "
 " 304. 2nd Feb. 1865.

[Signature]
 W.W. J.P.

[Faint handwritten notes]

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 that in their letter above
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limited extent of work
which they have ordered
to be carried out to bring
their Canal into profitable
operation below Munnool,
and for the prosecution
of the costly surveys which
are being made for Re-
servoirs, and for three
sections of the original
Scheme which are intended
to traverse the Bellary
and Nellore Districts.
Seeing how small a
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and looking to the num-
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which are, it is believed,
in a very backward state.

WLB

To
The Congress I. M. Company
Manager to D. V.

2:13 received 1965 07.19.65

Dec 24 1965
Approved
James D. D. V.

407 1885 Departs
Pro: of Gov: for April

No 979
Pro: of the Alcott
D. M. E. April 1885

No 178 179