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(2) Date of repair 2-1-67

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Public Works **DEPARTMENT.**

G.O. No. 2810	Press Mis.
271-272.	
Dated 12 - 3. 1867.	

Not to be folded or roughly handled

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Proceedings of the Madras Government, Public Works Department,
12th September 1867.

No. 271. Read the following Proceedings of the Madras Government in the
Revenue Department:—

Passing orders on the correspondence submitted
by the Board of Revenue, regarding certain } (Here enter 5th September 1867, No. 2,072.)
remissions of water-rate on lands irrigated by
the Madras Irrigation Company's Canal.

No. 272. ORDER THEREON, 12th September 1867, No. 2,810.

IRRIGATION, No. 11.

Ordered to be recorded.

(True Extract.)

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

Ed. F. R. Bantleman.

*Proceedings of the Madras Government, Revenue Department,
5th September 1867.*

No. 58. Read the following Proceedings of the Board of Revenue, dated 23rd August 1867, No. 5,448.

Read the following letter from the Collector of Kurnool, to the Secretary to the Board of Revenue, dated 27th June 1867, No. 197 :—

Letter from Consulting Engineer, Madras Irrigation and Canal Company, dated 27th May 1867, No. 16.
Do. to do. dated 7th June 1867, No. 46.
Do. from do. dated 19th June „ „ 26,
with enclosure.

1. I have the honor to forward copies of correspondence, as entered in the margin, between the Consulting Engineer of the Irrigation Company and myself.

2. The Agent objects to remissions made under the heads of death, poverty, &c., as contrary to the rules.

3. I must inform the Board that directly I entered the district, about the beginning of January of the present year, Mr. H. Cotton asked me to name a day for settling the irrigation remissions. I did so, and he came to my tent, and we passed several hours together looking over the accounts, my Serishtadar and a Writer who came with Mr. Cotton being present.

4. Mr. Cotton agreed to the remissions and seemed very much pleased, considering the unfavorableness of the Fusly, and the breach in the anicut, that the amount was so small.

From the way he proposed to settle the business with me I concluded he was authorized to do so.

5. It appears he was not, and that I should have settled with the Chief Engineer or some one authorized by him.

6. There are now three items specially objected to—
Rupees 133 0 0 remitted on 24 acres, 14 cents, because the crops failed on account of poverty of the land.

„ 16 0 4 on account of the death of a very poor ryot who did not cultivate 2 acres, 67 cents.

„ 7 5 0 on account of two poor ryots who were laid up with fever and did not cultivate.

„ 156 5 4 on 26 acres, 81 cents, of land.
I acknowledge these items, as stated by Mr. Henslowe, are not mentioned in the rules, but I considered, and Mr. Cotton agreed with me, that under the circumstances, remission was certainly necessary, and if I remember correctly Mr. Cotton suggested the idea that it was not politic to press the ryots, especially the poorer ones, too much, for fear of discouraging others from applying in future for water.

7. I shall feel obliged if the Board will inform me what course should be adopted in the case of either of the three objected items. If a ryot dies without effects, who is to pay the Company for the water? So in the case of a poor ryot who from fever cannot cultivate, and also in the case of poor ryots whose land though cultivated has not produced, or whose entire or almost entire crop has failed. In other words, if the ryot cannot possibly pay, is the Company to forfeit their charge for water?

If the Company will not allow a remission under any of these heads, where is the money to come from, unless Government pay it themselves.

8. I cannot see why Government should pay, and I see no other course than that the Company should allow the remission which should be settled by their authorized Officer, and the Collector. If this is so settled, not a word should again be mooted on the subject.

9. This objection I look on as quite uncalled for; at all events if the Company are unwilling to abide by what Mr. Cotton and I settled, I think they should have appealed to the Board of Revenue and not ask me to unsettle the arrangement unitedly agreed to by Mr. Cotton and myself during the Jummalibundy.

10. I leave it to the Board to decide whether the settlement I made was irregular or not, and to inform me what, in the present case, I am to do with regard to the objections made by the Company.

From the Consulting Engineer, Irrigation and Canal Company, to the Collector of Kurnool, dated Madras, 27th May 1867, No. 16.

The Chief Engineer's report for the year 1866-67 contains the following passage:—"No means has been taken to enable me to check the Collector's return of claims for remission. The Collector's returns as sent through the minor Government and village officials are clearly unreliable, (as I have shewn,) but I am unable to say to what extent. Were the simple system recommended by Mr. Minchin and myself, adopted, I should be able to secure true records; but at present, the clause in the rules giving me a voice in the claims for remission is a dead letter, and the lists of remission have been prepared without my having been asked for an opinion, and I have no means of giving any, save of general distrust," and I find from your Statement, Form E, for the year referred to, that the remissions granted amount altogether on the year's cultivation, to Rupees 1,085-6-11. I have the honor, therefore, with reference to Rule VI. of the revised Rules, sanctioned in Proceedings Madras Government, Revenue Department, No. 1,800, of the 5th October 1861, to request that you will be good enough to inform me, whether the claims to remission were investigated in conjunction with the Officers of the Company, and if not, why the rule requiring this to be done was not taken as a guide in dealing with those claims.

From the Collector of Kurnool, to the Consulting Engineer, Madras Irrigation and Canal Company, dated 7th June 1867, No. 46.

1. With reference to your letter, No. 16, dated 27th ultimo, I have the honor to inform you that I am at a loss to understand the Chief Engineer's assertion, as all claims to remissions were settled in communication with Mr. Harry C. Cotton, the Executive Engineer of the Kurnool Division, who came to my tent at Kultur and agreed to every remission then proposed, and left me with the impression that all had been finally and satisfactorily disposed of on the 20th January. Mr. Latham was informed of the course I had pursued, the statements, three in number, having been sent in to him on the 25th, signed by Mr. Cotton and myself.

2. The Irrigation Superintendent, or rather his Gumastah, (at all events the person brought by Mr. Cotton himself,) as he was suffering from fever, also was consulted, and all disputed fields were re-measured, &c., by the Superintendent as well as the Village Curnum. The following were the statements sent to Mr. Latham:—

Statement shewing the net adjusted demand on account of irrigation under the channel of the Irrigation and Canal Company for Fussy 1276.

Do. do the amount of remissions allowed and refused for withered crops under the channel of the Irrigation and Canal Company in Fussy 1276.

Do. do the amount of remissions allowed and refused for irrigation in Fussy 1276.

3. Now I think of the subject I may mention that Mr. H. Cotton asked me to arrange where and when I might meet him to settle and dispose of the whole question of remissions. He came to my tent and we entered into the whole subject; and after several hours, settled it.

4. I do not quite see what Mr. H. Cotton now had to do with it; but thinking then (I had just only joined this district) that he was of course the subject

with him. In future I shall be careful to settle with the Chief Engineer or with some person who has obtained a regular Power of Attorney, to act for him, on Stamp paper

From the Consulting Engineer, Irrigation and Canal Company, to the Collector of Kurnool, dated Madras, 19th June 1867, No. 26.

1. On the receipt of your letter, No. 46, of the 7th instant, I transmitted a copy of that communication to the Agent and Manager, Madras Irrigation and Canal Company, and intimated that I hoped to receive such explanations as would reconcile the statements made in the Chief Engineer's report, with the particulars given in your letter. I have now the honor to enclose the Agent's reply, and with reference to paragraph 5, I would request information in detail regarding remissions of water-rate granted for causes other than those which are distinctly specified in the rules, and which are—

Insufficient supply.
Inundation.
Defect in the works.

Vide Rule VI.

2. It appears to me that with the exception of certain remissions, which seem to have been made on grounds which a Company cannot be expected to agree to, and which are not provided for in the rules, the arrangements under which the remissions were granted were in accordance with the rules. At the same time it will be better in future that the Officers of the Company, in conjunction with whom the investigations into claims for remission may be made, should be duly authorized by the Agent to act on behalf of the Company. As claims to remission may at any time require investigation, I will ask the Agent at once to appoint an Officer to undertake this duty.

3. With regard to the remissions which may be found to have been irregularly granted, I think it will be the best plan to ask the Government to allow the amount that was due in these cases on account of water-rate to be credited to the Company's Irrigation Revenue account.

From the Agent and Manager, Madras Irrigation and Canal Company, to the Consulting Engineer, Madras Irrigation and Canal Company, dated Madras, 15th June 1867, No. 124.

1. I have the honor to acknowledge receipt of your endorsement, No. 68, of the 11th instant, forwarding copy of Mr. Chase's letter of the 7th, No. 46.

2. When your former letter, No. 57, reached me, I am sorry to say that through some unaccountable delays I had not then received from Kurnool the return of lands irrigated between June and 29th September 1866.

3. When I did receive that document, I hastened to communicate to the Chief Engineer my dissent from the arrangements, relative to remissions which appear to have been made by Mr. Chase and Mr. H. C. Cotton, and having reference to Mr. Latham's Administration Report, I am inclined to agree with Mr. Chase in paragraph 8 of his letter.

4. Mr. H. C. Cotton does not appear to have had any authority to agree to the remissions, nor did he understand that he had any such authority, for in his report accompanying the Returns he assumes that the arrangement "is open to the final decision of the Agent."

5. At the same time, setting aside the question of his authority to discuss the question, he has certainly made a serious oversight in admitting, as grounds of remission, "poverty," "the death of a ryot," and "bad land," and I am sure that Mr. Chase will on reference to the rules readily admit that (whatever consideration he might be disposed to give to claims so founded for remission of land cess) it is incompetent for him to claim on behalf of the ryot any remission of water-rate upon these grounds, the only grounds recognised by the rules are—

Insufficient supply.
Inundation.
Defect in the works.

6. Under these circumstances, I trust the question will be allowed to remain open until Mr. Latham now on leave shall have an opportunity, after receipt of a communication which I addressed to him immediately on receipt of the return, to discuss it with Mr. Chase.

7. In future I have no doubt that the Collectors will take care in carrying out the provisions of Rule C., to act only in conjunction with the Chief Engineer or with such Officers of the Company as may be duly authorized by him or by myself.

8. I will forward copy of your communication under reply to the Chief Engineer.

(True Copy)

(Signed) J. MULLINS, Captain, R. E.,
Consig Engr., Irrigation and Canal Company.

(True Copies)

(Signed) T. A. N. CHASE,
Collector.

1. Submitted for the orders of Government.

2. The Board are under the impression that the rules laid down with respect to the supply of water by the Madras Irrigation Company entitle the Company to the fixed water-rate for every acre of land they supply with irrigation in a sufficient quantity to mature the crop upon it. If the supply has been deficient or super-abundant, the Company are bound to withdraw or reduce their charge; but under no other circumstances are they required to waive it. Sound policy will no doubt induce the Company to deal liberally by-and-by, and thereby offer an inducement to ryots to use the irrigation they can afford them; but as a matter of right they are not called upon to withdraw their water charge save in the contingency of the water applied have been more or less than was required, and a loss of crop having ensued.

3. In the present instance, Rupees 156-5-4 have been remitted: first, on land on which the crops failed owing to the poverty of the soil; second, on land which was not cultivated in consequence of the death of the owner; and third, on land which lay fallow because the proprietors were deterred from cultivating by sickness. These remissions were made by the Collector in conjunction with one of the Company's Officers who, Mr. Chase supposed, had full authority to act with him, but who in fact was not formally authorized, and whose acts the Company now repudiate. If the Board are correct in the view above stated, they suggest that the amount of these remissions, namely, Rupees 156-5-4, be carried to the credit of the Company as a debit from the general revenues. Other remissions that Mr. Chase and Mr. Cotton, the Company's Officer in question, have allowed, the Board consider should stand, as no objection to them on the part of the Company has been put forward. In future the Board are of opinion Mr. Chase should take care to deal only with the Chief Engineer, or with some other Officer who Mr. Chase is satisfied has been vested with full authority to act with him.

4. The grounds of these remissions raise questions which it would be well to guard against in any future contracts with the Company. The Board see no reason why unavoidable losses owing to the flight, or insolvency, or death of ryots who have agreed to take water should fall on the Government. They are of opinion also, that when the Company fail to supply water, they should indemnify Government for the land assessment. This assessment is fixed on the land exclusive of all consideration of irrigation, and would have to be paid by the ryot whether he cultivated it or not. When, therefore, the ryot is led, by the Company's pledge of supplying water, to adapt it for the growth of an irrigated crop, and by their

failure to supply the water gets no crop, the obligation to make good the dry assessment should in equity devolve on the Company. Furthermore, in future, the Government should receive some indemnity for the expense of collecting the water cess. They would propose that a clause be inserted in new contracts with the Company, allowing the Government a reasonable per-centage on these accounts. A per-centage would be the most convenient form of indemnity, and would be sufficiently accurate for all practical purposes.

No. 59. ORDER THEREON, 5th September 1867, No. 2,072.

Irrigation, No. 2.

1. The Government consider that these questions can be easily settled by bearing in mind that the Company are dealing with Government and not with the ryot. If the Company fulfil their part of the contract, they are fairly entitled to receive from Government the price for the water.

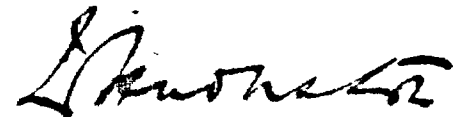
2. The Government can fairly claim an abatement in the Company's demand or charge on either of the grounds specified in the Rules, viz.:—
Inadequate supply.
Inundation and resulting loss or damage.
Defect in the works, and ditto.

But when the supply of water has been sought, and made available in seasonable and sufficient quantity, the Company cannot be required to allow an abatement on account of remissions which the Government may think fit to make to the ryots on grounds altogether irrespective of the water supply, as was the case in the present instance, where apparently the remission was allowed in one case because the crop failed from the poverty of the soil though water was duly supplied, and in two others because the sickness or death of the landholders led to the land being left uncultivated, though water was held available to meet the demand made.

3. As regards the general questions raised by the Board in paragraph 4, the Government observe that so long as the earnings of the Company do not cover the guarantee, it is a matter of no real consequence to Government whether the Company consent or refuse to make the several allowances for unavoidable losses therein referred to, and that the Government cannot anticipate that the questions will acquire any more immediate importance as regards projects already undertaken under contract within any not distant date.

4. Should any other than the "Toombudra project" be entrusted for execution to the Company in this Presidency, and the necessity for executing a new contract arise, it will be proper to take all these questions as well as that of the cost of collection into consideration before the terms of any new contract are settled.

(True Extract.)


Secretary to Government.

To the Board of Revenue.
„ the Consulting Engineer for Irrigation and Canal Company.
„ the Department Public Works.
Erd. S. T. Augustin.

L. J.

No 2810

Received

W. B.

Spent at George
12th Sept 1867

1867

1st 21 1867 Dep^d
Pro: of Govt for Sept^r
No 3402

Pro: of the Madras Govt
Revenue Dep^d

Further Pro: 211 of 20.2.71

Of 5th } Sept^r 67
Pro: 7th }
No 2072

Paying orders on
the correspondence sub-
mitted by the Board
of Rev. regarding certain
remissions of water-tax
on lands irrigated by the
Madras J. Govt canal.
No 2810 - 12th Sept^r 1867

Op. 271-272

With an Order