

(1) Number of pages 11

(2) Date of repair 1-7-21

(3) Initials of the Referencer \_\_\_\_\_

# MADRAS RECORD OFFICE.

Government of Madras.

Public works DEPARTMENT.

|               |                 |
|---------------|-----------------|
| G.O. No. 1347 | Press           |
| 3-4           | <del>Mis.</del> |
| Dated 1-5     | 1868.           |

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Public Works Department,  
1st May 1868.*

No. 3. Read the following letter from the Secretary to the Government of India, Public Works Department, (Railway,) to the Secretary to the Government of Madras, Public Works Department, (Railway,) dated Fort William, 7th April 1868, No. 406 R:—

Referring to Despatch No. 4, of the 5th instant, from the Government of Madras to the Secretary of State, forwarding correspondence regarding the damages caused to the works of the Great Southern of India Railway Company by the unprecedentedly heavy fall of rain which occurred in the Trichinopoly District during the latter part of January last, and to the opinion expressed by the Agent that the cost of repairs, estimated at Rupees 13,300, should be borne by the Government, I am directed to enclose, for your information, a copy of a Despatch that has been addressed by the Government of India, to the Secretary of State, on the subject.

From the Government of India, Public Works Department, (Railway,) to the Right Honorable the Secretary of State for India, dated Fort William, 7th April 1868, No. 59.

1. Referring to Despatch No. 4, of 5th ultimo, addressed to you by the Government of Madras, on the subject of the damage caused to the works of the Great Southern of India Railway Company in the Trichinopoly District, by the unprecedented heavy fall of rain which occurred in the latter part of January last, and to the opinion expressed by the Agent that the cost of the repairs should be borne by Government, we think it desirable to place you in possession of our views, in order that you may be prepared to meet any application from the Home Board of Directors on the subject.

2. The question to be decided is, whether Government is liable for the repairs of the injury to the Railway which has occurred through the failure, at the time of an unusual flood, of a bund constructed by Government to retain the water of the river. As each case of this kind must *apparently be decided on its own merits, the point is not one for which a general rule could be laid down*; but the principle for guidance seems to us to be justly stated in paragraphs 3 and 4 of a Memorandum by the Consulting Engineer to the Government of Madras (a copy of which accompanies), which amounts to this,—that no one can equitably be held liable for consequential damage to works constructed subsequent to his own, provided he maintains these (his own works) in the condition they were in when the other works were set on foot.

3. If, therefore, as appears probable, the Government bund has been maintained according to original design, it would be quite reasonable to reply that, so far from admitting any claim for damage to the line, the Company must, if they desire to secure it from similar disasters for the future, pay for the additional height of bank which is necessary for that purpose.

4. We do not, however, desire to insist on such extreme views, and think that the Government should be prepared to undertake such works with regard to the river, as its professional advisers may recommend.

5. Practically, so long as a line of guaranteed railway pays less than the guaranteed 5 per cent., the question of Government or the Company repairing the injury to it is of little moment, but the admission of the claim on the State now would establish a precedent which might be embarrassing in the future, and which, therefore, it is desirable to avoid.

*Document accompanying.*

Memorandum from Consulting Engineer, dated 5th August 1867.

No. 4. ORDER THEREON, 1st May 1868, No. 1,347.

RAILWAY, No. 1.

Communicated to the Consulting Engineer for Railways.

(True Extract.)

(Signed) CHARLES A. ORR, Colonel, R. E.,

Secretary to Government.

To the Consulting Engineer for Railways.

Exd. S. T. Augustin.

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NO. 59 RAILWAY.  
GOVERNMENT OF INDIA.  
PUBLIC WORKS DEPARTMENT.  
RAILWAY.

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To

THE RIGHT HON'BLE THE SECY. OF STATE FOR INDIA.

FORT WILLIAM, APRIL 7, 1868.

SIR,

Referring to Despatch No. 4 of 5th <sup>Ultimo</sup> ~~instant~~, addressed to you by the Government of Madras, on the subject of the damage caused to the works of the Great Southern of India Railway Company in the Trichinopoly District, by the unprecedented heavy fall of rain which occurred in the latter part of January last, and to the opinion expressed by the Agent that the cost of the repairs should be borne by Government, we think it desirable to place you in possession of our views, in order that you may be prepared to meet any application from the Home Board of Directors on the subject.

2. The question to be decided is, whether Government is liable for the repairs of the injury to the Railway which has occurred through the failure, at the time of an unusual flood, of a bund constructed by Government to retain the water of the river. As each case of this kind must apparently be decided on its own merits, the point is not one for which a general rule could be laid down; but the principle for guidance seems to us to be justly stated in paragraphs 3 and 4 of a Memorandum by the Consulting Engineer to the Government of Madras (a copy of which accompanies), which amounts to this,—that no one can equitably be held liable for consequential damage to works constructed subsequent to his own, provided he maintains these (his own works) in the condition they were in when the other works were set on foot.

3. If, therefore, as appears probable, the Government bund has been maintained according to original design, it would be quite reasonable to reply that, so far from admitting any claim for damage to the line, the Company must, if they desire to secure it from similar disasters for the future, pay for the additional height of bank which is necessary for that purpose.

4. We do not, however, desire to insist on such extreme views, and think that the Government should be prepared to undertake such works with regard to the river, as its professional advisers may recommend.

5. Practically, so long as a line of guaranteed railway pays less than the guaranteed 5 per cent., the question of Government or the Company repairing the injury to it is of little moment, but the admission of the claim on the State now would establish a precedent which might be embarrassing in the future, and which, therefore, it is desirable to avoid.

We have the honour to be,

SIR,

Your most obedient and humble Servants,

JOHN LAWRENCE.

G. N. TAYLOR.

W. N. MASSEY.

H. M. DURAND.

H. S. MAINE.

JOHN STRACHEY.

*Document accompanying.*

Memorandum from Consulting Engineer, dated  
5th August 1867.

Copy.

GOVERNMENT OF INDIA.  
PUBLIC WORKS DEPARTMENT.  
RAILWAY.

To

THE RIGHT HON'BLE  
THE SECY. OF STATE FOR INDIA.

No. 59 RAILWAY.

Dated April 7, 1868.

Received

PH 1429/68

Referring to Madras Government Despatch No. 4 of 1868, communicates the views of the Government of India on the question of the liability of Government for the cost of the repairs consequent on the damage done to the works of the Great Southern of India Railway by the unprecedented heavy fall of rain in the Trichinopoly District during January last.

No. 406 R.

GOVERNMENT OF INDIA.  
PUBLIC WORKS DEPARTMENT.  
RAILWAY.

To

THE SECY. TO THE GOVT. OF MADRAS,  
IN THE PUBLIC WORKS DEPT., (RAILWAY.)

FORT WILLIAM, APRIL 7, 1868.

SIR,

Referring to Despatch No. 4 of the 5th instant from the Government of Madras, to the Secretary of State, forwarding correspondence regarding the damage caused to the works of the Great Southern of India Railway Company by the unprecedentedly heavy fall of rain which occurred in the Trichinopoly District during the latter part of January last, and to the opinion expressed by the Agent that the cost of repairs estimated at Rs. 13,300 should be borne by the Government, I am directed to enclose, for your information, a copy of a Despatch that has been addressed by the Government of India, to the Secretary of State, on the subject.

I have the honour to be,

SIR,

Your most obedient Servant,

Colonel, R. A.,  
Secy. to the Govt. of India.

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*Pro: of Govt for May 1420*

GOVERNMENT OF INDIA.  
PUBLIC WORKS DEPARTMENT.  
RAILWAY.

To  
THE SECY. TO THE GOVT. OF MADRAS,  
IN THE P. W. DEPT., (RAILWAY.)

No. 406 R.

Dated April 7, 1868.

Received 18 April 1868

*En: me.*

*Mr. for Railways -*

*4347  
1347  
The Secy: Engineer*

Referring to Madras Government Despatch No. 4  
of 1868, regarding the damages caused to the works  
of the Great Southern of India Railway by the un-  
precedentedly heavy fall of rain in the Trichinopoly  
District during January last, forwards, for in-  
formation, a copy of the Despatch that has been  
addressed by the Government of India to the Secre-  
tary of State on the subject.

*1347-1st May 1868  
With an Order*

*3-4  
No. 406 R.  
1868. 2/10/18*

*1st May 1868*

*13-4*

*C. 22nd April 1868. 22*