

(1) Number of pages _____

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MADRAS RECORD OFFICE.

Government of Madras.

Police records DEPARTMENT.

G.O. No. 1068	Press Mis.
Dated 17/1/4 1871.	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
17th April 1871.*

No. 201. Read the following Endorsement of the Revenue Department, dated 27th March 1871 :—

Proceedings of the Board of Revenue, dated 16th March 1871, No. 1,161.

Read the following letter from the Acting Collector of Vizagapatam, to the Acting Secretary to the Board of Revenue, dated Vizianagram, 20th February 1871, No. 158.

I HAVE the honour to request the Board's instructions on the following subject.

2. As is already known to the Board, an unprecedented fall of rain occurred in this district last October. Much damage was done to public works of all sorts and many tanks were breached.

3. I have received an application from the Department of Public Works in this district asking me to recover the sum of Rupees 99 and odd from the proprietrix of Cassimcottah on account of damage caused to the trunk road by the breaching of one of the tanks in her estate.

4. The proprietrix objects to the charge on the grounds that the tank has always been kept in good repair and was burst by the breaching of tanks above it, and that the damage to the road was owing to the insufficient water-way provided by the constructors of the road.

5. The whole question of the extent of the liability of land-owners for damage caused by storing water is now being tried in the Courts of Law in a suit brought by the Madras Railway Company against, I think, the Zemindar of Carvetinugger. *Whichever way the question may be decided, an appeal will no doubt be made to the Privy Council at Home.* In this state of things it seems hardly just to assume that the question will be decided against the land-owners. In the present case all reasonable precautions seem to have been taken, and it is not clear why the owner of the last tank should be held responsible for all the damage done. A further question arises as to whether sufficient provision was made by the Department of Public Works for the discharge of the water. They will no doubt answer that the rain-fall was something quite unprecedented, and that they had provided sufficient water-way for any rain-fall which had hitherto been experienced. The proprietrix makes precisely the same assertion. Her tank has never been breached before, and she had every reason to suppose that it was quite secure.

6. I believe it has been held by the Courts of Law in England that any one storing water for his own benefit is responsible for any damage caused by the water, although the bursting of the reservoir may have been caused by what is called the "act of God." It remains to be seen whether the same principle will be held to apply in this country, where the storing of water is of so much greater importance.

SUBMITTED for the orders of Government.

2. The Board believe that the suit to which Mr. Melville refers has been decided in favour of the Zemindar by the High Court on appeal, as well as by the Civil Court of Chittoor.

3. The claim of the Public Works Department in the present case seems to be untenable.

*Proceedings of the Madras Government, Public Works Department,
17th April 1871.*

TRANSFERRED to the Department Public Works.

(Signed) W. HUDLESTON,
Secretary to Government.

No. 202. ORDER THEREON, 17th April 1871, No. 1,068.

CIVIL WORKS, No. 13.

As it appears from the Acting Collector's letter that the proprietrix of the Cassimcottah estate has not neglected all needful precautions, His Excellency the Governor in Council concurs with the Board of Revenue in the opinion that the claim made by the Public Works Department for the recovery of the cost of repairing the damage that was caused to the trunk road by the breaching of one of the tanks in that estate is not tenable.

(True Extract.)

Colonel, R.E.,
Secretary to Government.

To the Board of Revenue.
„ Revenue Department.
„ Acting Superintending Engineer, 1st Division.

Exd. S. T. Augustin.

No. 1,161.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 16th March 1871.

Read the following letter from R. J. MELVILLE, Esq., Acting Collector of Vizagapatam, to the Acting Secretary to the Board of Revenue, dated Vizianagrum, 20th February 1871, No. 158:—

I HAVE the honour to request the Board's instructions on the following subject.

2. As is already known to the Board, an unprecedented fall of rain occurred in this district last October. Much damage was done to public works of all sorts and many tanks were breached.

3. I have received an application from the Department of Public Works in this district asking me to recover the sum of Rupees 99 and odd from the proprietrix of Cassimcottah on account of damage caused to the trunk road by the breaching of one of the tanks in her estate.

4. The proprietrix objects to the charge on the grounds that the tank has always been kept in good repair and was burst by the breaching of tanks above it, and that the damage to the road was owing to the insufficient waterway provided by the constructors of the road.

5. The whole question of the extent of the liability of land-owners for damage caused by storing water is now being tried in the Courts of Law in a Suit brought by the Madras Railway Company against, I think, the Zemindar of Carvettingur. Whichever way the question may be decided, an appeal will no doubt be made to the Privy Council at Home. In this state of things it seems hardly just to assume that the question will be decided against the land-owners. In the present case, all reasonable precautions seem to have been taken, and it is not clear why the owner of the last tank should be held responsible for all the damage done. A further question arises as to whether sufficient provision was made by the Department of Public Works for the discharge of the water. They will no doubt answer that the rain-fall was something quite unprecedented, and that they had provided sufficient water-way for any rain-fall which had hitherto been experienced. The proprietrix makes precisely the same assertion. Her tank has never been breached before, and she had every reason to suppose that it was quite secure.

6. I believe it has been held by the Courts of Law in England, that any one storing water for his own benefit is responsible for any damage caused by the water, although the bursting of the reservoir may have been caused by what is called the "act of God." It remains to be seen whether the same principle will be held to apply in this country where the storing of water is of so much greater importance.

SUBMITTED for the orders of Government.

2. The Board believe that the suit to which Mr. Melville refers, has been decided in favour of the Zemindar by the High Court on appeal, as well as by the Civil Court of Chittoor.

3. The claim of the Public Works Department in the present case seems to be untenable.

(A true Copy and Extract.)

J. G. Cole
Acting Secretary.

To the Secretary to Government, Revenue Department.
„ Acting Collector of Vizagapatam.

Exd. T. Cartledge.

10689
 Proceedings of the Madras Government
 Under date the 17th April 1871.

Read the following

Pro. of the Board of Revenue / H. C. No. 1161 of 15th March 1871 /
 thro the Pub. Works Dept.

As it appears from
 the Acting Collector's letter
 that the Proprietor of the
 Kavinicottah estate has
 not neglected all needful
 precautions, His Excellency
 the Governor in Council
 concurs with the Board of
 Revenue in the opinion
 that the claim made by
 the Public Works Department
 for the recovery of the cost
 of repairing the damage
 that was caused to the
 Trunk road by the breach

1871. 1161
 Board of Revenue
 MADRAS.
 PUBLIC WORKS DEPT. No. 1161.
 15th March 1871.
 Received 28th March 1871.
 MARCH.
 No. 1161.

Damage caused to trunk road in Vizagapatnam District, by breaching of a tank in Cassimacottah estate. Letter from Collector, requesting instruction with reference to claim of Public Works Department to a sum of Rupees 99 from Proprietor of that estate on account of, submitted for orders of Government.

10689
 1871. 1161
 15th March 1871
 28th March 1871

if one of the parties in
estate is not tenable

Wm

to
The Board of Revenue
Rev. Dept.
Lafayette, La.
Dec 18/91

Wm

84 104
Govt of 1871 Madras.

PUBLIC WORKS.

To
The Board of Revenue

Dated

Recd.

17th April 1871

Nos. 201-202

Engl. Bank. Concerning
with the Government in the
opinion that the claims made
by the Bank for the recovery
of the Bank's claims, the
claim is that and caused
the Bank and also the
to be the recovery of the
in the Bank and the
to be.