M.R.O. 1—97,000—8-1-37.

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MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No.	Press Mis.
Dated / / 18 . .	

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Works Department, 9th March 1872.

No. 188. Read the following endorsement of the Acting Consulting Engineer for Railways, dated Madras, 2nd February 1872, No. 55 :—

From the Agent and Manager of the Madras Railway Company, to the Acting Consulting Engineer for Railways, dated Madras, 1st February 1872, No. 72.

ADVERTING to Government Order No. 2,267, dated the 6th of September 1871, having reference to the damage sustained by two bridges on the North-West Line of this Railway owing to the bursting of certain tanks in the vicinity of the line, I have the honour to request that you will be so good as to submit to Government the enclosed extract* from a letter from my Board, No. 481, dated the 24th of November 1871, in which the opinion of the Directors is expressed that the Government is liable for the damage in question.

* Paragraph 11.

2. This extract would have been forwarded to you earlier, but I have waited for an expression of the opinion of the Chief Engineer, as called for by my Board, in regard to the statement contained in the abovementioned Order of Government that "there is nothing to show that any reasonable care which the Government were bound to take for securing the Ootkoor tank was omitted to be exercised, or that sufficient provision was not made for the discharge of surplus waters." With reference to this statement Mr. Anderson points out,† what appears to me to have been overlooked by the Government, that the Superintending Engineer, 3rd Division, in the 3rd paragraph of his letter,‡ No. 2,061, dated Bellary, 10th January 1871, makes the following very important admission, namely,—

† No. 47, dated 30th January 1872.

‡ *Vide* G. O., No. 271, dated 30th January 1871.

"With reference to the breaching of the Ootkoor tank, I have the honour to inform you that this was caused by the quantity of water thrown into it on the night of 21st October by the bursting of the Colamoolapally, Gurrangumpally, and Chintacommadinna tanks, at a time when it was quite full. The first mentioned of these tanks is situated amongst the hills, and on its breaching the water ran into the supply channel of the Chintacommadinna tank, which has no head sluice, and topping its bund breached it, and the water passed down and breached the Ootkoor tank. The ryots of Ootkoor endeavoured to save their tank by cutting the bund in three places to assist the discharge of the calingulah, but without effect, as the sudden and great influx of water caused the bank to be overtopped. I have given instructions to submit plans, etc., for head sluices for these channels."

3. Here it is shown that the breaching of the Ootkoor tank is attributed by the Government Officer to the fact of the proprietors (the Government) having omitted to provide the supply channel with a head sluice. So manifestly is this the case that the Superintending Engineer felt it necessary to give "instructions to submit plans, etc., for head sluices to be provided."

4. I have repeatedly pointed out to the Government how important it is that something should be done in view to securing that amount of attention to the

condition of tank bunds, etc., in the vicinity of the railway, which the safety of the line demands. One of the most effectual means of securing this end would be a recognition of the Company's claim to compensation when the damage can be clearly traced to the neglect of a tank-owner to take measures for ensuring the safe storage of his water; but I would with all respect submit that if the Government deny their liability to claims of this nature, and the Railway Company has to repair the damage at its own cost, it cannot be a cause for surprise if private individuals become careless as to the proper repair of their tanks when they are not held responsible for any damage which may be occasioned by their neglect.

5. I trust, therefore, that on consideration of the opinion of my Directors, which is communicated herewith, the Government will be pleased to alter the decision which they have come to in this matter, and that the Company's claim to a re-imbursement of the sum expended in the repair of the bridges in question will be recognized.

Extract from a letter from the Secretary to the Madras Railway Company, No. 481, *dated London, the 24th November* 1871.

Claim against Government for damage by bursting of tanks.

PARAGRAPH 11.—The Board regret to learn from paragraph 8 of No. 966, that Government decline to admit the Company's claim to be reimbursed the sum of Rupees 6,714-10-0 for injury sustained by the bursting of tank embankments on the North-West Line in October 1870, on the ground that "there is nothing to show that any reasonable care which the Government were bound to take for securing the Ootkoor tank was omitted to be exercised, or that sufficient provision was not made for the discharge of surplus waters." Upon this latter point the Directors would be glad to have the opinion of their Chief Engineer. Meanwhile, they request that you will inform the Government that, in the Board's opinion, they (Government) are liable for the damage in question.

(True Extract.)

(Signed) R. B. ELWIN,
Agent and Manager.

SUBMITTED to the Government.

2. In G. O., No. 2,267, dated the 6th September 1871, the Government have declined to admit any liability on their part in the way of compensation for damage sustained by the Railway. The Board of Directors however, even without a report from their Chief Engineer as to the provision for discharge of surplus waters, very curtly desire their Agent in Madras to intimate their opinion that the Government are liable for the damage.

(Signed) H. L. PRENDERGAST, Major, R.E.,
Acting Consulting Engineer for Railways.

No. 180. ORDER THEREON, 9th March 1872, No. 648.

RAILWAY, No. 30.

WITH the endorsement recorded above the Acting Consulting Engineer forwards a letter from the Agent and Manager of the Madras Railway submitting an extract of one from his Board of

Directors, in which they express the opinion that Government are liable for the damage caused to two bridges on the North-West Line by the bursting of tank embankments in October 1870.

2. The Agent maintains that the omission to provide the supply channel of the Ootkoor Government tank with sluices must be considered as the cause of the bursting of that tank and the consequent damage to the Railway bridge at the 163rd mile, and on this supposition he bases a claim to compensation. Considering the defenceless character of the bridge in question, which was built without curtain walls or flooring, it is extremely doubtful whether it would, under any circumstances, have withstood the scour produced by the great volume of water which must, it is believed, ultimately have found its way into the stream passing under the railway bridge. The flow into the Ootkoor tank was so great that notwithstanding two calingulahs are provided, measuring 62 feet and 30 feet respectively, and escapement was also assisted by several gaps which were cut in the bund, the water rapidly overtopped the banks and rendered any further precautionary measures impossible. 8·50 inches of rain were gauged on the date the Ootkoor tank breached and 4·50 inches fell on the previous day; and this extraordinary rainfall was further augmented by large accessions of water flowing from breached tanks higher up.

3. Having these circumstances in view, as well as the fact that the tanks referred to were probably in existence centuries before the railway was contemplated, and that, moreover, it is not in the power of the Government to put every work in the country, the bursting of which might probably endanger the railway, in such order as to render such a contingency impossibl The Honorable the Governor in Council must adhere to the opinion that the Government are not liable for the accident which occurred.

(True Extract.)

Colonel, R.E.,
Secretary to Government.

To the Acting Consulting Engineer for Railways.
,, Superintending Engineer, 3rd Division.

Exd. S. T. Augustin.

1872

Madras Railway Company
Agency & Manager's Office
Madras 1st February 1872

From

Robert B. Elwin Esqre
Agent & Manager, M. & S. Co.

To

Major H. L. Brandreth, R.E.
Ag. Consulting Engineer
for Railways.

Sir,

Adverting to Government Order No. 2267 dated the 6th of September 1871, having reference to the damage sustained by two Bridges on the North West Line of this Railway owing to the diversion of certain Tanks in the vicinity of the Line, I have the honor to request that you will be good enough to submit to Government the enclosed extract from a letter from my Board, No. 481 dated the 24th of November 1871, in which the opinion of the Directors is expressed that the Government is liable for the damage in question.

Paragraph 11

2. This extract would have been forwarded to you earlier but I have waited for an expression of the opinion of the Chief Engineer, as called for by my Board, in regard to the statement contained in the above mentioned Order of Government that "there is nothing to show that any

"Memorandum sent with the foregoing
"letter handed to Captain for perusing the
"Oatkoor Tank Committee's Surveyor
"on the Superintending Engineer's visit
"made for the divisioning of surplus waters.
With reference to this statement
of facts which appears to me
to have been overlooked by the Government,
that the Superintending Engineer's Division
in the 3rd paragraph, of his letter of 20th January
Vide P.C. 1871, in the 3rd Journal 1871 makes the
No 228 dated following requisition and admission, viz:
the 30th January
1871.

"With reference to the breaking of the
"Oatkoor Tank, I have the honour to inform
"you that this was caused by the quantity
"of water thrown into it on the night of
"24th October by the bursting of the
"Bolarum Carrall, Gunnigumpally,
"and Bhimla Commadinna Tanks, at
"a time when it was quite full. The first-
"mentioned of these tanks is situated
"amongst the hills, and on it's breaching
"the water ran into the supply channel
"of the Bhimlacommadinna Tank, which
"has no head sluice, and both it's head
"breached, and the water flowed down
"and breached the Oatkoor Tank. The
"people of Oatkoor endeavoured to save
"their Tank, by cutting the bund in three
"places to assist the discharge of the
"collingulah, but without effect, as the
"sluices and breaches of waters caused

"the bank to be overtopped. I have given
"instructions to submit plans, &c., for head
"sluices for these channels."

3. How it is known that the
breaking of the Cork or Youghal is attri-
buted by the Government Officer to the
fault of the Proprietors (the Government
having omitted to provide the apple
channel with a head sluice) so manifestly
is this the case that the Superintending
Engineer felt himself compelled to give instructions
"to submit plans &c. for head sluices to be
"provided."

4. I have repeatedly pointed out
to the Government how unfair it is
that something should be done in view to
securing the Company of attention to the
condition of Jan. Roads &c. in the vicinity
of the Railway, which the safety of the line
demands. One of the most effectual means
of securing this end would be a recognition
of the Company's claim to compensation
when the damage can be clearly traced
to the neglect of Jan. Owner to take
measures for securing the safe storage
of his water, but I would with all respect
submit that if the Government deny
their liability to claims of this nature
and the Railway Company has to repair
the damage at its own cost, it cannot be
a cause for surprise if Private individuals

become careless as to the proper performance of their Duties, when they are not held responsible for any damages which may be occasioned by their neglect.

5. I therefore thank you consideration of the opinion of my Director which is communicated herewith the Government will be pleased to alter the decision which they have come to in this matter and that the Company's claim to a pre-emburvement of the sum expended in the reform of the Bridge in question will be reacquired.

I have the honour to be
Sir
Your most obedient Servant

Lieut Col.

Chief Engr & Secretary.

Extract from a letter from the Secretary
M. R. Co. No. 481 dated London the 24th
November 1871.

Claims against Government for damage by bursting of banks.

Para 11. The Board regret to learn from paras 8 & 9 of 966, that Government decline to admit the Company's claim to be reimbursed the sum of Rs. 67,14,11.0 for injury sustained by the bursting of banks embankments on the South West Line, in October 1870, on the ground that "there is nothing to show that any reasonable care which the Government were bound to take for securing the O & M Line could have prevented "to be exercised, or that sufficient provision was not made for the discharge of surplus waters." Upon this latter point the Directors would be glad to have the opinion of their Chief Engineer; meanwhile they request that you will inform the Government that, in the Board's opinion, they (Government) are liable for the damage in question.

Yours Obedt
Agent & Secretary

Compared

Chairman Calcutta
Dated 1871
Rec'd 31st December
Ans'd 1872

Read at Board's Office
on 7th Dec. 1871
For Secretary

Resolved, That a copy
of the above be sent to
the Govt. of Bengal
in the Revenue Dept.
with the request that
Govt. will inform the
Board whether they
admit their liability
for the damage claimed
in the above

Dft 5961/2

P. 55

Submitted to the Government
in C. C. 12267, dated
the 6th September 1871, the Government
have decided to admit any liability
on their part, in the way of compensation
for damage sustained by the Railway.
The Board of Directors however, even
without a report from their Engineer, as to the possession for discharge
of surplus waters may even by means
their Agent in Madras to intimate
their opinion, that the Government
are liable for the damage.

Madras
2nd February
1872

Secretary & Manager M.S.R.

Copy: home Engr: for Railways

The Secretary to Government
Public Works Department
Fort Saint George.

P. W. 5-9-72

the Bathoor Creek Crossing was 8·50 inches and that of 4·50 inches over gauges on the forenoon day of Inquiry considered the case extraordinary heavy fall, and for which and that of Seven further receipts by Cooke of occasions of water flowing from Creeks Contributories of the Elections on the Cocin of the Railway Company to Compensation appears to be nine cases coincident with the raising of the Height Gauge in the case of Receipts claims which were forwarded against the Secretary of Cawnpore

Sig. 10 6.

Exd Feby 20 1872

S.C.S. P.W.D.

Proceedings of the Board of Govt

Read the following

From,

The Agent Engineer,
for Railways } (N.E. No. 5593 dated 7/12)

With the endorsement recorded above the Consulting Engineer forwards a letter from the Agent and Manager of the Madras Railway enclosing an extract of one from his Board of Directors in which they express the opinion that Government are liable for the damages caused to two bridges on the N.W. line by the bursting of tanks

Embankment in October
A.D. 1870.

The Agent in answer
to a question that the engineers
to provide the supply
of channel of the Colleries
& Government banks with
obvious must be consi-
dered as the cause of
the breaking of that bank
and the consequent
damage to the Railway
Bridge at the 162nd mile
and on this supposition
the banks claimed to com-
pensation. Considering
the defenceless character
of the bridge in question
which was built without
any walls or flooring
it is extremely doubtful
whether if would, under any circumstances,
withstand the pressure
produced by the great
volume of water which
must, it is believed,
ultimately have found
its way into the stream
passing under the
Railway bridge. The
flow into the Colliery
bank was very great,
that notwithstanding
two calingulahs and
proved working
by feet and 30 feet
respectively and ex-
cavement was also
carried by several
gap. which were cut
in the bund, thereby
rapidly quadrupled the
banks and rendered
any further excavation
necessary impossible. 850 inches
of water were given off
on the date the Col-
lieries banks broke and
and 1250 inches of
on the previous day
and this extraordinary

Extraordinary Gen. Ord.
18, Accidents by Cargoes
Accessories of water flowing
to from breaches banks
& higher up).

Having these circumstances in view as
well as the fact that
the banks referred to were
probably in excellence
a century before the Rail-
way was contemplated,
and that numerous Arches
in the Power of the
Govt to put every work in
the County the burning
of which might probably
endanger the Railway
in such order as to
prevent such a contin-
gency impossible,
His Excellency the Gover
in Council does not adhere
to the opinion that the
Govt are not liable for
the accident which
occurred.

To
The County Engr for Kgd
& Supty Engr Dist Nos
Dublin 11th

P.C. 596

Dept. of 1872. Board.

PUBLIC WORKS.

To the Hy Commissioners Engrs
for Railways

Dec 2

Finance 648

Nos. 1851/1857

To Engrs Railways Dept.

Ottawa, 2d October 1872.

I have the honor, by direction of the Minister of Public Works, to transmit herewith the Sworn Claims of Messrs Fowler & Co. for work on the R. R. line, Nanaimo to Esquimalt, as per Order in Council of 27th ult.

I have &c.

[illegible]

Secretary.

Rec'd 11 Oct 1872