

# MADRAS RECORD OFFICE.

Government of Madras.

*Revenue* DEPARTMENT.

|          |           |                 |
|----------|-----------|-----------------|
| G.O. No. | 1676      | Press           |
|          | 461-462   | <del>Mis.</del> |
| Dated    | 24-7-1867 |                 |

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,  
24th July 1867.*

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No. 461. Read the following Proceedings of the Madras Government in the  
Public Works Department:—

Passing orders on letter from Government of  
India regarding damage to Railway works by  
the bursting of tank embankments in Zemin- } (Here enter 19th July 1867, No. 2,171.)  
dary Estates.

No. 462.

ORDER THEREON, 24th July 1867, No. 1,676.

Miscellaneous.

Communicated to the Revenue Board.

(True Extract.)

(Signed) W. HUDLESTON,

*Secretary to Government.*

To the Board of Revenue, with Proceedings Public Works Department, No. 2,171.

**Erd. S. T. Augustin.**

*Proceedings of the Madras Government, Public Works Department,  
19th July 1867.*

No. 468. 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 Simla, 7th June 1867, No. 476 R:—

1. I am directed to acknowledge the receipt of copy of Despatch No. 2 of 1867, addressed by the Government of Madras to the Secretary of State, on the subject of damage to Railway works by the bursting of tank embankments in Zemindary estates.

2. The Madras Government, it is observed, sets aside a recommendation of the Consulting Engineer for Railways of periodical inspections by Public Works Officers, and expresses its fear that the only effectual remedy can be found in actions for damages against the Zemindars by the Railway Company.

3. The Governor General in Council is of opinion that it would be only fair and reasonable that the proprietors of land should be responsible for any harm or loss which may arise from damage caused by the bursting of artificial embankments which they or their ancestors have constructed. If there be any doubt upon this point, it would be well to settle the matter by legislation.

4. There are cases where the damage may arise solely from natural causes, as from the action of a river, in which also some question of responsibility on the part of the landholders appears to His Excellency in Council to arise. Such accidents, it is obvious, do not arise in the same sense as the other class, from the fault of the landed proprietors, but still they have the knowledge of the circumstances, and often the means of applying remedies which may save disasters to the public; and where the Zemindary is a large one, and held on a permanent peishkush, or quit-rent, the proprietor, as regards his advantageous position, stands to a certain extent in the place of the State, that is, he enjoys revenues which, but for his peculiar tenure, would go to the State, and in such cases it would only be fair that the responsibility of repairs should rest wholly or partially on him according to his circumstances. This also might be settled by law.

5. The Governor General in Council would not advocate that all tanks and embankments should be placed under the control of the authorities, as this might involve large establishments, and there would be few cases where commensurate advantage would arise. But it does seem proper that there should be power on the part of the Government to direct competent Officers to inspect and report on such works in the interests of the public safety in important cases (such as tanks and embanked rivers in the vicinity of Railways), and that following such inspection should be executive power to the extent of guarding from danger arising from such works, and from rivers and streams generally. There should be some means of recovering from the landed proprietors, under due limitation, any expenses that may be necessarily incurred by the Government in repairs or protective works.

6. In the Upper Provinces of India, I am directed to state, practically the responsibility of guarding against accidents of the kind referred to, is shared between the District Engineer and the Collector. If any disruption of an embankment, or change in the course of a river, is anticipated, these officers would consult together; and if either or both anticipated danger, they would take the necessary steps for obtaining the authority of the local Government as to what might be proper in such case.

*Proceedings of the Madras Government, Public Works Department,  
19th July 1867.*

7. The Governor General in Council would wish the Government of Madras to re-consider the subject, and that the Government in such cases should not look upon the matter merely in its capacity of landed proprietor, but also as the controlling authority of the country and guardian of the public safety. In this latter capacity the Government should possess such legal powers as are reasonably necessary.

No. 469. ORDER THEREON, 19th July 1867, No. 2,171.

RAILWAY, No. 32.

1. In this letter, the Governor General in Council has stated his opinion, with reference to the damage to Rail-

way works by the bursting of tank embankments in Zemindary estates, that it would be only fair and reasonable that proprietors of land should be responsible for any harm or loss which may arise to Railway works by the bursting of adjacent embankments which they or their ancestors have constructed, and that if there be any doubt on this point that it would be well to settle the matter by legislation. It is also pointed out that when damage may arise solely from natural causes as from action of a river, landholders have the knowledge of the circumstances and often the means of applying remedies which may save public disasters, and that certain Zemindars who hold large estates on a permanent peishkush, or quit-rent, must be regarded as standing to a certain extent in the place of the State, and as such must be held, according to circumstances, answerable for the repairs necessary to avert accidents to the line railway. It is also pointed out that there should be power on the part of Government in the interests of the public safety for the inspection of such works as tanks and embanked rivers in the vicinity of Railways and legal means of recovering from the landed proprietors, under due limitation, any expenses that may be necessarily incurred by the Government in repairs or protective works.

2. At present no such legal powers are vested in the local Government, and having in view the great importance of providing against the occurrence of accidents to the several lines of Railway in this Presidency from such works as are described above, the Governor in Council resolves to direct that the whole of the papers relating to this subject be referred to the Legislative Department with instructions to prepare, in communication with the Consulting Engineer for Railways, the draft of a bill to provide the necessary legal powers to secure the several objects adverted to in the letter from the Secretary to the Government of India, dated 7th June 1867.

(True Extract.)

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

To the Legislative Department.

Consulting Engineer for Railways.

Revenue Department

Ed. S. T. Augustin.

*True copy*

*Charles A. Orr*

*Colonel Orr*

*Secretary to Govt*

82-1912

Proceedings in the  
D<sup>o</sup> of the Admiralty

Dec 21 1863

18-2171

*A. J. Fanning writes  
in letter from Genl of Indian  
regarding campaign. In that  
way written by the General  
of Hunt can learn how to  
use gunpowder etc.*

82-61-452

[illegible]

88-1676

Unmanned  
the Red Baron

26. Schuch 1/17

[illegible]