M.R.O. 14—5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1981 Press Mis.

47,472

Dated 24—6—1867.

Not to be folded or roughly handled

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

No. 471. Read the following Proceedings of the Madras Government in the Public Works Department :—

Communicating Despatch from Secretary of State, forwarding letter from the Madras Railway Board of Directors remarking on the damages to Railway property caused by the bursting of tanks. } (Here enter 19th August 1867, No. 2,530.)

No. 472. ORDER THEREON, 24th August 1867, No. 1,981.

Miscellaneous.

Communicated to the Board of Revenue.

(True Extract.)

(Signed) F. H. WILKINSON,
Acting Under Secretary to Government.

To the Board of Revenue, with Proceedings Public Works Department, No. 2,530.

Exd. S. T. Augustin.

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

No. 439. Read the following Despatch from the Right Honorable the Secretary of State for India, (Railway,) to His Excellency the Right Honorable the Governor in Council, Fort Saint George, dated India Office, London, 16th July 1867, No. 9:—

1. I have received your Despatch of the 16th April last, No. 2, relative to the remarks of the Directors of the Madras Railway Company on the bursting of tanks. It is satisfactory to find that none of the tanks to which their complaints referred were under the control of Government Officers.

2. I communicated the papers forwarded with your Despatch to the Directors, and have received in reply a letter (No. 2,200, dated 21st June 1867,) of which a copy is transmitted herewith. The observations on the supposed great source of mischief, viz., the want of calingulahs or waste weirs will no doubt receive due attention from your Officers.

From JULIAN BYRNE, Esq., Secretary, Madras Railway Company, to the Under Secretary of State for India, dated 33, New Broad Street, London, E. C., 21st June 1867, No. 2,200.

1. I am directed by the Board to acknowledge the receipt of your letter of the 30th ultimo, transmitting, for their information, copies of papers received from the Madras Government, in consequence of remarks in the 14th paragraph of the Board's letter to their Agent, No. 336, relative to damage to Railway property caused by the bursting of tanks.

2. The Board regret sincerely that the observations they felt it their duty to make to the Agent on this important subject should have appeared to the Madras Government as imputing to the Government a disregard of their representations, or systematic neglect of duty by the officers on whom the charge of the tanks devolves.

3. The sole aim and desire of the Board was to draw again attention to a source of danger and mischief to the Railway, to which, notwithstanding their previous representations, events had shown it to be still exposed. They were not then aware that the several breaches referred to in the Government letter had all occurred in tanks belonging to Zemindars, nor that the Government, as they are now concerned to learn, have no control over those proprietors or their tank embankments. The Board, however, could not but have in mind that the most serious damage and loss to the Railway from such causes had arisen from the giving way of a Government embankment in Malabar, and they had before them reports from their Officers of other failures of embankments more recent than those adverted to in the Government letter, which had occurred in the Cuddapah Zillah in August and October last, as well as of the dangerous state of others belonging, so far as the Board have means of judging, to Government villages. The Board learn with much satisfaction from these papers that the Government, impressed with the necessity of providing against such accidents, have enjoined their Superintending Engineers to pay special attention to the maintenance in safe condition of the Government tanks from which any danger to the Railway might arise, and they earnestly trust that these means may prove effectual.

4. The history of most of those disasters shows that the great source of mischief is the want of calingulahs, or waste weirs, to prevent the water in time of heavy rain overlapping the earthen bund, an event leading unavoidably to its sudden destruction. The Board, therefore, trust that the first step will be to cause every tank, the breaking of which may injure others than its owners, to be furnished with so obviously necessary a safety valve, and to provide for its being kept in order.

5. The endeavours which the Collectors of Revenue have been urged, at the same time, to make to induce the Zemindars to be more careful of their tanks, may also be of service: but as the Government have no control over them, and the correspondence in the possession of the Board shows their disregard of the opinion and wishes of the Government authorities in such matters, there is reason to fear that, as the Government letter goes on to state, the only effectual remedy for their carelessness will be found in actions for damages against them.

6. On this point, however, the Board have to explain that in view to bringing such an action against the Zemindar of Cavetnuggur for the injury sustained from the bursting of his tanks in December 1865, the opinion of the Advocate General at Madras was taken, and proved so unfavorable, that it was not then deemed expedient to bring the Company's claims into Court. The soundness of that opinion may, however, be open to question, and the Government Order of the 10th of April last, we observe, declares that there can be no question whatever of the liability of the Zemindars for damage arising from their neglect to keep their tanks and bunds in a good and efficient state. But the Board are given to understand that recent decisions in the higher Courts of this country have carried even farther the liability of persons storing water on their lands for damage to the property of other occupants caused by its escape; and they propose, if their information be confirmed by their legal advisers here, to instruct the Agent to proceed with the action against the Zemindar.

7. I have the honor to return the collection of papers which accompanied your letter.

No. 440. ORDER THEREON, 19th August 1867, No. 2,530.

RAILWAY, No. 18.

Communicated to the Legislative Department and to the Consulting Engineer for Railways.

(True Extract.)

Major, R. E.,
Under Secretary to Government.

To the Legislative Department.
,, Consulting Engineer for Railways.
,, Revenue Department.

Ex'd. S. T. Augustin.

Clearance 1867 Dep.
Sec of Case & Correspondence
No. 2230.

Proceedings in the
P. M. Gisborne &c. —

Dated 19th August
Received 20th " 1867

No. 2230.

Communicating
despatch from Secretary of State
forwarding letter from the
Manchester Railway Board
of Directors remarking on
the damages to Railway
property caused by the
bursting of tunnels.

Entered

No 1981. 24th August

No. 1981.

Answered

Left

24th August 67.

In Office Letter Dep. with No. 2530 Page 28

No. 1981/1472

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