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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	<u>2479</u>	<u>Press</u>
B.P. No.		Mis.
Dated	<u>24-11-1875-196</u>	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
8th November 1875.*

Read the following papers :—

No. 193. Proceedings of the Madras Government in the Revenue Department, dated 9th August 1875, No. 1,192.

ABSTRACT.—*Money compensation for lands taken up for Public Works.*—Referring to the Department of Public Works for remarks Board's Proceedings requesting information as to whether the instructions given in G.O., 17th April 1875, No. 778, relative to the payment of — are intended to supersede necessity for the previous sanction of the Board and Government, &c.

No. 446.

REFERRED to the Controller of Public Works Accounts for report.

OOTACAMUND,
27th August 1875.

(Signed) G. W. WALKER, Major-General, R.E.,
Secretary to Government, P.W.D.

No. 193-A. From Captain L. CONWAY-GORDON, R.E., Controller of Public Works Accounts, to Major-General G. W. WALKER, R.E., Secretary to Government, Public Works Department, dated Fort St. George, 20th October 1875, No. 110 W.

WITH reference to your letter, No. 446, dated 27th August 1875, forwarding to me for report a copy of the Proceedings of the Board of Revenue, under date 17th June 1875, with regard to the payment of compensation for land taken up for public works, I have the honor to submit, for the consideration of Government, the following remarks.

2. The observations of the Board have reference to the payment of compensation of land

1st.—In cases where the land has been already taken up, and

2nd.—In all future cases where land may be required.

3. Taking the second of these first in order, the rules at present in force for taking up land for public works are as follow :—

The estimate for a work drawn up by a Public Works Officer invariably includes the value of the site, the price per acre for the land entered in the estimate being as advised by the Civil authorities, to whom the Public Works Officer applies to learn the probable cost of this item in the estimate.

On the estimate being sanctioned, and the land required for the commencement of the work, the Public Works Officer submits the case to the Civil authorities, who, if they find either by voluntary agreement or under Act X. of 1870 they can secure the land for about the amount entered in the estimate, then and there acquire it and hand it over to the Public Works Department. If, on the contrary, the Civil authorities find there is likely to be any considerable excess over the sanctioned amount, they apply again to the Public Works Officer either to submit to Government a revised estimate for the increased sum required, or to arrange for some cheaper ground by changing, if possible, the site of the building.

4. These instructions appear clear, and if carried out it is evident that for the price that may eventually be paid for the land there is in every case a pre-existing

sanction of Government. In their opening paragraph, where the Board speak of payments for compensation being made on passed bills from the Controller without the previous sanction of Government, there is evidently some misconception on the part of the Board as to the duties of an Auditor. The Controller of Public Works Accounts not being a sanctioning authority, the mere fact of his passing a bill implies of necessity a sanction of Government against which the charge has been audited.

5. As regards actual payments for compensation, the ordinary course is for the Civil authority to submit a bill to the District Engineer, who, after countersigning the bill, forwards it to the Controller. On return of the audited bill, the Collector makes the payment, which eventually appears in our Exchange Accounts with the Civil Department as a debit to the Public Works Department. The Controller advises the Range Officer concerned of the debit thus raised, and in this way the item finally appears in the Range Accounts against the provision made for land in the estimate for the work.

6. The Board in their paragraph 3 suggest that there is no necessity for this pre-audit on the part of the Controller. I think the necessity exists simply on the ground that payments for land are not made by the Public Works Officer who keeps the accounts of the work in which these payments are eventually to appear, and who is primarily responsible to Government for the estimate not being exceeded. It is, I think, important for the Public Works Accounts Department to have early information as to these payments, which otherwise would only be known on receipt of the Exchange Accounts from the Accountant-General, Madras. The system works well elsewhere, and should not, I think, be departed from without some strong reason being advanced for so doing.

7. With regard to the Board's proposal to limit the power of the Collector in settling the price of land, I cannot see that any advantage would be derived from taking this course. The price of the land is fixed either under the Land Acquisition Act or by voluntary agreement. In the former case no action on the part of the Board of Revenue could affect the amount awarded under the Act. In the latter case, I cannot believe that the solicitations of the Board of Revenue would induce an obdurate landholder to abate his terms to any appreciable extent. I anticipate that the only effect of referring claims for compensation to the Board would be delay in placing the Public Works Department in possession of the land; the eventual saving in the price of the land being little or nothing. The balance of advantage appears to me to rest with the Collector having full power, without reference to the Board, to settle the price of all land taken up for public works under the present rules.

8. The foregoing remarks apply to all future cases, in which land may be required for public works, whether Imperial, Provincial, or Local. With regard to past acquisitions of land, if any case has occurred of land having been occupied without compensation having been paid, and from the terms of the Board's letter I am reluctantly forced to the conclusion not only that such cases have occurred, but also that cases of the sort are more frequent than I could otherwise have thought possible, it seems to me almost a misuse of the word 'sanction' to apply it in respect to a liability which Government has already incurred, and which could be legally enforced against Government in any Court of Law.

9. At this period, discussions regarding the formal allotment of funds appear altogether out of place. Whether funds are or are not formally available, common

honesty requires that debts should be settled before further expenditure is incurred. The discussion should, in my opinion, be limited to the single issue of how most speedily can be settled claims in the adjustment of which I feel keenly that the honor and credit of this Government are alike involved.

10. So far from limiting the powers of the Collectors in settling past claims for compensation, I am of opinion that the action hitherto taken has been inadequate to meet the necessities of the case. I am of opinion that a definite date should be fixed, and that all Civil Officers should be held responsible for settling, within that date, all the present outstanding claims.

11. In the settlement of such claims I agree with the Board of Revenue that the countersignature of the District Engineer, as a guarantee that the land has been taken for public works, will be sufficient without reference to this office. Besides, the Government of India have already laid down that the award of the Court or a certified copy of it is a sufficient authority to the Controller to pass charges for compensation when the land has already been taken up.

12. The claims themselves must be met from the Public Works Budget, but it is an open question whether the interest at 6 per cent. per annum, which under the Act such claims carry from the date of occupation, should not be more fairly a charge on the Civil Budget in all cases when the delay in payment has not been directly caused by the officers of the Public Works Department.

13. In paragraph 5 of their Proceedings, the Board of Revenue point out that Collectors should satisfy themselves before making payments that there is provision in the estimate of the work and the Budget.

The rules more properly point out the advisability of taking all these precautions before the land is occupied and Government committed to the expenditure. After any of Her Majesty's subjects have for purposes of State been ousted from their property, it is to me perfectly inconceivable that any doubt should exist as to their right to the immediate payment of the money compensation awarded them. The orders of the Government of India are explicit on the point, and are at variance with the suggestions of the Board.

"On all occasions, however, the first duty of the Local Departmental Authorities is to pay up in full from the General Funds at their command the whole amount of the judicial award under the provisions of the Act."

14. The proposals of the Board of Revenue in paragraph 4 to make an annual provision in the Public Works Imperial Budget for past claims on account of land might, if accepted, be almost held to imply a recognition on the part of the Public Works Department that the present irregular system of taking up land without paying down compensation is to continue. The Board of Revenue doubtless do not contemplate the continuance of such a system to the extent of its requiring a regular annual Budget provision, but as the proposal of the Board might undoubtedly be held to have this meaning, I do not think in its present shape it should be entertained. If the remaining months of the current official year are not sufficient for the adjustment of the outstanding claims for land, an exceptional provision might be made in the next year's Budget at the special request of the Board of Revenue. For the future the estimates for works included in the Public Works Budgets should include the value of the land required, and this can be made available to the Civil Department for disbursement as soon as the land is occupied.

*Proceedings of the Madras Government, Public Works Department,
8th November 1875.*

15. From the above remarks Government will understand that I do not recommend any change in the present system. All that is required is for some one to see that the rules at present in force are properly attended to. Should Government be of opinion that good will result therefrom, I will compile in a neat pamphlet all the orders regarding the acquisition of land for public works, and forward it for the approval of Government.

No. 194.

ORDER THEREON, 8th November 1875, No. 3,187.

ACCOUNT, No. 4-A A.

His Excellency the Governor in Council approves entirely of the Controller's arguments and conclusions, and

requests that he will, in communication with the Under Secretary in the Public Works Department, prepare a Chapter of the Public Works Code, dealing exclusively and completely with the subject of compensation for lands taken up for State purposes, for the information and guidance of officers and subordinates of the Revenue and Public Works Departments.

(True Extract.)

Comptroller Major-General, R.E.,
Secretary to Government.

To the Controller of Public Works Accounts.

„ Under Secretary to Government, Public Works Department.

„ Revenue Department.

„ *All District Engineers.*

Exd. S. T. Austin.

20 Spare Copies

6/5/81
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Revenue Department
No 4525
Govt. of Madras.
PUBLIC WORKS.

To
THE CONTROLLER OF PUBLIC WORKS
ACCOUNTS.
&c., &c., &c.

Mis

Dated November 8th.

Issued

Recd. 24:-11-75 Encl.

G. O., 8th November 1875, No. 3.187.

NOVEMBER.
Nos. 193-194

Compensation for lands taken up for Public Works.— Approving entirely of the arguments and conclusions of the Controller of Public Works Accounts regarding the — and directing him, in communication with the Under Secretary in Public Works Department, to prepare a Chapter of the Public Works Code dealing exclusively with the subject of —.

No 2479
Comm. to the
Bd. of Rev.
24:100:75

14 To the Board of Revenue, 21 Nov.