M.R.O. 1—59,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1130 Press Mis.

194-195

Dated 20. 7 1866

4/5

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
20th July 1866.

No. 194. Read the following Proceedings of Government in the Public Works Department, dated 17th July 1866, No. 2259.

Communicating the recommendation of the Advocate General to frame a short enactment to legalize the entrance into private gardens, &c., of Government Officials, for the purpose of surveying them, &c. } (Vide Proceedings, Public Works Dept., dated 17th July 1866, Nos. 391—393).

No. 195. ORDER THEREON, 20th July 1866, No. 1130.

To be recorded.

(Signed) J. D. SIM,
Acting Chief Secretary.

Exd. T. Cartledge.

Proceedings of the Madras Government, Public Works Department,
17th July 1866.

Read the following papers:—

No. 391. From W. FRASER, Esq., C. E., Special Executive Engineer, to the Secretary to Government, Public Works Department, dated Mount Road, 5th July 1866, No. 25.

1. I have the honor to request that you will be good enough to give me the necessary information under the following circumstances.

2. I have marked out the line of the proposed Junction Canal, and am having it surveyed for the purpose of preparing the detailed estimates and designs.

I understand that some of the owners of gardens along the line intend to prevent the surveyors from entering on their premises.

3. I wish to know whether, should such a contingency arise, there is any Act or Regulation under the authority of which I can proceed with the survey.

4. I will, of course, endeavour to prevent the necessity for such an appeal by personal interviews with the parties.

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Referred for the opinion of the Government Solicitor.

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

FORT SAINT GEORGE,
7th July 1866.

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No. 392. From the Government Solicitor, Madras, to the Secretary to Government, Public Works Department, dated Madras, 12th July 1866, No. 405.

Dated 7th July 1866, and made on letter from Special Engineer, East Coast Canal Office, to Government, of 5th July 1866, No. 25.

1. I have the honor to acknowledge the Order of Government noted in the margin, requesting advice as to right of entry by the Engineering Officers of Government and their Subordinates on land and premises for the purpose of surveying the intended line of the proposed Junction Canal between the canals north and south of Madras.

2. I considered it desirable to submit the matter for the consideration of the Acting Advocate General, and having done so, and also conferred with him on the subject,

3. I now forward a copy of his Opinion, and return the Order above noted.

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COPY—OPINION.

1. Act 6 of 1857 contains no powers to enter on land for the purposes of making a preliminary survey, similar to those in Section 6 of Act 22 of 1863. If, therefore, the proprietors of land, which it is desirable to survey, absolutely refuse to permit access to it, the only mode by which the survey can be legally effected is by means of a declaration, under Section 2 of Act 6 of 1857, that such land, or the particular part of it, is wanted for public purposes. Upon this declaration being made, authority to enter for the purposes of survey can then be given under Section 34, and any person resisting will be punishable under Section 36. If it should turn out that the land is not finally wanted, no obligation will fall upon the Government merely by virtue of the declaration.

2. The above contrivance is, however, such a clumsy one, and may involve so many unnecessary declarations, that I would recommend a short enactment, adding to Act 6 of 1857, a clause similar to Section 6 in Act 22 of 1863. This will only be needed, if experience shows that the opposition apprehended by Mr. Fraser really takes place.

(Signed) J. D. MAYNE,
Acting Advocate General.

11th July 1866.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 393. ORDER THEREON, 17th July 1866, No. 2,259.

CIVIL WORKS, No. 59.

1. The above papers from the Government Solicitor will be communicated to Mr. Fraser, with reference to his letter, No. 25, dated the 5th July 1866.

2. The Government will be prepared to take into consideration the suggestions made by the Acting Advocate General, should Mr. Fraser meet with any opposition in conducting the survey of the line for the proposed Junction Canal.

(True Extract.)

Colonel, R. E.,
Secretary to Government.

To the Government Solicitor.
,, Judicial Department,
To W. Fraser, Esq., C. E.

Exd. S. T. Augustin.

Judicial 1866 Sept

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No 2259

2/17/193 July/66

No 1833.

Conveying the recommendations of the Advocate General to frame a short enactment to legalize the entrance into Private gardens &c. by Govt Officials, for the purposes of surveying them &c. —
20th July 1866 No 1130

194-195