1. Number of Box 18
2. Date of Reg 1857
3. Initials of Registrar

M.R.O. 1—32,400—23-11-50.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

Cons 31-3-57

G.O. No. 562	Press Mis.
41-42	
Dated 27—3—	1857

Not to be folded or roughly handled

Fort Saint George, Public Works Consultation of 31*st March* 1857.

No. 41. Read the following letter from C. J. SHUBRICK, Esq., Collector of Chingleput; to H. FORBES, Esq., Acting Secretary to Government, dated 23rd February 1857, No. 8.

SIR,

Para. 1. I have had the honor of receiving Extract from Minutes of Consultation No. 70, dated 12th January 1857, with enclosure relative to alleged encroachments on the Southern Trunk road in the Carangooly Talook, and the destruction of avenue trees; and in explanation, I have the honor to state that in Captain Heathorn sending me a copy of his letter* to the District Engineer dated 4th December last No. 114, I instructed the Head Assistant Collector to make the necessary investigation into the several matters therein brought to notice, and adopt such measures as appeared to him most likely to prevent their repetition. Mr. Tod reports that only two encroachments in which 6 persons were concerned were established, and that every one of them was punished, as also that the road was most carefully marked out, and precautions taken against any further reduction of its limits. Mr. Tod adds that since the above parties were punished, no further cases of Trespass have been reported, and it will be observed that the promptest attention was paid to Captain Heathorn's complaints as soon as they were made known to me, and disposed of long before being brought to the notice of Government, through the Chief Engineer. While on this head, I beg to submit a copy of my letter to Captain Heathorn dated 2nd July 1855, No. 323, expressive of the cordial assistance I had promised to give him in the execution of his duties, and the instructions I had issued to the Tahsildar as to the light in which he was to view these encroachments, and proceed against the parties committing them. It will be seen, with reference to para. 6, of Minutes of Consultation under acknowledgement, that the views of Government as to these encroachments being cases of Trespass and punishable accordingly, were those held by me and ordered to be acted upon. I have only to add that since writing my letter, Captain Heathorn made no further complaints to me till forwarding me copy of his letter† to the District Engineer already adverted to, and that I was therefore kept in ignorance whether my instructions to the Tahsildar had been obeyed, and not allowed an opportunity of enforcing them in a more stringent manner. A perusal of my letter, will, I believe, clearly shew that I could not possibly have entered more cordially into Captain Heathorns views, or offered him more powerful assistance than I did and that if the encroachments were not at once stopped, or were allowed to be repeated with impunity, it must be attributable to his silence in not bringing them forward. The total number of encroachment cases disposed of by the Tahsildar since the date of my letter is 15, and the amount of fines imposed Rupees 9½. On the latter point he has been instructed to be more severe, and to fine to the limit of his powers in every well established case as the best means of preventing future injury.

* I received it from Lieutenant Moberly, District Engineer.

† Vide preceding remark.

2. Referring to para. 2 of Minutes of Consultation under reply, I beg to state that a fine of Rupees 2 was imposed on the Taliar convicted of ploughing beyond his own proper limits; but as regards the trees that it would appear they had been planted on land belonging to Ryots, and in the inside of their edges, and not on land for which the Government had paid them any compensation; the trees are therefore the Ryots own property, whether planted by themselves or Captain Heathorn, and no complaint of their enclosure can be legally made. Captain Heathorn's mistake on this point would seem to arise from his not taking into consideration the fact whether the Government had become legally possessed of the land on which the trees were growing or not, a space of 40 yards in dry ground and 22 in wet has been appropriated for the road, and the trees have been planted 4 yards beyond; made a present of in fact to the occupants where there are any, and only retainable by Government if growing on immemorial waste. The Officers of the Road Department planting them are the parties at fault, and not the Ryots who only appropriate what clearly belongs to them. A general impression seems to pervade the Road Department, that their rules defining the limits of roads are a sufficient warrant for vesting them with power over the lands and houses lying within them; and that no other rights need to be considered. In this way, I received an application‡ from Captain Heathorn to remove 3 houses which he alleged were encroaching on the High Western road in the town of Streepermatoor which, on

‡ 29th April 1856.

enquiry, were found to be erecting beyond the limits of the land which Government had purchased, and whose cause for removal was stated to be the comfort of the inhabitants, and the necessity of having a clear space of 6 yards for the deposit of road material. It was quite clear that Captain Heathorn's application could not be complied with, and I only refer to it now, to shew that the necessity of purchasing land before interfering with the parties owning it, is not so much thought of by the road Department, as the rule which lays down the width of a road, and their assumption, that Government is thereby made its owner. As regards the Carangooly Tahsildar whose name is Ramasawmy Iyer, it would appear that compensation has only been paid in the Carangooly and Madarantacum villages of his Talook, and not even entirely in them; and that in all other villages, the lands have been taken for the road without purchase.

3. No Tamarind trees appear to have been taken in.

4. With regard to para. 4 a fine of Rupees 2 appears to have been imposed on the man convicted of allowing his cattle to browse on some young trees, a charge of stealing the bushes placed round them, does not appear to have been made.

5. With reference to para. 5, the charge of stealing Cocoanut trees appears to be general, and not special; and Captain Heathorn admits that the thefts have taken place at night. It is impossible absolutely to prevent them; the villagers are not the parties who commit them, and the Taliars and Heads of villages, besides having many other duties to attend to, are, in reality, in very many instances, afraid of interfering with the perpetrators when detecting them in the Act, which is not often, as they are chiefly, if not invariably, bandy men travelling on the road, most likely in large numbers who would thrash them unmercifully if attempted to be seized and brought up for punishment, their numbers are their safe guard, and I have been aware for some time of the village Police being afraid of them; in the day time it is different, and they are then more easily identifiable, and can be traced; and I, some time ago, directed that all such bandy men injuring the roads should be taken up, and forwarded to the nearest Head of Police in the direction they were travelling and which, I know, has since been done; and I believe with good effect.

6. I believe it is too much to expect the entire suppression of offences along the roads; but every thing has been done that could be done in the shape of orders to direct the Police; and the injunction to impose no fine under 1 Rupee and generally the heaviest they could inflict will, I hope, in time work its results. One difficulty in making the village Police more effective for the roads is the distance the villages generally are situated from them. Any body travelling on our high roads cannot but have remarked the very few villages or Towns they pass through.

7. In regard to the trees planted between Madras and Poonamallee referred to by Captain Heathorn, I have to observe that they chiefly lie out of my jurisdiction; but that I am informed they mostly died from want of water during the droughts of the last two years.

Letter from C. J. SHUBRICK, Esq., Collector of Chingleput; to Captain J. L. HEATHORN, Assistant Superintendent of Roads dated Sydapet, 2nd July 1855.

SIR,

I have the honor to inform you that I have issued the necessary instructions regarding all the matters you have brought to my notice in your letter of the 26th Instant No. 134, and instructed the Tahsildars to treat all cases which you may bring before them of parties injuring infringing or building on the roads as trespasses and to fine them accordingly under the limits of punishment with which they are invested.

I believe you have a class of servants you call Pygusts, if they would keep moving up and down the roads and bring these trespasses to the notice of the Tahsildars they could easily put a stop to them.

If you have reason to complain after this of the Tahsildars not fining the trespasser I have told them that they will be fined themselves.

If you have no Pygusts I will direct the Tahsildars to send one of their Peons occasionally along the road to see that no injury is done and if done that it is brought home to the proper parties.

No. 42. ORDER THEREON No. 562; dated 27th March 1857.

With his Proceedings of the 18th December last, No. 8990, the Chief Engineer submitted a letter from the District Engineer of Chingleput, with its enclosure from Captain Heathorn, 2nd Assistant Civil Engineer, bringing to notice certain encroachments on the Southern Trunk road in the Carangooly Talook, and specifying instances in which Avenue trees had been destroyed or stolen. A copy of the Chief Engineer's Proceedings was forwarded to the Collector of Chingleput, and a report called for as to the notice that had been taken of the particular cases of trespass and theft specified by Captain Heathorn; and that report the Collector submits in his letter above recorded.

2. The Right Honorable the Governor in Council considers the explanation furnished by the Collector, as to the measures adopted by him in reference to the particular instances of trespass and theft brought to notice by Captain Heathorn, to be generally satisfactory; but he is of opinion that the fines imposed on the offenders, in those cases in which convictions had been clearly established, were (evidently) far too light. It is observed however that Mr. Shubrick, has instructed the Tahsildar of Carangooly "to fine to the limit of his powers in every well established case;" and it is to be hoped that this measure will effectually put a stop to such offences for the future.

3. In para. 2 of his letter, the Collector observes that "a general impression seems to pervade the road Department, that their Rules defining the limits of roads are a sufficient warrant for vesting them with power over the lands and houses lying within them, and that no other rights need to be considered." He then quotes a case in illustration of his remark, and states that he only refers to it now, "to show that the necessity of purchasing land before interfering with its owners, is not so much thought of by the Road Department as the rule which lays down the width of a road." He also mentions that compensation does not appear to have been paid in all cases in the Carangooly and Madarantacum villages; and that in all other villages, the lands have been taken for the road without purchase.

4. The Right Honorable the Governor in Council resolves to communicate para. 2 of the Collector's letter to the Chief Engineer, and to direct that he will issue instructions for the immediate settlement of all claims to compensation which have not yet been adjusted in the Chingleput District. His attention will also be called to para. 5, Extract Minutes Consultation in the Revenue Department, dated 13th July 1855, No. 847, (copy of which was communicated to the late Board of Public Works) in which the Government strongly disapproved the taking of land for public purposes, without the permission of the owner and without any compensation; and Colonel Faber will require all Officers under his control, strictly to conform to the course there enjoined for the acquisition of lands for Public Works.

5. The Governor in Council takes this opportunity to call the attention of the Chief Engineer to the state of the cross road which leads from the Mount road to Sydapett. This road, though metalled not long ago, is now quite neglected. A large roller has been left on it at the point of junction with the Mount road, which prevents bandies from passing over the larger portion of it; the consequence is that one track has been made, and the road will soon be destroyed. No attempt appears to have been made to remedy the deterioration which is taking place, by either filling up the ruts with metal, or adopting other means to prevent further injury.

(Signed) H. FORBES,
Acting Secretary to Government.

For Orders

Public Works Department No 383.

From the Collector of Shimoga dated 23rd February 1857.

Wm. Shuttleworth's evidence appears primarily satisfactory. Should this prove hereafter to have been given under a misapprehension of the circumstances he will be liable to be prosecuted for perjury.

The question of the width of the roads of the land being the property of Govt or not. Requires attention from the Govt Engineer

Whilst Inmates in this district
shd attention to be called to the
Crops and what leads from the
Hamt Lands - to Sydenham -

It appears the State Highways
Act: it was included but very apt.
a large Letter has been left on
it at the point of Junction with
the Hamt - which prevents the
Roads from passing over between
posting yet - the Landscape.

one Track has been made - & the Land
with be sports - shd have been left to
Inmates to attempt Boundary this
determination - which must necessarily
take place - by leaving Lines England
Regularly traced into the Land -

H

W. Y.

W. Sidney

S.W.D.

No. 562

Extract from the Minutes of Consultation
Under date the 27th. March 1857

Read the following
Letter from the Collector
of Chingleput

(Hereunder 23d. Inclt. 57 No. 8)

With his Proceed-
ings of the 18th. Decr.
last. No. 8990, the Chief
Engineer submitted
a letter from the Dis-
trict Engineer of
Chingleput, with its
enclosures from Capt.
Cain Heathcote, 2d
Assistant Civil Engi-
neer, Trincomalee &c. &c.

certain encroachments on the Southern Trunk road in the Karangooly Talook, and specifying instances in which Avenue trees had been destroyed or stolen.

A copy of the Chief Engineer's Proceedings was forwarded to the Collector of Chingleput and a report called for as to the notices that had been taken of the particular cases of trespass and theft specified by Captain Heathorn; and that report the Collector submits in his letter above recorded.

The Right Honorable the Governor in Council considers the explanation furnished by the Collector, as to the measures adopted by him in reference to the particular instances of trespasses and theft brought to notice by Captain Heathorn, to be generally satisfactory; but he is of opinion that the fines imposed on the offenders, in those cases in which convictions had been clearly established, were evidently too light. It is observed however that Mr. Thurnbrick has instructed the Tahsildar of Carangooly "to fine to the limit of his powers in every well established case"; and it is to be

hoped that this measure will effectually put a stop to such offences for the future.

3 In para 2 of his letter, the Collector observes that "a general impression seems to pervade the Road Department, that their Rules defining the limits of roads are a sufficient warrant for meddling them with power over the lands and houses lying within them, and that no other rights need to be considered." He then quotes a case in illustration of his remark, and states that he only refers to it now, "to show that the necessity of purchasing land before interfering with its owners, is not so much thought of by the Road Dept^t, as the rule which lays down the width of a road." He also mentions that compensation does not appear to have been paid in all cases in the Carrangoly and Madarantacunnu villages, and that in all other villages, the lands have been taken for the road without purchase.

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be called to para 5
Ex: Mins: of Cons: in
the Rev: Deptt dated
13th July 1855 No 847,
(copy of which was com-
municated to the
late Board of Pub:
Works) in which the
Govt: strongly disap-
proved the taking
of land for publics

Govt

purposes, without the
permission of the owner
and without any com-
pensation; and Col:
Faber will require
all officers under his
control, strictly to
conform to the course
there enjoined for the
requisition of lands
for public Works.

5 The Governor in
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J R

Copies to the Chief Engr. with P.2 of the letter
Chief's letter
Copy of Chief's letter

Public Works 1857 Depᵗᵒ
Dᵗᵒ to Cons 31ˢᵗ March

No 562.

Extract Minute of Cons
Dᵗᵒ 27ᵗʰ March 57.
Read the Chief Engʳˢ Lᵗᵉʳ of 27ᵗʰ Inst
Ord 400 Cubic Yds Mason
from Chief Engʳˢ Dᵗᵒ 22ⁿᵈ Apl 57
C. No 808 inclg Dᵗᵒ Dᵗᵒ

Extract from the Proceedings of
Engineers Dᵗᵒ 5ᵗʰ C. No 1708 inclg 28ᵗʰ July
Extract from Dᵗᵒ Dᵗᵒ 6ᵗʰ Dec 57 C. No 2419
inclg 8ᵗʰ Jan 58

Observing that the measures adopted by Mr Shubrick relative to Captain Heathorn's complaint as to the obstruction of Avenues in the Southern Trunk Road, to be generally satisfactory, but that the fines imposed on the offenders are evidently far too light.

No 2142.