Proceedings of the Madras Government, Revenue Department,
21st November 1871.

No. 211. Read the following endorsement of the Secretary to the Government of India, Department of Agriculture, Revenue, and Commerce, (Forests), No. 604:—

Read the following letter from the Secretary to the Government of India, Department of Agriculture, Revenue, and Commerce, (Forests,) to the Chief Commissioner of British Burmah, dated Simla, 11th November 1871, No. 603.

I AM directed to acknowledge the receipt of your memorandum No. 499—60 of 9th October 1871, forwarding copy of a letter from the Conservator of Forests in reply to a communication from the Government of India, inquiring if Mr. Hume, one of the trained Assistant Conservators who were sent out to India by the Secretary of State in 1869, had yet passed in the vernacular, in which the Conservator states that the same facilities for passing in the vernacular have been afforded Mr. Hume as to the other officers of the department.

2. In reply, I am directed to express the regret of His Excellency the Governor-General that no special attention has been bestowed by the Conservator on Mr. Hume's training. It was for the purpose of completing his education, with a view to his becoming a specially useful Forest Officer, that Mr. Hume, like the other trained Assistants, was placed under Captain Seaton's care, as being a steady officer of experience on whom the Government of India might rely; and it was his duty, as it is that of all Conservators of Forests to whom the care of these young men is entrusted, to remember that they have been allowed to remain as supernumeraries on the establishment to enable the training, which, as regards its special character, has been commenced at considerable expense to Government in Europe, to be completed in regard to instruction in the language and other points of a local nature by the senior officers of the Forest Department in this country; and until this is done, it is not fair, either to the Government or to the young men themselves, to employ them on works where they have no means or opportunity of obtaining instruction in the languages.

COPY of the above forwarded to the Govenment of Madras for the information and guidance of Conservators.

(Signed) J. GEOGHEGAN,
For Secy. to the Govt. of India.

No. 212. ORDER THEREON, 21st November 1871, No. 1,981.

Forests, No. 6.

COMMUNICATED to the Conservator of Forests.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Conservator of Forests.

Exd. F. R. Bantleman.

1871.

Department of Agriculture, Revenue, and Commerce.

[Forests.]

To Chief Commr. of British Burmah and Local Governments and Administrations.

No.

Dated 11th Nov.

Received 18. 11. 71.

EXPRESSING regret that Mr. Hume, an Assistant Conservator of Forests, who was sent out to India in 1869, has not passed his examination in the vernacular, and making general observations as to the course which should be adopted to enable such officers to pass within a reasonable period.

Proceedings of the Madras Government, Revenue Department, 21st November 1871.

No. 213. Read the following endorsement of the Officiating Joint Secretary to Government, Public Works Department, dated 10th October 1871 :—

Read the following letter from the Acting Consulting Engineer for Railways, to the Secretary to Government, Public Works Department, dated Madras, 4th October 1871, No. 431.

I HAVE the honour to forward, for the consideration of Government, a letter* received from the Agent and Traffic Manager of the Great Southern of India Railway, in which he requests to be informed whether, in the event of a Revenue-officer deciding in favour of closing an existing pathway, an action would lie against the Railway Company.

* No. 4,197, dated 20th September 1871.

2. As the question is one likely to be raised in connection with the location of the extensions now under consideration, I would suggest that the opinion of the Advocate-General be sought on the subject.

ENCLOSURE No. 1.

From the Agent, Great Southern of India Railway, to the Acting Consulting Engineer for Railways, Madras, dated Negapatam, 20th September 1871, No. 4,197.

I SHALL feel obliged by your informing me whether the officers of Government have any legal power to close a public road or pathway, and, if so, by your naming the number and date of the Act.

2. The plans for the formation of this railway received the sanction of Government, and the position of the road-crossings allowed to the public having been decided by officers in the Revenue Department, the line was so constructed.

3. At one point of the line three pathways within one mile were merged into one road-crossing, and the Company has now been sued in a District Moonsiff's Court by certain villagers for damages alleged to have been sustained by the loss of these rights of way.

REFERRED for the opinion of the Advocate-General on the question raised by the Agent of the Great Southern of India Railway.

(Signed) R. F. OAKES, Captain, R.E.,
Offg. Joint Secy. to Govt., P.W.D.

No. 214. From the Government Solicitor, to the Secretary to Government, Public Works Department, dated Madras, 13th October 1871, No. 396.

I HAVE the honour to inform you that the Advocate-General has placed in my hands the papers forwarded to him for opinion, with reference to the question as to whether, in the event of a Revenue-officer deciding in favour of closing an existing pathway, an action would lie against the Railway Company, with a request that before advising on the point he may be informed under what authority the officers in the Revenue Department pass orders closing public roads or pathways.

Proceedings of the Madras Government, Revenue Department,
21st November 1871.

No. 215. From the Government Solicitor, to the Secretary to Government, Public Works Department, dated Madras, 26th October 1871, No. 414.

I HAVE the honour to acknowledge the receipt of your memorandum dated 24th instant, No. 162, and, in reply, to inform you that the papers now before the Advocate-General are two letters, one from the Agent of the Great Southern of India Railway, to the Acting Consulting Engineer for Railways, dated 20th September 1871, and the other from the Acting Consulting Engineer for Railways to you, dated 4th October 1871, No. 431, and I herewith forward the two letters for reference, which please return.

REFERRED to the Revenue Department, with reference to the inquiry contained in the letter of the Government Solicitor, No. 396, dated 13th October 1871.

(Signed) R. F. OAKES, Captain, R.E.,
Offg. Joint Secy. to Govt., P.W.D.

30th October 1871.

No. 216. ORDER THEREON, 21st November 1871, No. 1,982.

Miscellaneous.

THE Government Solicitor, on the part of the Advocate-General, requests to be informed under what authority the officers in the Revenue Department pass orders closing public roads or pathways. To this it must be replied that the Government are not aware that their Revenue-officers possess or claim to exercise any such general powers.

2. It is, however, observed that the circumstance leading to this reference is the fact of a suit having been instituted against the Great Southern of India Railway by certain villagers in a District Moonsiff's Court, seeking compensation for damages alleged to have been sustained by the substitution of one road-crossing in laying out the line of rail for three pre-existing pathways which intersected the line within a distance of one mile, the Government having before construction approved and sanctioned the plans for the formation of the railway, and the position of the road-crossings allowed to the public having been decided by officers in the Revenue Department.

3. It is suggested, for the consideration of the Law Officers, whether in this matter the provisions of Act XXII. of 1863 did not vest Government and their officers with power, and bar the jurisdiction of the Courts at the time the railway in question was under construction.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Public Works Department.
" the Government Solicitor.
" the Board of Revenue.

Ed. F. R. Bantleman.

No. 414-

Madras 26th October 1871.-

From
H. G. Prichard,
Government Solicitor
Madras

To
Colonel J. Carpendale, R.E.
Secretary to Government P. W. D.
Fort St. George.-

Sir,

I have the honor to acknowledge the receipt of your memorandum dated 24th instant, No. 162 and in reply to inform you that the papers now before the Advocate General are 2 letters one from the Agent of the Great Southern of India Railway to the acting Consulting Engineer for Railways dated 20th September 1871. and the other from the acting Consulting Engineer for Railways to you dated 4th October 1871, No. 431- and I herewith forward the 2 letters for reference, which please return.-

I have the honor to be
Sir
Your most Obedient Servant

H. G. Prichard
Government Solicitor-

Revenue Department

No. 1982

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 21st hour 30 1871.

Read the following endorsement of the Offg. Joint Secretary to Government P.W.D.

Referring papers from Government Solicitor — wishing to know under what authority the Officers in the Revenue Department pass orders closing public Roads and pathways. — (Here enter 30 October 1871.)

The Government Solicitor on the part of the Advocate General requests to be informed under what authority the Officers in the Revenue Department pass orders closing public roads ~~xxx~~ pathways. To this it must be replied that the Government are not aware that their Revenue Officers possess or claim to exercise any such general powers.

J. D. S.

M

Referred to the Revenue Department with reference to the enquiry contained in the letter of the Govt. Solicitor No. 396 dated 13th October 1871.

30th October 1871.

L. F. Dashe Capt. R.E. Offg. Joint Secy to Govt P.W.D.

Rev. Dept. Sr. No. 1982

Rec'd. Revenue Dept. 1871. Dec. 1

Transy. Rs. 3623 Fy. 1871-72

The Government Solicitor

Requests to be informed under what authority the Officers in the Revenue Department pass orders closing public Roads and pathways.

Dated 30th October 1871

Read 31st October 1871

Ordered

Enclosures No. 3 Copy

Forwards 2 Letters on the subject of the Advocate General's application for information as to the authority under which the Revenue Officers close public roads and pathways.

Rec'd 1982-81 Accounts 1871

No. 2159

Rec'd 1st Nov. 1871

Rep. 1st Nov. 1871

It is however observed that the circumstance leading to this reference is the fact of a suit having been instituted against the G. S. of I. Railway by certain villagers in a District Munsiff's Court, seeking compensation for damages alleged to have been sustained by the substitution of one road-crossing in laying out the line of rail for three pre-existing pathways which intersected the line within a distance of one mile, the Government having before construction approved and sanctioned the plans for the formation of the Railway, and the position of the road-crossings allowed to the public having been decided by officers in the Revenue Department.

It appears that

Government

I am directed to request that in the matter the provisions of Act 22 of 1863, which vest the Government and their Officers with power and bar the jurisdiction of the Courts at the time the Railway in question was under construction.

21 To the Public Works Dept Dec 22 1871
4 " the Pay Department
14 " the Board of Revenue

Govt. of [1871] Orissa.

To REVENUE.

THE PUBLIC WORKS DEPARTMENT,

&c., &c., &c.

Dated November 21st.

Recd.

No.

G. O., 21st November 1871, No. 1,982.

NOVEMBER.
Nos. 213—216.

213—216

Closing of public roads and pathways by officers in the Revenue Department.—Letter from Government Solicitor wishing to know under what authority such powers are exercised, with observations thereon.