M.R.O. 1—39,000—16-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT

G.O. No. 1709 Press ~~Mis.~~

19-21

Dated 23-12-~~19~~21

Not to be folded or roughly handled

Read the following papers :—

No. 19. From Major W. J. WILSON, Acting Commissioner of Police; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 19th November 1859, No. 152.

1. On the 23rd May 1857, I brought to the notice of Government a case in which the Railway officials, owing to a wrong construction of Act XVIII of 1854, thought themselves justified in apprehending a Brahmin at Amoor in the District of Arcot for a trivial offence, and in bringing him to Madras for trial.

2. It was then ruled by Government that the Railway authorities were not warranted in so acting, and the proper course to be pursued was pointed out in an Order dated 3rd June 1857, No. 648, Judicial Department.

3. Since that time it has nevertheless been attempted on several occasions to induce the Magistrates in Madras to take up cases of offences committed beyond their jurisdiction, and this line of conduct is still persisted in although it can lead to no useful result.

4. On or about the 12th instant, it came to the knowledge of the Railway authorities that the Station Master of Companypet was strongly suspected of having stolen two bags of paddy which had been entrusted to him for the purpose of being forwarded to Madras per train on account of a certain merchant.

5. Upon this the Station Master and witnesses were brought down to Madras by the Railway officials and on the 15th instant taken before T. Ramachendra Row the Deputy Commissioner of Police, who at first objected to enter into the matter as being out of his province, but on being much pressed, he took down the information of the complainant, and subsequently released the defendant on bail, informing the complainant at the same time that his proper course was to lay an information before the Magistrate within whose jurisdiction the offence had been committed.

6. I am informed by the Deputy Commissioner that the complainant requested him to send the defendant before the Magistrate of the Town Police Court for trial on the grounds that a prosecution in the Mofussil involved much delay and expense.

7. It is perfectly clear from the Act that the jurisdiction of a Justice of the Peace in Madras over offences committed in the Mofussil is confined to those punishable by fine, and even in such cases it could never have been intended to give the Railway authorities power to carry up-country offenders to the Presidency Towns at their pleasure. Indeed, the contrary has been ruled by Government in their Order quoted above.

8. The Commissioner of Police would not hesitate to apprehend any person accused of having committed felony in the Mofussil and who had escaped to Madras, but this is a very different thing from sending for the accused to Madras, and then taking him before the Commissioner.

9. I have the honor to request that Government will be pleased to issue such Orders as may prevent the recurrence of such a proceeding as that in question.

Referred to the Consulting Engineer for report.

FORT SAINT GEORGE, *23rd November* 1859.

(Signed) T. PYCROFT,
Chief Secretary.

No. 20. From Captain C. C. JOHNSTON, Consulting Engineer for Railways; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 12th December 1859, No. 297.

Railway Department.

On receiving the Order of Government dated 23rd November 1859, on a letter No. 152, of the 19th idem, from the Acting Commissioner of Police, I requested the Agent to inform me

of the circumstances which led to the Station Master at Companypett being brought to the Presidency for trial, when he could have been tried by the authorities of Arcot, in which District Companypett is situated.

2. I have now the honor to submit the Agent's reply, with a report from his Traffic Manager affording the required information.

3. The Acting Commissioner, it will be observed, does not state the specific instances in which the Railway Officers have attempted, since the 23rd May 1857 to induce the Magistrates at the Presidency to take up cases of offences committed beyond their jurisdiction, and Mr. Acworth is therefore at a loss to know what cases are referred to.

4. Mr. Acworth can only recall two such cases as having occurred since his arrival at Madras in December 1857, and the Traffic Manager states that these are the only two.

5. Both were cases of assault by European gentlemen upon servants of the Railway Company, and occurred, Mr. Acworth thinks, about a year ago, one at Goriattum and the other at Vellore; and he considers that the assistance which the Railway Act justified the Officers of the Company in expecting, was not rendered to them by Major Wilson.

6. In the cases referred to, though the Natives who were assaulted might have prosecuted in the ordinary course of Law, or the offenders have been fined under the Railway Act to the extent of Rupees 50; Mr. Acworth considered it an obligation on his part to show the Native servants, that they would be protected in the discharge of their duty, and acting by the advice of Counsel, he applied to Major Wilson for summonses against the offenders, who were living in Madras.

7. Section 30 of the Railway Act certainly provides for such cases, and though Major Wilson it appears refused to grant summonses; another Justice of the Peace granted them, and fined the offenders.

8. In the case of the Station Master at Companypett, it is stated that he was brought to Madras, not for the purpose of being prosecuted here on the charge of having stolen two bags of paddy, but in the course of an investigation, which occupied at intervals about a week, into another charge; that of receiving a small sum of money from the consigner of a parcel of goods; and there being reason to suppose that he was guilty of the crime, he was, Mr. Acworth observes, "as a consequence given into the custody of the Police."

9. The crime in question was properly punishable under the ordinary law as stated by Mr. Acworth, nor does it appear from Major Wilson's letter that he considered it as coming under the provisions of the Railway Act.

10. In the cases of assault by the European gentlemen there was evidently a difference of opinion between the Justices of the Peace at Madras as to how they should be disposed of; and in the case of the Station Master at Companypett, the course which was pursued by the Railway Officers was advised by the Solicitors of the Company, and taken exception to by Major Wilson.

11. As a doubtful point is instanced, the case of Engine driver Garvey who was committed by Major Wilson a few months ago to the Supreme Court for trial, and sentenced to six months' imprisonment with hard labor; the question being, would Major Wilson have committed the man had the acts of intoxication charged against him "being confined entirely to the Mofus-"sil, instead of taking place partly there and partly in Madras?" I conclude that such acts would come under the provision of Section 30 of the Railway Act, and be disposed of accordingly by any Justice of the Peace at the Presidency.

12. It also appears to me that Section 30, which is quoted in paragraph 10 of Mr. Acworth's letter, fully justifies the course pursued by the Railway Officers in the cases of assault by the European gentlemen, but not in the case of the Station Master.

13. It will be seen from the Traffic Manager's report, in which the details of the Station Master's case are given, that he acted entirely by the advice of the Company's Solicitors Messrs. Boyson and Miller.

Proceedings of the Madras Government, Judicial Department, for the month of December 1859.

No. 21. ORDER THEREON, 23rd December 1859, No. 1709.

The Government see no reason to take exception to the proceedings of the Railway Company in the case referred to in the Consulting Engineer's communication.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial.

Proceedings of the Madras Govt.

Read the following letters—

From the Acting Commissioner of Police — Enter 19th Novemr. 1859 No. 152.

" the Consulting Engr. for Railways — 12th Decr. 1859 No. 297.

Order — 23d December 1859. No 1709.

The Govt. see no reason to take exception to the proceedings of the Railway Company in the case referred to in the Consulting Engineer's communication.

The Commissioner of Police —
" Consulting Engineer for Railways — with Encls: ret.

desp 24 Decr