

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	459	Press
		<u>Mis.</u>
Dated	28 3	19 18.66

227-234

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
28th March 1866.*

Read again the Proceedings of Government in the Public Works Department, dated 25th October 1865, No. 3201.

Read also the following papers :—

No. 227. From the Inspector General of Police, to the Chief Secretary to Government, Fort Saint George ; dated Madras, 2nd March 1866, No. 347.

I venture to suggest the following alterations in the Draft India Railway Bill :—

SECTION 22.—For “Police Station” put “Village pound.” There are no Pounds at Police stations nor Pound-keepers. Police Stations are generally so distant—10 and 15 miles apart—that strays cannot be driven to them. There is a Pound (or Pound may be placed) in every village of which the Pottail is the Pound-keeper. There the owners can more readily redeem their cattle than if they are driven to a distant Police Station.

SECTION 56.—There should be a penalty for unnecessary delay in producing a person arrested without warrant before a Magistrate, say within 24 hours.

SECTION 71.—Heads of District Police have no Judicial powers. There are no such Officers as Police Ameens. The words should be Subordinate Magistrates of 1st and 2nd Classes.

No. 228. From the Magistrate of Trichinopoly, to the Chief Secretary to Government, Fort Saint George ; dated Trichinopoly, 27th November 1865, No. 49.

I do myself the honor to report that I have carefully perused the correspondence forwarded to me with Government Order Judicial Department, No. 1567, dated the 2nd of November, relating to the proposed Bill to amend Act XVIII of 1854.

2. There are but seven or eight miles of open line within the limits of this District, so I have had but little practical experience in the working of the Railway Act. I think, however, that, for the ends of Justice and the safety of the Public, the suggested amendments are called for.

3. I consider the proposition to introduce a Clause in the Act, giving Railway Companies power to enact Bye-laws and Regulations, under certain restrictions, might be most advantageously adopted.

4. Farther than this, I have no observations to make.

No. 229. From the Collector of Tanjore, to the Chief Secretary to Government, Fort Saint George ; dated Vallam, 16th November 1865, No. 1288.

With reference to the Order in the Judicial Department, dated 2nd November 1865, No. 1567, I have the honor to state that I have no remarks to make on the suggestions in regard to the proposed Draft Bill to amend Act XVIII of 1854.

No. 230. From the Magistrate of Kurnool, to the Secretary to Government, Fort Saint George ; dated Kurnool, 27th November 1865, No. 45.

With reference to Government Order, dated 2nd November 1865, No. 1567, referring, for observations, certain papers on the proposed Draft Bill for amending Act XVIII of 1854, relating to Railways in India, I have the honor to state that the construction of the Railway has not as yet commenced in this District, and I have, therefore, had no personal experience of the working of the Railway Act.

*Proceedings of the Madras Government, Judicial Department,
2nd March 1866.*

2. I am aware, however, from observation elsewhere, that unfinished portions of the line open for conveyance of Railway materials, and, by the politeness of the Railway Officials, made frequently available for travellers, are not worked with the caution exhibited on the portions of the line open to the Public; and the proposition of the Madras Government that such portions of the line should be brought under the provisions of the Act appears to me a most necessary measure.

No. 231. From the Magistrate of Malabar, to the Chief Secretary to Government, Fort Saint George; dated Vytry, 27th November 1866, No. 149.

Adverting to the Order of Government, Judicial Department, dated 2nd instant, No. 1567, I have the honor to remark that I have no special observations to offer with regard to their proposed Railway Law Amendment Bill.

No. 232. From the Magistrate of Coimbatore, to the Secretary to Government, Fort Saint George; dated Coimbatore, 14th November 1865, No. 136.

In reply to the Order of Government, Judicial Department, dated 2nd November 1865, No. 1567, I beg to inform you that all material points in regard to the Draft Bill to amend Railway Act XVIII of 1854 having already been touched on in the Proceedings which accompany the order under reply, I have no further suggestions to offer on the subject.

No. 233. From the Magistrate of Salem, to the Chief Secretary to Government, Fort Saint George; dated Salem, 6th January 1866, No. 1.

I have the honor to acknowledge receipt of Government Order, dated 2nd November 1865, No. 1567, forwarding copies of Proceedings and of Order, under date 16th September, No. 2726, to the Magistrate of each District through which the Madras and Great Southern India Railways pass, for any observations they may have to make in regard to the proposed Draft Bill to amend Act XVIII of 1854.

2. There are two points on which I have a few observations to offer.

3. The first point is the bad and dangerous state in which tunnels under the Railway are frequently left. These tunnels are very often the only means of access the villagers have to their fields, and, from the depth of the bottom (or flooring) of these tunnels being below the level of the adjoining ground, water to the depth of several feet is pretty constantly to be found in them, and thus the passage becomes dangerous especially for children.

4. Most of these tunnels have originally been intended for the passage of water only, but from many of their foot-paths having been closed, the Ryots are compelled to use them as path-ways; and where tunnels are used in this way, I think the Railway Company ought to be compelled to keep them in a safe state. The cost would be very trifling, and the convenience to the public very great.

5. The second point I wish to remark on is the unsatisfactory way in which level crossings near villages are managed.

6. A short time ago I applied to the Manager of the Madras Railway to have double gates put up at a level crossing at the village of Katoopoothoor; but he declined, chiefly on the ground of expense.

*Proceedings of the Madras Government, Judicial Department,
23th March 1866.*

7. There have been frequent disputes between these Villagers and the Railway employes which have chiefly arisen from several of their foot-paths having been stopped up, the bad state of the tunnels, and, also, from the straying of cattle on to the Railway, in consequence of their being no gates to shut across the line when cattle are passing.

8. I think it ought to be made compulsory on the Railway Company to have double gates and a gate-keeper at every level crossing, especially when in the close vicinity of a considerable village.

9. In Section 19 of the present Railway Act, the term *carriage road* is used now at many of the level crossings were large numbers of cattle cross at least twice a day. There are no carriages of any kind used, and these roads cannot therefore be called carriage roads; but, as I pointed out in a letter to Mr. Elwin, there is more need of precautionary measures where large droves of cattle are constantly crossing than when bandies or other carriages cross, the former being much more apt to stray on the line than the latter.

10. It is of the utmost importance that no cause of irritation and ill-feeling between the Villagers and the Railway employes should exist, and if the above suggestions are acted on, I think two of the chief sources will be at once removed.

No. 234. ORDER THEREON, 28th March 1866, No. 459.

Resolved that the foregoing papers be communicated to the Public Works Department, with reference to the Proceedings in that Department, dated 25th October last, No. 3261.

2. The following are the only points on which the Railway bill appears to call for remark in the Judicial Department:—

The Governor in Council thinks that the definition of the term Magistrate as used in this Act is open to exception. There is no such Officer provided for in the Code of Criminal Procedure as a Magistrate of the 1st Class. The following definition seems preferable:—"Magistrate includes any person invested with the powers of a Magistrate, as defined in Section 16 of the Code of Criminal Procedure or a Justice of the Peace." It also includes "a Magistrate of Police in the Presidency Towns of Calcutta, Madras, and Bombay." The definition of a conviction seems unnecessary and wanting in clearness:—the Governor in Council would omit it.

In Section 22 the words "Village Pound" should be substituted for "Police Station," as there are no Pounds attached to Police Stations in this Presidency.

SECTION 33.—The words "or both" after the words "across the Railway," towards the end of this Section, would meet the suggestion made by the Magistrate of Salem in the 8th paragraph of his letter, which is deserving of consideration.

SECTION 56.—A penalty should be provided for unnecessary delay in producing a person arrested without warrant before a Magistrate beyond 24 hours.

SECTION 57.—The words "to the Officer in charge of" should be inserted in this Section before the words "Police Station."

SECTION 58.—The words "a servant" should be inserted after "Officer" in the first line of this Section.

Proceedings of the Madras Government, Judicial Department,
28th March 1866.

SECTION 68.—The Governor in Council sees no necessity for the insertion of this Section. The cases to be dealt with under the Act are not likely to be numerous, and there is no apparent reason why each case should not be tried by the Magistrate before whom it is brought, provided the amended definition of the term Magistrate proposed in these Proceedings be adopted. The Governor in Council would add that the expression "powers of a Covenanted Assistant" has no meaning; for the powers of these Officers vary at the discretion of the local Government.

"Joint Magistrate, or persons lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate."

SECTION 70.—The words entered in the margin may be omitted from this Section.

SECTION 71.—"Heads of District Police" have no judicial powers, and there are no longer such Officers as "Police Ameens" in this Presidency. Should it be thought necessary to retain this Section, the class of Police Officers referred to in the Bill would be represented by the words "Subordinate Magistrate of the 2nd Class"; but adverted to the definition of the term Magistrate now proposed; the Section might, in the opinion of the Governor in Council, be omitted.

3. With reference to the suggestion made by the Magistrate of Salem in the 4th paragraph of his letter, the Governor in Council does not perceive how the preservation of the tunnels in the manner proposed can be provided for in the Act. The tunnels are not intended to be used as foot-paths, and, in the monsoon, it would often be impossible to keep them dry.

(True Extract).

Chief Secretary.

To the Public Works Department.

Ed. J. H. Burns.

N^o 347

Chief Officer of the Inspector of Police
Madras 28 March 1866

From

H. Robinson Esq
Inspector General of Police

To,

The Hon. A. J. Appathnot
Chief Secretary to Government
Fort Saint George.

Sir,

I venture to suggest the following alterations in the Draft India Railway Bill.

1 Section 22 for "Police Station" put in "Village Panch". There are no Panchs at Police Stations nor Panch keepers. Police Stations are generally so distant 10 and 15 Miles apart that persons cannot be driven to them. There is a Panch (or Panch may be placed) in every village of which the Panch is the Panch keeper. There the persons can more readily redress their cattle than if they are driven to a distant Police Station.

2 Section 56. There should be a penalty for unnecessary delay in producing a person arrested without warrant before a Magistrate pay within 24 hours.

3 Section 71. Heads of District Police have no judicial powers. There are no such officers as Police Ameens. The words should be "

Subordinate Magistrates of 1st and 2^d classes. *Yrs.*

I have the honor to be

Sir,

Your most obedient servant

H. W. M. S.

Inspector General of Police.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read again the Proceedings of Government in the Public Works Department dated 25th Octr 1865 N^o 3201.

Read also the following

Papers:

From the Inspector General of Police Here entered 2nd March 1866 N^o 347.
" Magistrate of Trichinopoly " 27th Novr 1865 N^o 49
" " of Tanjore " 16th " 1865 N^o 1200
" " of Kurnool " 27th " 1865 N^o 45
" " of Malabar " 27th " 1865 N^o 149
" " of Coimbatore " 14th " 1865 N^o 136
" " of Salem " 6th Janr 1866 " 1

Order thereon 28th March 1866 N^o 459.

1 Resolved that the foregoing Papers be communicated to the Public Works Department, with reference to the Proceedings in that Department, dated 25th Octr last N^o 3201.

2 The following are the only points on which the Railway Bill appears to call for remark in the Judicial Department.

The

25th Novr 1865 N^o 347-117.
" 27th Novr 1865 N^o 49-32
" 16th Decr 1865 N^o 1200-372
" 27th Decr 1865 N^o 45-619
" 27th Decr 1865 N^o 149-28
" 14th Janr 1866 N^o 136-30
" 6th Janr 1866 N^o 1-155
" 25th Octr 1865 N^o 3201-273.
" 25th Octr 1865 N^o 3201-274
" 25th Octr 1865 N^o 3201-275
" 25th Octr 1865 N^o 3201-276
" 25th Octr 1865 N^o 3201-277
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" 25th Octr 1865 N^o 3201-299
" 25th Octr 1865 N^o 3201-300

Judicial 1866 N^o 347

From the Inspector General of Police
" Magistrate of Trichinopoly
" " of Tanjore
" " of Kurnool
" " of Malabar
" " of Coimbatore
" " of Salem

Order thereon 28th March 1866 N^o 459.

Resolved that the foregoing Papers be communicated to the Public Works Department, with reference to the Proceedings in that Department, dated 25th Octr last N^o 3201.

3 The Governor in Council thinks that the definition of the term Magistrate as used in this Act is open to exception. There is no such Officer provided for in the Code of Criminal Procedure as a Magistrate of the 1st Clap. The following definition seems preferable. "Magistrate includes any person invested with the powers of a Magistrate as defined in Section 17 of the Code of Criminal Procedure or a Justice of the Peace. It also includes a Magistrate of Police in the Presidency Towns of Calcutta Madras and Bombay. The definition of a conviction seems unnecessary and wanting in clearness - the Governor in Council would omit it.

In Section 22 the words "Village Pund" should be substituted for "Police Station" as there are no Punds attached to Police Stations in this Presidency.

Section 33. The words "or both" after the words "across the Railway" towards the end of this Section would meet the

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the suggestion made by the Magistrate of Salem in the 5th para of his letter, which is deserving of consideration.

Section 56. A penalty should be provided for unnecessary delay in producing a person arrested without Warrant, before a Magistrate beyond 24 hours.

Section 57. The words "to the officer in charge of" should be inserted in this Section before the words "Police Station".

Section 58. The words "or servant" should be inserted after "Officer" in the first line of this Section.

Section 60. The Governor in Council sees no necessity for the insertion of this Section. The cases to be dealt with under the Act are not likely to be numerous, and there is no apparent reason why each case should not be tried by the Magistrate before whom it is brought, provided the amended definition of the term Magistrate proposed in these proceedings be adopted. The Governor in Council would add that the expression "powers of a Covenanted Assistant" has no meaning for

for the power of these Officers vary at the discretion of the local Government.

Section 40. The words entered in the margin may be omitted from this Section.

Section 41. Heads of District Police "have no judicial powers and there are no longer such officers as 'Police Amcans' in this Presidency. The words 'Subordinate Magistrate of the 1st and 2nd Classes' should be substituted."

With reference to the suggestion made by the Magistrate of Salem in the 4th para of his letter, the Governor in Council does not perceive how the preservation of the tunnels in the manner proposed can be provided for in the Act. The tunnels are not intended to be used as foot paths and, in the monsoon, it would often be impossible to keep them clear.

"Joint Magistrate, or persons lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate"

Should it be thought necessary to retain this Section the class of Police officers referred to in the Bill, would be represented by the words 'subordinate magistrate of the 2nd class', but advertising to the definition of the term magistrate now proposed the Section might in the opinion of the Governor in Council be omitted.

To the P.W. Dept. desd 5/4

Proceedings of the Madras Govt.

Read again the Proceedings of Govt. in the Public Works Dept. dated 25th October/65 N° 3201.

Read also the following Papers.

From the Inspector of P & R 2nd March/66
" Master of Trichinopoly 27th Nov/66
" " Tanjore
" " Kurnool
" " Malabar
" " Coimbatore

Resolved that the foregoing Papers be communicated to the P.W. Department with reference to the Proclamation of that Department dated 25th October last N° 3201.

After the very

full consideration of
the proposed Railway
Bill has already received,
very few remarks on
its provisions are
called for.

The following
verbal alterations &
additions, however, wh.
have been suggested
are worthy of notice.

In Sec 22, the
words "Village Pounds"
should be substituted
for "Police Station", as there
are no Pounds attached
to Police Stations in this
Presidency.

Sec 33. The words
"or by the" after the words
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The following are
the only points
on which remarks
have been made on the
Railway Bill
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be made in the
individual report
A & P

is drawing of
human nature

In 57 the words
"the officers in charge of"
should be inserted
in the words "Police
Station".

B & B

the Magistrate of
Salem in the 8th para
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Sec 71. "Heads of
District Police" have
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"Police Amins" in this
Presidency. The words
"Subordinate Magistrate
of the 1st & 2nd Classes"
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With reference
to the suggestion made
by the Magistrate of Salem
in the 4th para of his
letter, the Governor

Judicial 1866. Department.

No. 459.

PROCEEDINGS OF GOVERNMENT.

St. A. 872-1386-

Dated 28 March 1866.

Press No. 2755, G. M. - 14, 11, 65 - 500.

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C 26 March
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