

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

335-336	G.O. No. 1393	Press
		~~Mis.~~
	Dated 28-8-1918	4/5

Not to be folded or roughly handled

1393

*Proceedings of the Madras Government, Judicial Department,
28th August 1867.*

No. 335. Read the following Proceedings of Government, Public Works Department.

Read the following papers:—

Endorsement of the Consulting Engineer for Railways, dated Madras, 8th August 1867, No. 223.

From the Agent and Manager of the Madras Railway Company, to the Consulting Engineer for Railways; dated Madras, 7th August 1867, No. 271.

Adverting to the conversation at the Stores Committee yesterday, I have the

• No. 211, 1st August.

honor to annex copy of a communication* from the Traffic Manager, and shall

feel obliged by your obtaining the opinion of the Advocate General as to the correctness of Mr. Wilkinson's views, viz., that a man charged with "abetting," an offence punishable under the Railway Act, cannot be committed under the Penal Code.

From the Traffic Manager, to the Agent and Manager, dated Madras, 1st August 1867, No. 211.

On the 10th June last, a man called "Mulliah," temporarily employed in the Telegraph Department, was prosecuted under the Railway Act, and was fined 30 Rupees for travelling between Bangalore and Arcot on a free ticket issued to one Nungoondappah, employed as a wire-drawer in the same department.

2. Subsequently we obtained a summons against Nungoondappah, and put him up before the Magistrate under Section 108 of the Penal Code, for "aiding and abetting," but Mr. Wilkinson, the Head Assistant Magistrate of North Arcot, was of opinion that a man charged with "abetting," an offence committed under the Railway Act, could not be tried under the Penal Code.

3. Will you kindly bring this matter to the notice of Government.

Submitted for the consideration of Government.

2. The Agent and Manager quotes, as the opinion of the Head Assistant Magistrate of North Arcot, "that a man charged with 'abetting,' an offence committed under the Railway Act, could not be tried under the Penal Code." I have also been informed verbally that the Assistant Magistrate recommended the Railway authorities to report the failure of the charge against Nungoondappah.

3. Should Mr. Wilkinson's views have been rightly interpreted, the subject would appear to be worthy of the attention of Government.

(Signed) J. C. ANDERSON, Lieut-Colonel, R. E.,
Consulting Engineer for Railways.

Referred to the Government Solicitor, for the opinion of the Advocate General.

(Signed) J. H. M. SHAW STEWART, Major, R. E.,

9th August 1867.

Under Secretary to Government.

From the Acting Government Solicitor, to the Under Secretary to Government, Department Public Works; dated Madras, 12th August 1867, No. 550.

I have the honor to acknowledge the Order of Government noted in the margin, with its enclosures, requesting the

Dated 9th August 1867, and made on Memorandum from the Consulting Engineer for Railways, to Government, of the 8th idem, No. 223.

Advocate General's opinion as to the

"legality of trying, under the Penal Code, a charge of "abetting," an offence punishable under the Railway Act.

*Proceedings of the Madras Government Judicial Department,
28th August 1867.*

2. I have submitted the matter for the consideration of the Acting Advocate General, and

3. I now forward a copy of his opinion, and also return the order and enclosures above noted.

OPINION.

Mr. Wilkinson is quite right. It has been expressly decided in Bengal that the offence of abetment under the Penal Code cannot be committed in respect of offences punishable under a special or local law. (3, Revenue, Civil, and Criminal Report, Criminal Rulings 31, 33). It may be that this is one of the cases not punishable under the Penal Code, and therefore in respect of which an indictment might be maintained under the old criminal law, for being an accessory before the fact to a criminal offence. But I by no means say that such an indictment would be successful.

12th August 1867.

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

(True Copy).

(Signed) H. J. BROCKMAN,
Acting Government Solicitor.

Order, 22nd August 1867, No. 2565.

RAILWAY, No. 23.

Ordered that the foregoing letter from the Acting Government Solicitor, with the opinion of the Acting Advocate General, be communicated to the Consulting Engineer for Railways.

(True Extract).

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

No. 336.

ORDER THEREON, 23th August 1867, No. 1393.

Communicated to the several Magistrates in the provinces for their information.

(True Extract).

R. S. ELLIS,
Acting Chief Secretary.

To the Magistrate of
" Government Solicitor.

Exl. J. Tulloch.

*Proceedings of the Madras Government Public Works Department,
22nd August 1867.*

Read the following papers:—

No. 512. Endorsement of the Consulting Engineer for Railways, dated Madras, 8th August 1867, No. 223.

From the Agent and Manager of the Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 7th August 1867, No. 271.

Adverting to the conversation at the Stores Committee yesterday, I have the honor to annex copy of a communication* from the Traffic Manager, and

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shall feel obliged by your obtaining the opinion of the Advocate General as to the correctness of Mr. Wilkinson's views, viz., that a man charged with "abetting," an offence punishable under the Railway Act, cannot be committed under the Penal Code.

From the Traffic Manager, to the Agent and Manager, dated Madras, 1st August 1867, No. 211.

1. On the 10th June last, a man called "Mulliah," temporarily employed in the Telegraph Department, was prosecuted under the Railway Act, and was fined 30 Rupees for travelling between Bangalore and Arcot on a free ticket issued to one Nungoondappah, employed as a wire drawer in the same department.

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(Signed) J. C. ANDERSON, Lieut.-Colonel, R. E.,
Consulting Engineer for Railways.

Referred to the Government Solicitor, for the opinion of the Advocate General.

(Signed) J. H. M. SHAW STEWART, Major, R. E.,
Under Secretary to Government.

9th August 1867.

No. 513. From the Acting Government Solicitor, to the Under Secretary to Government, Department Public Works, dated Madras, 12th August 1867, No. 550.

Dated 9th August 1867, and made on Memorandum from the Consulting Engineer for Railways to Government, of the 8th idem, No. 223.

1. I have the honor to acknowledge the Order of Government noted in the margin, with its enclosures, requesting the Advocate General's opinion as

to the legality of trying under the Penal Code a charge of "abetting," an offence punishable under the Railway Act.

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

12th August 1867.

(True copy.)

(Signed) H. J. BROCKMAN,
Acting Government Solicitor.

No. 514.

ORDER THEREON, 22nd August 1867, No. 2,565.

RAILWAY, No. 23.

Ordered that the foregoing letter from the Acting Government Solicitor, with the opinion of the Acting Advocate General, be communicated to the Consulting Engineer for Railways.

(True Extract.)



Colonel, R. E.,
Secretary to Government.

To the Consulting Engineer for Railways.
Judicial Department.

Erd. S. T. Augustin.

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to the effect that a person
charged with a crime can
be given a trial under
the existing act, and the
Council under the
Council Code

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1879, August 1879 No 1879.
Communicated to the
Secretary of the
the person in the
with a view to
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by the Secretary
the Secretary
the Secretary