

MADRAS RECORD OFFICE.

Government of Madras.

Subsidiary DEPARTMENT.

G.O. No.	<i>1561</i>	Press Mis.
Dated	<i>18 7 18</i>	

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

6th July 1877, No. 1601.

Arrest of Railway Servants.

Read the following paper :—

No. 58. *Extract from the Proceedings of the Government of India in the Home Department (Police), under date Simla, 20th June 1877, No. 203.*

Read the undermentioned papers regarding the arrest of a Railway servant without measures being previously taken to provide for the proper performance of his duties, and the probable danger to the public safety thereby occasioned :—

From Foreign Department, No. 521-G, dated 28th February 1877, and enclosures.
To the Registrar of the High Court, Calcutta, No. 67, dated 10th March 1877.
From the Registrar of the High Court, Calcutta, No. 707, dated 14th May 1877.

RESOLUTION.—In this case a Station Master on the Rajputana State Railway was arrested under Section 183 of the Criminal Procedure Code and removed from his post before he was relieved by a qualified person.

2. According to law the officer entrusted with a warrant is not absolutely and in all cases bound to arrest the person against whom it is issued at the first moment it is possible to do so; and in order to prevent the recurrence of inconvenience and difficulty similar to that complained of by the Manager of the Rajputana State Railway, the Government of India desire that Local Governments and Administrations will issue such orders as will ensure that warrants issued against Railway servants be entrusted for execution to some Police officer of superior grade, who shall, if he find on proceeding to execute the warrant that the immediate arrest of the Railway servant would occasion risk or inconvenience, make all arrangements necessary to prevent escape and apply to the proper quarter to have the accused relieved, deferring arrest until he has been relieved.

No. 3-204.

ORDER.—Ordered, that this Resolution and copy of the papers read be forwarded to Local Governments and Administrations for information and guidance, and to the Foreign and Public Works Departments for information, and for the issue of such further orders as may be necessary.

(True Extract.)

(Signed) A. HOWELL,
Offg. Secretary to the Govt. of India.

ENCLOSURE No. 1.

From T. J. O. PLOWDEN, Esq., Officiating Under Secretary to the Government of India, Foreign Department, to the Officiating Agent to the Governor-General for Rajputana, dated Fort William, 28th February 1877, No. 521-G.

With reference to your letter, No. 3319—1627 G, dated 3rd October 1876, submitting a report from the Manager of the Rajputana State Railway regarding the arrest of the Station Master of Nusseerabad, I am directed to state that the Governor-General in Council concurs in Mr. Lyall's view of Section 183 of the Criminal Procedure Code as applicable to the arrest of a Railway Station Master.

No. 523-G.

Extract from Rajputana Agency diary for the week ending the 5th August 1876, (entries Nos. 1 and 2.)

To Officiating Agent to the Governor-General for Rajputana, No. 1917 G, dated 1st September 1876.

From Officiating Agent to the Governor-General for Rajputana, No. 3319—1627 G, dated 3rd October 1876.

Copy of the above, together with copy of the papers marginally noted, forwarded to the Home Department for information.

Extract from Rajputana Agency diary for the week ending the 5th August 1876.

From the Manager of the Rajputana State Railway, No. 3466, dated 20th July 1876.—Intimates that the Cantonment Magistrate of Agra recently issued a warrant of arrest under which the Station Master of Nusseerabad was seized by the Railway Police and carried to Ajmere, where after some hours he was able to find bail and was released, the station meantime being left without a competent head. States that he cannot say whether in this case any danger was incurred, but considers that at any time to remove a Station Master when no qualified person is at hand to perform his work endangers the public safety. Inquires if it is not possible to give the Superintendent of Police such discretionary power in the execution of warrants as will afford time for the relief of an offending Station Master who may in the meantime remain under Police surveillance. Adds that the delay would not always be necessary and would rarely be twenty-four hours, and that the matter seems to be one which the Superintendent of Police might be allowed to arrange with the Traffic Superintendent without any material drawback.

2. To the Manager of the Rajputana State Railway, No. 2724—71 R.—Acknowledges, and states that Section 183 of the Criminal Procedure Code requires that the officer executing a warrant shall, without unnecessary delay, bring the person arrested before the Magistrate. Considers that, in the case of a Railway Station Master, this section authorizes the delay necessary to provide for the due performance of that part of his duties with which the public safety is directly concerned, proper precautions of course being taken to prevent the prisoner's escape. In the particular case mentioned by the Manager, is of opinion the person arrested ought to have been taken before the Magistrate in whose local jurisdiction the arrest was made. Adds that it does not precisely appear from Captain Pye's letter whether he was arrested within the jurisdiction of the Magistrate of Nusseerabad, but if he was, he should not have been taken to Ajmere.

From F. C. DAUKES, Esq., Officiating Assistant Secretary to the Government of India, Foreign Department, to the Officer in charge of the Rajputana Agency, dated Simla, 1st September 1876, No. 1917 G.

With reference to entries Nos. 1 and 2 in the Political Diary of the Rajputana Agency for the week ending the 5th August 1876, on the subject of the arrest of the Station Master of Nusseerabad, I am directed to request that a report on the matter may be submitted for the information of the Governor-General in Council.

From the Officiating Agent to the Governor-General in Rajputana, to the Officiating Secretary to the Government of India, Foreign Department, dated Mount Abu, 3rd October 1876, No. 3319—1627 G.

With reference to your office letter, No. 1917 G, dated 1st September 1876, I have the honor to submit copy of a letter, No. 4575, dated the 23rd ultimo, from the Manager of the Rajputana State Railway, furnishing the report called for on the arrest of the Station Master of Nusseerabad.

From Captain K. C. PYE, R.E., Manager of the Rajputana State Railway, to the Agent to the Governor-General for Rajputana, dated 23rd September 1876, No. 4575.

I have the honor to acknowledge the receipt of your No. 3149—81 R, dated 15th September 1876, asking for a report upon the arrest of the Station Master of Nusseerabad in June last.

2. On 22nd June 1876 the Superintendent of Railway Police received a warrant from the Cantonment Magistrate of Agra for the arrest of "Mr. Stringer, of the Rajputana State Railway Bandquey," who was charged with provoking a breach of the peace. This Mr. Stringer might be released if he could find bail in Rupees 200 and two sureties in Rupees 100 each to appear before the Magistrate at Agra on 26th June.

3. Now there were two men called Stringer employed on this Railway—one, an old servant, was Station Master of Nusseerabad, the other, who had more recently been employed, was a guard, and was the man charged with the above offence. The Superintendent of Railway Police

did not know of the latter man's existence, nor did his European Sergeant Leeson, who was formerly a Station Master on the Railway, and might reasonably be expected to know the staff; but as he did happen to know that Station Master Stringer had recently been at Agra, it was but natural that he should assume that this was the man concerned.

4. The Superintendent of Police wrote to the Traffic Superintendent suggesting Station Master Stringer's immediate relief, but to use his own words—"Though doing this out of consideration for the Railway service, I had no power to disobey the warrant, or to hold it in abeyance."

In fact, I at once directed Sergeant Leeson to proceed to Nusseerabad and execute it."

5. There was no one to relieve Station Master Stringer nearer than Agra; so when Sergeant Leeson arrived at Nusseerabad and arrested him, the station had to be left in charge of the goods clerk, who was not competent to hold such a post. As to the actual manner of arrest, there is a difference of description. According to the aggrieved man, he was not permitted to leave the platform for a change of clothes, but was hurried into a carriage and taken at once to Ajmere. According to Sergeant Leeson, he had leisure to hand over charge to the goods clerk, to send for a cup of tea to his house, and provide himself with a small portmanteau in which there was probably a change of clothes referred to. At all events he was taken to Ajmere where he found the requisite bail.

6. After hearing all that was urged on this point, and knowing the character of the man concerned, I came to the conclusion that, though there may have been some precipitation in the manner of making this arrest, there was no need for any further action in the matter beyond drawing the attention of the Superintendent of Police to the circumstances. But I did object most strongly in the interest of the public safety to any arrest of a Station Master until some qualified person could be detailed to relieve him, and consequently made a representation to your office which led to Mr. Lyall's ruling that such delay may be incurred in the execution of warrants as is necessary to provide for that part of a Station Master's duties with which the public safety is directly concerned. This is all that is needed from a Railway point of view.

7. I also made a representation to the Officiating Cantonment Magistrate of Agra regarding the difficulties which are liable to follow vague descriptions of persons in warrants of arrest.

ENCLOSURE No. 2.

From A. HOWELL, Esq., Officiating Secretary to the Government of India, to the Registrar of the High Court, Calcutta, dated Fort William, 10th March 1877, No. 67.

With reference to the accompanying letter* from the Officiating Agent, Governor-General, Rajputana, dated the 3rd October last, and of the reply to it, I am directed to suggest that such difficulty as was experienced in the case mentioned in the correspondence might be avoided by a ruling that warrants issued against Railway servants who cannot be taken suddenly away from their posts without causing risk or grave inconvenience to the public should be entrusted for execution to some intelligent Police officer of superior grade, and that such officer should, if on proceeding to execute the warrant he finds that the immediate arrest of the Railway servant concerned would occasion risk or grave inconvenience to the public, simply make arrangements to prevent escape, and apply to the proper quarter to have the accused relieved, deferring arrest until he is relieved. As the law now stands, Police officers entrusted with warrants do not appear to be absolutely and in all cases bound to arrest the accused person at the first moment it is possible to do so.

2. In the opinion of the Government of India the above suggestion can be carried out by means of rules issued by the High Court under Section 292 of the Criminal Procedure Code, and I am desired to request the favor of the Court's opinion on the subject.

ENCLOSURE No. 3.

From J. CRAWFURD, Esq., Officiating Registrar of the High Court of Judicature at Fort William in Bengal, to the Officiating Secretary to the Government of India, Home Department, dated Calcutta, 14th May 1877, No. 707.

I am directed to acknowledge the receipt of your letter, No. 67, of the 10th March 1877, forwarding copy of a correspondence with the Agent, Governor-General, Rajputana, suggesting that it should be ruled that only intelligent Police Officers of a superior grade should be entrusted with the execution of warrants against Railway officials who cannot be taken away suddenly from their post without causing risk or grave inconvenience to the

HIGH COURT.
ENGLISH DEPARTMENT.
Criminal.
PRESENT.
The Honorable Sir R. Garth, Kt., Chief Justice.
" " Louis S. Jackson, Judge.
" " W. Markby, Judge.
" " W. Ainslie, Judge.
" " G. G. Morris, Judge.

public, and that where it is found that either is likely to be caused by the immediate arrest of the Railway servant, the Police officer should simply make arrangements to prevent escape and apply to the proper quarter to have the accused relieved and differ arrest until he is relieved.

2. In reply, I am to say that the Court considers that the ruling suggested is a proper one, and that it will suffice to meet the difficulty brought to notice; but the Judges understand that the matter being of an executive nature will be dealt with under the orders of Government.

No. 59.

ORDER THEREON, 6th July 1877, No. 1601.

It will be made an instruction to all Magistrates to direct the Warrant in such cases to the Inspector of Police or, in his absence, to the next senior Officer of the force:—it being left to the Inspector-General of Police to issue such subsidiary rules as to the execution of the Warrant by the officer to whom it is directed, or by any other Police Officer whose name may be endorsed thereon by the officer to whom it is directed—as may ensure a careful compliance with the terms of the Resolution of the Government of India.

2. The Inspector-General will also give the necessary instructions for the prevention of hasty arrests of Railway servants by the Police, of their own motion, in cognizable offences.

(True Extract.)

D. F. CARMICHAEL,
Chief Secretary.

To all District Magistrates.
„ the Inspector-General of Police.
„ the Public Works Department.
„ Presidency Magistrates.

Arrest of Railway Servants.—Orders passed on Resolution of Government of India requesting issue of instructions in view to prevent the arrest of Railway Servants without measures being previously taken to provide for the proper performance of their duties.

JULY.
Nos. 58-59.

G.O., 6th July 1877, No. 1601.

Dated July, 6th.
Issued
Recd.
Encl.

To
ALL DISTRICT MAGISTRATES,
&c.,
&c.,
&c.

Govt. of 1877
JUDICIAL.
Memorandum.

No. 521G, dated Fort William, the 28th February 1877.
From—T. J. CHICHELS PLOWDEN, Esq., Offg. Under Secretary to the Government of India, Foreign Department,
To—The Officiating Agent to the Governor General for Rajputana.

With reference to your letter No. 3319—1627G, dated 3rd October 1876, submitting a report from the Manager of the Rajputana State Railway regarding the arrest of the Station Master of Nusseerabad, I am directed to state that the Governor General in Council concurs in Mr. Lyall's view of Section 183 of the Criminal Procedure Code as applicable to the arrest of a Railway Station Master.

No. 523 G.

Extract from Rajputana Agency diary for the week ending the 5th August 1876 (entries Nos. 1 and 2).
To Officiating Agent to the Governor General for Rajputana, No. 1917 G, dated 1st September 1876.
From Officiating Agent to the Governor General for Rajputana, No. 3319—1627 G, dated 3rd October 1876.

Copy of the above, together with copy of the papers marginally noted, forwarded to the Home Department for information.

Extract from Rajputana Agency diary for the week ending the 5th August 1876.

1. From the Manager of the Rajputana State Railway, No. 3466, dated 20th July 1876.—Intimates that the Cantonment Magistrate of Agra recently issued a warrant of arrest under which the Station Master of Nusseerabad was seized by the Railway Police and carried to Ajmere, where after some hours he was able to find bail and was released, the station meantime being left without a competent head. States that he cannot say whether in this case any danger was incurred, but considers that at any time to remove a station master when no qualified person is at hand to perform his work endangers the public safety. Enquires if it is not possible to give the Superintendent of Police such discretionary power in the execution of warrants as will afford time for the relief of an offending station master who may in the meantime remain under police surveillance. Adds that the delay would not always be necessary and would rarely be 24 hours, and that the matter seems to be one which the Superintendent of Police might be allowed to arrange with the Traffic Superintendent without any material drawback.

2. To the Manager of the Rajputana State Railway, No. 2724—71R.—Acknowledges, and states that Section 183 of the Criminal Procedure Code requires that the officer executing a warrant shall, without unnecessary delay, bring the person arrested before the Magistrate. Considers that, in the case of a Railway Station Master, this section authorizes the delay necessary to provide for the due performance of that part of his duties with which the public safety is directly concerned, proper precautions of course being taken to prevent the prisoner's escape. In the particular case mentioned by the Manager, is of opinion the person arrested ought to have been taken before the Magistrate in whose local jurisdiction the arrest was made. Adds that it does not precisely appear from Captain Pye's letter whether he was arrested within the jurisdiction of the Magistrate of Nusseerabad, but if he was, he should not have been taken to Ajmere.

No. 1917 G, dated Simla, the 1st September 1876.

From—F. C. DAUKES, Esq., Offg. Asstt. Secy. to Govt. of India, Foreign Dept.,
To—The Officer in charge of the Rajputana Agency.

With reference to entries Nos. 1 and 2 in the Political Diary of the Rajputana Agency for the week ending the 5th August 1876, on the subject of the arrest of the Station Master of Nusseerabad, I am directed to request that a report on the matter may be submitted for the information of the Governor General in Council.

No. 3310—1627G, dated Mount Aboo, the 3rd October 1876.

From—The Officiating Agent to the Governor General in Rajputana,
To—The Officiating Secretary to the Government of India, Foreign Department.

WITH reference to your Office letter No. 1917 G, dated 1st September 1876, I have the honour to submit copy of a letter No. 4575, dated the 23rd ultimo, from the Manager of the Rajputana State Railway, furnishing the report called for on the arrest of the Station Master of Nusseerabad.

No. 4575, dated the 23rd September 1876.

From—Captain K. C. PRE, R. E., Manager of the Rajputana State Railway,
To—The Agent to the Governor General for Rajputana.

I HAVE the honour to acknowledge the receipt of your No. 3149—81 R, dated 15th September 1876, asking for a report upon the arrest of the Station Master of Nusseerabad in June last.

2. On 22nd June 1876 the Superintendent of Railway Police received a warrant from the Cantonment Magistrate of Agra for the arrest of "Mr. Stringer, of the Rajputana State Railway Bandequey," who was charged with provoking a breach of the peace. This Mr. Stringer might be released if he could find bail in Rs. 200 and two sureties in Rs. 100 each to appear before the Magistrate at Agra on 26th June.

3. Now there were two men called Stringer employed on this Railway—one, an old servant, was Station Master of Nusseerabad, the other, who had more recently been employed, was a guard, and was the man charged with the above offence. The Superintendent of Railway Police did not know of the latter man's existence, nor did his European Sergeant Leeson, who was formerly a Station Master on the Railway, and might reasonably be expected to know the staff; but as he did happen to know that Station Master Stringer had recently been at Agra, it was but natural that he should assume that this was the man concerned.

4. The Superintendent of Police wrote to the Traffic Superintendent suggesting Station Master Stringer's immediate relief, but to use his own words:—"Though doing this out of consideration for the railway service, I had no power to disobey the warrant, or to hold it in abeyance. * * * In fact, I at once directed Sergeant Leeson to proceed to Nusseerabad and execute it."

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6. After hearing all that was urged on this point, and knowing the character of the man concerned, I came to the conclusion that, though there may have been some precipitation in the manner of making this arrest, there was no need for any further action in the matter beyond drawing the attention of the Superintendent of Police to the circumstances. But I did object most strongly in the interest of the public safety to any arrest of a station master until some qualified person could be detailed to relieve him, and consequently made a representation to your office which led to Mr. Lyall's ruling that such delay may be incurred in the execution of warrants as is necessary to provide for that part of a station master's duties with which the public safety is directly concerned. This is all that is needed from a railway point of view.

7. I also made a representation to the Officiating Cantonment Magistrate of Agra regarding the difficulties which are liable to follow vague descriptions of persons in warrants of arrest.

No. 67, dated Fort William, the 10th March 1877.

From—ARTHUR HOWELL, Esq., Officiating Secretary to the Govt. of India,
To—The Registrar of the High Court, Calcutta.

WITH reference to the accompanying letter* from the Officiating Agent, Governor General, Rajputana, dated the 3rd October last, and of the reply to it, I am directed to suggest that such difficulty as was experienced in the case mentioned in the correspondence might be avoided by a ruling that warrants issued against railway servants who cannot be taken suddenly away from their posts without causing risk or grave inconvenience to the public should be entrusted for execution to some intelligent police officer of superior grade, and that such officer should, if on proceeding to execute the warrant he finds that the immediate arrest of the railway servant concerned would occasion risk or grave inconvenience to the public, simply make arrangements to prevent escape, and apply to the proper quarter to have the accused relieved, deferring arrest until he is relieved. As the law now stands, police officers entrusted with warrants do not appear to be absolutely and in all cases bound to arrest the accused person at the first moment it is possible to do so.

2. In the opinion of the Government of India the above suggestion can be carried out by means of rules issued by the High Court under Section 292 of the Criminal Procedure Code, and I am desired to request the favour of the Court's opinion on the subject.

No. 707, dated Calcutta, the 14th May 1877.

From—J. CRAWFORD, Esq., Offg. Registrar of the High Court of Judicature at
Fort William in Bengal,

To—The Offg. Secretary to the Govt. of India, Home Department.

I AM directed to acknowledge the receipt of your letter No. 67 of the
10th March 1877, forwarding copy

HIGH COURT.

ENGLISH DEPARTMENT.

Criminal.

PRESENT:

The Honourable Sir R. Garth, Kt., *Chief Justice.*

Louis S. Jackson,

W. Markby,

W. Ainslie,

G. G. Morris,

} *Judges.*

of a correspondence with the Agent,
Governor General, Rajpootana, sug-
gesting that it should be ruled that
only intelligent Police officers of a
superior grade should be entrusted
with the execution of warrants
against Railway officials who cannot
be taken away suddenly from their

post without causing risk or grave inconvenience to the public, and that where
it is found that either is likely to be caused by the immediate arrest of the
railway servant, the Police officer should simply make arrangements to
prevent escape and apply to the proper quarter to have the accused relieved
and differ arrest until he is relieved.

2. In reply, I am to say that the Court considers that the ruling
suggested is a proper one, and that it will suffice to meet the difficulty brought
to notice; but the Judges understand that the matter being of an executive
nature will be dealt with under the orders of Government.

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16 13

No. 203.

Extract from the Proceedings of the Government of India in the Home Department,
(Police),—under date Simla, the 20 June 1877.

READ the undermentioned papers regarding the arrest of a railway servant without measures being previously taken to provide for the proper performance of his duties, and the probable danger to the public safety thereby occasioned :—

From Foreign Department, No. 523 G, dated 28th February 1877, and enclosures.
To the Registrar of the High Court, Calcutta, No. 67, dated 10th March 1877.
From the Registrar of the High Court, Calcutta, No. 707, dated 14th May 1877.

RESOLUTION.

In this case a Station Master on the Rajputana State Railway was arrested under Section 183 of the Criminal Procedure Code and removed from his post before he was relieved by a qualified person.

2. According to law the officer entrusted with a warrant is not absolutely and in all cases bound to arrest the person against whom it is issued at the first moment it is possible to do so; and in order to prevent the recurrence of inconvenience and difficulty similar to that complained of by the Manager of the Rajputana State Railway, the Government of India desire that Local Governments and Administrations will issue such orders as will ensure that warrants issued against railway servants be entrusted for execution to some police officer of superior grade, who shall, if he find on proceeding to execute the warrant that the immediate arrest of the railway servant would occasion risk or inconvenience, make all arrangements necessary to prevent escape and apply to the proper quarter to have the accused relieved, deferring arrest until he is relieved.

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2021

ORDER.—Ordered, that this Resolution and copy of the papers read be forwarded to Local Governments and Administrations for information and guidance, and to the Foreign and Public Works Departments for information, and for the issue of such further orders as may be necessary.

(True Extract.)

Arthur B. Smith
Offg. Secretary to the Govt. of India.

The Government of Madras

Govt. of {1877} Inds.

Govt. of {1877} Inds.

33-58/93 Just

O., 6 July 1877, No. 1601
Nos. 58-59

Chief of Railway Car
rents. Order passed on
Board of Prof. S. by majority is.
of interest in view to pre-
to the arrest of Ry. cars.
in out measures being pre-
viously taken to provide
the proper performance of
their duties.

Feb-2

2538

It will be made an undivided bank deposit to
6. July 1877. No 1601

Reconciliation on 9-2-34

Q
13-2-34

Govt. of (1877) Madras.

33-58/93

Just

O. 6 July 1877, No. 1601
Nos. 58-59

Arrest of Railway Ser-
vants. Orders passed on
behalf of J. S. Secretary is
in view to pre-
vent the arrest of Ry. ser-
vants measures being pre-
viously taken to provide
for the proper performance of
their duties.

13-2-34