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MADRAS RECORD OFFICE.

Government of Madras.

Public works DEPARTMENT.

G.O. No. 3036 Press / Mis.

356-57

Dated 18 12 1892.

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Works Department, 18th December 1862.

No. 356. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras, to Colonel W. I. BIRDWOOD, R. E., Secretary to Government, Public Works Department, dated Madras, 14th November 1862, No. 496 :—

SIR,

Dated 28th October 1862, No. 2,574, Public Works Department.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin.

2. I have perused and considered the proposed Agreement between Government and Messrs. George Barclay Bruce and James Samuel for the construction of Street Railway in Madras and herewith return it together with a copy of it, with certain alterations and marginal remarks made in red ink. I think the Agreement as I have altered it will do very well.

3. I would particularly draw your attention to the notes in the margin of the draft Deed, and if you desire it I shall be glad to see you upon it before the Agreement is finally settled.

Articles of Agreement made and entered into the day of 1862, between the Right Honorable the Secretary of State for India in Council of the one part and GEORGE BARCLAY BRUCE and JAMES SAMUEL of Great George Street Westminster, Civil Engineers, for themselves and their respective Executors, Administrators and Assigns, all each and every of whom are hereinafter called the Concessionaires of the other part.

WHEREAS the said Concessionaires have applied to the Government of Madras acting for and on behalf of the said Secretary of State for India in Council for permission to lay down Street Railways in the City and suburbs of Madras and the said Secretary of State for India has consented thereto on the terms and conditions hereinafter mentioned.

It is intended to restrict this concession to the City and suburbs of Madras only and not as provided in the Agreement submitted by the Contractor to extend it "elsewhere in that Presidency?"

NOW THESE PRESENTS WITNESS that it is hereby mutually agreed by and between the parties to these presents as follows that is to say :—

ARTICLE 1.—The said Concessionaires or a Registered Joint Stock Company to be promoted by them for the purpose shall lay down and construct in and about the streets of the City and suburbs of Madras 10 miles of Street Railways upon such roads as the said Government of Madras acting as aforesaid may select, and for the purposes of that construction shall be permitted and authorized to use all the usual and necessary powers of construction and working granted to Companies executing works affecting public roads and properties.

ARTICLE 2.—The gauge of the Railways to be constructed shall be five feet six inches so as to make such Railways available for intercommunication of traffic with the Madras or other Railways without break of gauge. The Railways shall be constructed with a double or single line of Rails with proper passing places at the option of the said Concessionaires and as they may consider necessary for the accommodation of the traffic.

Is it intended to leave the question of double or single lines to the Concessionaires or is the Government to decide the question?

ARTICLE 3.—The rails shall be laid level with the surface of the roads so as to cause no interruption to the ordinary carriage and bandy traffic passing over such roads and the traffic on the Railways to be constructed under these presents shall be worked by Horses or Bullocks only.

ARTICLE 4.—The Railways shall be in all respects constructed and maintained at the expense of the said Concessionaires and to the satisfaction of the said Government of Madras acting as aforesaid and the working thereof whether for passengers or goods shall be protected by such Police or other Regulations as may from time to time be passed.

ARTICLE 5.—The said Concessionaires or the Company to be promoted by them as aforesaid shall restore all roads interfered with in the construction of the Railways and execute all repairs of such roads rendered necessary by reason of the working of the Railways.

ARTICLE 6.—The first section of the Railways to be constructed under these presents and selected by the said Government of Madras acting as aforesaid shall commence at the Railway Terminus at Royapoorum running past the foot of the new Pier along the North Beach to the

corner near the House of business of Messrs. Parry and Company thence westward skirting the the Bazars to the General Hospital and from thence in the same direction over the General Hospital Bridge to the Gun Carriage Manufactory and the Vepery Road near to Peria Mitto being in all a distance of about 3 miles.

ARTICLE 7.—All differences which may arise between the said Government of Madras acting as aforesaid and the said Concessionaires or the Company to be promoted by them as aforesaid in carrying out the objects of these Articles shall be submitted to the sole arbitrament and decision of the Chairman for the time being of the Chamber of Commerce for Madras whose award shall be final and binding and conclusive on all parties and may be made a rule of the High Court of Judicature.

Will the Government leave this to the Chairman for the time being of the Chamber of Commerce.

ARTICLE 8.—In compensation for the obligations which the said Concessionaires take upon themselves by these Articles the said Secretary of State for India grants to them the sole and exclusive right of using carriages or vehicles with flanged wheels on the Railways to be constructed by them and of levying Tolls for the conveyance of passengers and goods thereon at such rates and upon such view as the said Government of Madras acting as aforesaid shall consider reasonable. And further that if the said Government of Madras acting as aforesaid shall determine to construct any similar Railways in the City or suburbs of Madras within 21 years from the date of these presents the construction and working of such Railways shall in the first instance be offered to the said Concessionaires or any Company to be promoted by them as aforesaid upon the same terms as are contained in these Articles, but if the said Concessionaires or the Company to be promoted as aforesaid shall decline or for the space of 12 Calendar months after receiving the offer of the said Government of Madras acting as foresaid of the construction and working of such extensions shall neglect to construct such extensions the said Government of Madras acting as aforesaid reserves to itself the right to construct them or to contract for their construction and working with any person or Company upon such terms as the said Government may approve.

Is it intended that the Government should have any control over the Tolls to be levied for the carriage of passengers and goods, no provision whatever was made for this in the Agreement prepared by the Contractors.

Is twelve months considered a proper period?

ARTICLE 9.—If the first section of the Railways as described in Article 5 shall not be completed ready for working within 12 Calendar months after notice of the execution of these Articles by the said Secretary of State for India shall have been given to the said Concessionaires in England the said Concessionaires shall forfeit all rights and privileges granted by these Articles.

ARTICLE 10.—At the expiration of the term of 21 years or of the first 7 or 14 years thereof the said Government of Madras acting as aforesaid shall have the right to purchase the Railways and plant from the then proprietors thereof for the purpose of removing or working them, the purchase money to be calculated upon the average yearly profits of the 3 years immediately preceding the exercise of the right of purchase by the said Government of Madras acting as aforesaid and at 20 years' purchase of such average profit and at the expiration of the same periods the then proprietors of the Railways shall have the right if they shall think fit provided the said Government of Madras acting as aforesaid shall not exercise the right of purchase under this Article to remove the said Railways and all the materials and plant thereof. In witness whereof on the part and behalf of the said Secretary of State for India has hereinto set his Hand and Seal and the said George Barclay Bruce and James Samuel have also set their Hands and Seals respectively the day and year first above written.

The papers do not show that the Government have consented to this.

Will this Agreement be executed by his Excellency the Governor or by the Chief Engineer?

No. 357. ORDER THEREON, 18th December 1862, No. 3,036.

Ordered that the following letter be despatched to the Secretary to the Government of India :—

(Signed.) W. I. BIRDWOOD, Colonel, R. E.,
Secretary to Government.

Ordered that the following letter be despatched.

No. 358. From Colonel W. I. BIRDWOOD, R. E., Secretary to the Government of Fort Saint George, Public Works Department, to the Secretary to the Governmet of India, dated 18th December 1862, No. 3,037.

SIR,

1. Adverting to the wish expressed in your letter dated 28th* June 1862, No. 2,453, paragraph 2, that proposals for the construction of Light Railways should be referred for the approval of the Government of India before adoption, I am directed by the Governor in Council to submit the accompanying correspondence relative to a proposition made by Messrs. J. Samuel and G. B. Bruce of London, for laying down and working, without hindrance to the ordinary traffic, ten miles of Street Railway on the American model, to be worked by horses or bullocks on such roads as the Madras Government might select.

* Page 49 of printed paper on "Light Railways."

Proceedings, 30th October 1861, No. 741.
Do. 31st December ,, Nos. 566,567.
Do. 19th March 1862, ,, 311 to 313.
Do. 28th July ,, ,, 576 to 578.
Do. 18th October ,, ,, 453,454.
Do. 18th December ,, ,, 3,036.

2. You will observe from the letter† addressed to Messrs. Samuel and Bruce, that the Madras Government had accorded their general approval of the proposals submitted, subject to their final acceptance by Her Majesty's Secretary of State for India. Sir Charles Wood in signifying‡ his approval of the subject in view, has left to this Government all such arrangements as may be necessary for carrying out the scheme, and has declared his readiness to sanction any agreement which may be made with Messrs. Samuel and Bruce on the basis of the conditions set forth in Proceedings dated 19th March 1862, No. 486.

† Dated 19th March 1862, No. 497.

‡ 31st May 1862, No. 16.

3. Messrs. Samuel and Bruce have accordingly forwarded§ Draft of an Agreement which having been referred‖ to the Government Solicitor, has been returned¶ with certain amendments to meet the requirements of the case ; but before taking any further action in the matter, the Governor in Council has deemed it proper to submit the proposal to the Government of India for approval.

§ 18th June 1862.
‖ 28th October 1862, No. 2,574.
¶ 14th November 1862, No 496.

4. The terms to which the Government have signified their assent, differ essentially in two points from those given at pages 27 to 41 of the printed paper on Light Railways; but a reference to dates will show that those terms were acceded to before the Madras Government were put in possession of the views of the Government of India on the subject. Messrs. Samuel and Bruce stipulate being allowed the exclusive privilege of the undertaking, no concessions for similar lines in the City of Madras and its suburbs being made to any others without being first offered to them. The Government of India in their letter dated 26th September 1862, No. 3,762 are adverse to any guarantee being given against competing lines, as it is likely to hamper the local Government in the event of more favorable terms being offered by others at any future time. The Governor in Council does not, however, anticipate such a difficulty, and he considers that the conditions offered and accepted are as favorable as they can possibly be, viewing on the one hand the indemnification against losses of all kinds which the Agreement secures to the State, and the readiness of the Concessionaires to undertake the work without any pecuniary subvention ; and on the other hand the necessity of affording every encouragement to induce capitalists to embark on such undertakings, the successful prosecution of which is acknowledged to constitute an important step in the development of the resources of the country.

5. The second point of difference between the conditions approved of by the Government of India for adoption and those proposed to be entered into with Messrs. Samuel and Bruce has already been alluded to in the foregoing remarks. It is that while the Government of India have accorded* sanction to the disbursement to the Company of a sum equal to the import duty that shall have been paid on the quantity of permanent way material actually used, and the grant† of a direct pecuniary aid annually to the extent of Rupees 125 per mile of Railway open for traffic until the returns amount to five per cent. on the capital invested, no aid whatever is asked for by Messrs. Samuel and Bruce, who stipulate to construct and maintain the Railways at their own expense to the satisfaction of Government, and to restore all roads interfered with, and to execute such repairs as may be requisite by reason of the working of the Railways.

* Clause 27.

† Clause 28.

6. According to Clause 38‡ of the conditions approved by the Government of India, the Company are required to furnish a deposit equivalent to ten per cent. on the estimated amount of their outlay, to be repaid by Government by the time the line is duly opened for traffic. The object of this seems to be to provide funds for expenses contingent on taking up land for the Company. Three miles of road-way over which the rails are to be put down, and which have been fixed upon, being already made, no expense of the kind anticipated will be entailed; but as the remaining seven miles of road have not been determined as yet, and as that question must be considered hereafter, I am directed to request that you will inform the Government whether the deposit will be necessary.

‡ Page 34 of printed paper on "Light Railways."

7. The Secretary of State considers it desirable that Government should reserve to itself some control over the rates to be charged for the conveyance of passengers and goods on the projected Street Railway. The Government are of opinion that such control could best be exercised by the Company being required to submit to them a statement of fares for approval.

8. In conclusion I am desired to request that the Government of India will be pleased to state what further stipulations Messrs. Samuel and Bruce should be required to consent to before their proposal can be finally agreed upon.

Articles of Agreement made and entered into the day of 1862 Between The Honorable The Governor in Council of Madras (hereinafter called the "Government of Madras") with the sanction of the Secretary of State in Council of the one part and George Barclay Bruce and James Samuel of Great George Street Westminster Civil Engineers for themselves their respective Executors Administrators and Assigns all each and every of whom are hereinafter called the Concessionaires of the other part.

Whereas the said Concessionaires have applied to the Government of Madras for permission to lay down Railways in the City of Madras and elsewhere in the Presidency and the Government of Madras have consented thereto on the terms and conditions hereinafter mentioned.

* It is intended that this exception to the City and suburbs of Madras and the Presidency as a whole shall be inserted in agreement intimated in the Correspondence ending "elsewhere in the Presidency".

Now these Presents witness that it is hereby mutually agreed by and between the parties to these presents as follows that is to say.

Article 1. The said Concessionaires or a Registered Limited Company

Company to be promoted by them for the purpose shall lay down and construct in and about the streets of the City of Madras and under such streets as the said Government may think fit 10 Miles of Street Railways and for the purposes of that Construction shall be permitted and authorized to use all the usual and necessary powers of construction and working granted to Companies executing Works affecting public roads and properties.

Article 2. The Gauge of the Railways to be constructed shall be five feet six inches so as to make such Railways available for intercommunication of traffic with the Madras or other Railways without break of gauge. The Railways shall be constructed with a double or single line of Rails with proper passing places at the option of the said Concessionaires and as they may consider necessary for the accommodation of the traffic.

Article 3. The rails shall be laid level with the surface of the Roads so as to cause no interruption to the Ordinary Carriage and Bandy traffic passing over such roads and the traffic on the Railways to be constructed under these presents shall be worked by Horses or Bullocks only.

Article 4. The Railways shall be in all respects constructed and maintained to the satisfaction of the Government

of Madras and the working thereof be protected by such Police Regulations as the Magistrates of the City may pass from time to time be passed

Article 5. The said Concessionaires or the Company to be promoted by them as aforesaid shall restore all roads interfered with in the construction of the Railways and execute all repairs of such roads rendered necessary by reason of the working of the Railways.

Article 6. The first section of the Railways to be constructed under these presents shall commence at the Railway Terminus at Royapooram running past the foot of the New Pier along the North Beach to the Corner near the House of Business of Messrs. Parry and Company thence westward skirting the Bazaars to the General Hospital and from thence in the same direction over the General Hospital Bridge to Triplicane and the Gun Carriage Manufactory being in all a distance of about 3 Miles.

Article 7. All differences which may arise between the Government of Madras and the said Concessionaires or the Company to be promoted by them as aforesaid in carrying out the objects of these Articles shall be submitted to the sole arbitrement

arbitrament and decision of the Chairman for the time being of the Chamber of Commerce for Madras whose award shall be final and binding and conclusive on all parties and may be made a Rule of any of the superior Courts of the Country

Till the Government cause this to the Chairman for the time being of the Chamber of Commerce

Article 8. In compensation for the obligations which the said Concessionaires take upon themselves by these articles the Government of Madras grants to them the sole and exclusive right of using Carriages or Vehicles with flanged wheels on the Railways to be constructed by them and further concedes to them the privilege of constructing and working on the terms of these Articles any similar Railways to be constructed in the City or Suburbs of Madras which may be undertaken within 21 years from the date of these presents. Whenever however the Government of Madras judging it necessary that extensions of the Railways to be constructed under these shall be made and the said Concessionaires or the Company to be promoted as aforesaid shall decline or for the space of 12 Calendar months after receiving the offer of the Government of Madras of the construction and working of such extensions shall neglect to construct such extensions the Government of Madras

and of levying tolls for the conveyance of Passengers and Goods thereon at such rates and upon such terms as the said Government of Madras acting as aforesaid shall consider reasonable.

It is intended that the Government should have any control over the tolls to be levied in the carriage of passengers and goods or in carriers whatever may hereafter be agreed upon

acting as aforesaid
Madras reserves to itself the right to construct them or to
contract for their construction and working with any
person or Company upon such terms as the said Govern-
ment may approve.

Article 9. If the first section of the Railways as described in
article 5 shall not be completed ready for working
within 12 Calendar Months after notice of the execution
of these Articles by the ~~Government of Madras~~ said Governor for the time being
shall
have been given to the said Concessionaires in England the
said Concessionaires shall forfeit all rights and pri-
-vileges granted by these Articles.

Article 10. At the expiration of the term of 21 years or of the
first 7 or 14 years thereof the said Government of Madras
acting as aforesaid
shall have the right to purchase the Railways and
plant from the then Proprietors thereof for the purpose
of removing or working them - the purchase money
to be calculated upon the average yearly profits of the
3 years immediately preceding the exercise of the
right of purchase by the said Government and at 20
years purchase of such average profit And at the
expiration of the same periods the then Proprietors
of the Railways shall have the right if they
shall

To Letters &c &c
Show that the Government
have constructed & the

shall think fit provided the Government of Madras shall not exercise the right of purchase until this article to remove the said Railways and all the materials and Plant thereof. In witness whereof

Will this agreement be executed by the Secretary to Government or the Chief Engineer?

on the part and behalf of the Government of Madras have hereunto set their hands and seals and the said George Barclay Bruce and James Samuel have also set their hands and seals respectively the day and year first above written.

No. 496.

Madras, November 14th 1862.

From Hon. Miller Esqre.
Actg. Government Solicitor
Madras

To Col: W. J. Birdwood R. E.
Secretary to Government F.W.D.
Madras.

Sir,

Dated 21st October 1862. P.W. Department.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin.

2. I have perused and considered the proposed Agreement between Government and Messrs. George Barclay Bruce and James Samuel for the construction of Street Tramways in Madras and herewith return it, together with a copy of it, with certain alterations and margenal remarks made in red ink. If the Agreement as altered is signed by the parties,

3. Should Parliamentary Powers be obtained to the Notes in the margin of the draft deed, and if you desire it, I shall be glad to see you upon the subject.

I have &c.

J

Copy sent to Messrs Barclay & Co. on 15th April 1863.

Dated 1862.

The Government of Madras
and
Messrs. George Barclay Bruce and James Samuel

Articles of Agreement.

P.W. 3447/62

I have the honor to be,
Sir,
Your most Obedient Servant
Ellenbeller
Actg. Gov. Sol Is

Pro: 28th October /62 No 453-464

Copy sent to Admiralty 3/15 April No 11 of 1862.

No 356-357.

Copy sent to the Govt of India with Agreement & Commissions dated 18th Decr 1862 No 3037.

C. 2nd Decr No 6.

P.W. 1862 Dept.
Pros of Govt for Decr
No 3447.

From the Ag. Govt
Solicitor Madras.

Dated 14th Novr/62
Received 15th

No 496.

Encls 2.
From Govt of Madras No 11 Nov 6/62
No 825 in 4to.

Returning the agreement proposed to be executed between Govt and Messrs George Barclay Brues and James Samuel for the construction of Street Railway in Madras with a Copy containing certain alterations.

No. 3036-18th Decr

No 3036

Ordered that the following letter be despatched to the Secretary of the Govt of India.

Chepauk
18th Decr/62

X 87.