M.R.O. 1—77,606—8-6-37.

(1) Number of pages_____

(2) Date of repair_____

(3) Initials of the Referencer_____

# MADRAS RECORD OFFICE.

## Government of Madras.

Public Works DEPARTMENT.

G.O. No. 3634 Press Mis.

307-308

Dated 15-11— 1866.

**Not to be folded or roughly handled**

## *Proceedings of the Madras Government, Public Works Department, 15th November* 1866.

No. 307. Read the following Endorsement of the Consulting Engineer for Railways, dated Madras, 1st November 1866, No. 424 :—

Read the following letter from the Acting Agent and Manager of the Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 31st October 1866, No. 537.

I have the honor to forward, for your information, a copy of a letter* from Mr. Church, relative to the prosecution of two Natives for neglect of duty.

* No. 468, dated 31st October 1866.

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From the Traffic Manager, to the Acting Agent and Manager, dated Madras, 31st October 1866, No. 468.

1. Mr. Inspector Johnson reports that on the 9th instant, Section Maistry Ruthnum Naidoo and Line Watchman Moonesawmy, both employed on the 1st Division, under the orders of Inspector Carroll, were prosecuted before the Native Magistrate of the Naggery Court, for placing a trolly on the Main Line at or about the 35th mile on the 27th September last, when the 2 P. M. ordinary train from Madras was due, and for neglecting to protect the same by signals, as directed in the Rules for Watchmen sanctioned by the Governor General.

2. The evidence for the prosecution clearly proved that a trolly in charge of the first prisoner was on the line when the 2 P. M. train sighted the 35th mile, and notwithstanding the brakes of the train were vigorously applied, the train was only with difficulty stopped within *one yard* of one pair of the trolly wheels, which the men in charge had not time to remove. The evidence that no signal was exhibited to warn the train of the existence of the obstruction was also very conclusive.

3. After two adjournments, the case was disposed of on the 20th instant, when Ruthnum Naidoo was fined 60 Rupees, and in default three months' imprisonment, and Moonesawmy was acquitted.

4. As the punishment of the first prisoner is altogether inadequate to the gravity of the offence, and the acquital of the second prisoner is unaccountable, it is hoped, if no further steps can be taken in this case, that, in the interests of the Railway Company and of the travelling public, Government will so far assist us in future as to allow offences of this character to be transferred for trial to a European Officer. Native Magistrates do not appear to realize the responsibility of subordinate Railway servants, or the danger of a violation of the rules for working the Railway.

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1. Submitted for the consideration of Government.

2. The Traffic Manager is of opinion that the punishment awarded to a Section Maistry for endangering the safety of a train by placing a trolly on the line of Railway "is altogether inadequate to the gravity of the offence," and that the insufficiency of the punishment is attributable to the case having been tried by a Native Magistrate, who is not so likely as a European Officer "to realize the responsibility of subordinate Railway servants, or the danger of a violation of the rules "for working the Railway."

3. The maximum penalty that could have been awarded in this case would appear by Clause XXVIII. of the Railway Act to be one year's imprisonment, with or without hard labor, or a fine or both.

4. With reference to the remark that the trial of a case by a Native Magistrate is liable to result in the inadequate punishment of offenders, I would observe that

the result of a trial by European Magistrates does not always give satisfaction to the Railway authorities. Lately, five men were committed to the Sessions Court at Salem, and sentenced to transportation for life, but the sentence was remitted by the High Court. In any case, I think it unlikely that Government will be prepared to encourage a proposal to alter their Judicial procedure.

G. O. No. 2,163, dated 10th July 1866.
Do. ,, 2,885, ,, 10th Sept. ,,

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

No. 308. ORDER THEREON, 15th November 1866, No. 3,634.

RAILWAY, No. 27.

The Consulting Engineer for Railways is correct in stating that the Code of Criminal Procedure cannot be modified as suggested by the Railway authorities. It will always be open to the prosecuting Officer to lay his complaint in the Court of a European Magistrate; or, if a complaint has been brought by the local Railway officials before a Native Magistrate, the Division European Magistrate may be moved to exercise the power of calling up the case vested in him by Section 36 of the Code.

(True Extract.)
(Signed) CHARLES A. ORR, Colonel, R. E.,
*Secretary to Government.*

To the Consulting Engineer for Railways.
--- Judicial Dept.

Exd. S. T. Augustin.

as a general rule, although
cases of the kind under notice should
be tried by an European Magis-
but the Code does not provide the
means of making such an arrangement
on the representation of a Railway officer.
Still it will always be open to the
Prosecuting Officer to lay his complaint
in the Court of a European Magis-
or if it has been
laid in the local Rail
official before a
native Magis-
there no reason
why the division
European Magis to the
must be applied to
to exercise the power
of calling up the case
vested in him by
the Code Cr. Proc.
Section 36. and it
may be well thought
that this should be
pointed out to
the Court.

Secretary to Government
Chas. A. Orr Colonel R.E
Secretary to Government

3A

No. 537.

**MADRAS RAILWAY COMPANY.**

AGENT AND MANAGER'S OFFICE.

Madras, 31st October 1866.

*From*

W. G. Swarb Esqr.,
Clg. Agent and Manager of the M. R. Co.

*To*

Lieut. Colonel C. F. C. Pedderson, R.E.,
*Consulting Engineer for Railways.*

SIR,

I have the honor to forward for your information a copy of a letter from the Chief Secretary relative to the prosecution of two natives for wilful breach of duty.

No. 468-d
31st Octr/66

I have the honor to be,
Sir,
Your most obedient Servant
W. G. Swarb
Clg. Agent and Manager.

D.O.

MADRAS RAILWAY.

*From*

The Agent and Manager.

*To*

The Consulting Engineer

for Railways.

*Dated* 31st October 1866.
*Recd.* 1st November.

No. 539.

Forwarding Copy of a letter from the Traffic Manager, relative to the prosecution of two Natives for Neglect of Duty.

F.E. 4459/66

United Scottish Press.

Offence, and the acquittal of the accused Prisoner is unaccountable, it is hoped, if no further steps can be taken in this case, that, in the interests of the Railway Company and of the Travelling Public, Government will see fit to exercise in future, its power to allow Offences of this character to be transferred for trial to a European Officer. Native Magistrates do not appear to realize the responsibility of subordinate Railway Servants, or the danger of a violation of the Rules for working the Railway.

Yours faithfully,
Sd/ W. C. Church,
Traffic Superintendent.

To
The Acting Agent and Manager

True Copy
W. B. Church
Ag. Agent and Manager.

D.C.B.

5K

No. 424.

Submitted for the consideration of Govern-
-ment.

2. The Traffic Manager is of opinion that the punishment awarded to a Section Maistry for endangering the safety of a train by placing a trolly on the line of Rail-way" is altogether inadequate to the gravity of the offence and that the insufficiency of the punishment is attributable to the case having been tried by a native Magistrate, who is not so likely as a European Officer "to realize the responsibility of subordinate railway Servants or the danger of a violation of the Rules for working the Railway.

3. The maximum penalty that could have been awarded in this case would appear by Clause XXVIII of the Railway Act. to be one years imprison-ment. with or without hard labor, or a fine or both.

4. With reference to the remark that the trial of a case by a native Magistrate is liable to result in the inadequate punishment of offenders I would observe that the result of a trial by European Magistrates does not always give satisfaction to the Railway

Railway authorities. Lately five men were committed to the Sessions Court at Salem and Sentenced to transportation for life; but the Sentence was remitted by the High Court. In any case, I think it unlikely that Government will be prepared to encourage a proposal to alter their — Judicial procedure —

Madras
1 November
1866

J. Anderson Lieut. R.E.
Consulting Engineer for Railways.

To
The Secretary to Government
P. W. Department
Fort Saint George

G.O. No. 2735 dated 27 June 1866.

G.O. No. 365 dated 31 August 1866.

Public Works Department.

6A

CVB 3634

# PROCEEDINGS of the MADRAS GOVERNMENT

Under date the 15th Nov. 1866.

Read the following

From the Consg. Engineer for Railways — (Here enter No. 424 dated 1st Nov. 66

Rec. consg. with Govt. Order

The Consulting Engineer for Railways is correct in stating that the Code of Criminal Procedure cannot be modified as suggested by the Railway Authorities. It will always be open to the Prosecuting Officer to lay his complaint in the Court of a European Magistrate; or, if a complaint has been brought by the local Railway Officials before a Native Magistrate, the divisional European Magistrate may be moved to exercise the power of calling up the case vested in him by Section 36 of the Code —

To the Consulting Engr. for Railways
— Judicial Dept.

13

Dept. 16th Nov.

Rec. 16 Nov. 1866 — R. 67

No. 3634.

P. W. 1866 Sept. Nov. 445

Public Works Department.

RAILWAY DEPARTMENT.

From
The Consulting Engineer for Railways,

To
The Secretary to Government,
Public Works Department,
Fort Saint George.

Dated 1st November 1866.
Received 2nd do.

Madras 2. No. 424 dated 1st Nov. 66.
vide 3634-3552 dated 10th Nov. 66.

Forwarding a copy of a letter from the Agent & Manager of the South Indian Railway Company dated 29th ult. requesting to be informed whether the Government would be prepared to move the European Magistrate to exercise the power vested in him by Section 7 of Act XXIV of 1850 in any case brought before a Native Magistrate by the Railway Police.

Copy 7 enclosures.

*P. W.* 1866. *Department.*

Govt. of Govt for Navr

No. 3084

PROCEEDINGS OF GOVERNMENT. Bellasis

*Dated* 15th January 1866

*Passing orders on a letter submitted by the Consulting Engr. relative to the trial of Offences of Subordinate Railway Servants by European Magistrates.*

A-307-308.