M.R.O. 1—77,003—8-6-47.

(1) Number of pages 8

(2) Date of repair [illegible]

(3) Initials of the Reference [illegible]

MADRAS RECORD OFFICE.

Government of Madras.

[illegible] DEPARTMENT.

G.O. No. [illegible] Press Mis.

[illegible]

Dated [illegible] 19[illegible].

Not to be folded or roughly handled

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

No. 422. Read the following letter from the Acting Government Solicitor, to the Secretary to Government, Military Department, dated Madras, 12th February 1867, No. 76 :—

Dated 2nd February 1867, No. 422, Military Department.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin, requesting the Advocate General's opinion as to the right of Officers, (travelling on duty by rail at their own expense or on mileage allowance,) under the Contract between Government and the Madras Railway Company, to travel first class at second class fares.

2. Having obtained the Contract between the Madras Railway Company and Government, from the Consulting Engineer for Railways, I submitted it, and the Proceedings of Government above referred to, for the consideration of the Acting Advocate General ; and

3. I now forward a copy of his opinion.

OPINION.

1. I am of opinion that, under Section 19 of the Madras Railway Contract, the Company is bound to convey all Officers in first class carriages at second class fare "when they are on duty." The fund from which the second class fare is provided is a matter irrelevant to the question, and into which the Railway Company has no right to enquire.

2. The real difficulty will probably arise in determining when an Officer is "on duty." The circumstance that he was travelling to his duty would not entitle him to indulgence. I am also strongly inclined to think that it must be duty as an Officer, that is, that a Cantonment Magistrate or Municipal Commissioner would not be entitled to the reduced rates on the ground that he was an Officer.

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

11th February 1867.

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

Referred, through the Public Works Department, to the Consulting Engineer for Railways, in view to the Agent and Manager, Madras Railway Company, being invited to re-consider his decision on the subject.

(Signed) H. MARSHALL, Major General,
Secretary to Government.

FORT SAINT GEORGE,
18*th February* 1867.

No. 423. ORDER THEREON, 22nd February 1867, No. 527.

RAILWAY, No. 31.

Communicated to the Consulting Engineer for Railways for immediate attention.

(True Extract.)

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

To the Consulting Engineer for Railways.
" Military Department.

Exd. S. T. Augustin.

MILITARY DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

Memo. from the Offg Qr. Mr. General, ... Here enter 29th December 1866, No. 9911.
From the Consulting Engineer for Railways. ,, 18th January 1867, ,, 15.

Memorandum from the Officiating Quarter Master General, Fort Saint George, 29th December 1866, No. 9911; to the Secretary to Government, Military Dept.

In submitting for the information of Government, the accompanying correspondence received from the Consulting Engineer for Railways, the Commander-in-Chief has the honor to solicit reference to the G. O. issued by the Commander-in-Chief in Bombay, dated 23rd October 1866, No. 930: and His Excellency trusts that the Right Honorable the Governor in Council will take the subject into consideration, with a view to officers in this command, travelling on duty at their own expense, or on mileage allowance, being allowed the same advantage as is granted to officers in the Bombay Presidency, *viz.*, to travel 1st class at 2nd class fares.

From the Consulting Engineer for Railways, Madras, 20th December 1866, No. 514; to the Officiating Quarter Master General.

Referring to your letter dated the 16th ultimo, No. $\frac{918}{8999}$, I have the honor to forward copy of one* from the Agent and Manager of the Madras Railway, in which he states that he is not prepared to concede the privilege which is granted in the Bombay Presidency to officers travelling on duty by rail.

* *No.* 606, *dated* 19*th December* 1866.

2. The Agent of the Great Southern of India Railway has not yet replied, but on the receipt of his reply it will be communicated to you.

From the Agent and Manager, Madras Railway Company, 19th December 1866, No. 606; to the Consulting Engineer for Railways.

Adverting to Major Prendergast's letter of the 20th ultimo, No. 514, and to the discussion which took place at the Store's Committee yesterday, I have the honor to state that, on behalf of this Company, I am not prepared to concede the privilege to officers travelling by railway at their own expense, of seats in first class carriages, on payment of second class fares.

Referred to the Public Works Department, for the observations of the Consulting Engineer for Railways, with special advertence to G. O. G., Bombay Government, No. 930, dated 23rd October 1866—copy of which accompanies for reference.

8*th January* 1867.

Extract from G. O. by His Excellency the Commander-in-Chief, dated Head Quarters, Poona, 23rd October 1866, No. 930.

"Passages by Rail."

"With reference to General Order No. 418, dated the 10th August 1863, it is notified for general information, that officers travelling on duty by rail at their own expense or on mileage allowance, are by clause 20 of the Railway Contract entitled to travel 1st class at 2nd class fares."

Copies of Orders required.
Government Resolution.
Military Department, No. 285, 7*th September* 1866.

"Station Masters have received instructions to grant this privilege to the officers in question, on the production of a copy of the Order directing them to travel, or of their appointment to another station, signed by a Station Staff Officer or other Officer authorised to issue Railway Certificates."

"If an Officer during his journey has to travel by different railways, he should take care to provide himself with a sufficient number of copies of the Order."

Referred to the Consulting Engineer for Railways.

(Signed) CHARLES A. ORR, Colonel, R. E.,

10th January 1867. *Secretary to Government.*

From the Deputy Consulting Engineer for Railways, Madras, 18th January 1867, No. 15; to the Secretary to Government, Public Works Department, Fort Saint George.

Adverting to docket dated the 10th instant, referring for the observations of the Consulting Engineer, certain papers* relating to officers travelling on duty by rail at their own expense, or on mileage allowance, being allowed to travel 1st class at 2nd class fares, I have the honor to state that, under the terms of the contract between the Government and the Railway Companies, all European Commissioned Officers travelling on duty at the *bona fide* expense of Government, are allowed to travel on the railways in this Presidency in 1st class carriages, and are charged 2nd class fares. It does not appear however that Government can insist upon the same indulgence being conceded to officers travelling on duty "at their own expense or on mileage allowance."

* *Herewith returned.*

2. A copy of G. O. G. of the Bombay Government, dated 23rd October 1866, No. 930, was communicated to the Agent of the Madras Railway Company, and it will be seen from his reply† that he is not prepared to concede the privilege which is granted in Bombay. The Agent of the Great Southern of India Railway was also addressed upon the subject, but he has not yet replied.

† *No. 606, dated 19th December* 1866. (*Vide copy above.*)

Transferred to the Military Department.

(Signed) C. A. ORR, Col., R. E.,

18th January 1867. *Secretary to Government, P. W. D.*

ORDER, No. 422, 2nd February 1867.

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

(True Extract.)

Major General,

Secretary to Government

To the Quarter Master General, with an enclosure.
,, *Consulting Engineer for Railways, with 3 enclosures.*
,, Government Solicitor.
,, Adjutant General, ...} for information.
,, Controller of Military Accounts,}

Exd. J. E. Cashart.

No. 16.

Madras, February 12th 1867.

From

W. J. Brockman Esq.
Acting Government Solicitor,

To

Madras.

Major General A. Marshall
Secretary to Government Madras, &c.

Madras.

Sir,

Dated 2nd February 1867. No. 422. Military Department.

I have the honor to acknowledge the receipt of Proceedings of Government noted in the margin regarding the Advocate Generals opinion as to the right of Officers travelling on duty by Rail at their own expense or on mileage allowance under the Contract between Government and the Madras Railway Company, to travel first class at second class fares.

2. Having obtained the Contract between the Madras Railway Company and Government from the Consulting Engineer for Railways, I submitted it and the Proceedings of Government above referred to for the consideration of the Acting Advocate General, and

3. I now forward a copy of his opinion.

I have the honor &c.

(Signed) W. J. Brockman
Acting Govt. Solicitor.

Opinion

Opinion

I am of opinion that under S.[ection] 19 of the Madras Railway Contract the Company is bound to convey all Officers in 1st Class Carriages at 2nd Class fare when they are on duty. The fund from which the Second Class fare is provided is a matter irrelevant to the question and into which the Railway Company have no right to enquire.

2. The real difficulty will probably arise in determining when an Officer is "on duty" the Circumstance that he was travelling to his duty would not entitle him to indulgence. I am also strongly inclined to think that it must be duty as an Officer that is that a Lieutenant Magistrate or Municipal Commissioner would not be entitled to the reduced rates on the ground that he was an Officer.

(Signed) Edwd. D. Maguire
Acting Advocate Genl.
February 11th 1897.

(True Copy)
(Signed) E. J. Boekman
Acting Government Solicitor

Referred through the Public Works Department to the Consulting Engineer for Railways, in order to the Agent and Manager Madras Railway Co.[mpany] being invited to reconsider his decision on the subject.

Fort St. George
13th February 1897.

Macrabie Major Genl.
Secretary to Government

J.

The Public Works Department

Feb 1896

No. 527

Communicated to the Consulting Engineer for Railways for immediate attention —

Govt of India
Mily Dept

Govt of India
22nd Feby 1867

To The Consulting Engr for Railways
— — Military Dept

Dep. 23/2/67

No. 527

Govt of India
Mily Dept

To The Secy to Govt of India

Mily Dept

No. 527 dated 22nd February 1867

From

The Secy to Govt of India
Mily Dept

To The Secy to Govt of India

Mily Dept

Dated 12th
Rec'd 19th February 1867

Answered

Forwarding copy of the Advocate General's Opinion on the subject of Officers travelling in 1st Class Carriages at 2d Class fares when on duty, and requesting that the Agent and Managers of the Madras Railway Company may be called upon to reconsider his decision on the subject.

No. 527 dated 22nd February 1867

No. 422-423