CONFIDENTIAL.

Revenue (1894) Department.

G.O., No. 677
Confidential No. 633.
DATED 16 February 94

[Despatch Abstract.]

Communicating to the Govt of Revenue Dept. of the Military Dept. forwarding to the Govt of India opinion of their Govt on the question of legalizing the impressment of transport for Military purposes.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

1894

Govt. of {1894} Madras.

MILITARY.

Current No. 1257

CONFIDENTIAL.

To

THE QUARTER MASTER GENERAL,
&c., &c., &c.

Dated February, 10th.

Issued

Recd. *Encl.*

G.O., 10th February 1894, No. 863.

FEBRUARY.
Nos. 136—141.

Commissariat Department—
Transport.

Impressment of Transport for military purposes.—Opinion of this Government on the question of legalizing the — forwarded for consideration of the Government of India.

G.O. Mis No. 677 of 16-2-94.

Communicated to the comrs of L.D.

16 Feb/94

KD
15/2

dir To the comrs of L.D.

GOVERNMENT OF MADRAS.

MILITARY DEPARTMENT.

Commissariat Department—Transport.

Read the following papers :—

No. 136. *From Major-General E. H. H. COLLEN*, C.I.E., *Secretary to the Government of India, Military Department, to Brigadier-General H. R. HOPE, Secretary to the Government of Madras, Military Department; dated Simla, the 6th November 1893, No. 5379-D.*

Commissariat Department—Transport.

The question of legalizing the impressment of transport for military purposes has lately been under the consideration of the Government of India; their attention has more than once been directed to the subject, but recent experience has emphasized the desirability of such a course in a very marked degree.

2. In 1864–65 the civil officers in the North-Western Provinces and Oudh, when discussing this question, expressed the following opinion :—

"The issue simply resolves into this, whether the present open and general defiance by both civil and military authorities of the provisions of sections 339, 341 and 383 of the Penal Code, and of reiterated prohibitions against the seizure of carts in time of peace as promulgated by the North-Western Provinces Government, is to continue."

3. In 1880 Lieutenant-General Sir Michael Kennedy, Controller-General of Supply and Transport during the Afghan war, took occasion to urge, in his plan for an organized transport service in India, that even in England, where the growth of military power had been so closely watched, the law recognized the necessity of impressment and empowered the civil and military authorities to impress carriage in cases of emergency, and that, therefore, a short Act legalizing impressment in India could hardly be objected to on general grounds. The suggestion was, however, not acted upon.

4. The question again came under the consideration of the Government of India in 1884, but it was decided that it would be preferable to postpone any legislation in this direction until the right of Government to take carriage had been definitely questioned and contested in a court of law.

5. During the late expeditions on the North-West frontier, however, the attention of the Government of India was again and more forcibly drawn to this question by the Government of the Punjab, which pointed to the absence of any legal sanction empowering district officers to impress transport and to the fact that in their loyal efforts to assist the military authorities in such matters they rendered themselves liable to be sued in the civil courts. The increasing knowledge of their legal rights with respect to property amongst the people of the country makes the position of these officers one of great embarrassment, and in the opinion of the Government of India the time has now arrived when legislation must be resorted to. It is true that the measures adopted by the Commissariat-Transport department for the provision of transport for troops are generally of such a nature as to avoid the necessity for direct impressment; but in sudden and unforeseen cases, *e.g.*, movement of regiments into a cholera camp and other similar occasions, it becomes absolutely necessary to resort to compulsion for the impressment of

transport, and, equally so, that the officers charged with the duty should be supported by legal and unquestionable authority. In Bengal the existing law (Bengal Regulations XI of 1806 and VI of 1825) provides for the supply of carriage to troops marching in that province, but this law has not been extended to the Punjab. In Bombay, chapter VII of Bombay Regulations XXII of 1827 gives certain powers in the same direction, but these local regulations would probably not be in all respects suitable to other provinces, or to the circumstances of the present time, and legislation of a simple character applicable to the whole of India would be preferable. Further, it is absolutely necessary for the Government of India to have in reserve the power of purchasing transport at equitable prices on the occurrence of an emergency, such as would be involved in a campaign on a large scale, within or beyond the frontiers of India.

6. Under the circumstances above explained, I am directed to forward herewith two draft Bills regarding the provision of transport—

(1) on ordinary occasions, by hire;

(2) in times of a great emergency, by purchase;

and to request that the Government of India may be furnished with the opinion of His Excellency in Council whether legislation is necessary in Madras to secure the object in view, and, if so, whether the proposed measures are suitable, regard being had to the experience gained from the working of the existing laws in the matter of the supply of transport for troops in the province under His Excellency's administrative control. The Governor-General in Council proposes, subject to His Excellency in Council's opinion, to introduce Bill (1) without delay and to hold Bill (2) in abeyance until such time as its introduction may be found necessary.

No. 137. No. 7624.

The foregoing letter from the Government of India, together with the Bills therewith received, will be communicated to the Revenue Department and His Excellency the Commander-in-Chief for favour of an early expression of opinion on the proposed legislation.

(By order.)

FORT ST. GEORGE,
18th November 1893.

(Signed) H. R. HOPE, Brigdr.-Genl.,
Secretary to Government.

To the Revenue Department,
„ Quarter Master General,
with two Bills.

No. 138. *From Brigadier-General E. H. EYRE, Quarter Master General, Madras Army, to Brigadier-General H. R. HOPE, Secretary to Government, Military Department; dated Secunderabad, 29th November 1893, No. 5-T. (Commissariat Department—Transport).*

In acknowledging the receipt of copy of letter No. 5379-D, dated 6th November 1893, from the Government of India, Military Department, together with two draft Bills therewith received, on the question of legalizing the impressment and compulsory purchase of transport for military purposes under certain circumstances, forwarded for an early expression of opinion by His Excellency the Commander-in-Chief on the proposed legislation, I am desired by His Excellency to say that, although the provisions for regulating the supply of carriage to troops moving in the Madras Presidency, as prescribed in paragraph 132 *et seq.* of A.R.I., volume X, part II, are good and in most cases meet requirements, he is of opinion that it is essential that legislation in the direction contemplated by Bill No. 1 should be passed, so as to place it in the power of the civil authorities to

legally impress carriage for the movements of troops, when all other means to obtain it has failed, as, without this, cases might arise in which even the civil authorities of a district might be powerless to procure the necessary carriage.

His Excellency considers that Bill No. 1, as drafted, would meet all requirements, but would suggest that in clause (1) of section 3, after the word "route," in line 16, the words "to the district officer of such district or sub-division" be added.

As regards Bill No. 2, to provide for compulsory purchase of transport, &c., in times of a great emergency, His Excellency the Commander-in-Chief considers that for the present this may well be kept in abeyance, as he feels convinced that its provisions, if brought forward now, would meet with much opposition from the great majority of owners of carriage and animals. I am also desired to suggest that the word "General" in clause (1) of section 5 of this Bill appears redundant and might with advantage be struck out, as its retention might tend to restrict the powers of an officer in temporary command of a district, who was not a General officer by rank.

No. 139. *Proceedings of the Board of Revenue (Land Revenue), dated 16th December 1893, Mis. No. 6961.*

Read—endorsement of Government, Revenue Department, dated 24th November 1893, No. 4381.

Resolution—dated 16th December 1893, Mis. No. 6961.

The Board is of opinion that the proposed legislation is clearly necessary inasmuch as impressment is unavoidable for military purposes and the impressing officers ought to be legally exonerated (*vide* also G.O., dated 27th August 1880, No. 1035). The proposed Bills are also generally suitable except in one point to be noticed below.

2. This defect which is noticeable in Bill 1 is the delay that is likely to take place in the payment of hire, &c., to owners of transport and carriers under the procedure prescribed in section 5. Where the commanding officer does not make immediate payment on the march, he is to give a certificate to the party who will forward it to the district officer with a detailed account, and payment of hire, &c., to the party is deferred until the district officer has communicated with the commanding officer and obtained his remarks on the account. The Board considers that this provision is unsatisfactory and that the Bill should be amended so as to insist on prompt payment. If the commanding officer finds it inconvenient to pay at the time, he should be required not only to issue his certificate but also to send a duplicate copy thereof to the district officer who in turn should be authorized to make payment after making such inquiries as he thinks necessary. If the commanding officer fails, before leaving the district, to issue the certificate regarding the transport provided at his request by the district officer, the latter should be entitled to inquire into any claims made to him and make such payments as he considers to be due. The only check provided in the Bill upon a neglectful officer is a prosecution under section 11 (*b*) which would never be resorted to in any but a most flagrant case. If, on the other hand, the commanding officer knew that payment would be made without his certificate if he failed to issue it and that the matter would come to the notice of his superiors, this would, in the Board's opinion, ensure the issue of the certificate far more than would the threat of a prosecution which would never be carried out.

(A true Extract.)

(Signed) W. S. MEYER,
Secretary.

To the Secretary to Government, Revenue Department, with the Military Department order and three enclosures (returned).

No. 4875, Revenue.

Transferred to the Military Department with an expression of concurrence in the Board's remarks.

FORT ST. GEORGE,
26th December 1893.

(Signed) C. A. GALTON,
Secretary to Government.

To the Military Department.

No. 140. ORDER THEREON, 10th February 1894, No. 863.

The Government of India will be addressed.

No. 141. *To the Secretary to the Government of India, Military Department; dated 10th February 1894, No. 864.*

(True Extract.)

Brigdr.-Genl.,
Secretary to Government.

To the Quarter Master General.
" Commissary-General.
" Revenue Department. with 5 spare c

GOVERNMENT OF MADRAS
15 FEB 94
REVENUE DEPARTMENT

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