

9.12.03

Financial (1895) Department.

ORDINARY PRINTED.

G.O., No. 24.

DATED 11th Jan 95.

INDEXED. 11/12

[Despatch Abstract.]

MADRAS HARBOUR TRUST LOAN.

Communicating to the Chairman, Harbour Trust Board, letter from the Government of India intimating its decision to accept the five lakhs of rupees which the Board propose to repay during the current year in addition to the one lakh payable under section 31 of the Act, and remarking on their claim to make or withhold repayments at their option without previous arrangement with the Government.

C.H.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	544		1895				

Govt. of {1895} Madras.

FINANCIAL.

Issued

Recd.

Encl.

G.O., 11th Jan. 1895, No. 24.

JANUARY.

Madras Harbour Trust Loan.

Communicating to the Chairman, Harbour Trust Board, letter from the Government of India intimating its decision to accept the five lakhs of rupees which the Board propose to repay during the current year in addition to the one lakh payable under section 31 of the Act, and remarking on their claim to make or withhold repayments at their option without previous arrangement with the Government.

GOVERNMENT OF MADRAS.
FINANCIAL DEPARTMENT.

READ—again the following papers :—

G.O., dated 25th August 1894, Mis. No. 646, Financial.

Read—the following letter from E. TURNER, Esq., I.C.S., Chairman, Harbour Trust Board, to the Chief Secretary to Government, dated Madras, 23rd July 1894, No. 1487 :—

In connection with the reduction of interest upon Government paper from 4 per cent. to $3\frac{1}{2}$ per cent., I have the honour to submit, for the information of Government, copy of resolution, No. 2, passed by the Trustees of this harbour at the last meeting of the Board, when it was decided to convert all loans, of every loan held by the Trust, into $3\frac{1}{2}$ per cent. under the terms of the notification of the Government of India, dated 30th June 1894.

2. In considering this question, the Hon'ble Mr. Boyson brought to the notice of the Trustees the unnecessarily large balance at credit of the Board's Revenue account, which is month by month steadily increasing, being now Rs. 9,80,000 invested in Government paper, besides Rs. 2,14,000* balance of Port funds due to the port of Madras by outports, making a total of Rs. 11,94,000.

3. Out of the Government paper held by the Trust, the Board has decided to make a payment to Government under section 32, Act II of 1886, in reduction of capital debt for harbour construction, of a sum of Rupees five lakhs; and I request that I may be favoured with instructions as to whether Government would wish this payment made in cash, or would prefer the equivalent amount of $3\frac{1}{2}$ per cent. Government promissory notes transferred at market rate.

4. With reference to the balance due by outports to the port of Madras, the Trustees would be glad if Government could arrange to take credit for the sum due to Madras, as a further refund of capital advances of Rs. 2,14,000, or whatever may now be the exact figure, thus reducing the capital debt of the Trust by Rs. 7,14,000 or thereabouts. This additional Rs. 2,14,000 could, the Board submits, be adjusted by treating the amount as an advance to outports from Provincial funds, and would merely require a book entry to make the adjustment.

ENCLOSURE.

EXTRACT of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 20th day of July 1894.

2. The question of the conversion of all 4 per cent. Government paper held by the Trust into $3\frac{1}{2}$ per cent. was discussed.

The Secretary reported that Rs. 3,00,000 of the 1842-43 loan had, as directed in Resolution, No. 3, of last meeting, been tendered for reduction of interest under the terms of the Government of India notification of the 30th June, viz., Rs. 2,75,000 Revenue Account and Rs. 25,000

* *Vide* page 23, G.O., Marine, No. 394, dated 14th November 1893.

Provident Fund Account. He also submitted a memorandum showing the amounts held in other loans at par value as follows:—

Revenue Account—						Rs.	Rs.
1835-36	..	..	..	..	..	3,000	
1854-55	..	..	..	..	..	2,70,500	
1865	..	..	..	..	..	4,00,000	
1879	..	..	..	..	..	31,500	
							7,05,000
Provident Fund—							
1854-55	..	..	..	..	..	4,500	
1865	..	..	..	..	..	45,000	
1879	..	..	..	..	..	1,000	
							50,500
Cooly Provident Fund—							
1854-55	..	..	..	..	..		500
Total ..						7,56,000	

Resolved that all 4 per cent. Government promissory notes held by the Trust be converted into $3\frac{1}{2}$ per cent. under the terms of the notification of the Government of India, dated 30th June.

The Hon'ble Mr. Boyson invited the attention of the Trustees to the unnecessarily large balance, which was month by month steadily increasing, held in the Revenue account, being now Rs. 9,80,000 invested in Government paper, which would hereafter pay interest only at the rate of $3\frac{1}{2}$ per cent.; while for advances made by Government, on account of harbour construction, $4\frac{1}{2}$ per cent. per annum had to be paid. He therefore proposed that Government be addressed with a view to ascertaining on what terms it would receive, at once, an additional refund of capital advances of, say, Rs. 5,00,000.

Mr. Slater supported the Hon'ble Mr. Boyson's proposal.

Resolution.—Resolved that the Chairman be requested to address Government on the subject.

Memorandum to the Accountant-General, dated 18th August 1894, No. 1654.

The Accountant-General is requested to report at an early date on the question asked in the concluding sentence of paragraph 3 of Mr. Turner's letter.

Telegram to the Government of India, Finance and Commerce Department, dated 18th August 1894.

No. 392. Madras Harbour Trust Board having decided convert all its four per cent. securities and having unnecessarily large balance at credit of its Revenue account, 9.80 lakhs being invested in Government paper, has decided make payment of 5 lakhs to Government under section 32, Act II 1886, in reduction of capital debt for harbour construction. This Government presumes no objection to proposal.

Telegram from the Government of India, Finance and Commerce Department, dated 23rd August 1894.

Your telegram, 18th, repayment Harbour Trust loan. We do not admit claim of Trustees to repay at their option, but shall consider the matter on receipt of full statement as to estimates of advance and repayment during next three years.

Order—dated 25th August 1894, Mis. No. 646, Financial.

Communicated to the Chairman, Harbour Trust Board, with reference to paragraph 3 of his letter, dated 23rd July 1894, No. 1487.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

G.O., dated 1st September 1894, Mis. No. 669, Financial.

Read—the following letter from T. W. RAWLINS, Esq., Accountant-General to the Government of Madras, to the Chief Secretary to Government, dated Fort St. George, 22nd August 1894, No. 2507.

With reference to Memorandum, No. 1654, dated the 20th August 1894, I have the honour to state that the payment which the Harbour Trust Board proposes to make should be in cash. To receive in Government paper a sum payable in cash would be a practical violation of the rule [Article 283 (9), Civil Account Code] against withdrawal of cash from the balances for the purpose of investment, and as the price of paper varies from week to week, the transaction would be more or less of a speculative character.

Order—dated 1st September 1894, Mis. No. 669, Financial.

Recorded with reference to G.O., dated 25th August 1894, No. 646.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Chairman, Harbour Trust Board.
,, Accountant-General.

G.O., dated 12th September 1894, Mis. Nos. 715, 716, Financial.

Read—the following letter from E. TURNER, Esq., I.C.S., Chairman, Harbour Trust Board, to the Chief Secretary to Government, dated Madras, 1st September 1894, No. 1989:—

I have the honour to acknowledge the receipt of G.O., Marine, No. 646, dated 25th ultimo, which was considered by the Harbour Trustees at their meeting last evening, and I am requested to submit that, under section 32, Act II of 1886, the Board appears to be within its statutory rights in tendering an additional refund of Rupees five lakhs.

2. With regard to the estimate of advances called for by the Government of India in its telegram, dated 23rd idem, I would invite reference to my letter, No. 922, dated 8th June. The balance of sanctioned advances to be made to the Trust for harbour construction up to completion is Rs. 2,32,227, out of which an advance of Rs. 1,50,000 will be received during the current year: vide G.O., dated 12th July 1894, No. 535, Financial. This leaves a balance to be advanced of Rs. 82,227 during the year 1895-96.

3. The Trustees will be prepared hereafter to repay regularly, as hitherto, the sum of one lakh annually under section 31.

ENCLOSURE.

EXTRACT of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 31st day of August 1894.

5. Read G.O., No. 646, Financial, dated 25th August, communicating telegram from the Government of India regarding the proposed additional repayment by the Board to Government of Rs. 5,00,000 under section 32, Act II of 1886, on account of harbour construction.

Resolution.—Resolved that the Chairman be requested to address Government.

Order—dated 12th September 1894, Mis. No. 715, Financial.

The following telegram will be despatched to the Government of India, Department of Finance and Commerce:—

" 456. Your telegram, 23rd ultimo, repayment Harbour Trust loan. Board will not require any further advances from Government beyond 1,50,000 this year and 82,000 next year: see Proceedings, No. 480, dated 18th June 1894, Financial, and estimates therein. Proposed to repay 5 lakhs this year under section 32 independently of annual refund one lakh under section 31, Act II of 1886. Board submits that claim to refund at their option is valid under section 32."

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Chairman, Harbour Trust Board.
" Accountant-General.

Endorsement—dated 12th September 1894, Mis. No. 716, Financial.

Copy to the Government of India, Finance and Commerce Department.

(Signed) J. F. PRICE,
Chief Secretary.

G.O., dated 27th September 1894, Mis. No. 792, Financial.

Read—the following letter from J. E. O'CONNOR, Esq., Assistant Secretary to the Government of India, Finance and Commerce Department, to the Chief Secretary to the Government of Madras, dated Simla, the 18th September 1894, No. 4709-A:—

With reference to the correspondence ending with your telegram, No. 456, dated the 11th September 1894, regarding the repayment of the Harbour Trust loan, I am directed to say that the Government of India adhere to the view expressed in the telegram from this department, No. 4276-A, dated the 23rd August 1894, and are not prepared to admit the claim of the Trustees of the Madras Harbour Board to repay their loan to Government at their option without any reference to the convenience of Government.

2. In explanation of the view expressed in that telegram, I am directed to point out that section 32 of Act II of 1886 (M.C.) merely provides that it shall be lawful for the Board to repay certain amounts to the Secretary of State in Council, but it does not either *require* them to repay the amount or Government to receive it. As, however, the Board claim a legal right under that section to make the repayment contrary to the terms of their estimates for 1894-95 submitted to and accepted by the Government, in which the usual repayment of one lakh only under section 31 of the Act was provided for, I am to request that, with the permission of His Excellency the Governor of Madras, the opinion of the Law Officers of the Local Government on the matter may first be obtained and communicated to the Government of India for consideration. The attention of the Law Officers should be directed to the fact that the payment now proposed was not included in the statement of transactions for 1894-95 submitted by the Trustees to the Government in March 1894.

Order—dated 27th September 1894, Mis. No. 792, Financial.

The letter from the Government of India together with the following Proceedings will be communicated to the Advocate-General with the request that he will favour Government with his opinion on the point at an early date:—

G.O., dated 1st May 1894, Nos. 348, 349.
" " 18th June " " 480, 481.
" " 12th July " " No. 535.
" " 25th Aug. " " 646.
" " 12th Sept. " " Nos. 715, 716.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Government Solicitor.

G.O., dated 22nd October 1894, Mis. Nos. 866, 867, Financial.

Read—the following paper:—

From the Government Solicitor, Madras, dated 13th October 1894, No. 509.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 12th October 1894:—

OPINION.

[Re the Order of Government, dated 27th September 1894, No. 792.]

The Madras Harbour Trust Board propose to pay five lakhs of rupees this year under section 32 of Madras Act II of 1886, in addition to the one lakh payable under section 31. The Government of India deny the right of the Board "to repay their loan to Government at their option without any reference to the convenience of Government," and point out that section 32 of the Act "merely provides that it shall be lawful for the Board to repay certain amounts to the Secretary of State in Council, but it does not either *require* them to repay the amount, or Government to receive it."

2. In referring the question of the construction of section 32, Government has called my attention to certain Proceedings which show that the proposed payment was not included in the statement of transactions for 1894-95 submitted by the Trustees to the Government in March 1894. The Government of India consider that the Board's claim of right under section 32 to make the repayment is "contrary to the terms of their estimates for 1894-95 submitted to and accepted by the Government, in which the usual repayment of one lakh only under section 31 of the Act was provided for."

3. I have not been able to find in the papers before me anything to justify the statement that the proposed repayment is "contrary" to the terms of the Board's estimates for 1894-95. The provision for the repayment of one lakh a year is contained in the Act. Even if it was repeated in the estimates referred to, no further or other right or liability is thereby created. The question resolves itself into one of construction. What is the meaning of section 32 of the Harbour Trust Act II of 1886?

4. I entirely dissent from the view, apparently entertained by the Government of India, that because section 32 does not "*require*" the Board to pay anything thereunder, therefore Government is not bound to accept payment if made. Section 31 provides for the repayment of the debt by annual instalments of one lakh of rupees and limits the Board's liability to pay that amount annually. Section 32, however, empowers the Board to make additional payments, "notwithstanding" the provisions of section 31, "provided that no such repayment shall be made of any sum less than ten thousand rupees." Having given this power to the Board, the Legislature could not empower Government to refuse to receive such payments, without rendering the power previously conferred on the Board purely illusory.

5. I am, therefore, of opinion that the Board's claim is well founded. Section 31 limits the amount demandable from the Board; section 32 permits the Board to pay more if able to do so.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—dated 22nd October 1894, Mis. No. 866, Financial.

The Advocate-General's opinion will be forwarded to the Government of India.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

Letter—to the Secretary to the Government of India, Finance and Commerce Department, dated 22nd October 1894, Mis. No. 867, Financial.

Adverting to the request in paragraph 2 of your letter of the 18th ultimo, No. 4709-A, I am directed to forward the accompanying copy of the Advocate-General's opinion on the question of the repayment of the Harbour Trust loan.

(Signed) J. F. PRICE,
Chief Secretary.

READ—also the following paper:—

From S. JACOB, Esq., Officiating Secretary to the Government of India, Finance and Commerce Department, to the Chief Secretary to the Government of Madras, dated Calcutta, the 22nd December 1894, No. 6256-A.

With reference to the correspondence ending with your letter, No. 867, Financial, dated the 22nd October 1894, regarding the repayment of the Madras Harbour Trust loan, I am directed to say that, on further consideration, the Government of India have decided to accept the five lakhs of rupees which the Board propose to repay during the current year in addition to the one lakh payable under section 31 of the Harbour Trust Act.

2. I am, however, to say that it does not suit the Government of India to grant loans on terms under which the debtors retain their right to make or withhold repayments at their option without previous arrangement with the Government. I am accordingly to say that the Governor-General in Council will not be prepared to sanction any further loans to the Madras Harbour Trust Board unless the option, which the Board claim under section 32 of the Act, is exercised subject to the consent of the Government of India or to notice given before February of each year.

Copy forwarded to the Comptroller and Auditor-General, and to the Accountant-General, Madras.

ORDER—dated 11th January 1895, No. 24, Financial.

Communicated to the Chairman, Harbour Trust Board.

(True Extract.)

Ag. Chief Secretary.

To the Chairman, Harbour Trust Board. } *in 1895 only*
,, Marine Department.

Exd. A. Raitt.

*Read also the following No. 3437
Government of India
Finance and Commerce Department
Calcutta, the 22nd December 1894.*

*To the Chief Secretary to the
Government of India
Financial Department*

With reference to the correspondence ending with your letter of the 18th ultimo, No. 4709-A, I am directed to say that, on further consideration, the Government of India have decided to accept the five lakhs of rupees which the Board propose to repay during the current year in addition to the one lakh payable under section 31 of the Harbour Trust Act.

2. I am however to say that it does not suit the Government of India to grant loans on terms under which the debtors retain their right to make or withhold repayments at their option without previous arrangement with the Government.

have not said the Government of India
 to grant them a loan or to
 the library retain their right to make
 or without payment of their
 without previous arrangement with the
 Government. I am sorry to say
 that the Government of India
 is not prepared to sanction any
 further loans to the Madras Museum
 until it is clear the option which
 the Government under section 15 of the
 Act is now subject to. I think that
 the Government of India, in its
 reply of 1st May of last year.

I am, Sir, very respectfully,
 Yours obedient servant,
 Herbert Jacob

Off. Secy. to the Govt.
 Copy of the letter to the Govt. of India
 dated 1st May 1881 is enclosed for
 your information.

Wm.

Financial Department

From

The Govt of India,

Secy + Com: Secy A

A. M.
P.S.

Read again 8th

646 715/6
288.94 12, 9.94

792 866/7
27.8.94 24.10.94

Order

11 Jan 1895

Communicated to

the Chairman, Harbour

Trust Board

C.S. 9.1.95

10/1/95

no 6256.

Dated 22
Recd 26 } Dec 5. 94

India is quite right, I
think

Subject

Repayment of the Harbour
Trust Bd loan

sanction for the loan
from the Govt of India
to the Harbour Trust Board
for the purpose of the
repayment of the loan
from the Govt of India

Mr. K. A. N. DESPATCHED
15 JAN 95

9/1/95

Office draft in mar.
making and then
print making a selection
from mar. again for
the use of the Board

11TH JANUARY 1895, No. 24, FINANCIAL.

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

READ—again the following papers:—

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In connection with the reduction of interest upon Government paper from 4 per cent. to $3\frac{1}{2}$ per cent., I have the honour to submit, for the information of Government, copy of resolution, No. 2, passed by the Trustees of this harbour at the last meeting of the Board, when it was decided to convert all loans, of every loan held by the Trust, into $3\frac{1}{2}$ per cent. under the terms of the notification of the Government of India, dated 30th June 1894.

2. In considering this question, the Hon'ble Mr. Boyson brought to the notice of the Trustees the unnecessarily large balance at credit of the Board's Revenue account, which is month by month steadily increasing, being now Rs. 9,80,000 invested in Government paper, besides Rs. 2,14,000* balance of Port funds due to the port of Madras by outports, making a total of Rs. 11,94,000.

3. Out of the Government paper held by the Trust, the Board has decided to make a payment to Government under section 32, Act 11 of 1886, in reduction of capital debt for harbour construction, of a sum of Rupees five lakhs; and I request that I may be favoured with instructions as to whether Government would wish this payment made in cash, or would prefer the equivalent amount of $3\frac{1}{2}$ per cent. Government promissory notes transferred at market rate.

4. With reference to the balance due by outports to the port of Madras, the Trustees would be glad if Government could arrange to take credit for the sum due to Madras, as a further refund of capital advances of Rs. 2,14,000, or whatever may now be the exact figure, thus reducing the capital debt of the Trust by Rs. 7,14,000 or thereabouts. This additional Rs. 2,14,000 could, the Board submits, be adjusted by treating the amount as an advance to outports from Provincial funds, and would merely require a book entry to make the adjustment.

ENCLOSURE.

EXTRACT of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 20th day of July 1894.

2. The question of the conversion of all 4 per cent. Government paper held by the Trust into $3\frac{1}{2}$ per cent. was discussed.

The Secretary reported that Rs. 3,00,000 of the 1842-43 loan had, as directed in Resolution, No. 3, of last meeting, been tendered for reduction of interest under the terms of the Government of India notification of the 30th June, viz., Rs. 2,75,000 Revenue Account and Rs. 25,000

* Vide page 23, G.O., Marine, No. 394, dated 14th November 1893.

Provident Fund Account. He also submitted a memorandum showing the amounts held in other loans at par value as follows:—

Revenue Account—						RS.	RS.
1835-36	..	..	..	..	..	3,000	
1854-55	..	..	..	..	..	2,70,500	
1865	..	..	..	..	..	4,00,000	
1879	..	..	..	..	..	31,500	
Provident Fund—							7,05,000
1854-55	..	..	..	..	..	4,500	
1865	..	..	..	..	..	45,000	
1879	..	..	..	..	..	1,000	
Cooly Provident Fund—							50,500
1854-55	..	..	..	..	..	500	
Total ..							7,56,000

Resolved that all 4 per cent. Government promissory notes held by the Trust be converted into $3\frac{1}{2}$ per cent. under the terms of the notification of the Government of India, dated 30th June.

The Hon'ble Mr. Boyson invited the attention of the Trustees to the unnecessarily large balance, which was month by month steadily increasing, held in the Revenue account, being now Rs. 9,80,000 invested in Government paper, which would hereafter pay interest only at the rate of $3\frac{1}{2}$ per cent.; while for advances made by Government, on account of harbour construction, $4\frac{1}{2}$ per cent. per annum had to be paid. He therefore proposed that Government be addressed with a view to ascertaining on what terms it would receive, at once, an additional refund of capital advances of, say, Rs. 5,00,000.

Mr. Slater supported the Hon'ble Mr. Boyson's proposal.

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(True Extract.)

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„ Accountant-General.

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(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Chairman, Harbour Trust Board,
,, Accountant-General.

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Chief Secretary.

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Read—the following letter from J. E. O'CONOR, Esq., Assistant Secretary to the Government of India, Finance and Commerce Department, to the Chief Secretary to the Government of Madras, dated Simla, the 18th September 1894, No. 4709-A :—

With reference to the correspondence ending with your telegram, No. 456, dated the 11th September 1894, regarding the repayment of the Harbour Trust loan, I am directed to say that the Government of India adhere to the view expressed in the telegram from this department, No. 4276-A, dated the 23rd August 1894, and are not prepared to admit the claim of the Trustees of the Madras Harbour Board to repay their loan to Government at their option without any reference to the convenience of Government.

2. In explanation of the view expressed in that telegram, I am directed to point out that section 32 of Act II of 1886 (M.C.) merely provides that it shall be lawful for the Board to repay certain amounts to the Secretary of State in Council, but it does not either require them to repay the amount or Government to receive it. As, however, the Board claim a legal right under that section to make the repayment contrary to the terms of their estimates for 1894-95 submitted to and accepted by the Government, in which the usual repayment of one lakh only under section 31 of the Act was provided for, I am to request that, with the permission of His Excellency the Governor of Madras, the opinion of the Law Officers of the Local Government on the matter may first be obtained and communicated to the Government of India for consideration. The attention of the Law Officers should be directed to the fact that the payment now proposed was not included in the statement of transactions for 1894-95 submitted by the Trustees to the Government in March 1894.

Order—dated 27th September 1894, Mis. No. 792, Financial.

The letter from the Government of India together with the following Proceedings will be communicated to the Advocate-General with the request that he will favour Government with his opinion on the point at an early date :—

G.O., dated 1st May 1894, Nos. 348, 349.
" " 18th June " " 480, 481.
" " 12th July " " No. 535.
" " 25th Aug. " " 646.
" " 12th Sept. " " Nos. 715, 716.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Government Solicitor.

G.O., dated 22nd October 1894, Mis. Nos. 866, 867, Financial.

Read—the following paper :—

From the Government Solicitor, Madras, dated 13th October 1894, No. 509.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 12th October 1894 :—

OPINION.

[Re the Order of Government, dated 27th September 1894, No. 792.]

The Madras Harbour Trust Board propose to pay five lakhs of rupees this year under section 32 of Madras Act II of 1886, in addition to the one lakh payable under section 31. The Government of India deny the right of the Board "to repay their loan to Government at their option without any reference to the convenience of Government," and point out that section 32 of the Act "merely provides that it shall be lawful for the Board to repay certain amounts to the Secretary of State in Council, but it does not either require them to repay the amount, or Government to receive it."

2. In referring the question of the construction of section 32, Government has called my attention to certain Proceedings which show that the proposed payment was not included in the statement of transactions for 1894-95 submitted by the Trustees to the Government in March 1894. The Government of India consider that the Board's claim of right under section 32 to make the repayment is "contrary to the terms of their estimates for 1894-95 submitted to and accepted by the Government, in which the usual repayment of one lakh only under section 31 of the Act was provided for."

3. I have not been able to find in the papers before me anything to justify the statement that the proposed repayment is "contrary" to the terms of the Board's estimates for 1894-95. The provision for the repayment of one lakh a year is contained in the Act. Even if it was repeated in the estimates referred to, no further or other right or liability is thereby created. The question resolves itself into one of construction. What is the meaning of section 32 of the Harbour Trust Act II of 1886?

4. I entirely dissent from the view, apparently entertained by the Government of India, that because section 32 does not "require" the Board to pay anything thereunder, therefore Government is not bound to accept payment if made. Section 31 provides for the repayment of the debt by annual instalments of one lakh of rupees and limits the Board's liability to pay that amount annually. Section 32, however, empowers the Board to make additional payments, "notwithstanding" the provisions of section 31, "provided that no such repayment shall be made of any sum less than ten thousand rupees." Having given this power to the Board, the Legislature could not empower Government to refuse to receive such payments, without rendering the power previously conferred on the Board purely illusory.

5. I am, therefore, of opinion that the Board's claim is well founded. Section 31 limits the amount demandable from the Board; section 32 permits the Board to pay more if able to do so.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—dated 22nd October 1894, Mis. No. 866, Financial.

The Advocate-General's opinion will be forwarded to the Government of India.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

Letter—to the Secretary to the Government of India, Finance and Commerce Department, dated 22nd October 1894, Mis. No. 867, Financial.

Adverting to the request in paragraph 2 of your letter of the 18th ultimo, No. 4709-A, I am directed to forward the accompanying copy of the Advocate-General's opinion on the question of the repayment of the Harbour Trust loan.

(Signed) J. F. PRICE,
Chief Secretary.

READ—also the following paper:—

From S. JACOB, Esq., Officiating Secretary to the Government of India, Finance and Commerce Department, to the Chief Secretary to the Government of Madras, dated Calcutta, the 22nd December 1894, No. 6256-A.

With reference to the correspondence ending with your letter, No. 867, Financial, dated the 22nd October 1894, regarding the repayment of the Madras Harbour Trust loan, I am directed to say that, on further consideration, the Government of India have decided to accept the five lakhs of rupees which the Board propose to repay during the current year in addition to the one lakh payable under section 31 of the Harbour Trust Act.

2. I am, however, to say that it does not suit the Government of India to grant loans on terms under which the debtors retain their right to make or withhold repayments at their option without previous arrangement with the Government. I am accordingly to say that the Governor-General in Council will not be prepared to sanction any further loans to the Madras Harbour Trust Board unless the option, which the Board claim under section 32 of the Act, is exercised subject to the consent of the Government of India or to notice given before February of each year.

Copy forwarded to the Comptroller and Auditor-General, and to the Accountant-General, Madras.

ORDER—dated 11th January 1895, No. 24, Financial.

Communicated to the Chairman, Harbour Trust Board.

(True Extract.)

Ag. Chief Secretary.

To the Chairman, Harbour Trust Board.
„ Marine Department.

Ed. A. Raitt.

Govt. of {1895} Madras.
FINANCIAL.

Issued

Recd.

Encl.

G.O., 11th Jan. 1895, No. 24.

JANUARY.

Madras Harbour Trust Loan.

Communicating to the Chairman, Harbour Trust Board, letter from the Government of India intimating its decision to accept the five lakhs of rupees which the Board propose to repay during the current year in addition to the one lakh payable under section 31 of the Act, and remarking on their claim to make or withhold repayments at their option without previous arrangement with the Government.

First copy sent to Press.

Returned for signature.

Despatched in print.

RECEIVED G.O. No.
189

DATED

CURRENT No.

Enclosure to G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

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