

(1) பக்கங்களின் எண்ணிக்கை

28

(2) புதுக்கித் திருப்பி நாள்

நவம்பர் 1895

(3) ஆதாரம் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Judicial துறை

அரசாணை எண்.	அச்சகம்
மு. கோப்புத் தாள் எண்.	பலவகை
71	
(50-51)	
நாள் : 17.1.1881	199

மடிக்கவோ, சுண்டப்படிக் கையாளவோ கூடாது.

சு. ப. ப.

ஆவண - கா. 1-18,006-6-9-90.

21

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

17th January 1881, No. 71.

Bills—Legislative.

Read the following paper:—

No. 50. *From D. FITZPATRICK, Esq., Secretary to the Government of India, Legislative Department, to the Chief Secretary to Government, dated Fort William, 7th January 1881, No. 10.*

I am directed to forward herewith forty copies of the papers noted in the margin, and to request that His Excellency the Governor in Council will favor the Government of India in this department with an expression of his opinion on the provisions of the Bill, and with the opinions of such selected officers as His Excellency in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English, and in such other languages as His Excellency in Council may deem proper, and that the dates of such publication be communicated in your reply.

3. The reply to this letter should be sent in by the 3rd February 1881.

No. 51. ORDER THEREON, 17th January 1881, No. 71.

Ordered that copy of the "Obstructions in Fairways" Bill and of the Statement of Objects and Reasons received with the above letter be forwarded to the Honorable the Judges of the High Court, and to the officers noted in the margin, with the request that they will favor Government with their views on the provisions of the Bill by the 24th January 1881.

2. The Bill was published in the *Fort St. George Gazette* of the 12th January 1881.

(True Extract.)

Chief Secretary.

To the Hon'ble the Judges of the High Court, with covering letter.
" Advocate-General.
" Master Attendant.
" Chairman, Chamber of Commerce.

Erd. T. O'Connor.

செப்பவிருவற் அபயர் K. பழல்
செப்பவிருவதற்கு எடுத்துக்
கொள்ளப்பட்ட நாள் 1881.1.15
செப்பவிரு முடிந்த நாள் 1881.1.15
சரிபார்க்கும் உதவி
மு. ப. எ. கையொப்பம்
கையொப்பம்

Govt. of (1881) Madras.

JUDICIAL.

To
THE HON'BLE THE JUDGES
OF THE HIGH COURT,
&c., &c., &c.

Dated January, 17th.

Issued

Recd.

Encl.

G. O., 17th January 1881, No. 71.

JANUARY.
Nos. 50-51.

Bills—Legislative.—Copy of the "Obstructions in Fairways" Bill, &c., forwarded to the Honorable the Judges of the High Court and to certain officers, with request that they will favor Government with their views on the provisions of the Bill by the 24th January 1881.

7/2
A
BILL

Empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways in the seas adjacent to British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

1. This Act may be called "The Obstructions in fairways Act, 1931;"
and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty, or by the Secretary of State for India in Council.

2. Whenever in any fairway in any of the seas adjacent to British India, any vessel is sunk, stranded or abandoned, or any fishing stake, timber or other thing is placed or left, the Local Government of the part of British India in or near which such vessel, fishing-stake, timber or other thing is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(a) cause such thing or any part thereof to be removed; or,

(b) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, destroy the same or any part thereof.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be determined by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties.

4. The Local Government shall, when anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was removed.

5. If after publishing such notification, such thing is unclaimed,

Act VII of 1930, a. 75.

Act VII of 1930, a. 75.

Act VII of 1930, a. 75.

Act VII of 1930, a. 77.

or if the person claiming the same fails to pay the amount due for the said expenses and any other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

6. On the realization of the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway in any of the seas adjacent to British India, the placing of fishing stakes, the casting of throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause or be likely to cause obstruction or danger to navigation.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight may be tried for such offence in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

10. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in the behalf.

Exd.—J. G.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL

TO

Empower the Government to remove or
destroy obstructions in fairways, and to
prevent the creation of such obstruc-
tions.

(Mr. Stokes.)

BILL

Empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways in the seas adjacent to British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

1. This Act may be called "The Obstructions in fairways Act, 1881," and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty, or by the Secretary of State for India in Council.

2. Whenever in any fairway in any of the seas adjacent to British India, any vessel is sunk, stranded or abandoned, or any fishing stake, timber or other thing is placed or left, the Local Government of the part of British India in or near which such vessel, fishing-stake, timber or other thing is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(a) cause such thing or any part thereof to be removed; or,

(b) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, destroy the same or any part thereof.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be determined by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties.

4. The Local Government shall, when anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was removed.

5. If after publishing such notification, such thing is unclaimed,

Act VII of 1880, s. 75.

Government entitled to expenses incurred in removing obstruction.

Act VII of 1880, s. 72.

Dispute concerning such expenses.

Act VII of 1880, s. 76.

Notice of removal to be given by Local Government.

Act VII of 1880, s. 77.

Things removed may, in certain cases, be sold.

or if the person claiming the same fails to pay the amount due for the said expenses and any other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

6. On the realization of the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway in any of the seas adjacent to British India, the placing of fishing stakes, the casting or throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause or be likely to cause obstruction or danger to navigation.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

10. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

▲
BILL

TO

Empower the Government to remove or
destroy obstructions in fairways, and to
prevent the creation of such obstruc-
tions.

(Mr. Stokes.)

Govt. Central Press.—No. 187 L. D.—24-11-50.—120.

an Indr: 113/87

No. 10

FROM

D. FITZPATRICK, Esq.,

Secretary to the Government of India,

Legislative Department.

TO

The Chief Secretary to Government,
Madras.

Dated, Fort William, the 7th January 1851.

SIR,

I am directed to forward herewith ^{forty} copies of the papers ²⁰ noted in the margin, and to request that His Excellency the Governor in Council

Bill to empower the Govt. to remove or destroy obstructions in highways, & to prevent the creation of such obstructions. Statement of objects & reasons of the above Bill.

will favour the Government of India in this Department with an expression of his opinion on the provisions of the Bill, and with the opinions of such selected officers (~~not exceeding in number~~) as His Excellency in Council may think fit to consult on the subject.

2 I am also to request that the Bill and Statement may be published in the Fort St. George Gazette in English and in such other languages as His Excellency in Council may deem proper, and that the dates of such publication be communicated in your reply.

3. The reply to this letter should be sent in by the 3rd February 1851.

I have the honour to be,

SIR,

Your obedient Servant,

D. Fitzpatrick
Secretary to the Government of India.

71/3

Judicial (1881) DEPARTMENT.
(Bills. Legislation)

From Govt. of India
Legislative

No. 10
(40 copies sent of Bill + Stat)

Dated 7th January '81.
Recd. 14th

No. 113

SUBJECT.

1071/81
Towardly 40 copies
of Bill to Empower Govt.
to remove or destroy obstructions
in fairways &c., and
requesting opinion of Madras
Govt. on the Bill by 3rd Feb
'81.

71/8
A
BILL

TO

Empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways in the seas adjacent to British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

1. This Act may be called "The Obstructions in fairways Act, 1881;"
and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or by Her Majesty, or by the Secretary of State for India in Council.

2. Whenever in any fairway in any of the seas adjacent to British India, any vessel is sunk, stranded or abandoned, or any fishing stake, timber or other thing is placed or left, the Local Government of the part of British India in or near which such vessel, fishing-stake, timber or other thing is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(a) cause such thing or any part thereof to be removed; or,

(b) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, destroy the same or any part thereof.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be determined by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties.

4. The Local Government shall, when anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was removed.

5. If after publishing such notification, such thing is unclaimed,

Things removed may, in certain cases, be sold.

Act VII of 1880, a. 75.

Act VII of 1880, a. 75.

Act VII of 1880, a. 76.

Act VII of 1880, a. 77.

or if the person claiming the same fails to pay the amount due for the said expenses and any other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

6. On the realization of the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

"Vessel" to include tackle, cargo, &c. shall be deemed to include every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway in any of the seas adjacent to British India, the placing of fishing stakes, the casting or throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause or be likely to cause obstruction or danger to navigation.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

10. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

▲
BILL
TO

Empower the Government to remove or
destroy obstructions in fairways, and to
prevent the creation of such obstruc-
tions.

(Mr. Stokes.)

Govt. Central Press.—No. 187 L. D.—24-12-80.—120.

In Ind. 113/81.

71/10

71a

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to empower the Government to remove obstructions to navigation which may exist in fairways situate in seas adjacent to British India, and to prohibit the creation of such obstructions for the future. The advantages of having such a law have been impressed upon the Government by certain recent cases. In one of these a question has been raised as to the power of the Government to remove the fishing stakes which are annually placed during the fine season in the sea off the port of Bombay, and which, having recently been advanced into the approach to the harbour, are now a source of serious danger to vessels frequenting that port. In another case which related to the deposit of ballast by ship-masters, at the mouth of the Rangoon river, a practice which, if permitted, might cause serious impediment and danger to the navigation of the approaches to the port of Rangoon, the need for some further preventive powers than those which Government now possesses, has been made apparent.

There can be no doubt that it is extremely desirable that the powers of Government officers, and the procedure to be followed by them in relation to matters of this nature, should be clearly defined, and as the Indian Statute-Book as it now stands, does not deal adequately with the subject, the present Bill has been prepared. A precedent for such legislation will be found in the Imperial Statute 40 & 41 Vic., c. 16 the Removal of Wrecks Act, 1877). The Bill, while following generally the lines of the statute, goes beyond it in two material respects. The power to remove obstructions conferred by it is not confined, as in the statute, to the case of obstructions caused by wrecks, but extends also to fishing stakes, ballast and any other thing which may form an obstruction or danger to navigation. The other point in which the Bill goes beyond the statute is that, in addition to giving power to remove existing obstructions, it enables the Government to prevent the wilful creation of obstructions in the future. With this object the Governor General in Council is empowered (section 7) to make rules to regulate or prohibit in any fairway the placing of fishing stakes, the casting of ballast, or the doing of any other act which will, in his opinion, cause or be likely to cause danger or obstruction to navigation.

CALCUTTA,
The 24th December, 1880.

WHITLEY STOKES.

Exd.—J. G.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

to

Bill to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

(Statement of Objects and Reasons.)

10 July 7/81

Sub. 91
DEPARTMENT

No. 113

From

Secy. for India, Dep. Secy.

Dated

7 Jan 87 no 10

FOR ORDERS.

One of the cases referred to in
the Stat. of Projects & Reasons
is presumed to be that reported
in S.R. II No. p 19 Babun
Mayacha V. Nagn Shrawaha

8.2.15/1

Judicial

Bill for removal of
"Obstructions as follows"

FOR ORDERS.

71
/ 15

Hon D. F. Carmichael

20 Feb 71/81

215/
R 17/1

Bill of the Legislature

Judicial Department.

✓

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter

I. Fitzpatrick Esq Secy for Home Dep Dept
dated 7 Jan 81

Order the Hon^{ble} 17 Jan 81 to 7/81

Ordered that copy of the
"Instructions in fairways" Bill
of the statement of Director
Revenue received with the
above letter be forwarded
to the Hon^{ble} the Judges of the
High Court & to the Officers
noted in the margin
with the request that they
will pass sent with their
views on the provisions
of the Bill by the 24th Jan 81

The Adm^l Secy
The Prob^l Att^y
The Chairman Chamber of
Commerce

2. The Bill was
published in the Fort
St George Gazette of the
12 Jan^y 1887
87.2 / 1887
15/1

To 1 + 0-45

The Honble the Judges
of the High Court with
Covering letter.
-1- Advocate General
-1- Master of the Court
-1- Chairman of the
Chamber of Commerce

7/18

Very respectfully,
Jas. B. [Signature]

Recd. 1881, No. 71.
 Dated 17th Dec. 1880

No. 50-51

[illegible]

11-2-1944