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MADRAS RECORD OFFICE.

Government of Madras.

MARINE DEPARTMENT.

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

Dated [illegible] 18[illegible]

Not to be folded or roughly handled

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GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

READ—the following paper :—

From S. HARVEY JAMES, Esq., Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Fort William, 4th February 1889, No. 268.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that 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 the Honorable the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

A Bill to consolidate and amend the Law relating to Ports and Port charges, with Statement of Objects and Reasons.

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 the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply. I am at the same time to suggest that the Statement of Objects and Reasons may be published in the form in which it appears in the *Gazette of India*, in order that unnecessary printing may be avoided.

3. The reply to this letter should be sent in by the 1st March next : *vide* paragraph 3 of the Statement of Objects and Reasons.

ORDER—dated 13th February 1889, No. 56, Marine.

Copies of the Bill, with Statement of Objects and Reasons, received with the foregoing letter, will be forwarded to the Honorable the Judges of the High Court, the Advocate-General, the Presidency Port Officer, the Madras Chamber of Commerce, the Harbour Trust Board, and the Trades Association, with the request that they will favor the Government with their opinions on the provisions of the Bill by the 20th instant.

2. The Bill and the Statement * of Objects and Reasons will be published in the *Fort St. George Gazette* in English and the several vernaculars.

* Without annexures.

(True Extract.)

Chief Secretary.

To the Honorable the Judges of the High Court, with C.L.,
" Government Solicitor,
" Presidency Port Officer,
" Chairman, Chamber of Commerce,
" " Madras Trades Association,
" " Harbour Trust Board,
" Translators to Government,
" Superintendent, Government Press,

} with Bill and Statement of Objects and Reasons.

Exd. A. Raitt.

Govt. of {1889} Madras.

MARINE.

Issued

Recd. *Encl.*

G.O., 13th February 1889, No. 56.

FEBRUARY.

Bills—Legislative.

Forwarding to certain officers, for very early opinion, a Bill to consolidate and amend the Law relating to Ports and Port charges.

THE INDIAN PORTS BILL.

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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

A

BILL

TO

Consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

[Act XII, 1875, ss. 1 and 2.]

Title, commencement and extent.

1. (*1*) This Act may be called the Indian Ports Act, 1889; and

(*2*) It shall come into force on the first day of April, 1889.

(*3*) It shall extend, save as otherwise appears from its subject or context,—

(*a*) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875; XII of 1875.

(*b*) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act:

(*4*) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(*5*) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

[Act XII, 1875, s. 3.]

Repeal.

2. (*1*) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(*2*) All declarations, appointments, requisitions, orders and rules made, authorisations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far

as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

[Act XII, 1875, s. 4.]

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(2) "vessel" includes anything made for the conveyance by water of human beings or of property:

(3) "master", when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(4) "pilot" means a person for the time being authorized by the Local Government to pilot vessels:

(5) "owner" includes also any agent to whom a vessel is consigned:

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the tonnage of British ships: and [New.]

X of 1882. (7) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

Power to extend or withdraw the Act or certain portions thereof.

[Act XII, 1875, s. 5.]

4. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring-tides at any season of the year.

[Act XII, 1875, s. 6.]

Alteration of limits of ports.

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

[Act XII, 1875, s. 7.]

Power to make port-rules.

6. The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

(a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;

(c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;

[Partly new.] (e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves,

quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(*g*) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(*h*) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(*i*) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(*j*) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(*k*) for licensing and regulating catamarans plying for hire, and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only intermittently, in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel; [Partly new.]

(*l*) for regulating the use of fires and lights within any such port;

(*m*) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port; [Partly new.]

(*n*) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;

(*o*) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port. [New.]

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

[Act XII, 1875, s. 8.]

Appointment of conservator.

7. (*1*) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

(*2*) Subject to any direction by the Local Government to the contrary,—

(*a*) in ports where there is a port-officer, the port-officer shall be the conservator:

(*b*) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

(*3*) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(*4*) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

[Act XII, 1875, s. 9.]

Power of conservator to give and enforce directions for certain specified purposes.

8. (*1*) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(*2*) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(*3*) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

[Act XII, 1875, s. 10.]

Power to cut warps and ropes.

9. The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

[Act XII, 1875, s. 11.]

Removal of obstructions within limits of port.

10. (*1*) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(*2*) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

[Act, XII, 1875, s. 12.]

Recovery of expenses of removal.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

[Act, XII, 1875, s. 13.]

Removal of lawful obstructions.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

[Act, XII, 1875, s. 14.]

Fouling of Government moorings.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

[Act, XII, 1875, ss. 15 and 44.]

Raising or removal of wreck impeding navigation within limits of port.

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses incurred by the conservator under sub-section (1) shall be payable to him out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

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

[Act XII, 1875, s. 16.]

Power to board vessels.

15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place

in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

Power to require crews to prevent or extinguish fire.

16. (*1*) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master. [Act, XII, 1875, s. 17.]

(*2*) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

Appointment and powers of health-officer.

17. (*1*) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed. [Act XII, 1875, s. 18 A = Act V, 1883, s. 31.]

(*2*) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely:—

(*a*) with respect to any ship, the powers conferred on a shipping-master by Act I of 1859, section 71;

(*b*) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;

(*c*) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;

(*d*) power to call before him and examine for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;

(*e*) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him.

Indemnity to Government against act or default of port-official or pilot.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel: [Act XII, 1875, s. 19.]

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

Injuring buoys, beacons and moorings.

19. (*1*) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act. [Act XII, 1875, s. 20.]

(*2*) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

Wilfully loosening vessel from moorings.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months. [Act XII, 1875, s. 21.]

Improperly discharging ballast.

21. (*1*) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods. [Act XII, 1875, s. 22.]

(*2*) Any of the following persons, namely:—

(*a*) any person who by himself or another so casts or throws any ballast or rubbish or any such other thing,

(*b*) the master of any vessel from which the same is so cast or thrown,

(*c*) any person employed to remove any ballast or rubbish or any such other thing whose agents or servants so cast or throw the same or cause the same to be so cast or thrown, [I. L. R. 9 Cal. 849.]

shall be punished with fine which may extend to five hundred rupees and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

[Act XII, 1875, s. 23.]

Graving vessel within prohibited limits.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

[Act XII, 1875, s. 24.]

Boiling pitch on board vessel within prohibited limits.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

[Act XII, 1875, s. 25.]

Drawing spirits by unprotected artificial light.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

[Act XII, 1875, s. 26.]

Warping.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

[Act XII, 1875, s. 27.]

Leaving out warp or hawser after sunset.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after

sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

[Act XII, 1875, s. 35.]

Discharge of fire-arms in port.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

[Act XII, 1875, s. 36.]

Penalty on master omitting to take order to extinguish fire.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

[Act XII, 1875, s. 40.]

Unauthorized person not to search for lost stores.

29. (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

[Act XII, 1875, s. 41.]

Removing stones or injuring shores of port prohibited.

30. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (*1*) No vessel of the burden of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board; [Act XII, 1875, s. 38.]

Moving of vessels without pilot or permission of harbour-master.

and no vessel of any burden less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(*2*) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (*1*), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(*3*) Nothing in sub-sections (*1*) and (*2*) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay. [Act XVII, 1882, s. 2.]

(*4*) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (*1*) Every vessel exceeding the burden of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board. [Act XII, 1875, s. 39.]

Provision of certain vessels with fire-extinguishing apparatus.

(*2*) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (*1*), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (*1*) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule, as the Local Government or, in the case of the port of Bombay, the Board of Trustees of that port from time to time directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule. [Act XII, 1875, s. 45.]

Levy of port-dues.

(*2*) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(*a*) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(*b*) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(*c*) the times at which such vessels are to be so chargeable.

(*3*) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(*4*) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government or, in the case of the port of Bombay, the Board of Trustees of that port may from time to time exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may from time to time vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them: [Act XII, 1875, s. 46.]

Variation of port-dues by Local Government.

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

35. (*1*) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act. [Cf. Act XII, 1875, ss. 47 and 48.]

Receipt, expenditure and account of port-charges.

(*2*) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract in such form as that Government prescribes of the account for the past financial year.

(*3*) If, for any of the purposes of this Act, an advance of money has been or shall be made

by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(*4*) All moneys, excluding receipts on account of pilotage but including fines and proceeds of waifs, received under this Act at or on account of any port subject to this Act shall be credited in the port fund account of the port.

(*5*) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(*a*) the pay and allowances of all persons upon the establishment of the port,

(*b*) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(*c*) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine, [Act V, 1885, s. 2.]

(*d*) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to ships in the port, and [Act V, 1885, s. 3.]

(*e*) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors, [New.]

shall be charged to the port fund account of the port.

(*6*) The Local Government may direct that for the purposes of this section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (*4*) shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided, with respect to the ports of Calcutta, Madras, Bombay, Karáchi and Rangoon, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(*7*) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily in-

vested in such manner as the Local Government may direct.

[Act XII, 1875, s. 48.]

Receipts for port-charges.

36. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

[Act XII, 1875, s. 49.]

Master to report arrival.

37. (*1*) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(*2*) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(*3*) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying in any of the ports subject to this Act.

[Act XII, 1875, s. 50.]

Conservator may in certain cases ascertain draught and charge expense to master.

38. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

[Act XII, 1875, s. 51.]

Ascertainment of tonnage of vessel liable to port-dues.

39. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed:—

(*1*) (*a*) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(*b*) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British ships, and

in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British ships, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just of the burden of the vessel. [New.]

Distraint and sale on refusal to pay port-charges.

40. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid; [Act XII, 1875, s. 52.]

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

No port-clearance to be granted until port-charges are paid.

41. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance— [Act XII, 1875, s. 53.]

(*a*) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which

the vessel or her owner or master is liable under this Act;

(*b*) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid. 17 & 18 Vict., c. 104.

Port-charges payable in one port recoverable at any other port.

42. (1) If the master of any vessel in respect of which any such sum as is mentioned in the foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum. [Act XII, 1875, s. 54.]

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 40, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *primâ facie* proof of such amount in any proceeding under section 40, and also (in case the amount payable is disputed) in any subsequent proceeding under section 58.

Penalty for evading payment of port-charges.

43. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 41, he shall be punished with fine which may extend to five times the amount of the sum. [Act XII, 1875, s. 55.]

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 42, sub-section (2), stating that the master has evaded such payment, shall be sufficient *primâ facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

Port-due on vessels in ballast.

44. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government or, in the case of the port of Bombay, by the Board of Trustees of that port, and not exceeding three- [Act XII, 1875, s. 56.]

fourths of the rate with which she would otherwise be chargeable.

Port-due on vessels not discharging or taking in cargo.

45. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government or, in the case of the port of Bombay, by the Board of Trustees of that port and not exceeding half the rate with which she would otherwise be chargeable: [Act XII, 1875, s. 57.]

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

Port-dues not chargeable on pleasure-yachts or on vessels re-entering from stress of weather.

46. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage. [Act XII, 1875, s. 58, and Act XVII, 1882, s. 3.]

Power to impose hospital port-dues.

47. (*1*) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit. [Act XII, 1875, s. 59.]

(*2*) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (*1*), have regard to any contributions made under section 35, sub-section (5), clause (*d*).

(*3*) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(*4*) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section. [New.]

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (*1*) or withdraw any exemption under sub-section (*4*). [Act V, 1885, s. 4.]

Application of hospital port-dues.

48. Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the ships therein, whether such seamen are ashore or afloat. [Act XII, 1875, s. 60.]

Fees for pilotage and certain other services.

49. (*1*) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct: [Act XII, 1875, s. 61.]

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(*2*) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (*1*).

CHAPTER VI.

HOISTING SIGNALS.

Master to hoist number of vessel.

50. (*1*) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station. [Act XII, 1875, ss. 62 and 63.]

(*2*) If the master of a vessel arriving as aforesaid offends against sub-section (*1*), he shall be punished for every such offence with fine which may extend to one thousand rupees.

Pilot to require master to hoist number.

51. (*1*) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section. [Act XII, 1875, s. 63.]

(*2*) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

52. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

[Act XII, 1875, s. 65.]

Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

53. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

[Act XII, 1875, s. 42.]

Penalty for disobedience to rules and orders of the Local Government.

54. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel, or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

[Act XII, 1875, s. 66.]

Offences how triable, and penalties how recovered.

55. (*1*) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(*2*) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

[Act XII, 1875, s. 67.]

Costs of conviction.

56. (*1*) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(*2*) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

[Act XII, 1875, ss. 68 and 76: cf. Act X, 1887, s. 46.]

Ascertainment and recovery of expenses and damages payable under this Act.

57. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied

[Act XII, 1875, s. 69.]

Costs of distress.

in addition to such fine, expenses or damages, and in the same manner.

58. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

[Act XII, 1875, s. 70.]

Magistrate to determine the amount to be levied in case of dispute.

59. (*1*) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(*2*) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

[Act XII, 1875, s. 71.]

Jurisdiction over offences beyond local limits of jurisdiction.

60. (*1*) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(*2*) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

[Act XII, 1875, s. 72.]

Conviction to be quashed on merits only.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

61. (*1*) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or

[Act XII, 1875, s. 73.]

Hoisting unlawful colours in port.

17 & 18 Vict., c. 104.

any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) Any officer of Her Majesty's Navy or of the Indian Marine Service within the limits of such port, or the conservator of such port, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

[Act XII, 1875, s. 74.]

Foreign deserters.

62. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any ship of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

15 & 16 Vict., c. 26.

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

[Act XII, 1875, s. 75.]

Application of sections 10 and 21.

63. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 54 and 56.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

[Act XII, 1875, s. 77, and Act IX, 1879, s. 17.]

Application of Maulmain and Bassein port-dues.

64. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

[New.]

Validation of irregular contributions.

65. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

[17 & 18 Vict., c. 104, s. 546.]

Grant of sites for sailors' institutes.

66. Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

[Act XII, 1875, s. 18.]

Exercise of powers of conservator by his assistants.

67. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any assistant of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

[Act XII, 1875, s. 9.]

Service of written notices of directions.

68. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

[Act XII, 1875, s. 42, and Act V, 1885, s. 1.]

Publication of orders of Local Government.

69. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(*See sections 1 and 33.*)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta .	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of *dhonis* and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of *dhonis* and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong .	Sea-going vessels of ten tons and upwards.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto . . .	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,—namely, Balasore, Chúráman, Laichhunpur, Chánua, Subarnarekha, Dhamra (Chandbally) and Sartha.	Ditto .	Ditto .	Ditto.

PART II.—MADRAS PRESIDENCY.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
Madras		Sea-going vessels of fifteen tons and upwards.		
Eastern Group.				
District.	Port.			
Ganjam.	1. Gopálpur. 2. Sonnapuram. 3. Baruva. 4. Púndi. 5. Calingapatam.		*Foreign Vessels.* (*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
Vizagapatam.	6. Konada. 7. Bimlipatam. 8. Vizagapatam. 9. Pudimadaka. 10. Pentakota.		(*b*) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
Godávari.	11. Uppada. 12. Cocanada. 13. Coringa. 14. Bendamurulanka. 15. Narsápur. 16. Perupalem.		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
Kistna .	17. Masulipatam. 18. Penumudi. 19. Morutota. 20. Nagayalanka. 21. Kottapalem. 22. Gangadipalem. 23. Nizampatnam. 24. Ipurupalem. 25. Bodduvanipalem. 26. Motupalle.		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
Nellore .	27. Kanuparti. 28. Kottapatnam. 29. Itamukkala. 30. Pakala. 31. Karedu. 32. Ramayapatnam. 33. Chennayyapalem. 34. Tummalapenta. 35. Juvaladinne. 36. Iskapalle. 37. Ponnapudi. 38. Maipadu. 39. Kistnapatam. 40. Pamanji. 41. Tupili. 42. Dugarazpatnam. 43. Pudi.		*Coasting Vessels.* (*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(*f*) In the case of a coasting steamer—	
			(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
			(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable once in thirty days.
Chingleput .	44. Pulicat. 45. Ennore. 46. Covelong.			
South Arcot.	47. Marakanam. 48. Cuddalore. 49. Porto Novo.		(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.

PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Eastern Group—contd.			
District. Port.			
Tanjore. 50. Tirumalavasal. 51. Kodiyampalaiyam. 52. Tranquebar. 53. Nagore. 54. Negapatam. 55. Velankani. 56. Topputurai. 57. Point Calimere. 58. Mutupet. 59. Adirampatnam. 60. Gopalapatnam. 61. Kattumavadi. 62. Krishnajipatnam. 63. Ammapatnam. 64. Kottaipatnam. 65. Sundarapandiyapatnam.	Sea-going vessels of fifteen tons and upwards.	*Foreign Vessels.* (*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
		(*b*) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
		Coasting Vessels.	
		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
		(*f*) In the case of a coasting steamer—	
		(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
		(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable once in thirty days.
		(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.
Madura. 66. Pasipatnam. 67. Damodarapatnam. 68. Tondi. 69. Nambitalai. 70. Pudupatnam. 71. Karangadu. 72. Tiruppalankudi. 73. Devipatnam. 74. Mudiyanpatnam. 75. Attankarai. 76. Emanangundu. 77. Pillaimadum. 78. Pámbam. 79. Rámesvaram. 80. Mandapam. 81. Vedalai. 82. Marakkayapatnam. 83. Muttupettai. 84. Kilakarai. 85. Ervadi. 86. Valinokkam.			
Tinnevelly. 87. Vaippar. 88. Tuticorin. 89. Kayalpatnam. 90. Kulasekharapatnam.			
Western Group.			
Malabar. 91. Cochin. 92. Arrupuram. 93. Kukkuyi. 94. Madayi. 95. Attakuri. 96. Chávakád. 97. Veliyangod. 98. Ponáni. 99. Kuttayi. 100. Parapanna. 101. Tanur. 102. Parpanangádi. 103. Kadalvandi. 104. Beypore.			

PART II.—MADRAS PRESIDENCY—*concld.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Western Group—contd.			
District. Port.			
Malabar —*contd.* 105. Molakkadava. 106. Calicut. 107. Pudiyangadi. 108. Elatturu. 109. Kappatta. 110. Quilandi. 111. Kollam. 112. Kadalura. 113. Trikodi. 114. Kottakkal. 115. Badagara. 116. Muttankal. 117. Chompayi. 118. Kallayi. 119. Talayi. 120. Tellicherry. 121. Dharmapatnam. 122. Ezhara. 123. Cannanore. 124. Pudiyangadi. 125. Palapatnam (Baliapatnam). 126. Ettikulam. 127. Kavvayi.	Sea-going vessels of fifteen tons and upwards.	*Foreign Vessels.* (*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
		(*b*) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
		Coasting Vessels.	
		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
		(*f*) In the case of a coasting steamer—	
		(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
		(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable once in thirty days.
		(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.
South Canara. 128. Hosdrug. 129. Baikal. 130. Kásaragód. 131. Kumbale. 132. Manjesvara. 133. Mangalore. 134. Mulki. 135. Padubidri. 136. Ermala. 137. Uchhila. 138. Kaph. 139. Udiyavara. 140. Malpé. 141. Barkur or Hangarakatta. 142. Coondapoor. 143. Nyakinakatte (Nayakkankottai). 144. Baindur. 145. Siruru.			

Explanations to Part II of the First Schedule.

Explanation 1.—In this Part of the Schedule—

(*a*) "ship" means a sailing vessel, and "steamer" a steam-vessel:

(*b*) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878: VIII of 1878.

(*c*) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

The Indian Ports Bill.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton, as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct.	Once in the same month.
Bo. VI of 1879.			
	Tug-steamers, ferry-steamers and river-steamers.	Ditto .	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
Northern Group of Ports—			
1. Gogha . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
2. Dholerá .			
3. Tankári .			
4. Dehegám .			
5. Dehej .			
6. Broach .			
7. Bhagwá .			
8. Surat .			
9. Matwád .			
10. Balsár .			
11. Umarsádi .			
12. Kolak .			
13. Kálai .			
14. Maroli .			
15. Umbargám .			
16. Gholwad .			
17. Dáhánu Creek .			
18. Tárápur .			
19. Olivárá Navápur			
20. Sátpáti Creek .			
21. Máhim (Kelva) .			
22. Kelva .			
23. Dántiora .			
24. Arnála .			

The Indian Ports Bill.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of payment.)

PART III.—BOMBAY PRESIDENCY—*contd.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Southern Group of Ports—			
1. Bándra . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesáva . .			
3. Manori . .			
4. Utan . .			
5. Bassein . .			
6. Bhiwndi .			
7. Kalyan . .			
8. Tháná . .			
9. Trombay .			
10. Panwel . .			
11. Karanjá . .			
12. Rewas . .			
13. Nagothna .			
14. Thal . .			
15. Alibág . .			
16. Revdandá .			
17. Mándád . .			
18. Bánkot . .			
19. Kelshi . .			
20. Harnai . .			
21. Anjanwel .			
22. Borya . .			
23. Jaygad . .			
24. Varavdá . .			
25. Ratnágiri .			
26. Purangad .			
27. Jaytápur .			
28. Vijaydurg .			
29. Devgad . .			
30. Achra . .			
31. Málwan . .			
32. Nivti . .			
33. Vengurla .			
34. Redi . .			
35. Terekhol . .			
36. Kárwár, including Baitkhol.			
37. Chendiya . .			
38. Ankolá . .			
39. Gangávali .			
40. Tadri . .			
41. Kumptá . .			
42. Honáwar .			
43. Murdeshwar .			
44. Shiráli . .			
45. Bhatkal . .			
Karáchi . .	Ditto .	Four annas per ton . .	Once in three months.
	Tug-steamers and river-steamers.	Ditto . .	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden . . .	Sea-going vessels of ten tons and upwards.	Three annas per ton . .	Once a month.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon . .	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Kyauk-Phyu .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Akyab . .	Ditto .	Ditto .	Ditto.
Bassein . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto .	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Tavoy . .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui . .	Ditto .	Ditto .	Ditto.

(The Second Schedule.—Enactments repealed.)

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
	Acts of the Governor General in Council.	
XII of 1875 .	Indian Ports Act, 1875 . .	So much as has not been repealed.
IX of 1879 .	Burma Coast-lights Act, 1879 .	Section 17 and the preamble to that section.
VII of 1880 .	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed".
IV of 1881 .	Madras Port-dues Act, 1881 .	The whole.
XVII of 1882 .	Indian Ports Act, 1882 . .	The whole.
V of 1883 . .	Indian Merchant Shipping Act, 1883.	Section 31.
XI of 1883 .	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884 .	Indian Explosives Act, 1884 .	Section 3.
V of 1885 . .	Amendment of the Indian Ports Act, 1875.	The whole.
	Act of the Governor of Fort St. George in Council.	
II of 1872 .	Madras Port Rules	The whole.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

A

BILL

TO

Consolidate and amend the law relating to Ports and Port-charges.

(*Sir D. M. Barbour.*)

G. I. C. P. O.—No. 378 L. D.—31-1-89.—250.—C. H.

STATEMENT OF OBJECTS AND REASONS.

FOURTEEN years have passed since the law relating to Indian ports and port-dues was last consolidated. During that time places which were ports have ceased to be so, and places which were not previously ports have had the Ports Act of 1875 extended to them. The Act has itself been amended by no fewer than nine Acts, and a Bill for further amending it was pending in the Council of the Governor General when proposals for the introduction of a further Bill for still further amending the Act were received by the Government of India. In these circumstances it appeared to the Government that the time had come for again consolidating, as well as amending, the law relating to ports and port-dues. A Bill was accordingly prepared in October last and submitted for the criticism of the Governments of Madras, Bombay, Bengal and Burma. The replies of those Governments, and the opinions of the authorities consulted by them, have now been received and considered, and the Bill has been amended accordingly. Effect has not been given to all the suggestions received, partly because some will, it is believed, be more suitably complied with in a Bill which is about to be introduced into the Council of the Lieutenant-Governor of Bengal, and partly because others are such as should, in the opinion of the Government of India, be left for consideration by the Select Committee, which will have the advantage of hearing what the mercantile members of the Council have to say about them.

2. The principal amendments which it is proposed to effect in the existing law will now be stated in the order of the sections and schedules in which they occur in the Bill:—

(1) *Section 1, sub-section* (5).—It has been proposed by the Government of Bengal that sections 40 and 41 of the Act of 1875 (sections 29 and 30 of the Bill) should apply to all ports without being specially extended thereto.

(2) *Section 3, clause* (6).—The definition of the word "ton" has been added for the purpose of giving effect to a proposal made by the Board of Trustees for the Port of Bombay.

(3) *Section 6, clause* (e).—The mention of "passengers" is suggested by the Governor of Bombay in Council and the Lieutenant-Governor of Bengal.

(4) *Section 6, clauses* (k) *and* (m).—These clauses have been re-modelled in the direction suggested by the Lieutenant-Governor of Bengal and the Governor of Bombay in Council, respectively.

(5) *Section 6, clause* (o).—This clause has been proposed by the Board of Trustees for the Port of Bombay, and is believed to be as necessary for other ports in India as for that port.

(6) *Section 21, sub-section* (2), *clause* (c).—This clause is suggested by the case reported at I. L. R. 9 Cal. 849, a copy of which is appended to this Statement (Appendix I).

(7) *Section 35, sub-section* (5), *clause* (e), *and section 65.*—These clauses are designed to authorise for the future, and validate as regards the past, certain contributions which Port Commissioners and Trustees make in aid of sailors' homes, coffee-houses and other institutions for purposes connected with the well-being of seamen ashore. Apart from legal considerations, the action of Port Commissioners and Trustees in this matter appears to have been, and to be, generally defensible and proper.

(8) *Section 39, clause* (3).—This clause has been suggested by the Commissioner of Customs at Bombay to meet the case of firewood and other articles being conveyed from one port to another on rafts which are incapable of being measured as ships.

(9) *Section 47, sub-section* (4).—The addition to this clause has been suggested by the Lieutenant-Governor of Bengal to meet the case of native seamen in the coasting brigs plying from Chittagong. These brigs are manned almost entirely by men of the Chittagong District, who, when ill, do and will continue to go to their homes. Provision for giving medical aid to these seamen at Chittagong is not necessary, but the want of such provision there for Europeans is much felt.

(10) *Section 66.*—This clause reproduces a section of the Merchant Shipping Act, 1854, which is in force in the United Kingdom, and may be found useful in

British India, where most local authorities are now bodies corporate, with their powers as to the disposition of their property strictly defined.

(*11*) *First Schedule, Parts I and IV.*—It is proposed that tug-steamers and river-steamers at Chittagong and Rangoon pay a rate not exceeding four and a half annas and four annas, respectively, per ton every half-year.

(*12*) *First Schedule, Part II.*—This Part of the Schedule is still unsettled, its details being under the consideration of the Governor of Fort St. George in Council and local experts, including the members of the Madras Chamber of Commerce.

(*13*) *First Schedule, Part III.*—The rate of port-dues for coasting steamers visiting ports of the Northern and Southern Groups in the Bombay Presidency has, at the instance of the Commissioner of Customs and the Collector of Salt-revenue, been modified in favour of ship-owners.

(*14*) *Second Schedule.*—It will be for the consideration of the Government of Madras whether Act II of 1872 of the Governor in Council need be maintained. It is obviously desirable that the power to make port-rules should be as uniform as possible for the whole of British India, and it appears that, up to the beginning of last year at any rate, it had not been found by the Madras Government to be necessary to make any rules under its Act of 1872.

A copy of that Act is appended to this Statement (Appendix II), and it may here be observed that a clause in the direction of clause XVI has been supported by the Board of Trustees for the Port of Bombay, but has not been adopted at this stage of the Bill because a power to detain the master, and therefore his ship, for the purposes of a departmental inquiry as to the conduct of a port-official or pilot ought not, in the opinion of the Government of India, to be given unless the power is conclusively proved to be necessary in the public interests.

The power conferred on the Madras Government by clause XVII in its Act of 1872 for regulating the use of day-signals is proposed to be taken in clause (*m*) of section 6 of the Bill.

3. The chief authorities of Indian ports having already been consulted on the Bill as circulated in October last, it is requested that opinions on the revised Bill may be furnished to the Government of India in the Legislative Department by the 1st of March, 1889.

D. BARBOUR.

The 30th January, 1889.

APPENDIX I.

The 7th March, 1883.

CHUNDI CHURN MOOKERJEE AND OTHERS *v.* THE EMPRESS.*

Master and Servant—Criminal Act of Servant—Non-liability of Master—Indian Ports Act (XII of 1875), s. 22.

The servants of a contractor who had engaged to discharge ballast from a ship lying in the port of Calcutta threw the ballast into the river within the limits of the port, and thus committed an offence under s. 22 of the Indian Ports Act (Act XII of 1875). It did not appear that the contractor had abetted the offence.

Held, that he was not, in the absence of proof of abetment, liable for the acts of his servants.

Bábú *Umbica Churn Bose* for the appellant.

The *Standing Counsel* (*Mr. Phillips*) and *Mr. Adkin* for the Crown.

The facts of this case sufficiently appear from the judgment of the Court (McDONELL and TOTTENHAM, JJ.) which was delivered by

McDONELL, J.—The appellant has been convicted before the Chief Presidency Magistrate of an offence against s. 22 of Act XII of 1875, by improperly discharging ballast from the ship *Ben Nevis*, by the boats of Bishto Manjhi and Nufur Manjhi, by throwing it into the river within the port of Calcutta, and has been sentenced to pay a fine of Rs. 250. The amount of the fine entitles the accused to appeal to this Court.

In our opinion the conviction is bad in law, for the facts proved or admitted do not establish any offence under the Act against the appellant. The first clause of section 22 prohibits the casting of ballast or rubbish in the port without lawful excuse.

The next clause prescribes a penalty for whoever by himself or another so casts or throws the same, and for the master of any vessel from which the same is cast or thrown. It seems to us that to warrant the conviction under this section of a person, not being master of a vessel from which ballast is thrown, it must be

* Criminal Appeal No, 155 of 1883 against the order of F. J. Marsden, Esq., Chief Presidency Magistrate of Calcutta, dated the 21st February, 1883.

shewn that the accused person, if he did not himself throw the ballast or rubbish into the port, intentionally caused somebody else to commit that offence.

In this case all that is proved or admitted against the appellant is that he made an agreement to remove the ballast from the ship *Ben Nevis*; that he engaged boats for that purpose; and that the ballast was removed from the ship in those boats. The boatmen, instead of landing the ballast at the proper place, threw it into the river within the limits of the port. They were arrested, convicted and fined. Proceedings were subsequently taken against the appellant under the same section, when the Magistrate held him "liable for his servants' act" and accordingly convicted and sentenced him. We cannot bring ourselves to accept this doctrine as admissible in dealing with a person accused of an offence, unless his liability for the acts of another is specifically declared by statute. The learned Standing Counsel, who has supported the conviction, admits that in a criminal trial the doctrine laid down by the Magistrate in this case would not be applicable, but he endeavours to distinguish this case from a criminal matter by describing it as *quasi*-criminal, or as one relating not to an "offence" but to a mere breach of rule. And in such a case he submits that knowledge or intention on the part of the person who is accused in respect of something done by other persons is not essential.

We cannot, however, apprehend the distinction so suggested as entitling a Criminal Court to place a person accused of what is described as a *quasi*-criminal act as a disadvantage from which one charged with serious crime would be protected, namely, being held responsible for the acts of another without any proof of abetment or connivance on his part and, in the absence of any statutory provision, fixing him with such responsibility. We observe that Act XII of 1875, in Chapter VIII, refers to breaches of it as "offences", makes them triable by a Magistrate, and provides for the enforcement of penalties on conviction. The trial then is, we apprehend, a criminal trial, and the same principles will apply to it as to other criminal trials.

If the Legislature had intended to make persons in the appellant's position criminally liable for acts done by persons employed by them without proof of connivance, it would surely have provided for this in the Act. The very section (22) and following sections do enact that the master of any vessel shall be liable to be punished for acts done on board in breach of the rules laid down, though they may possibly be done without his knowledge or even against his orders. This specific creation of criminal liability as against the master shews that without it he would not be liable for an act not done or expressly permitted by himself.

We find nothing in the Act which renders the appellant liable to punishment for the acts done by others not proved to have been by his abetment or connivance. We therefore set aside the conviction and direct that the fine, if paid, be refunded.

For these reasons we set aside the convictions and sentences in appeals Nos. 156 and 157.

Convictions set aside.

APPENDIX II.

MADRAS ACT No. II OF 1872.

Received the Governor's assent on the 25th April, 1872, and the Governor General's assent on the 24th June, 1872, and took effect from the 1st September, 1872.

An Act to extend the purposes for which Port-rules may be passed by the Governor of Fort Saint George in Council.

Preamble. WHEREAS it is expedient to enable the Government of Madras, with the sanction of the Governor General of India in Council, to make port-rules for other purposes besides those that are provided for in section 7 of Act XXII of 1855* (*an Act for the regulation of Ports and Port-dues*); It is enacted as follows :—

Additional clauses to section 7 of Act XXII of 1855. 1. Section 7 of Act XXII of 1855 shall be read as if it contained the following additional clauses :—

"XIV, for regulating the mode in which packets, letters, cargo and passengers may be conveyed from the shore to vessels and from vessels to the shore :

"XV, for regulating the action to be taken by masters or other persons in charge of vessels, in cases in which disease or sickness exists on board such vessels, and in the disposal of dead bodies in such port :

"XVI, for providing that special reports shall be furnished in certain cases by masters or persons in charge of vessels, for regulating the officers to whom, and the mode in which, such reports shall be furnished, and for directing the personal attendance of such masters of vessels, or other persons in charge of the same, at the office of the conservator of such port or elsewhere :

"XVII, for regulating the use of flags, buoys and day-signals :

"XVIII, for regulating the description of knives which may be carried by seamen when on shore :

"XIX, for all other purposes conducive to the safety of the shipping in such port, and of life and property therein :"

Proviso. Provided that no port-rule made by the Government of Madras for any of the purposes mentioned in the aforesaid additional clauses shall have effect until the same shall have been published for two months in the Fort St. George Gazette.

* Act XXII of 1855 having been repealed, the additional clauses should now be read with s. 7 of Act XII of 1875—see third paragraph of s. 3, *ib.*; no rules have, however, been issued under them.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill to consolidate and amend the law relating to Ports and Port-charges.

(Statement of Objects and Reasons.)

G. I. C. P. O.—No. 379 L. D.—31-1-89.—250.—C. H. L.

No 268 1P CN 227 '24

From. S. Stanley James, Esquire,
Secretary to the Government of India,
Legislative Department

To.
The Chief Secretary to the Government of
Madras.

Dated Fort William the 4th February 1889.

Recd in a cover addressed to the Chief Secy & Post of Bhay 11a. Dec 56 6/13/2/89

RECD FEB: 7 '89

Sir,

I am directed to forward herewith forty* copies of the papers noted on the margen, and to request that the Governor in Council 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 the Hon'ble the Judges of the High Court and of such selected officers and other persons as the Governor 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 the Governor in Council may deem proper, and that the dates of publication of both may be communicated to me for reply. I am at the same time to suggest that the Statement of Objects and Reasons may be published in the form in

* 39 copies sent by packet-post.

† Bill to Consolidate and amend the law relating to Ports and Port-Charges, with statement of Objects and Reasons.

* The copy of the Bill + of the Statement of Objects + Reasons has been kept at Bombay.

Rec'd 7th 89

412C

in which it appears in the Gazette of India, in order that unnecessary printing may be avoided.

3. The reply to this letter should be sent in by the 1st March next, vide para 3 of the Statement of Objects and Reasons.

I have the honour to be,
Sir,
Your obedient Servant,

S. Harcourt.

Secretary to the Govt of India.

I 281-92 2-9-92 mk
P 5606 11-12-92 gk

CURRENT No. 527/124

[9] ——— DEPARTMENT.
Marine

E

From

S. I.
Legis.

No. 268

Dated 4/2/89
Received 11/2/89
Enclosures 3 pf

SUBJECT.

Indian Ports Bill - Opinion invited on the ———

C.V. 527
124

No. 1006 of 1889

Revenue Department

to the

Bombay Castle 7 February 1889

Forwarded to the Chief Secretary to the Government of Madras to whom this letter is addressed.

Chief Secretary to the Govt of Bombay.
7.2 4/2/89

CHIEF SECRETARY
10 FEB 89
GOVERNMENT OF MADRAS

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2P 1

Marine Department. 49



PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper

From the Govt. of India
dated 4th Feb. 1889. No. 283.
received with Endorsh. from
the Govt. of Bombay.
dated 7th Feb. 1889. No. 1006.
Orders. 13 July 89. No 56

Copies of
the letter with Statt. of
Objects and Reasons
received with the fore-
going letter will be for-
warded to the Hon. the
Judges of the High Court,
the adv. genl. the Presy.
Port officer, the Madras
Chamber of Commerce
the Hon'ble Mr. Buck Wallace
and the Trades Associa-
tion with the request
that they will favor
the Govt: with their
opinions on the provi-

Put with G.O. No 56
dy 12/2 Marine

Remis à la Clerk by the 2nd Instant.

The Bill and Objects & Reasons* Statement will be published in the Fiji Times & Gazette in English and the several vernaculars.

* without annexures

Hon. A/G

I

Mar 56 b 13/2/89

Bills: Legislative

Forwarding for certain opinion & observations a bill to consolidate & amend the laws relating to boats & vessels & charges

Supp 13/2/89

The Hon. the Judges 6
The Hon. Colr. 3
The Navy. Port Officer. 6
The Chairman. Chamber of Com. 6
" — do. - Indian Traders 6
" — do Hon. Fijian Chiefs 6
Translation & Cost. 15
Supt. Govt. Press. 1

A/G

I

1-3-89: 80-51

10/7/03

ORDINARY, PRINTED.

Marine Department.
G.O., dated 13th February 1889
No. 56

First copy sent to Press.

Returned for signature. 13-2-89.

Despatched in print. 13/2/89

[Despatch Abstract.]

Bills — Legislative

Forwarding to certain officers, for very early opinion, a Bill to consolidate and amend the Law relating to Ports and Port charges.