

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No.

344

Press
Mis.

Dated

2. 10. 1860

Not to be folded or roughly handled

27/10/24

N^o 4086

From

J J Franklin Esquire
Superintendent of Marine

To

J Pycroft Esquire
Chief Secretary to Government
Fort Saint George

Sir

In the Legislative Council a
draft bill was read for the first time on the
14th August last for the better preservation
of property recovered from wrecked boats. I
have to submit the following observations thereon
and if approved to solicit that they may be
forwarded to the Supreme Government for
consideration when the bill again comes
under discussion on the 1st November next.

2

The late Marine Board at
this Presidency finding the inconvenience of not
having any well defined rules for guidance
in the matter of salvage prepared a set in
1851 which they submitted on the 28th January

Co: Min: of Cons:

18th February 1851 N^o 54

of that year. They were approved in the

H. Co's dispatch of

17th September 1851 N^o 177

and communicated

in Co: Min: of Cons:

18th November

N^o 342

Marine Board's letter

10th December 1851 N^o 186

following month and promulgated. Subsequently
the Honorable Court suggested that the
Imperial law might be copied with advantage,
and the Board at the close of the same
year

Yours
J Franklin

N^o 4086

From

J J Franklin Esquire
Superintendent of Marine

To

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Chief Secretary to Government
Fort Saint George

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year

J Pycroft

year submitted a fresh set which were based on the corresponding provisions of the then existing Act of 9 and 10 Victoria, Cap: 99. They were sanctioned in the early part of the succeeding year and have been in force ever since. A copy is herewith forwarded with the Circular which the Board issued at the time, and which likewise received the approval of Government.

Cox: Min. of Com.
10th February 1852
No 149

3 It will be noticed on comparing the two that the Madras Rules are much more comprehensive, as far as property is concerned, than the proposed Act, as in the first every thing whatsoever, whether wreck or not, recovered from the sea is included; whereas the latter only deals with boats and their cargoes. I would suggest that the Act be similarly extended so that it should meet all cases, as it would be very inadvisable that Receivers should be acting under two sets of rules, one for wrecked boats, the other for wrecked ships, or for cargo and articles not wrecked but long hauled and subsequently recovered. Along the extensive sea-coasts of this Presidency the recoveries from the sea are considerable, and confusion and discussion will arise if all such cases are not provided for by the Act.

4 In Section 12 I notice that the Magistrate who is to award the salvage, may do so to the extent of one fourth of the value of the property saved, and that if this proportion shall appear to him inadequate, he may refer the case to the Sessions Judge; but no appeal is provided for the owner in case he considers the salvage too high. The late Board was cited in the Rules now in force as the authority to which an appeal might be submitted, and it seems to me necessary that any disputed question should be referred to a professional officer. Section 450 of the Merchant Shipping Act of 1854 provides for such questions being decided by two Justices of the Peace if the sum claimed does not exceed £ 200, and may be referred to them for arbitration if beyond that sum; but the next section provides for their calling to their aid some person conversant with Maritime affairs. Under ordinary circumstances a Magistrate, I consider, will be able to decide on the award of salvage, but when it is disputed an appeal should lie to the Chief Marine authority of the Presidency.

5 Regarding the remuneration of Receivers, I observe that Section 15 invests the Magistrate

Mr. James

Magistrate with power to fix the amount, to be paid out of the salvage or by such fees or salary chargeable on the proceeds of unclaimed property as he, with the sanction of the local Government, shall allow. In lieu of this I would suggest that the mode adopted in England be followed. Table V of the Merchant Shipping Act (referred to in Section 455) fixes his remuneration for the custody of wreck at 5 per cent on its value, provided the percentage so payable does not exceed £ 20. There seems no reason why a similar course should not be followed in India. At any rate the rule, whatever it may be, should I think be general, and not different in different districts, as might be the case if each Magistrate adopted his own scale of remuneration.

Should my suggestion regarding percentage be received favorably, I should be glad to learn whether a Receiver would be entitled to salvage in addition to this allowance in the case of property salvaged through his means. A case in point occurred not long since on this coast. A vessel was wrecked and all hands, save one, drowned. The nearest Master Attendant, whose port was 40 miles off, proceeded to the wreck, and after much exertion and exposure succeeded in saving a large part of the

the cargo, which he sent to his port and held charge of as receiver. The percentage mentioned in the Merchant Shipping Act is allowed for the custody of the property, and seems distinct from salvage; and if the Legislative Council consider that the Receiver has no claim to the latter, it should be made clear by the Act.

Before concluding I would observe that I have not overlooked Sections 37 to 39 of Act XXII of 1855, which set forth the course to be observed with respect to anchors, cables and other stores recovered from the sea; but these only apply to parts brought under that Act. Property may be recovered beyond the limits of these ports, as is constantly the case in the Presidency. The Bill now to be introduced should therefore be as general as possible, and should under our enactment provide for all the various cases of salvage that are likely to occur.

I have the honor to be

Sir

Madras

Marine Suppl's Office
17th September 1860

your most Obedt Servant
J. M. H. N. S.

Superintendent of Marine

J. M. H. N. S.

to be observed at the Ports under the Presidency of Fort Saint George, on the recovery of Wrecks, Anchors, Cables, or other property from the sea

1 All wreck, Flotsam, Jetsam, and every article, whether recovered from the surface or the bottom of the sea, by any person not the owner thereof, nor the Commander of the vessel to which it may have belonged, or from which it may have been lost overboard, shall be delivered to the Master Attendant, or where there is no such functionary, to the Collector of Sea Customs or his Deputy.

2. In the event of lost property being recovered from the sea by any person not being the owner thereof, without the same being delivered over to the authorities above mentioned, it will be seized, and the salvor will forfeit all claim to remuneration.

3. On the recovery of all property from the sea whether from the surface or from the bottom by persons not the owners thereof, the Master Attendant, Collector of Sea Customs or his Deputy, as the case may be, will cause the same to be exposed to view in some public place duly labelled as recovered property for the space of 12 Calendar months

Ensign

Con 18th July 1851 44th 16 417
" 18th July 1851 " " 9.
" 23rd Dec 1851 " " 1842.
" 16th July 1852 " " 15

Marine 1860 Deputy

From

Department of Marine

S.C. No. 343
The Chief Secretary to Government

Posted 19th Dec 20th September 1860

Enc 1. No 4086

2nd 319.

Admits observations for the better preservation of property recovered from wrecked boats and if approved submit that they may be forwarded to the appropriate Government for consideration

244 Jpn 8

months, and if satisfactorily claimed within that time, will deliver the same over to the owner, Commander, or other person authorized to receive it, on payment of the expenses of recovery, a reasonable compensation for salvage, and 5 per cent on the value of the property, to the officer in whose charge it has been kept, provided such per centage in no case exceeds 500 Rupees.

4. If not satisfactorily claimed within 12 Calendar Months, the Master Attendant, Collector of Sea Customs, or his Deputy, will cause the property to be sold to the best advantage, and the proceeds, after paying expenses of recovery, salvage and per centage as before provided for, to be remitted to the Marine Board, who will hold the same in deposit to be delivered to the rightful owner on his substantiating his claim thereto.

5. In the event of the recovery of property of a perishable nature, or of less value than 50 Rupees, the Master Attendant, Collector of Sea Customs, or his Deputy may cause the same to be sold before the expiration of the above named period, paying the expenses, salvage and per centage, and remitting the remainder to the Marine Board; but in such case the salvage must never exceed one third of

of the net proceeds of sale.

6. Masters Attendant and Collectors of Customs will forward to the Marine Board for publication monthly, lists of recovered articles (whether sold or not) delivered into their charge, setting forth their description with the time and mode of their recovery.

7. All persons recovering property lost or abandoned at sea are to be reasonably remunerated, the amount of such remuneration being determined by the Master Attendant, Collector of Sea Customs, or his Deputy; and until their claim, as well as that for expenses incurred, and the per centage before named, is satisfied, such property will be detained. Provided nevertheless that the owner or salvor, if either consider himself aggrieved, may pay or receive the amount awarded under protest, and appeal to the Marine Board, who are empowered to revise the decision, if such should appear necessary.

8. All property claimed in which the owner refuses to pay the salvage expenses, will be sold at the expiration of 30 days after such has been demanded, and if an owner intend to appeal to the Marine Board against an award of the above nature, notice of the same must be given in writing to the officer having charge

James

(True Copy)

Brother-

Woodhouse, Marine Record Office
22^d July 1852.

Rs. — A. P.

18-12-4

Present rate.

14-01-79

Divers Yrs.

Rs. 9

Yours _____ D^o _____ above 12 Arb _____ 20 _____

For diving to recover any article which
may or may not be found exclusive
of salvage ————— } — 10 — " — "

For making a rope fast to the
end of a chain— } — 20 —

Enrico

Present rate.

Rs. A. P.

For making a rope fast to any thing in or
under 5 fathoms } ——— 5 ———

D^o ——— D^o 6 ——— 6 5 ———

D^o ——— D^o 7 ——— 8 ———

D^o ——— D^o 8 ——— 10 ———

D^o ——— D^o 9 ——— 14 ———

D^o ——— D^o 10 ——— 20 ———

Examining a ship's bottom drawing 22 feet water
and upwards ——— 20 ———

D^o ——— D^o drawing 18 and under 22 feet ——— 15 ———

D^o ——— D^o 12 ——— D^o 18 ——— 12 ———

D^o under 12 feet ——— 10 ———

(By Order)

Signed, John S. Franklin

Secretary.

(True copy)

Mcrocker

Appt. Supdt. of Marine.

Marine Department.

Proceedings of the Madras Government.

Read the following letter
from the Superintendent of
Marine.

(Here enter of the Sept. 1860,
No. 4086.)

Order thereon 2nd September 1860, No. 313.

Resolved that the
following letter be des-
patched to the Member
for Madras in the Legis-
lative Council and that
a copy of it be furnished
to the Superintendent of
Marine in reference to
his letter under date the
17th instant.

[Signature]
[Signature]
[Signature]

To the Member for Madras
of the Legislative for
India. (Here enter Sept. 1860,
No. 4086.)

[Signature]
J. J. J.

In a letter from the
Superintendent of Marine
to the Acting Secretary
to Government Madras
dated 17th September
1860 No. 4086.

Mar. 1860
No. 313.

6849

Subd 2 October 1860

Govt of Government

No. 343

Marine 1860. Defaut.

(Supd. 8)

9

Marine Department.

No. 344

The Member for Madras of the
Legislative of India.

Sir, I am directed by
the Honorable the Governor in
Council to forward to you the
accompanying letter, with
enclosures, from the Superin-
tendent of Marine for this
Presidency, offering observa-
tions upon the bill now
before the Legislative Council
for the preservation of pro-
perty recovered from wrecked
boats.

W
J

W

2. The Madras Govt.,
I am instructed to state,
concur in Mr. Franklin's
remarks, and are of opinion
that the proposed Act should
have the larger scope which
he recommends. They concur
also in the suggestions sub-
mitted in paras. 4 & 5 of his
letter.

C21104p
R1008

letter. Referring to the in-
-quiry made in para: 6,
there seems to them to be
no reason why a receiver
should not be entitled to
salvage, in addition to
any allowance that
may be granted to him
for the charge of the
salved property, provided
that his exertions have
been bonâ fide such, as
would, if made by any
other party, have given
him a fair claim to
salvage.

Fort St George?
2^d October 1860.

Same Year:



15/10 W. Franklin's
remains before

Copy to the Sup^t of Marine - (Sup^t D^r).

Играми.

10 Oct 1860

Maui 1850. Depart.

Ms. 344-

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Adair 22 Oct 1850-

7 1/2 93 of 1860

Chicago, Ill. 1860

Directing that the letter
from the 15th of 1860
and its enclosure offering
observations upon the
now before the Legislature
Council for the
Hon of the President
from the 15th of 1860
forwarded to the
with certain remarks.