Marine (1898) Department.

G.O., No. 756/757 Marine

DATED 6th September 1898.

[Despatch Abstract.]

"Sultan Iskander"

Ordered that the Govt of Ceylon be informed that ——— another vessel in the Immigration Service of that Colony has failed to pay port dues at the ports of Lamboo, while carrying private passengers in addition to Govt officials; and that the Governor's opinion be invited as to whether the Ceylon Govt would accept a claim to Port dues against such vessels.

The Govt of Ceylon addressed. J.

Read and Indexed. 12/9/98

[M.—6. 200—16-7-98.]

BACK PAPERS.

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

FURTHER PAPERS.

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

Levy of Port Dues on Ceylon Govt. vessels.

Marine DEPARTMENT.

Papers to be read in Proceedings :—

Again G.O., dated 16th June 1898, No. 511 Marine
Again G.O., dated 189 , No.
Current No. 969 of 1898, dated 27 July , from the Govt. Solicitor, Madras.
" " " 189 , "
" " " 189 , "

The Hon Sir Henry Blake K.C.M.G.
His Excellency the Governor

ORDER. 756 Mar 6th September 1898

R.S.H. 30.9.98

The Presidency Port officer
& 10/9/98

Ordered that the Government of Ceylon be addressed.

(AE No. 757 Mar. 6th Sept. 1898)

To

The Honourable
the Colonial Secretary,
Colombo.

Sir,

I am directed to request that you will be so good as to bring to the notice of His Excellency the Governor of Ceylon the fact that the barque "Sultan Iskander", a vessel engaged in the Immigration Service of the Ceylon Government, arrived at Pamban on the 28th April

Lt H.E. see before issue

KS
31/8/98

[P. W. 4. 500—24-3-98.]

H2m. 30-8-98 L 1-9-98 HE 1-9-98 L 5/9/98

April last carrying private passengers in addition to Government officials. These persons are reported to have transferred themselves on the same day to another vessel of the Immigration service, the "Rangasawmy Pwavy", and returned in her to Ceylon; neither of the vessels paying port dues.

2. In this connection, I am to invite the attention to the Proceedings of this Government No. 241-2 Marine dated 5th June 1888, from which it will be seen that it was held by the Government that the exemption from port dues, apparently conferred by section 2 (c) of Act XII of 1875, (since repealed in favour of Act X of 1889), would be forfeited if a vessel in the service of the Ceylon Government embarked ordinary cargo and passengers for hire. The word 'apparently' is used advisedly

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advisedly, because the general question has arisen in connection with these proceedings, whether vessels belonging to, or in the service of, the Ceylon Government are in reality exempt from Port dues under the Indian Ports Act X, 1889. The Advocate General of Madras has been consulted on the matter, and I am directed to forward a copy of his opinion for the information of His Excellency the Governor of Ceylon.

3. I am to add that while His Excellency the Governor in Council does not wish to act upon this opinion and alter the existing practice of remitting port dues on Ceylon Government vessels employed on Government service, the case appears to be altered if they carry passengers

passengers or cargo and I am directed to inquire whether the Ceylon Government is prepared to accept this view of the matter and admit a claim to Port dues against such vessels.

I have &c

M 30. 9. 97

2, 10/9/97

Marine DEPARTMENT.

C. No. 969 of 1898.

~~HIS EXCELLENCY THE GOVERNOR.~~

THE HON'BLE SIR HENRY BLISS, K.C.I.E.

~~THE HON'BLE MR. CROSE, C.I.E.~~

SUBJECT.

Question of levying port dues on Ceylon Government vessels carrying passengers.

FOR ORDERS.

The file is not complete, wish G.O. 486 16.11.89 which refers to 2 G.O.s of '88 — & there may be others. Please complete file & return for again

BD 4/8/98

Re-submitted with complete file - the papers for which had to be got from Madras - Hence the delay.

ADK 18.8.98

D.W.

Yes - Refer to the Ceylon Govt - State the Advs. Genl's opinion - say that while dissent with & alter existing practice of charging dues on Govt vessels employed in carrying passengers or cargo. Should the case appear in the future to call for it

BD 19/8/98

Whether the Presidency Port officer shall be directed to act on the Advocate-General's opinion which is, that Ceylon Government vessels are not exempt from the provisions of Act X of 1889, and must therefore, unless otherwise specially exempted, pay port dues when carrying passengers.

N.B. Perhaps the most convenient way would be to address the Ceylon Govt in the matter

M 30.9.97

J.A.G.

[P. W. 45. 500—27-1-98.]

Hm. 3. 8. 98 - R 5.8.98 again 18.8.98 R 20/8/98

C. No 969

All

The papers required by the H. Co. are in the Madras records. They have been called for.

R.S
5 Aug 98

Noted
W.M.S
6.8.98

Marine (1898) Department.

CURRENT No. 969

From

The Government Solicitor
Madras

Order

No. 296.

Dated 25. 7. 98
Received 3
Registered 3 27. 7. 98
Enclosures 3
Spare copies

SUBJECT.

Ceylon Government vessels

Forwarding the opinion of the Advocate General re the liability of — the payment of Port Dues in India.

Chobha

BACK PAPERS.

No.	Date.
P.O. 511 of 16 Feb 1898	
P.O. 224 of 30 Nov 90	
130 of 31 March 90	
105 of 6 Jan 90	
486 of 26 Nov 89	
456 of 29 Dec 89	

FURTHER PAPERS.

No.	Date.

Marine Department.

Proceedings of the Madras Government.

Read the following paper:-

From the Presidency Port Officer, No. 504/153 G.
dated 18th March 1890.

Order - dated 31st March 1890, No. 130.

The Government of Ceylon will be addressed with reference to para 2, and the Presidency Port Officer will direct the Port Officer, Pamban, not to interfere with Ceylon Government Immigration Vessels, but simply to report any improper proceedings in connection with them that may come to his knowledge.

(True extract)

(Sd) J Grose
Asst:-Chief Secretary.

(True Copy)

Commander R. I. M.,
Presidency Port Officer

Pressy: Port Office
Madras 4th May 1898

No.943/ 169 G

Presidency Port Office,
Madras, 4 May, 1898.

From

Commander H. A. Street, R.I.M.,,
Presidency Port Officer,
Madras,

To

The Secretary to Government,
Marine Department,
Chepak.

Sir,

Border at Madras

In accordance with G.O., Marine, No.130, dated 31st March 1890- copy attached for reference- the Port Officer, Pamban, reports that the barque "Sultan Iskander" a vessel engaged in the Ceylon Government Immigration Service, arrived at Pamban on the 28th April last, having on board two European Officials of the Ceylon Government together with 16 other persons, and that these persons transferred themselves the same day to another vessel of the Immigration Service- "the Rungasawmy Puravy"- and sailed in her for Pasalai, a port on the Ceylon Coast.

2. The Port Officer enquires whether under the circumstances port dues should be charged in each case as the Immigration vessels are exempted only from the provisions of the Indian Ports Act while carrying bona fide Immigrants. He also states that the first named vessel paid port dues at Colombo.

3. In my opinion port dues should be charged, but as the Ceylon Government have requested that the Immigration vessels may be not interfered with I submit

the

the matter for orders.

I have the honor to be,

Sir,

Your Obedient Servant,

Commander, R.I.M.,

Presidency Port Officer.

O P I N I O N

The question in this case is as to the proper construction of the words "In the service of Her Majesty" as used in Section 1 (4) (1) of the Indian Ports Act (Act X of 1889). The expression is not defined in the Indian Ports Act, nor in the General Clauses Act - (Act X of 1897). If the words had stood alone, I think they would have included vessels belonging to, or in the service of, Her - Majesty's Colonies or Dependencies, but it seems to me that the - effect of introducing an express reference to the Government of - India is to cut down the meaning of the words so as to exclude from their scope vessels belonging to, or in the service of, the - Governments of any of Her Majesty's Colonies or Dependencies, - excepting, of course, the Government of India.

2. I am by no means sure that this was the intention of the - Legislature, for, on principle, there seems no reason why a vessel belonging to, or in the service of, a Local Government of India, a Colonial Government or a Crown Colony should not enjoy the same - immunity as a vessel belonging to, or in the service of, the Home Government or the Government of India. However, as a question of - construction, it seems to me that for the purposes of the Act in - question, the expression "In the service of Her Majesty" must be - read in its more restricted and not in its wider meaning, and that a vessel belonging to, or in the service of,-e.g. the Government of Ceylon is not exempt from the provisions of the Act.

C. Arnold White

Advocate General.

M a d r a s
22nd J u l y 1898.

(True Copy)

Government Solicitor.

(1898) Department

From

Ernest Barclay
Government Solicitor
Madras

To

The Secretary to Government
Marine Department
Madras

No 296

Dated. 25th July 1898
Recd -

Encls 2

Forwarded with enclosures with reference to the Order of Govern-ment No 511. Marine dated 16 June 1898.

Ernest Barclay
Government Solicitor

Marine

Mar Enc 3
26/7/98

Levy of Port Dues on Ceylon Government vessels.

Marine DEPARTMENT.

Papers to be read in Proceedings:—

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The Hon. Sir Henry Blake, K.C.M.G.

ORDER.

Ordered that the Government of Ceylon be addressed.

The Presidency Port officer.

(46 No Mar. of Augt '98)

To

The Honourable
the Colonial Secretary,
Colombo.

Sir,

I am directed to request that you will be so good as to bring to the notice of His Excellency the Governor of Ceylon the fact that the barque "Sultan Iskander", a vessel engaged in the Immigration service of the Ceylon Government arrived at Pamban on the 28th April last carrying private

private passengers in addition to Government officials. These persons are reported to have transferred themselves on the same day to another vessel of the Immigration Service, the "Rungasawmy Puravy," and returned in her to Ceylon, neither of the vessels paying port dues.

2. In this connection, I am to invite attention to the Proceedings of this Government No. 241-2 Marine dated 5th June 1888, from which it will be seen that it was held by this Government that the exemption from port dues, apparently conferred by Section 2 (c) of Act XII of 1875, would be forfeited if a vessel in the service of the Ceylon Government embarked ordinary cargo and passengers for hire. The view then expressed is now borne out by the opinion of the Advocate General of Madras, a copy of which I am now to forward for the information of His Excellency

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(since repealed in Laws of Act X of 1889).

The word 'Apparently' is not advised, because the Colonial practice has arisen in connection with these two vessels, whether belonging to, or in the service of, the Ceylon Govt are in receipt from Port dues

under the Indian Ports Act X of 1889. The Advocate General of Madras has been consulted in the matter and I am now directed to forward a copy of his opinion in the information of HE. The Govr of Ceylon and to add that

Excellency the Governor of Ceylon.

3. I am to inquire whether the Ceylon Government is prepared to accept and act upon this opinion; and, if so, whether a claim to Port dues against the vessels in question will be admitted.

4. I am to add that while His Excellency the Governor in Council does not wish to alter the existing practice of remitting port dues on Ceylon Government vessels employed on Government service, the case appears to be altered if they carry passengers or cargo.

I have &c

C.P.

M

Rec'd

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