

Marine

1543+98297

~~Public Works~~

(1898)

Department.

G.O., No. 9899 Mar

DATED 7 February 1898

21/2/98

21/2/98

[Despatch Abstract.]

Boat rules: Ordered that the Govt. of India be addressed on the question of passing a general amendment to Indian Ports Act X of 1884 for the purpose of empowering Local Govts. to compel boat-owners to ply for hire & to fix the rates of hire & tea.

Boat rules: Letter to the Govt. of India pointing out the inconveniences felt by the want of power to control boat owners to ply for hire & to fix the rates of hire & tea, and remitting the matter for the consideration of that Govt. to know if they would pass a general amendment to Indian Ports Act X of 1884 empowering Local Govts. to frame rules for removing such inconveniences.

Indexal

13/4/98

H. 258

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	308	98					
	250	245	2-4-98				

Letter to the Government of India pointing out the inconveniences felt by the want of power to control boat owners to ply for hire and to fix the rates of hire, &c., and remitting the matter for the consideration of that Government to know if they would pass a general amendment to Indian Ports Act X of 1889 empowering local Governments to frame rules for removing such inconveniences.

MARINE DEPARTMENT.

LETTER—from

W. B. DEWINTON, Esq.,

*Acting Secretary to the Government of Madras,**Marine Department,*

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

FINANCE AND COMMERCE DEPARTMENT.

SIR,

In January 1897 certain local merchants at Tuticorin represented to this Government the serious inconvenience caused to steamers at that port owing to the absence of licensed cargo boats which were in the habit of trading beyond port limits in the same manner as registered vessels. This inconvenience was formerly met by certain rules framed under clause (k), section 6 of Act X of 1889, but these rules were declared to be *ultra vires* by the Madras High Court on the ground that, under that clause, the power of the local Government was restricted to regulating the boat traffic within the limits of a port and did not enable it to make rules compelling boat owners to ply for hire. The rules in question were consequently deleted, and revised rules were published in August 1894, a copy of which is attached for reference (*vide* G.O., No. 334, Marine, dated 18th August 1894).

2. India Act IV of 1842 which was enacted for the better management of boats and catamarans in the Madras roads, and which by India Act IX of 1846 was practically extended to the other ports of the Madras Presidency, contained several useful provisions which were well suited at the time to local requirements. Section 13 of the Act provided a penalty for demanding hire in excess of the authorized scale, and section 14 provided a penalty for refusing to let on hire. Relying on the validity of the rules framed under clause (k) of section 6 of the Indian Ports Act, 1889, which contained provisions similar to those enacted in Act IV of 1842 and Act IX of 1846, the local Legislature repealed, by Madras Act I of 1893, the said two Acts and three other subsequent amending Acts. It was subsequent to this repeal of enactments that the decision of the High Court mentioned above was delivered, the result being that this Government has now no power either to compel licensed boats to ply for hire or to fix the rates of hire when they do ply.

3. That the absence of this power may cause grave inconveniences will be generally admitted. The boatmen are an unruly class, and might, under very conceivable circumstances, bring the whole trade of a port to a standstill and cause Government serious embarrassment. Moreover, rules for the regulation of hackney carriage traffic exist all over the world, and also, it is believed, for the plying of boats in most European ports.

4. His Excellency the Governor in Council is therefore satisfied that it is desirable, in the interests of trade, that such power should be conferred on, and exercised by, the local Government and would be inclined to proceed by local legislation for obtaining such power, but inasmuch as the Bengal Government is in the same position as that of Madras, having issued rules which must, if the decision of the Madras High Court is valid, be equally *ultra vires*, His Excellency in Council resolves to remit the matter to the Government of India which may prefer to pass a general amendment to Act X of 1889. I am to suggest that any such amendment should empower local Governments to frame rules under that Act for—

- (1) compelling cargo boats to ply for hire within port limits when required;
- (2) fixing rates of hire; and
- (3) imposing penalties for infractions of these rules.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) W. B. DEWINTON,
Ag. Secretary to Government.

FORT ST. GEORGE,
7th February 1898.

Exd. T. K. Narayana Aiyangar.

Government {1898} of Madras.
MARINE.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

G.O., No. 98, 7th February 1898.

FEBRUARY.

Boat Rules

Ordered that the Government of India be addressed on the question of passing a general amendment to Indian Ports Act X of 1889 for the purpose of empowering local Governments to compel boat owners to ply for hire and to fix the rates of hire, &c.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

Read—the following papers:—

From Commander H. A. STREET, R.I.M., Presidency Port Officer, Madras, to the Secretary to Government, Marine Department, dated 14th July 1897, No. 646/264 G.

With reference to paragraph 5 of G.O., No. 532, Marine, dated 14th June 1897, I have the honour to acquaint you as follows for the information of Government:—

(a) I concur in the view expressed in paragraph 10 of the enclosure printed with the Government Order above quoted, that the repeal of Act IV of 1842 and Act IX of 1846 has been the cause of the inconveniences referred to in the correspondence printed with G.O., No. 532, Marine, of 14th June 1897.

(b) I consider that it would be advantageous to revive the two Acts, as proposed by the Acting Advocate-General in paragraph 11 of the enclosure above quoted, but not the whole of Act IV of 1842 as sections 12, 13, 14, 16, 17, 18 and 19 will suffice.

(c) I see no objection to revised boat rules being issued under Indian Ports Act, section 6, clause (k), and also under section 79 of the Sea Customs Act VIII of 1878, and I submit that rules in accordance with sections 12, 13, 14, 16 and 17 of Act IV of 1842, when that Act is restored, should be also included in the boat rules.

Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 5031, dated 17th November 1897.

Read—the following letter from the Collector of Sea Customs, Madras, dated 16th September 1897, No. 6593 G:—

With reference to Board's Proceedings (Separate Revenue), No. 285, dated 15th July last, communicating G.O., No. 532, Marine, dated 14th June, and calling for my remarks on paragraphs 10, 11 and 12 of the Advocate-General's opinion embodied therein, relative to boat regulations in force in this Presidency, I have the honour to observe as follows.

2. In paragraph 10 of his opinion, the Advocate-General calls attention to the ruling of the High Court whereby the Indian Ports Act X of 1889 is held to fail to cover some of the boat rules that have been framed under it: and suggests that certain provisions, especially sections 13 and 14 of the old repealed Madras Act IV of 1842, might be revived with advantage. He is also of opinion (paragraph 12) that if the rules are issued under the combined authority of clause (k) of section 6 of the Indian Ports Act X of 1889 and of section 79 of the Sea Customs Act VIII of 1878, they can be given a wider scope than under either of the two sections, and he draws special attention to rules 16 and 18 of the rules so issued by the Lieutenant-Governor of Bengal as having a bearing upon the matter.

3. If the High Court and the Advocate-General are correct in holding that some of the most important of the boat rules are *ultra vires*, it would seem more advisable to amend the Ports Act of 1889 than to revive the old enactments.

4. It is under the Sea Customs and Ports Acts that the Bengal Government has framed the rules (clauses 16 and 18) which give power to punish boat owners for refusing to hire. But if the Madras High Court is correct, these particular provisions must be considered *ultra vires* as not covered by the terms of either Act: these Acts giving the Local Government power only to regulate the boat traffic within the limits of a port for the privilege of which traffic a licensing fee is demanded.

5. Some *valid* rules similar to those issued by the Bengal Government are necessary for the protection of trade. As things now stand, the trade of a port lies in the hands of boatmen; for if, though licensed, they can ply or not as they please, they can, by unanimous action, at any rate for a time, utterly stagnate commerce, and might cause considerable embarrassment to Government under certain circumstances.

If boat owners prefer trading up and down the coast to plying for hire within the limits of the port for which they are licensed, it is a question whether the exemption from port and light dues should be allowed them, merely because the boats are under 15 tons. Such boats would work at night as well as by day, making use of light-houses and land beacons erected for the use of sea-going vessels, and it would be only fair that contributions towards the upkeep of these safeguards to navigation should be paid by them.

Resolution—Mis. No. 5031, dated 17th November 1897.

Submitted to Government with reference to G.O., Mis. No. 3481, Revenue, dated 8th July 1897.

2. With reference to paragraph 12 of the Advocate-General's opinion, it would appear that the rules in force in Calcutta contain provisions open to the same objection as the Madras rules which have been declared *ultra vires*. The Board sees no objection to the Madras boat rules also being issued under section 79 of the Sea Customs Act as well as under section 6 (k) of the Indian Ports Act as in Calcutta, as suggested by the Advocate-General, but it does not consider that such a procedure will go very far towards attaining the object aimed at. In its opinion, the only remedy for the inconvenience at present felt is, as suggested by the Collector, to amend the Ports Act by enabling Government to issue rules giving thorough control over licensed "vessels" in particular, prohibiting licensed boats from trading outside the limits of the port and compelling owners to let them for hire when required.

(True Copy and Extract.)

(Signed) A. KRISTNASAMI IYENGAR,
Ag. Assistant Secretary.

Mis. No. 6154, Revenue.

Transferred to the Marine Department, with reference to G.O., No. 532, Marine, dated 14th June 1897.

FORT ST. GEORGE,
30th November 1897.

(Signed) N. F. MARJORIBANKS,
Ag. Under Secretary to Government.

ORDER—No. 98, Marine, dated 7th February 1898.

Ordered that the Government of India be addressed.

[Here enter No. 99, Marine, dated 7th February 1898.]

(True Extract.)

Under Secretary to Government.

To the Presidency Port Officer.
„ Revenue Department.

Exd. T. K. Narayana Aiyangar.

Mary DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated

189, No.

Again G.O., dated

189 , No.

Current No. 982

of 1897, dated 17th July 1897, from the Presy. Port
Officer.

” ” 1543

.. 1897, " 2nd Novr. 1897, " the Board of Rev.

12

189

~~The Hon Sir Henry Blair~~ ✓
~~H.C. J.E.~~
~~H.E. The Governor~~ ✓

ORDER.

1987年9月27.2.90

Ordered that the Government of India be addressed.

To The P.P.O.
Revenue Dept,

22/12/98

H. E. No. 99 Marine dated 7 Feb 1898

To

The Secretary to the

Govt. of India,

Finance & Commerce Dept

Sir,

In January 1897 certain local merchants at Tuticorin represented to this Government the serious inconvenience caused to steamers at that port owing to the absence of licensed cargo boats which were in the habit of trading beyond port limits in the same manner as registered vessels. This inconvenience was formerly met by certain rules framed under clause (k), section 6 of Act X of 1889, but these rules

~~Per~~ This will do - that
perhaps the inconvenience which
may arise from want of control
over boatmen & the passengers
for regulating the plying of vehicles
aboat might be pointed out

By

17/1/98

2.5

21.1.9

21.1.98
Rev 25-1-98

W
Please see
proofs and pencil
addition at the end
of the draft. R. S. Jangoo

were declared to be ultra vires by the Madras High Court on the ground that, under that clause, the power of the Local Government was restricted to regulating the boat traffic within the limits of a port and did not enable it to make rules compelling boat owners to ply for hire. The rules in question were consequently deleted, and revised rules were published in August 1894, a copy of which is attached for reference (Vide G.O. 334 Marine dated 18th Aug. 1894).

2. India Act IV of 1842 which was enacted for the better management of boats and catamarans in the Madras Roads, and which by India Act IX of 1846 was practically extended to the other ports of the Madras Presidency contained several useful provisions which were well suited to local requirements. Section 13 of the Act provided a penalty for demanding hire in excess of the authorised scale, and section 14 provided a penalty for refusing to let on hire. Relying on the validity of the rules framed under clause (K) of section 6 of the Indian Ports Act, 1889, which contained provisions similar to those enacted in Act IV of 1842, and Act IX of 1846, the Local Legislature repealed, by Madras Act I of 1893, the

* Order file of papers
forwarded from the
Legislation
Dept. - 15 Jan 98

That the absence of this power may cause grave incoveniences, will be generally admitted. The boatmen are, an uneasy class, and unapt, under very incisable circumstances, to bring the whole trade of a port to a stand still, and cause Govt. serious harassment. Moreover, rules for the regulation of hackney carriage traffic exist all over the world, and also, it is believed, for the plying of boats in most European ports.

said two Acts and three other subsequent amending Acts. It was subsequent to this repeal of enactments that the decision of the High Court mentioned above was delivered, the result being that this Government has now no power either to compel licensed boats to ply for hire or to fix the rates of hire when they do ply.

24. His Excellency the Governor in Council is ^{therefore} satisfied that it is desirable, in the interests of trade, that such power should be conferred on, and exercised by, the Local Govt. and would be inclined to proceed by local legislation for obtaining such power, but in as much as the Bengal Government is in the same position as that of Madras, having issued rules which must, if the decision of the Madras High Court is valid, be equally ultra vires, His Excellency in Council resolves to remit the matter to the Government of India which may prefer to pass a general amendment to Act V of 1889. I am to suggest ^{any such} that ~~this~~ amendment should empower Local Governments to frame rules under that Act for

(1) ~~prohibiting licensed cargo boats to trade beyond port limits.~~

(1) (2) compelling

(1) (2) compelling ^{Cargo} these boats to ply for hire within port limits when required.

(2) (3) fixing rates of hire, and

(3) (4) imposing penalties for infractions of these rules.

I have &c.

W. B. S. 15.1.90.

sent 19/7/97

R.S.

It is the opinion of the Council that a grave inconvenience is not unlikely to arise from the existing total want of power to control boatmen at the various ports. It is open to these men, merely as a class, to bring the trade of a port to a standstill by unanimous action, and to cause serious embarrassment to Government in certain conceivable circumstances. And there seems nothing unreasonable in the proposal that regulations should exist compelling them to ply when required, and restraining them from demanding more than the authorized rates of hire. Rules of the kind exist for the regulation of hackney carriage traffic all over the world, and for the plying of boats in many of our European ports.

Marine (1897) Department.

CURRENT No. 982

From

The Presidency Court Office,
Madras

No. 646/264

Dated 14th July 1897

Received 17-7-97

Enclosures "

Spare copies

SUBJECT.

Registration of Vessels—
Reporting that it would be advantageous to revise the acts II of 1842 and act IX of 1846 and the Boat Rules as suggested by the Ag Advocate General.

Order

See W.B.S.

Arrive reply from the Board of the 532 Marine. Para 5. Meanwhile copies of the Act should be obtained from Madras.

23/7/97

23-7-97

G.O.	No.	Department.	Date.
532	Q	14.6-97	✓
49	Q	26.1-97	✓
72	Q	26.1-97	✓
369	Q	23.5-98	✓
310	Q	5.5-98	✓
222	Q	31.3-26	✓
334	Q	18.5-94	✓
223	Q	14.6-94	✓
50	Q	10.2-94	✓
299	Q	19.5-93	✓
188	Q	7.6-93	✓
578	Q	18.5-93	✓
503-4	Q	16.4-91	✓
456-7	Q	16.4-90	✓
466	Q	24.8-89	✓
The Sea Customs Law of India & Tariff Act			
The Madras Code			
Sea Customs Act 1878			
Madras Act II of 1873			
Act <u>II</u> of 1875 repealed by			
Act <u>X</u> of 1889			
Act <u>I</u> of 1889.			
Similar file			
27	Q	22-4-92	Logis
84	Q	6-2-93	
83	Q	9-12-91	
5	Q	29-5-91	

Heading.

Madras, 4th July 1897.

Commander H. A. Street, R. I. M.
PRESIDENCY PORT OFFICER,

Madras,

THE SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,

Chepak.

SIR, With reference to para 5, of G.O. No 532, Marine,
dated 14th June 1897, I have the honor to acquaint
you as follows for the information of Government;

(a) I concur in the view expressed in para 10,
of the enclosure printed with the G.O. above quoted,
that, the repeal of Acts IV of 1842 and Act IX of 1846
has been the cause of the inconveniences referred
to in the correspondence printed with G. O.
No 532, Marine, of 14th June 1897.

(b) I consider that it would be advantageous to revive the two acts, as proposed by the Acting Advocate General in para 11 of the enclosure above quoted, but not the whole of Act ix. of 1842 as Sections 12, 13, 14, 16, 17, 18, and 19 will suffice.

(c) I see no objection to revised boat rule
being

b. In the case of the

being issued under Indian Ports Act
section 6, clause K, and also under
section 79 of the Sea Customs Act
VIII of 1878, and I submit that rules
in accordance with sections 12, 13, 14, 16,
and 17 of Act IV of 1842 when that Act is
restored should be also included in the
boat rules.

I have the honor to be,
Sir,
your obedt. servant,
Dated
Commander, R.I.M.
Kreey: Port Officers.

Marine (1897) Department.

CURRENT No. 10157. 1543

10157. 1543

From

The Secretary to the Commis-
sioner of Salt, Abkari & Separate
Revenue, Madras.

Order Mis. No. 6154

Transferred to the Marine
Department, with reference to G.O.,
532, Marine, dated 14-6-97.

Mis. No. 5031.

Dated 17th November 1897

Received 24th November 1897.

Registered 25th November 1897

Enclosures one

Spare copies

W. Marjoribanks
30/11
Ag. Under Secy. to Govt.

Fort Saint George,
30th Novr. 1897

SUBJECT.

Submitting to Government re-
marks on the Advocate General's opi-
nion on the law relating to the re-
gistration of vessels.

To the Marine Department.

16/3/97 The above decision

BACK PAPERS.

FURTHER PAPERS.



Proceedings of the Board of Revenue

(Separate Revenue.)

Dated 17th November 1897.

Recd No. 5031

Read the following letter from the Collector of Sea Customs,
Madras, No. 6593G dated 16th September 1897.

With reference to Board's Proceedings (Separate Revenue) No. 285 dated 11th July last, communicating G.O. No. 532 Marine, dated 14th June and calling for my remarks on paras 10, 11 and 12 of the Advocate General's opinion embodied therein, relative to Boat regulations in force in this Presidency, I have the honor to observe as follows:-

2. In para 10 of his opinion, the Advocate General calls attention to the ruling of the High Court whereby the Indian Ports Act X of 1889 is held to fail to cover some of the boat rules that have been framed under it: and suggests that certain provisions, especially sections 13 & 14 of the old repealed Madras Act 4 of 1842 might be revived with advantage. He is also of opinion (para 12) that if the rules are issued under the combined authority of clause (k) of section 6 of the Indian Ports Act X of 1889 and of section 79 of the Sea Customs Act 8 of 1878, they can be given a wider scope than under either of the two sections, and he draws special attention to rules 16 & 18 of the rules so issued by the Lieutenant Governor of Bengal as having a bearing upon the matter.

3. If the High Court and the Advocate General are correct in holding that some of the most important of the boat rules are ultra vires, it would seem more advisable to amend the *Boats Act of 1889* than to *repeal the old enactments*.

4. It is under the Sea Customs and Ports Acts that the Bengal Government

Government has framed the rules (clauses 16 & 18) which give power to punish boat owners for refusing to hire. But if the Madras High Court is correct, these particular provisions must be considered ultra vires as not covered by the terms of either Act: these Acts giving the Local Government power only to regulate the boat traffic within the limits of a port for the privilege of which traffic a licensing fee is demanded.

5. Some valid rules similar to those issued by the Bengal Government are necessary for the protection of trade. As things now stand, the trade of a port lies in the hands of boatmen, for if though licensed, they can ply or not as they please, they can, by unanimous action at any rate for a time, utterly stagnate commerce, and might cause considerable embarrassment to Government under certain circumstances.

If boat owners prefer trading up and down the coast to plying for hire within the limits of the ports for which they are licensed, it is a question whether the exemption from port and light dues should be allowed them merely because the boats are under 15 tons. Such boats would work at night as well as by day, making use of Light houses and land beacons erected for the use of sea going vessels and it would be only fair that contributions towards the upkeep of these safeguards to navigation should be paid by them."

RESOLUTION:-

SUBMITTED to Government with reference to Government Order Mis No. 3481 Revenue dated 8th July 1897.

3. With reference to para 12 of the Advocate General's opinion, it would appear that the rules in force in Calcutta contain provisions open to the same objections as the Madras rules which have been declared ultra vires. The Board sees no objection to the Madras boat rules also being issued under section 79 of the Sea Customs Act as well as under section 6 (k) of the Indian Ports Act as in Calcutta, as suggested by the Advocate General, but it does not consider that such procedure will go very far towards in attaining the object aimed at. In its opinion, the only remedy for the inconvenience at present felt

is, as suggested by the Collector, to amend the Ports Act, enabling Government to issue rules giving thorough control over licensed "vessels" in particular prohibiting licensed boats from trading outside the limits of the port and compelling owners to let them for hire when required.

(True copy and extract)

C. B. Rintamäki

Ag. Assistant Secretary.

To

The Secretary to Government, Revenue Department.

" Collector of Sea Customs, Madras.

20
23-11-97

1476 is cancelling of the

3. 7. 1. The 1st Dec 1897

Ch 982 + 1543 name

DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated

Again G.O., dated

Current No.

" "

" "

189 , No.

189 , No.

of 189 , dated

" 189 , "

" 189 , "

, from

" "

" "

ORDER.

Case

(a) 1. No details that I can find are given of the case in which the High Court decided that the Board Rules prohibited the S.O. name 354 of it any 94 etc. not be enforced under Act. & Sec. 6 (K), but I don't understand the decision in the light of Sec. 54 of the Act.

2. The Appendix A of Sea Customs Law penalties prescribed by law in breach of the rules are referred to in Rules 16 & 18, but the very penalty referred to in Sec. 79 of Act viz. of 1870 is cancelling of the

(b) 3. The decision

Subs 1
1523/97

final, no of alternative
is to introduce Sections 12,
13, 14, 16 to 19 of Act IV of 1842
& the whole of Act IX of 1846
into Act X of 1889. But
I really do not see why
any rule we choose to
make cannot be enforced
at law under Sec 54
of Act X.

11. I think it will be a (c)
mistaken interference
with trade to prohibit
boats from having outside
port limits, but if they
were so permitted they
should certainly pay port
duty & dues irrespective
of tonnage.

R. S.
16. Dec 97

(11) The ruling of the High
Court is given with 80 Rs. 50
Marine. 10 February 1894
10 June 1893. (Flag H)
To apply Section 54 of Act X of
1889. The "rule or order" made
by the local govt. must be within
the power of the Govt. to make.
Such ultra vires. The local
govt. has no power under Sec.
54. The Comd. of boats owners

ply for hire, but only
to rules with regard to
which voluntarily ply for
hire. Therefore, if a boat refuses
to ply for hire through the way
in a licensed boat, the owner
is not penalized under Sec. 54 wh.
withstanding any rule which
the Govt. might make to the
contrary.

(b) If Act X of 1889 be modified
as proposed in para 4 of the
local orders, the local govt.
could then make rules in
the sense of the Sections
of Act IV of 1842 quoted in your
memo, para 3.

(c) The question of prohibiting
"licensed" boats from ~~plying for~~
hire outside port limits is a
difficult one. The Board of Revenue
seem to think that they should
be retained, and so do mercan-
tile firms. But, if they are
allowed this freedom of trade,
they should certainly pay all
dues now paid by "registered"
vessels.

R. S.
16. Dec 97

C. No.

HIS EXCELLENCY THE GOVERNOR.

SUBJECT.

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

THE HON'BLE MR. GROSE, C.I.E.

2

FOR ORDERS.

the ports could be efficiently
worked without such arbitrary
power.

6. It would, I think, be a
mistaken interference with
trade to prohibit boats from
trading outside port limits,
but if they are so permitted
they should certainly pay
port & light dues irrespective
of tonnage

W. B. C. S.
16.12.92

*C. L. S.
Any vessel of 100 tons
or over must be
licensed in ports
of call. The
P.P.S. letter of 1980 223
was finally passed in
accordance with this opinion
16 Dec 92.*

Boat Rules

[43 / 509]

C. Nos. 982 and 1543 of 1897.

SUBJECT.

HIS EXCELLENCY THE GOVERNOR.
THE HON'BLE SIR HENRY BLISS, K.C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

Boat Rules - Amendment of -

FOR ORDERS.

His obvious, as pointed out by the Cdr., that ^{existing} inconvenience may result from the ^{that} want of power to control boatmen at the various ports. This, however, is perfectly reasonable that regulations should exist compelling them to ply when required & restraining them from demanding more than the authorized rates of hire. Rules of the kind exist for the regulation of hackney carriage traffic all over the world & for the plying of boats in many, if not all, European ports.

The papers read above are replies to para 5 of G.O.No.532 Marine dated 14th June 1897 in which the Presidency Port Officer and the Board of Revenue were called upon to offer remarks on paras 10, 11 and 12 of the Advocate General's opinion printed with that G.O.

Act IV of 1842-page 124-The Madras Code.

Act IX of 1846-page 135 - do -

The object might be attained by re-enacting the Boat Acts which were repealed in 1893 (apparently under a misapprehension. But the papers which led up to the passing of Act I of 1893 should have been put up). But I don't like the wording of the operative sections of IV of 1842. It does not fit in with existing ^{judicial} arrangements and the punishments it allows are much too severe. Boatmen are a traditionally cowardly lot, but I don't think they need in these days to be flogged & kept in order. A new Act

2. As regards the suggestion in para 11 of the opinion, viz, the revival of the two repealed Acts, the Presidency Port Officer considers it advantageous to do so, but thinks it enough if certain sections only of Act IV of 1842 were reenacted. The Board of Revenue on the other hand suggests the amendment of the Indian Ports Act X of 1889 instead of the revival of the repealed enactments.

3. To the suggestion contained in para 12 of the opinion, viz, the issue of the Boat Rules not only under section 6(k) of the Indian Ports Act, but

[43
509]

C. No.

SUBJECT.

HIS EXCELLENCY THE GOVERNOR.

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

THE HON'BLE MR. GROSE, C.I.E.

FOR ORDERS.

2.

the ports could be efficiently worked without such arbitrary power, & directs the P.F.O. to try & present the necessity for it & report the result. His report is contained in GO No 223 Marine of 16 June 1894 & is to the effect that he does not consider arbitrary rules necessary. Govt agreed with this view, & the rules were drawn up accordingly.

6. It would, I think, be a most unfortunate interference with trade to prohibit boats from trading outside port limits, but if they are so permitted, they should certainly pay port & light dues irrespective of tonnage.

W. B. Bliss
16.12.97

Fleg B.

Some on the same line, but more in accordance with modern ideas, might be introduced into the local ports. But it is in the same boat as Bengal is in the same boat as ourselves, in that it has issued Boat Rules which, according to the H.C., are as ultra vires as ours were, it will be better that India should legislate. I should refer the case to India, with an expression of our willingness to legislate for our own wants, if it were not to pass a general amendment to Act X of 1889.

A.S.

H.S.

31/12/97

I enclose the proposed reference to the Govt. of India should be made.

A.S.H.

A.S.H.

4.1.98

Fleg H.

C.A.W.

but also under section 79 of the Sea Customs Act, both the Presidency Port Officer and the Board of Revenue offer no objection: but the Board of Revenue points out that this alone would not go very far towards attaining the object aimed at, since the rules would even then be open to the objection taken by the Madras High Court, that they would go beyond the powers conferred by both these sections, and would thus be ultra vires.

4. The Board of Revenue considers that the only remedy for the inconvenience at present felt is, as suggested by the Collector, to amend the Ports Act so as to enable Government to issue rules giving thorough control over licensed "vessels", in particular prohibiting licensed boats from trading outside port limits and compelling owners to let them for hire when required.

5. If it is intended to remove any or all of Sections 12, 13, 14, 16, 17, 18 & 19 of Act IV of 1882, perhaps the simplest plan is to amend Act X of 1889 by incorporating them therein: but attention is invited to Para 5 of GO No 50 Marine of 10 Feb 1894, in which Govt says that it would be more satisfactory if