

Marine (1899) Department.

G.O., No. 62611

DATED 8th July 99

R

[Despatch Abstract.]

Duplicates of Boat licenses and certificates of Registry

with remarks
Considering that sufficient reason
does not exist for adopting the Presy. Port
Officers proposal as to the levy of a fee
for the issue of —————

R

Regd.

1899.

Enclosures

Spare copies

G.O., No. 626, 8th July 1899.

JULY.

Duplicates of Boat Licenses and Certificates of Registry

Considering, with remarks, that sufficient reason does not exist for adopting the Presidency Port Officer's proposal as to the levy of a fee for the issue of —.

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 8th March
1899, No. 646/89 G.

I have the honour to acquaint you, for the information of Government, that it frequently happens that boat owners lose the licenses granted to them under the Boat rules or tear and otherwise render them illegible by not being more careful with them. In such cases it is the practice for the owners to apply to the Registering officer for fresh licenses and these at present are issued free of charge. To ensure more care being taken of licenses and in view of the extra clerical labour involved in issuing fresh licenses, I recommend sanction of Government being obtained to charge a fee of Re. 1 in each case (to be credited to Port funds) which, I think, can be levied under section 35 (1) of Act X of 1889, as covering "other services" contemplated by that section.

From Commander H. A. STREET, R.I.M., Presidency Port Officer, Madras,
to the Secretary to Government, Marine Department, dated 8th March
1899, No. 337/90 G.

In connection with my proposals in a separate letter for levying a fee for issuing fresh boat licenses under certain circumstances, I would also recommend the levy of a fee of Rs. 2 in each case of a fresh certificate of registry under Act X of 1841 issued under similar circumstances. This fee can, I think, be levied under section 25 of the said Act.

Note from the Presidency Port Officer, dated 25th April 1899, No. 337/154 G.
" " " " 23rd June " " 337/223 G.

ORDER—No. 626, Marine, dated 8th July 1899.

Having regard to the small number of duplicate licenses issued, His Excellency the Governor in Council does not consider sufficient reason exists for adopting the Presidency Port Officer's proposal as to the levy of a fee.

2. In cases where certificates of registry are lost or mislaid, section 19 of Act X of 1841 applies, as pointed out by the Government Solicitor, i.e., the vessels must be registered *de novo*.

(True Extract.)

Under Secretary to Government.

To the Presidency Port Officer.
" Government Solicitor.

Etd. T. K. Narayana Aiyangar.

Marine DEPARTMENT.

READ the following:—

Letter from the Presidency Port Officer, Madras, No. 646 G. dated 18th March 1899.

Note from *Port Officer* No. 337 G., dated 8th March 1899.
" *Govt* No. 337 G. dated 25th April 1899.
" *do* No. 337 G., dated 23rd June 1899.

Circulated to

ORDER.

No. 626 Mar of 8-7-99.

Having regard to the small number of duplicate licenses issued, His Excellency the Governor in Council does not consider sufficient reason exists for adopting the Presidency Port Officer's proposal as to the levy of a fee.

2. In cases where certificates of Registry are lost or ~~mislaid~~ *mislaid*, section 19 of Act X of 1841 applies, as pointed out by the Government Solicitor; i.e., the vessels must be registered *de novo*.

To the Govt. Solicitor

Read the following:-
From the Presidency Port Officer, Madras, No. 646 G dated 8th March 1899.
do do No. 337 G dated 8th March 1899.
do do No. 337 G dated 25th April 1899.
do do No. 154

Duplicates of Boat Licences
and Certificates of Registry.

Circulated to
FOR ORDERS

Agam 30 June 99
Having regard to the small number of the
duplicates issued (only 48) and in
view of the doubt whether the proposed
fee can be legally levied under the
licences enforced by law, - I do not
consider sufficient reasons exist for
adopting the proposal.

494
27.99

In his letter read above,
the Presidency Port Officer recommended
the charge of a fee of Rupee 1 and
Rs 2, respectively, for the issue of a duplicate
copy of a boat licence under the Boat Rules
and of a Certificate of Registry under Act
x of 1841. He quoted certain sections
of the Indian Boats Act and Act x of
1841 as the authority for demanding fees
for such duplicate copies. The Secretary
had some doubt as to the legality of the
proposals of the Presidency Port Officer
and thereupon recommended him
to consult the Government Solicitor in
the first instance. The opinion of this
Officer is now submitted from which
it will be seen that the proposed
fees cannot be levied under the
Acts quoted by the Presidency Port
Officer.

Officer. The Government Solicitor is also of opinion that a person cannot be prosecuted for not producing a license when called upon by the Registering Officer to do so unless the Boat Rules contain a provision to that effect. The Boat Rules contain no such provision. The omission should perhaps now be supplied. The fact that a boat owner refuses to produce his license when called on, cannot be taken as presumptive evidence that he is not in possession of a license. The Rules might also contain a provision for the supply of duplicate copies of licenses on payment of the expense of copying. This would not be an illegal fee levied under the Ports Act.

In cases where Certificates of Registry are lost or mislaid, Section 19 of Act X of 1841 applies as pointed out by the Government Solicitor, i.e., the vessels must be registered de novo. No proceedings can be taken in cases where these certificates are damaged or rendered illegible.

R.S.
W.B. 1899

Is this applicable to Ports?
A.R.
+ vide flap C
A.R.

The inland navigation Rules prescribe a fee for renewing a lost license (17), & provide for the production of licenses when called upon (43). Both these provisions might now be interpreted in the Boat Rules, the fee for issuing a duplicate license being a nominal one of Rs. 4 annas.

I am not quite satisfied of the real necessity of the proposed new Rules. How many licenses were issued in the various Ports during last year, and how many duplicate licenses were issued.
A.R. 1899

list for His Excellency
790 original licenses
48 duplicate - do -
of the latter 31 were issued at Interveni alone -
W.B. 1899

No. 646: 89 4
Presidency Port Office,
Madras, 8 March 1899.

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

To
THE SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,
CHEPAK.

Sir,
I have the honour to acquaint you for the information of Government, that it frequently happens that boat owners lose the licenses granted to them under the Boat Rules or tear and otherwise render them illegible by not being more careful with them. In such cases it is the practice for the owners to apply to the Registering Officer for fresh licenses and these at present are issued free of charge. To ensure more care being taken: Licenses

Licenses and in view of the extra clerical
labour involved in issuing fresh licenses,
I recommend sanction of Government
being obtained to charge a fee of Rs 1
in each case, (to be credited to Port
Funds) which, I think, can be levied
under Section 35 (1) of Act X of 1889
as concerning "Other Services" contemplated
by that Section.

I have the honour to be,
Sir,

Your Obedient Servant,
H. A. Street
Commander R. I. M.,
Presidency Port Officer.

No. 337/... 90

Presidency Port Office,
Madras, 8 March 1899.

From

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

To

THE SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,
CHERPAK.

Sir,

In connection with my proposals
in a separate letter for levying a fee for
issuing fresh Boat Licenses under
certain circumstances I would also re-
commend the levy of a fee of Rs 2 in each
case of a fresh Certificate of Registry
under Act I of 1841 issued under similar
circumstances. This fee can, I think, be
levied under Section 25 of the said
Act.

I have the honour to be,
Sir

Your Obedient Servant,
H. A. Street
Commander R. I. M.,
Presy. Port Officer

Marine (1899) Department.

CURRENT No. 345

Order 339



C. No 339

C. No 345

From

Order

To

The Presidency Port Office
(unofficially)

No. 337 of 90

It would be safer, I think, to obtain legal opinion before advising Government to sanction the levy of these fees. You might consult the Gov. Solicitor.

Dated 8th March 1899

Received

Registered

Enclosures

Spare copies

As Secretary to Govt. *RS*

SUBJECT.

Recommending the levy of a fee of Rs. 2/- in each case of a fresh certificate of Registry issued under the circumstances explained

The opinion of the Government Solicitor is as follows:-

(a) With regard to the fees proposed to be levied for 1. Licenses to Boats 2. Section 35 of 1889 provides for fees

quote no. 337 of 90

BACK PAPERS.

No. Date.

905328 14.6.1897
 728 26.1.1897
 3695 23.1.1896
 2229 31.3.1896
 3849 10.1.1894
 2239 14.6.1894
 508 10.2.1894
 2998 19.1.1893
 5708 10.4.1893
 503.49 16.11.1891
 456.7. 10.12.1890
 4068 24.9.1889

FURTHER PAPERS.

No. Date.

fees being charged for pilotage, hauling, mooring, remooring, hooking, measuring and other services rendered to vessels. It is true that a boat would come within the definition of a "vessel" given in section 3 of the Act, but I do not think that granting a fresh license for a boat in lieu of a license that has been lost or torn or rendered illegible could be said to be a service rendered to the boat. I am of opinion therefore that the levy of a fee for such a license would not be legal. The service, if rendered is rendered to the boatowner not to the boat and clearly does not come within the class of services referred to in section 35 of the Act.

(b) "As to the fees proposed to be levied for fresh certificates of registry under Act I of 1841, section 25 of that Act provides that the fees demandable in respect of the granting

12
granting of any certificate under the Act shall be fixed from time to time according to the directions of the Governor General in Council, but the certificate here referred to is, in my opinion, the certificate of registry provided for by section 1 of the Act. A fresh certificate issued in lieu of a certificate of registry which has been lost, torn or rendered illegible would not be a Certificate granted under section 1 of the Act, unless the provisions of the Act as to examination, admeasurement &c of the vessel were complied with afresh. I am of opinion therefore that the proposed fees for fresh certificates of registry in lieu of such certificates which may have been lost &c would not be legal."

In a further reference on the subject, he replies as follows:-

(c) "The question whether a boatowner, who has been granted a license to ply a boat and who is unable to produce his license when called on to do so by the Registering Officer, renders himself liable to prosecution for plying his boat without a license, would depend upon whether there is anything in the Rules made under section 1(K) of Act X of 1889, which makes incumbent on a boatowner having

13
having a license to produce it when called upon to do so by the Registering Officer, and as I have not a copy of the Rules I am unable to answer the question. Section 1(K) of the Act empowers Government to make rules, consistent with the Act, for licensing and regulating passenger and other boats plying, whether for hire or not, but the Act is silent on the subject of the production of licenses. If the Rules do provide for the production of licenses when called for by the Registering Officer, then a boatowner failing to produce his license, when so called upon to do so, might be prosecuted under section 54 of the Act for disobedience of the rule, but it does not follow that, because a boatowner cannot produce a license for his boat when called upon to do so, that he has no license. The Registering Officer must know by his own records whether the boat has been licensed or not."

(d) "With regard to the question whether a shipowner who is unable to produce the certificate of registry of his vessel or who produces one rendered illegible by ill usage, could be

14
be legally required to have his vessel measured de novo, in view to a fresh certificate being granted and to pay a fee for the same. I would refer you to section 19 of Act X of 1841, which provides that if the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful and proof thereof shall be made to the satisfaction of the Registering officer of the Port at which the ship is registered, such officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered de novo and a certificate thereof to be granted and in such cases a fee for such fresh certificate would be demandable under section 25 of the Act."

(c) "The provisions of section 19 of the Act do not however apply to, nor does the Act provide for cases in which a certificate is produced which is rendered illegible by ill-usage or otherwise. In such cases the certificate though illegible, and it would hardly ever be so totally

15
totally illegible, as to be unrecognisable as a certificate of registry, must be accepted, unless the Registering officer can establish that the document produced is not the certificate of the vessel in respect of which it is produced and the shipowner cannot be compelled to have his vessel measured de novo, take out a fresh certificate and pay a fee for the same. Further, it cannot be assumed that, because a certificate is illegible, it has become so by ill-usage."

2. There is nothing in the Boat Rules which makes it incumbent on a boatowner having a license to produce it when called on to do so by the Registering officer, nor is there anything in the Rules which requires the Registering officer to supply a duplicate license. It seems to me it is open to the Registering officer to refuse to grant a duplicate license, and as the Boatowner would thus be without a license he could not ply his boat and consequently would have to apply for a fresh license which the Registering officer could grant on payment

16
payment of the usual
fee. The opinion in clause
(d) above quoted appears
to meet the case of
ships registers to a
certain extent.

Madras, 3
25 April 1899

Commander, R.S.M.,
Presy. Port Officer

To
The Secy to Govt.,
Marine Department,
(unofficially)

min

Marine (1899) Department

G 419
31 MAY 99
PORT OFFICE

CURRENT No.

545
866

No 251 Ed 29 May 99

To The Presidency Port
Officer (unofficially)

How many licenses
were issued last year in
the various ports, and
how many duplicates?
From The Presidency Port Officer

CL

25-1-99
H

No. 337/154 G

Dated 25-4-99

No. 337 G
225

Received

227 29-6-99

Registered

Enclosures 3

Spare copies

790 Licenses and
48 Duplicates. Of the
latter 31 were issued
at Tuticorin alone.

The Secy to Govt.,
Commander R.S.M.,
Presidency Port Officer.

SUBJECT

Forward the opinion of the Govt
Solicitor regarding the levy of a fee
for fresh licenses to Boat owners.

Madras
23rd June 1899

min

E. B.
28/6/99

BACK PAPERS.