Public Works Department

Government {1896} of Madras.

REVENUE.

Recd. } 1896. *Enclosures*

Regd. } *Spare copies*

G.O., No. 682, 1st December 1896.

Order thereon dt. 13/4/16.1.97

Communicates to the Consulting Architect.

(True extract)

/by D.to.C

DECEMBER.

To the Consulting Architect to Govt

Storage of goods.

Considering that the Madras Harbour Trust Board should be allowed to undertake the — for the trade of Madras in the same manner as the Bombay Harbour Trust has done, and to provide the buildings necessary for such service, that these sheds should be declared a part of the Custom House for the due realization of the Customs revenue and storage fees and that definite rules should be laid down for settling the relations between the Harbour Trust Board and Sea Customs authorities, and desiring to have the views of the Chamber of Commerce before passing final orders on the subject.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again G.O., Mis. No. 2911, Revenue, dated 20th July 1895.

Abstract.—Referring to the Board of Revenue for remarks proposal to abandon the present site of the public bonded warehouse for Madras.

Read—again the following G.O., No. 1530-R., dated 24th September 1895:—

Read—the following letter from the Hon'ble Mr. G. L. CHAMBERS, Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 24th August 1895:—

In paragraph 15 of its report, the Madras Harbour Improvements Committee, on the suggestion of the Chamber, "strongly recommended" the adoption in Madras of a system similar to that obtaining in Bombay; whereby the Harbour Trust Board would receive into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office.

2. The plans and estimates of scheme No. A-1, which was adopted by the Madras Harbour Improvements' Committee, and of certain new proposals will shortly be in the possession of the Harbour Trust Board, but no decision can be arrived at until Government has signified its acceptance or rejection of the above-mentioned proposals; in the former case the Board would have to provide the necessary Custom House accommodation, whereas in the latter case it would not have to do so.

3. As the question of the adoption of the new procedure was raised by the Chamber, I have the honour to request that the Government will be pleased to give a decision on this point as soon as possible, so that there may be no delay in the settlement of the question of the harbour improvements.

Endorsement No. 2022.

Referred to the Chairman, Harbour Trust Board, with advertence to paragraph 3 of G.O., No. 190, Marine, dated 1st July 1895, to which a reply is awaited.

Ootacamund,
30th August 1895.

(Signed) J. F. PRICE,
Chief Secretary.

Read—the following letter from H. LE FANU, Esq., I.C.S., Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 3rd September 1895, No. 2275:—

I have the honour to acknowledge the receipt of letter, dated 24th August, from the Chairman of the Chamber of Commerce, forwarded under your Endorsement No. 2022, dated 30th August, Current No. 671, herewith returned; and with reference thereto, and to paragraph 3 of G.O., Marine, No. 190, dated 1st July, to report that, should Government approve of the transfer of the custody of goods landed, from the Collector of Sea Customs to the Harbour Board, the Trustees would be prepared to accept the responsibility, and make the necessary arrangements, in any scheme for harbour improvements which may be ultimately adopted, with the approval and sanction of Government.

2. The procedure would be, for the Trustees to build substantial and secure sheds, into which the Traffic Department would receive general cargo, as landed, and grant receipts to the agents of steamers. A landing account would then be furnished to the Collector of Sea Customs, and the Board would be responsible that no package was delivered, except upon a pass order from the Collector or his Deputy.

3. Upon the expiration of four months from the date of entry of any vessel, any goods then remaining uncleared for home consumption, would be made over to the Collector of Sea Customs under section 88 of the Sea Customs Act.

4. The sheds built by the Board would have to be declared part of the Sea Custom-house under section 11.

5. The Board would also have to provide warehouses, for storing goods under section 96, subject to the rules relating to goods in a warehouse, as provided in the Sea Customs Act, and would generally have to conform to all provisions of that Act.

Enclosures.

Extract of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 6th day of September 1895.

* * * * *

9. Read Endorsement No. 2022, dated 30th August, Current No. 671, from the Chief Secretary to Government forwarding in reference to paragraph 3 of G.O., No. 190, Marine, letter from the Chairman of the Chamber of Commerce, dated 24th idem, regarding the transfer of the custody of goods landed at this port, from the Collector of Sea Customs to the Harbour Trust Board.

Read printed draft letter addressed to the Chief Secretary to Government, No. 2275, reporting as directed.

Approved.

* * * * *

Endorsement No. 2220.

Referred to the Revenue Department for favour of early remarks.

Ootacamund,
20th September 1895.

(Signed) J. F. PRICE,
Chief Secretary.

Order—No. 1530-R., dated 24th September 1895.

Referred to the Board of Revenue, in continuation of G.O., No. 2911, dated 20th July 1895, for early remarks.

(Signed) E. GIBSON,
Secretary to Government.

Read—again the following G.O., Mis. No.154, Revenue, dated 15th January1896:—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4676, dated 5th November 1895:—

Read—again the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4317, dated 9th October 1895:—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 20th September 1895, No. 4493-G.:—

With reference to Board's enquiry in Resolution, Mis. No. 3192, dated 29th July 1895, I have the honour to state that the new Public warehouse, the completion of which has been stopped, is conveniently situated for Customs purposes and if it is decided to abandon it, for reasons mentioned in paragraphs 12 and 13 of the committee's report, there is no other alternative but to continue the present system of licensing private warehouses, under section 16 of the Customs Act, until another site

equally advantageous is available. This matter may, however, be settled after the Harbour Trustees have decided what to do and probably their plans will show the way to a new bonded warehouse, if necessary.

2. With reference to paragraph 15 of the report, there is no objection to our adopting the Calcutta and Bombay system of receiving, handling and delivering cargo, through the Harbour Trust Board. In fact the Calcutta practice is identical with that followed here and a reference to the correspondence noted in the margin shows that in Bombay also goods landed on the wharf are received into the Port Trust sheds, but when a ship discharges into lighters in midstream under cover of boat notes, a proper tally is taken of the cargo by the Customs preventive staff before the goods are passed into the custody of the Trustees. This is in accordance with section 76 of the Customs Act.

Vide paragraph 14 of letter from Secretary, Bombay Port Trust, to the Secretary, Harbour Trust Board, Madras, No. 987, dated 22nd March 1893, printed on page 6 as appendix to committee's report. *Vide* latter portion of paragraph 2 of report accompanying Bombay Sea Customs Collector's letter, No. 11868-C., dated 21st August 1895.

3. There was a doubt felt at first as to whether the existing establishment engaged in the operations of gauging, testing, bonding and examining imported liquors would be sufficient to carry on the work independently in sheds apart from the office without adequate supervision. At present our establishment consists of a supervisor on Rs. 175 *plus* Rs. 25 carriage allowance to carry on work in fourteen private warehouses in Town and on the Mount Road, in addition to attending to Messrs. Best and Company's petroleum store occasionally and conducting the tedious operations of receiving and passing thousands of cases of kerosine oil from two warehouses in Rayapuram. The only assistance given him to do all this and to gauge, test and sample liquor in the Customs House sheds is a cooper on Rs. 15 and a gauger on Rs. 20.

4. I append in the margin a statement showing separately the duty derived from liquors at the Ports of Calcutta, Bombay and Madras during the years 1890–91—1892–93 with the cost of collection at Madras as that compared with Bombay.*

Ports.	Gross amount of duty collected.				Cost of establishment per mensem.	Percentage of establishment to total collections.
	1890–91.	1891–92.	1892–93.	Total.		
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Madras ..	10,20,759	9,52,709	9,68,076	29,41,544	,, 235	·024
Calcutta ..	16,12,130	16,00,443	16,76,054	48,88,627	..	..
Bombay ..	17,68,164	17,52,598	17,91,185	53,11,947	1,617	·091

* *Vide* Bombay Collector's letter, No. 12340-C., dated 31st August 1895, and enclosures.

5. The Collector of Calcutta is not able to give me the cost of establishment employed exclusively in gauging, testing, bonding and examining imported liquors, as the work is taken up at that port by one of the appraisers—*vide* his letter, No. 4909, dated 4th September 1895. In the proposition statement, dated 10th January 1895, for an increase of establishment, four appraisers were provided for and as we have now got that number, I propose to utilise the services of one of them at a time as they do in Calcutta until I can see the necessity for an increased staff to deal specially with spirits.

Enclosures.

From F. H. B. SKRINE, Esq., Officiating Collector of Customs, Calcutta, to the Collector of Sea Customs, Madras, dated 4th September 1895, No. 4909.

Referring to the enquiry contained in your telegram of the 29th ultimo, I have the honour to state that it is not possible to furnish any statement of the establishment exclusively employed in the gauging, testing, bonding and examining of imported liquors as these goods are dealt with generally as other importations by the entire staff.

2. The gauging and testing work is taken up in turn weekly by one of the appraisers, but the work of ascertaining the strength of spirits by distillation is one officer's duty.

3. The bonding staff is similarly not employed for liquors especially, but attends to all bonding operations, whether of liquors, hardware, salt, etc., and is supervised by an officer who, in addition to these functions, is accountant of the establishment.

4. Under these circumstances I have mentioned, I fear that any attempt to enter into details of the cost of establishment for your guidance would be misleading.

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 31st August 1895, C. No. 12340.

With reference to your telegram of the 29th instant, I have the honour to forward a statement showing the details of establishment therein asked for.

Gauging Department.

		Rs.	
1	head gauger	350	
1	2nd „	300	
1	3rd „	225	
1	4th „	150	
1	5th „	125	
1	6th „	100	
1	7th „	80	
1	8th „	70	
1	gauger's clerk	50	
1	laboratory attendant	30—50	
1	do. hawal	10	
6	peons at Rs. 9½ each	57	
17		Total ...	1,567

Bonding Department.

		Rs.	
1	clerk	50	50
18		Total ...	1,617

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 21st August 1895, C. No. 11868.

With reference to your letter, No. 3612-G., dated the 8th instant, I have the honour to forward a copy of the report No. 871 of the 16th idem, of the Superintendent, Preventive Service, which gives the information required by you.

From J. WALSH, Esq., Superintendent, Preventive Service, to the Acting Collector of Sea Customs, Madras, dated 16th and 17th August 1895, No. 871.

In reply to the letter from the Collector of Customs, Madras, the Superintendent begs to say that the imposition of Customs duty has made no change as to the landing, storage, custody and delivery of goods, either free or foreign, so far as the Customs department is concerned. Every thing connected with the landing and importing is done under Customs supervision, so far that the Preventive department of the Custom House see that all cargo manifested is accounted for. When a vessel is discharged no matter where she is from, Preventive officers check the manifest and send the import department a statement of shortages and excesses. The import department then calls on the agents of the steamer to account for the shortages and enter the excesses on the ships' manifest, if there are any, for it is responsible that every item on the manifest is properly cleared. Beyond this a Government department has nothing to do with a ship's cargo, it is manipulated by the consignee or his muccadum. See section 196 of the Sea Customs Act.

2. At the docks, the port trust lands, stores and delivers cargo, with the exception of specie and jewellery, which are taken delivery of by consignees direct from the ships. Goods in the sheds are in the charge of the trust alone, there is no such thing as joint custody here or elsewhere. The delivery is only made on the importer producing an "out-of-charge" note, that is to say, out of Customs charge. The out-of-charge note is only given when the Assistant Collector in charge of the docks is satisfied that the goods have been examined either actually

or by invoice. In the docks in cases where cargo is not discharged on to the quay but is put out overside for some bunder, or for transhipment, Preventive officers tally it and grant boat-notes. All cargo from foreign ports landed at the various wharves or bunders from a ship discharging in the stream is tallied by Customs officers placed on board for that purpose. The landing, storage and custody of all such cargo is done by the vessel's agent, or the consignee's muccadum. The Customs officers confine themselves to seeing that the goods do not pass beyond Customs limits without complete import documents, by which free goods as well as dutiable, must be covered.

3. Under section 83 of the Customs Act goods, principally specie and jewellery, are sometimes made over to the Customs Collector, and in such cases the Superintendent has the custody of them and sees to the delivery. But this is such a small business that it scarcely falls, the Superintendent thinks, within the question from the Collector of Madras. Goods taken charge of under section 88 are likewise in our custody as unclaimed, but these are not the cases the Superintendent thinks the enquiry is about.

Resolution—Mis. No. 4317, dated 9th October 1895.

The Collector's remarks in paragraph 1 of the letter read above are not clear. He is requested to state definitely whether no other suitable site for the public warehouse is at present available.

(True Copies and Extract.)

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

To the Collector of Sea Customs, Madras.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4979-G :—

In answer to Board's enquiry in Resolution, Mis. No. 4317, dated 9th October 1895, I have the honour to state that no other suitable sites for the public warehouse is at present available.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4980-G :—

In returning the papers * referred for report under Board's Proceedings, Mis. No. 4286, dated 8th instant, I have the honour to submit the following remarks on the proposals now made by the Chairman, Harbour Trust Board, in addition to those contained in my No. 4493-G., dated 20th September.

* G.O., No. 1530-R, dated 24th September 1895, and enclosures.

2. The procedure proposed to be adopted by the Chairman may generally be accepted, but as the Customs Department is bound to maintain its own landing account independently with a view to adjustment of duty on missing or short-landed packages under clause 17, section 167 of Act VIII of 1878, and as the Collector has frequently to arbitrate, in cases of dispute, between Agents, Merchants, and the Harbour Trust Board, in order to fix responsibility and facilitate the disposal of claims, it is essential that he should maintain a separate landing account independently of that kept by the Harbour Trust Board. The Board would also have to account for all cargoes received by it according to customs accounts. As regards supervision, it is presumed that customs officials will have free access to all parts of the sheds for purposes of weighment, examination, &c., of goods, in order to carry out the provisions of the Customs Tariff, Merchandise Marks, and other enactments, and that the sheds will be under the joint locks of the Custom House and the Harbour Trust Board, deliveries being made by the Harbour Trust Board in the presence of the "pass" clerks of the Custom House or the authority of passes issued by the Collector or his Deputy. The necessary accommodation will, it is understood, be also provided for the staff required to be located in the sheds. If these details are arranged for by the Harbour Trust Board, it seems to me that the proposals may be accepted.

Resolution—Mis. No. 4676, dated 5th November 1895.

Submitted to Government with reference to G.O., Mis. No. 2911, Revenue, dated 20th July 1895, and R. No. 1530, Revenue, dated 24th September 1895.

2. With reference to paragraphs 12 and 13 of the Harbour Improvement Committee's report, the Collector reports that no other suitable site for the public warehouse is at present available. The Chairman of the Harbour Trust Board has, however, in his letter to Government, undertaken to provide warehouses.

3. With reference to paragraph 15 of the report, the Board of Revenue supports the recommendation of the committee to adopt a procedure similar to that in force in Bombay. The report forwarded by the Collector of Customs, Bombay, with his letter, dated 21st August 1895, forming an enclosure to the letter of the Collector of Sea Customs, Madras, dated 20th September 1895, No. 4493-G., makes the matter clear.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department,
with Government Register No. 1070 and enclosures (returned).

Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 154, Revenue, dated 15th January 1896.

It appears from the correspondence submitted to Government with Board's Proceedings, Mis. No. 4156, dated 14th October 1893, that the three local firms representing the owners of the regular liners are unwilling to land cargo under section 85 of the Sea Customs Act in their capacity as ships' agents, or, as suggested by Government in G.O., Mis. No. 4824, dated 4th November 1892, to employ the Harbour Trust Board as their agents for landing. It follows, therefore, that the procedure in force at the docks in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85.

2. It was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892 (*vide* papers printed in G.O., No. 201, dated 28th February 1893), and the Board of Revenue is requested to state how it proposes to overcome the difficulty now and whether the firms concerned are now willing to land goods under section quoted.

3. The question of completing the Government Warehouse would seem to depend upon the answer to this inquiry.

(True Extract.)

(Signed) E. GIBSON,
Secretary to Government.

To the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3268, Revenue, dated 14th August 1896 :—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 2692, dated 26th June 1896 :—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 27th February 1896, No. 1186-G. :—

With reference to Board's Proceedings, Mis. No. 248 * (Separate Revenue), dated 20th January 1896, I have the honour to forward herewith, for the information of the Board and Government, a copy of the letters as per margin † from Messrs. Binny & Co., Arbuthnot & Co. and Gordon, Woodroffe & Co., who are the agents of the regular home lines, from which it will be seen that they are now, as in 1892, decidedly opposed to entrusting

* Referring to the Collector of Sea Customs, Madras, for reports, G.O., Mis. No. 154, (Revenue), dated 15th January 1896.

† Dated 10th, 12th and 14th February, respectively.

their landing to any agency outside their own control, or to land under section 85 of the Sea Customs Act in their capacity as ships' agents.

2. The reason for this is obvious, as the arrangement would tend to bind the agents to discharge all claims for shortage and damage preferred by importers, leaving them (the agents) to recoup themselves as best they can from those directly responsible, although the goods may have left the ship's tackle intact. The only way out of the difficulty therefore, is for the Harbour Trust Board by a special agreement with the agents, to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition at any wharf belonging to the Trust, and taken into their sheds. A receipt will, of course, be passed by the Trust to the master of the vessel for all such goods as are landed in their original or good condition, while all damaged packages will at once be taken to a separate strong room, to be surveyed in order to fix responsibility. This is briefly what is required, and the Chamber of Commerce may be addressed in the matter of arranging details.

3. From the replies received, the agents do not appear to appreciate the difference between landing under the two sections quoted. They seem to think that landing under section 83, as at present, should not interfere with the proposal of the Harbour Improvements Committee that the goods so landed may be stored in sheds belonging to the Trust, and the Trust be allowed to have the custody of them. This arrangement, it will however be observed, is only permissible and specially provided for by section 85.

Enclosures.

From GORDON, WOODROFFE and Co., Agents, "Clan," "Hansa" and Hamburg, Calcutta Lines, to the Collector of Sea Customs, dated Madras, 14th February 1896.

We have the honour to acknowledge receipt of your No. 714-G of 6th instant, and in reply to inform you that so far as we can see the circumstances under which cargo is landed here now are the same as those existing when we wrote to you on the same subject in 1892. We therefore beg to confirm our letter, dated 20th December of that year.

2. We are, we must confess, at a loss to understand why the proposed erection of new customs sheds should alter in any way the routine of water and land carriage from what presently obtains in the transport of goods to the existing Custom House.

From Messrs. BINNY and Co., to the Collector of Sea Customs, dated Madras, 10th February 1896.

We have the honour to acknowledge receipt of your No. 713-G. of 6th instant, regarding a proposal before Government for the erection of Customs sheds on the beach for the reception, storage and delivery of all foreign cargo and enquiring whether we are prepared to employ the Harbour Trust Board as our landing agency, and in reply have to say that we are now, as in 1892, when the matter was brought up strongly opposed to entrust the landing to any agency outside our own direct control and from which we should have no guarantee that the quick despatch of steamers for which we act as agents would be secured.

2. It is not quite apparent to us under what clause in the section quoted in yours under reply (section 85 of Act VIII of 1878) it is proposed to give the Harbour Trust Board the necessary authority as the section above referred to does not appear to empower any such body to undertake the landing of cargo, nor is the landing of cargo in boats done by the Bombay Harbour Trust Board.

3. In any case the Madras Harbour Trust Board is not authorised by its Act to undertake landing and shipping of cargo, as has been already decided by the Advocate-General.

4. Furthermore the Harbour Improvements' Committee made no recommendation that the Harbour Trust Board should undertake such work nor does it appear what connection there is between section 85 and the landing being conducted by the Harbour Trust Board.

From Messrs. ARBUTHNOT and Co., to the Collector of Sea Customs, dated Madras, 12th February 1896.

We have the honour to acknowledge your letter, No. 712-G., dated 6th instant, and in reply beg to inform you that, for the reasons stated in our letter of the 6th December 1892, we are not prepared to undertake to land under section 85 of the Sea Customs Act VIII of 1878.

2. We submit that in order to carry out the suggestions of the Harbour Trust Board it is not necessary that steamer agents should agree to land under the section quoted (section 85). All that is necessary is that the sheds contemplated should be declared to be part of the Custom House accommodation and that the Collector should, if necessary, delegate part of his control over them to the Chairman of the Harbour Trust Board.

3. Sections 83 and 85 of the Sea Customs Act are altogether different in their scope, and the latter is not suited or applicable to a port like Madras.

Copy of paragraph 4 of the letter from the Chairman, Harbour Trust Board, Madras, dated 9th December 1890, No. 837.

* * * * *

4. With a view however to the settlement of claims by consignees the following practice has arisen :—

(*a*) If noted as discharged in bad order the ship pays any claim; (*b*) If not so noted when discharged, but if landed in broken condition and so reported, the landing contractors pay; and (*c*) should any package be received by the Harbour Trust Board without any report as to its being in a broken or repacked condition, and is afterwards found to be so, the Harbour Trust Board meets the claims for shortage provided the package has not been made over to the custody of the Sea Customs Department and received as in good order.

Read—again the following Board's Reference thereon, dated 23rd March 1896, to the Collector of Sea Customs, Madras.

The course proposed in paragraph 2 of the Collector's letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage before the Harbour Trust Board takes charge of the goods on the pier or beach.

2. The landing of the goods under section 85 does not, however, appear to be indispensably necessary. The present practice is understood to be for landing contractors (as agents of consignees) to land goods on the pier or on the beach, and for the Harbour Trust Board to remove the goods thence to the Custom House. The master of the ship is responsible for damage or short delivery up to the time of discharge from the ship, the landing agents from the time of discharge from the ship to the time of landing on the pier or on the beach, and the Harbour Trust Board up to delivery in the Customs House—*vide* paragraph 4 of Harbour Trust Board Chairman's letter in Board's Proceedings, Mis. No. 3730 (Separate Revenue), dated 19th December 1890. The Chairman of the Harbour Trust Board has stated that, if the custody of goods landed be transferred from the Collector to the Harbour Trust Board, the Trustees would be prepared to accept the responsibility to construct sheds to receive all goods as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Sea Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act. The exceptions to this course would be the particular cases mentioned in section 83, in which the Customs Collector should take charge of the goods owing to delay in landing by the consignees and grant receipts. If such cases are not likely to be numerous, the course above stated may be suggested for the approval of Government owing to the objection of the agents of vessels to land goods under section 85. There can be no objection to the Harbour Trust Board taking charge of the goods in all other cases as proposed by it if the sheds to be constructed for keeping the goods in are declared part of the Custom House as suggested in G.O., Mis. No. 4824, dated 4th November 1892. The Collector is requested to state whether the particular cases in which he will have to take charge of the goods under section 83 will not be very rare, and whether the adoption of the course indicated above will not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st April 1896, No. 2107-G :—

With reference to Board's Reference, dated 23rd March 1896, on General Register No. 2064, I have the honour to state that, so far as this department is concerned, there is no objection to the arrangement therein proposed provided there is no legal difficulty, and the proposals made in my letter No. 4980-G, dated 21st October 1895, are accepted by the Harbour Trust.

2. At present goods from foreign ports are landed for the consignees by the several steamer agents' dubashes, and on their arrival at the pier or beach are taken charge of by the Harbour Trust, and conveyed by them, as porterage contractors, to the Custom House where they remain in the joint custody of the Trust and the Customs Collector, the latter holding the goods for the master, subject to a lien for freight, boat hire and other charges that may be due thereon under section 83 of the Sea Customs Act. It is, therefore, doubtful whether the Collector can legally delegate any portion of his control over the goods vested in him by the Act to the Chairman, Harbour Trust Board, as contemplated by the Board in its reference above quoted. It is accordingly suggested that the opinion of the Advocate-General be taken on the point at issue, especially as the Harbour Trust at present merely intervene as porterage contractors.

3. In this connection I beg to solicit the Board's attention to paragraph 6 *et. seq.* of my letter No. 1874-G, dated 30th August 1892, in which this subject was fully gone into, and paragraph 5 of their Resolution thereon, Mis. No. 3646, dated 21st September 1892.

4. The Board is aware that, though section 85 of the Sea Customs Act has been extended to this port, its provisions have never been enforced owing to the refusal of steamer agents to act under it and the Chairman, Harbour Trust Board, has already pointed out that the Harbour Trust cannot undertake the landing of goods—*vide* my letter No. 1709-G, dated 12th October 1893, read in Board's Proceedings, Mis. No. 4156, dated 14th October 1893.

5. It would seem also desirable to consult the Chamber of Commerce and the Trades Association as representing the mercantile and trade interests before passing final orders on the subject.

Resolution—Mis. No. 2692, dated 26th June 1896.

Submitted to Government with reference to G.O., Mis. No. 154, Revenue, dated 15th January 1896.

2. In paragraph 3 of G.O., No. 190 (Marine), dated 1st July 1895, Government asked for the views of the Harbour Trust Board on the suggestion of the Harbour Improvement Committee to transfer the custody of goods landed at Madras from the Collector of Sea Customs to the Harbour Trust Board. That Board stated in reply that if Government should approve of the transfer the trustees would be prepared to accept the responsibility to receive general cargo as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act.

3. On the above proposals being referred to the Collector of Sea Customs for remarks, he stated that the procedure proposed to be adopted by the Chairman of the Harbour Trust Board might be approved, but that a separate landing account would have to be maintained by the Customs Department independently of that kept by the Harbour Trust Board, that the Board would have to account for all cargo received by it according to the Customs accounts, that Customs officials should have free access to all parts of the Harbour Trust Board's sheds for the purpose of weighment, examination, &c., of goods in order to carry out the provisions of the Customs Tariff, Merchandise Marks and other enactments, that the sheds should be under the joint

locks of the Customs Collector and the Harbour Trust Board, deliveries being made by the Board in the presence of the pass clerk of the Custom House on the authority of passes issued by the Collector or his Deputy, and that the necessary accommodation should be provided for the Customs staff required to be located in the sheds. The Collector's report was submitted to Government in Board's Proceedings, Mis. No. 4676, dated 5th November 1895.

4. Government in its order under reply remarked that, as it appears that the local firms are still unwilling to land cargo under section 85 in their capacity of ships' agents or to supply the Harbour Trust Board as their agents for landing, it follows that the procedure in force in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85, and that it was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892—*vide* G.O., No. 201, Revenue, dated 28th February 1893. Government therefore requested the Board to state how it proposes to overcome this difficulty now.

5. With reference to this, the Collector of Sea Customs stated that the agents of the regular home liners are decidedly opposed to entrust the landing to any agency outside their own control or to land under section 85 of the Sea Customs Act, and that the only way out of the difficulty is for the Harbour Trust Board by a special agreement with the agents to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition, at any wharf belonging to the Board and taken into its sheds, and to pass a receipt, to the master for all such goods as are landed in their original or good condition, while all damaged packages would at once be taken to a separate strong room to be surveyed in order to fix responsibility. He suggested that the Chamber of Commerce might be addressed in the matter of arranging details.

6. This Board then pointed out to the Collector that the course suggested in his letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage occurring before the Harbour Trust Board takes charge of the goods on the pier or the beach, and remarked that goods might continue to be landed by the agents of consignees, and after being landed might be received by the Harbour Trust Board, which would then follow the course indicated in paragraph 2 *supra*. It was remarked, however, that the foregoing procedure would not be applicable to the particular cases mentioned is section 83 in which the Customs Collector has to take charge of goods owing to delay on the part of consignees in landing them. The Collector was requested to state whether such cases would not be very rare, and whether the adoption of the course stated above would not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

7. The Collector now states that, so far as his department is concerned, there is no objection to adopting the above course provided there is no legal difficulty, and that his former proposals noticed in paragraph 3 above are accepted by the Harbour Trust Board. He further observes that at present goods from foreign ports are landed for the consignees by the dubashes of the several steamer agents, that on their arrival at the pier or beach they are taken charge of by the Harbour Trust Board and conveyed by it as porterage contractor to the Custom House where they remain in the joint custody of the trust and the Customs Collector, and points out that, as the latter sometimes holds, the goods for the master of the vessel subject to a lien for freight, boat hire and other charges which may be due thereon under section 83 of the Sea Customs Act, it is doubtful whether the Collector can legally delegate any portion of the control over the goods vested in him by the Act to the Chairman of the Harbour Trust Board. He suggests a reference on the point to the Advocate-General, and draws attention to paragraph 6 of his letter, No. 1874-G., dated 30th August 1892, printed on pages 4 to 9 of G.O., No. 201, Revenue, dated 28th February 1893.

With reference to these remarks of the Collector, it is observed that the last clause of section 83 under which the master of a vessel gives notice that the goods landed are to remain subject to a lien for freight and other charges and the Customs Collector holds the goods until he receives notice that the charges have been paid, refers only to the particular cases in which goods are not landed by landing contractors (as agents for consignees) but by the master or the Customs officer on the master's

application. Such cases, it is considered, will be very few and can, if necessary, be specially dealt with. In ordinary cases in which goods are landed by dubashes as agents of consignees the Sea Customs Act does not provide for the interference of the Collector with regard to the payment of freight and other charges by the consignees. If official interference is necessary, that provided by section 52 of the Madras Harbour Trust Act II of 1886 may be availed of.

The objections stated in paragraph 6 of the Collector's letter of 1892 referred to are not applicable to the present proposals. The proposal which was objected to in 1892 was to store free goods in the Harbour Trust Board's sheds and dutiable goods in the Custom House, while the present proposal is to store the whole of the cargo in the Harbour Trust Board's sheds which will be constituted a part of the Custom House.

8. When the new scheme regarding Harbour improvements is carried out, it will be out of the question to use the present Custom House for the storage of goods pending clearance. Whatever form the proposal ultimately takes, it will, the Board believes, include boat basins, wharves with convenient sheds alongside and direct connection with the Madras, South Indian and East Coast Railways and the Buckingham Canal, and to drag goods away from these advantages up to the Custom House would be an outrage on the trade of the port. The course which the Board has indicated above seems to be the only way of meeting the difficulty. The Board would treat the Harbour Trust Board as contractors for the safe custody of goods in charge of the Customs Collector in the same way as the Collector of Customs now treats it as porterage contractor, and would constitute the premises provided by it a part of the Custom House, taking all steps necessary to make it so in fact as well as in name by posting customs guards at the entrance and adopting similar precautions. There seems to be no reason why in the few cases in which the Collector has to take charge of goods under section 83 of the Sea Customs Act the Harbour Trust Board should not do all that is necessary for him as its premises will form part of the Custom House. As the Harbour Trust Board has agreed to be responsible for all goods delivered into its charge, there appears to be no objection to this course unless some legal one exists. It might be advisable to consult the Advocate-General on this point and also as to the necessity of requiring the Harbour Trust Board to acknowledge its responsibility by the execution of such legal documents as may be deemed necessary. The possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law but under an ordinary contract. The Harbour Trust Board would of course expect some return for the expense which it would incur in erecting the necessary sheds. The Board begs to suggest that its views on this point should be asked for.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 3268, dated 14th August 1896.

The Proceedings read above will be forwarded to the Hon'ble the Advocate-General for favour of opinion as to whether there is any legal objection to the adoption of the course advocated by the Board of Revenue in paragraph 8 of its Proceedings and if there is none whether the Harbour Trust Board should be required to acknowledge its responsibility in regard to goods delivered to its charge by the execution of a legal document.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

To the Hon'ble the Advocate-General (through the Government Solicitor),
with enclosures (to be returned).
Copy to the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3286, Revenue, dated 15th August 1896:—

Read—the following G.O., No. 503, Marine, dated 16th July 1896:—

Read—the following letter from the Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 14th July 1896:—

With reference to my letter of the 24th August 1895, in which I drew the attention of Government to paragraph 15 of the Report of the Harbour Improvements Committee appointed under G.O., No. 47, Marine, dated 9th February 1895, which paragraph contained a strong recommendation in favour of the adoption at Madras of the procedure existing at Bombay "by which the Harbour Trust Board would remove into their sheds all cargo, as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office," I have the honour to inform you that the Chamber has desired me to again express a hope that early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee.

Read—again the following letter from the Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 11th July 1896, No. 1471:—

In view of a recent block of work upon the iron screw pile pier, when the appliances thereon proved inadequate to meet the import and export movements of cargo proceeding simultaneously, the Presidency Port officer in a letter dated 11th June suggested that two low pontoon jetties, extending from the beach into the harbour, should be constructed to relieve the traffic on the pier.

2. This proposal was considered by the Trustees at their meeting of the 19th June, and I submit herewith copy of resolution then passed thereon.

3. The question of the custody of the goods when landed, which was so strongly recommended by the Harbour Improvements Committee, should be vested in the Harbour Trustees, as at Bombay, is regarded by the Board as the key of the whole situation and it therefore hopes that Government will see its way to pass early orders on this point, for unless the proposals of the Chamber of Commerce are sanctioned, the Board will not be justified in incurring any heavy outlay of Harbour Trust Funds.

Enclosure.

Extract of Proceedings of the Trustees of the Harbour of Madras at a meeting held at the offices of the Board on Friday, the 19th day of June 1896.

* * * * *

5. Read letter, No. 625-M, dated 11th June 1896, from the Presidency Port Officer suggesting additional temporary facilities for landing cargo.

Read minutes by trustees.

Resolved that the Chairman is invited to address Government with reference to the proposed boat basin and improved Custom House arrangements recommended by the Harbour Improvements Committee appointed by Government under G.O., No. 47, Marine, dated 9th February 1895.

* * * * *

(True Extract.)

(Signed) C. PINSENT,
Secy., Harbour Trust Board.

Order—No. 503, Marine, dated 16th July 1896.

Communicated in continuation of paragraph 4 of G.O., No. 119, Marine, dated 26th February 1896, to the Revenue Department, for early consideration of the question of the transfer to the Harbour Trust Board of the custody of imported goods.

(True Extract.)

(Signed) C. T. R. SCOVELL,
for Secretary to Government.

To the Revenue Department.
,, the Chairman, Harbour Trust Board.

Order—Mis. No. 3286, Revenue, dated 15th August 1896.

Recorded with reference to G.O., Mis. No. 3268, dated 14th August 1896.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

Read—again the following G.O., Mis. No. 3996, Revenue, dated 5th October 1896 :—

Read—endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 26th August 1896, No. 405, forwarding the following with reference to G.O., Mis. No. 3268, Revenue, dated 14th August 1896.

[*Re* the proposed transfer of the custody of imported goods from the Collector of Sea Customs to the Harbour Trust Board.]

Opinion.

The Board of Revenue propose that the sheds which the Harbour Trust Board purpose building shall be declared to be part of the Custom House; that all cargo shall be stored therein; and that the Harbour Trust Board shall be responsible for the safe custody of such of the goods so stored as are in the custody of the Collector of Sea Customs. The Harbour Trust Board are willing to accept this responsibility. I am asked whether there is any legal objection to the proposed arrangement, and whether it is necessary to obtain from the Harbour Trust Board documents acknowledging their responsibility if the arrangement be carried out.

2. The Collector of Sea Customs cannot legally transfer his custody of dutiable goods to the Harbour Trust Board so as to relieve himself of the duty of safe-guarding them; and the proposed arrangement is not intended, I understand, to effect such a transfer. The Collector of Sea Customs is to retain charge of the goods and do every thing necessary to ensure their safe custody in the premises which will form part of the Custom House—"in fact as well as in name." The Board of Revenue "would treat the Harbour Trust Board as contractors for the safe custody of goods in the custody of the Customs Collector," in other words would treat them as bailees of goods in the Custom House. The Sea Customs Act, 1878, does not allow of joint control over such property, and the Harbour Trust Act, 1886, does not empower the Board to become bailees of such goods. The Board of Revenue admit that "the possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law, but under an ordinary contract." A contract of bailment by which the bailor is to retain in his own premises absolute control over the property bailed, and the bailee is to be responsible to the bailor for the safe custody of that property is unknown to the law.

3. I am of opinion that on legal grounds the proposed arrangement is objectionable.

Madras,
26th August 1896. (Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

In connection with the proposals for the improvement of the Madras Harbour it has been suggested that the Harbour Trust Board should discharge for the port at Madras the same duties which the Port Trust in Bombay does for that port, viz.,

storage and safe custody of goods. To this proposal is raised the legal objection that the Collector of Sea Customs cannot make over to the Harbour Trust Board the custody of the goods entrusted to him by law. The opinion of the Honourable the Advocate-General will be asked for on the following questions :—

(1) When are goods landed under the Sea Customs Act in the custody of the Sea Customs Collector, Madras ?

It would seem that under the Act goods can come into the custody of the Sea Customs Collector only under sections 83, 84 and 85 (*a*), which latter section, however, has not been extended to Madras.

(2) What is the nature of his custody in regard to such goods as are not placed in his custody in accordance with sections 83, 84 and 85 (*a*)?

It may be said that, though such goods may not be in his actual custody, they are in his custody at least constructively, the owner or the Port Trust, or whoever it may be, being in actual custody on his behalf. This would seem to follow from the provision of section 76 as to the delivery of the boat-note to the Customs Officer on the arrival of the boat.

On the other hand, it may be said they are not in the possession of the Customs department, nor are they held on its responsibility. They are held either by the master of the ship or by the owner, subject to the *control* of the Customs department, but only to the extent and in the manner defined by law and enforced by specific penalties in the Act. Within the limits laid down, the owner may deal with them as he pleases and as freely as if the Customs control did not exist. The Customs department is in no sense a "bailee" of the goods (*vide* section 148 *et seq.* of the Contract Act IX of 1872). It follows that the owner or master may store the goods when landed as he pleases within the conditions prescribed by law, or may employ any agency he pleases to land, move or otherwise deal with the goods.

(3) When such goods as are referred to in the last question are landed under Customs supervision and are received and stored on landing by any agency such as a Port Trust, is such agency a bailee of the goods for the owner of the goods or master of the ship, as the case may be, or for the Customs department ?

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Honourable the Advocate-General, through the
Government Solicitor, with one printed enclosure to be returned.

Read—also endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 19th October 1896, No. 550, forwarding the following with reference to G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

[*Reference*.—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.]

Opinion.

The importation of dutiable goods creates a debt by the consignee to Government to the extent of the duties leviable upon the goods. Government has a lien on the goods for the unpaid duty. "The right of the Government to the duties does not arise from the possession of the goods, nor is it confined to the goods."(*a*) For example in cases to which section 39 is applicable though the lien is lost, the claim can be enforced in the manner prescribed.

(*a*) Elwe's "Law of the Customs," page 15, section 31.

In the interests of trade, the Legislature have empowered the Collector in certain cases to abandon the lien and to accept in its place a bond and securities prescribed, *e.g.*, in section 41.

Importation is complete as soon as the goods are brought within the limits of the port with the intention of unlading them.

2. The Collector's custody of dutiable goods extends throughout the period during which the lien attaches. Where goods are in the Custom House or in a warehouse, his custody is

actual; where they are entered for transportation or exportation, they are during transit at least constructively in his custody until the duty thereon is paid. He is in no sense a bailee of the goods, and is not responsible to the consignee for any loss which is not due to his personal misconduct or neglect in the discharge of his duties.(*b*) No dutiable goods can be taken out of the Collector's custody until the duties have been fully paid or have been duly secured by bond in the manner prescribed by law. The manifest by the master (*c*) gives the Custom's Collector the information he must have before he can issue his permit, without which the unlading of goods is not allowed in order to prevent the unlawful importation of goods.(*d*)

(*b*) Section 197.

(*c*) Sections 53 to 60.

(*d*) Sections 81, 82 and 85. In the order of Government above referred to, it is said that section 85 has not been extended to Madras, but see Notification No. 22, dated 3rd January 1885.

When the permit has been granted and the goods have been landed, the consignee must deliver to the Collector a bill of entry which is *primâ facie* evidence of their value in order that the Collector may assess the duty payable thereon.(*e*) When the duty is paid the lien is at an end, and the consignee is entitled to remove the goods.(*f*)

(*e*) Sections 29 and 86.

(*f*) Section 89.

In order to encourage trade and commerce, and to meet the convenience of importers, while, at the same time, securing the enterests of Government, the system of warehousing was adopted by the Legislature.(*g*) The liberty to warehouse dutiable goods is a privilege conceded, not a contract entered into by Government. To prevent an abuse of the privilege, the time during which goods may be deposited in a warehouse without duty being paid thereon is limited. The lien of Government on the goods warehoused continues until payment of the duties, and the goods remain in the custody of the Customs Collector. They are forwarded to the warehouse in charge of one of his officers,(*h*) and remain there under his control.(*i*) The control or custody may pass from one Chief Customs Officer to another under the provisions of sections 104 to 108, but the lien of Government still attaches to the goods, and their custody, at least constructively, remains in the Customs Officer.

(*g*) Chapter XI.

(*h*) Sections 93 and 94.

(*i*) Sections 97 to 102.

3. By the Act, the Collector is required—

(1) to *detain* goods coming within the provisions of Chapter IV;

(2) to *detain* goods which have been undervalued by the consignee; (*j*)

(*j*) Section 32.

(3) to *take charge of* and grant receipts for goods deposited with him under sections 83 and 84, or discharged under section 85 (*a*).

The provisions of Chapter IV were framed on grounds of public policy, and have nothing to do with any lien possessed by Government, or custody by its servant.

The provisions contained in section 32 do relate to such lien and custody, the existence of which is of course recognised.

The provisions of section 83 in no way deal with, or affect the Government's lien or the Collector's custody. That lien and custody are unaffected by sections 84 and 85.

4. My answers to the question put to me are as follows:—

(1) In my opinion the Collector's custody of dutiable goods *for the purpose of securing the payment of the duty leviable thereon* lasts as long as the lien of Government exists, viz., from importation till clearance.

(2) His custody is that of a servant of Government duly empowered by the Act to enforce the lien of Government and to collect the duty or debt due to Government by the consignee. He is in no sense a bailee of the goods in his custody. In my opinion dated the 26th August, I said that he cannot delegate his powers of control over them.

(3) In the view I take, the question of bailment cannot arise. If the buildings be declared to be part of the Custom House under section 11 (*f*), the owner of the buildings would not be a bailee. The goods would be in the Custom House in the sole and absolute control of the Collector.

If the buildings be appointed public warehouses under section 15 (*k*) or be licensed as private warehouses under section 16, the rules relating to such warehouses will apply. Consignees cannot be compelled to warehouse their goods, but if they desire to do so, the goods "shall be forwarded in charge of an officer of Customs" to the warehouses, where they will be deposited and will remain at the risk and expense of the owners, but will continue to be in the possession and control of the Collector. The extent of the responsibility of the warehouse-keeper is laid down by section 123. I do not understand that there is any intention to declare the Port Trust buildings "public warehouses" when they are erected. So long as goods are not "cleared," the owners cannot store

(*k*) By Notification, dated 11th December 1883, under section 14, Madras was declared to be a Warehousing Port.

them where they please. They must make entry of the goods for "home consumption" or "warehousing." (*l*) If they make entry for "home consumption," they must proceed to "clear" them by paying the duty thereon. (*m*) Until they do so, the goods remain in the custody of the Collector *in the Custom House*. If the goods are entered for warehousing, (*n*) they must be assessed, and then be warehoused *in some warehouse* "appointed or licensed under this Act." (*o*)

(*l*) Section 86.

(*m*) Sections 87 and 89.

(*n*) Section 87.

(*o*) Section 90.

Madras,
17*th October* 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Read—also the following letter from the Chairman, Chamber of Commerce, Madras, to the Private Secretary to His Excellency the Governor, dated Madras, 23rd October 1896:—

I have the honour, on behalf of the Chamber, to request that you will place the following statement before His Excellency the Governor, in the hope that a perusal of the facts set forth will enable His Excellency to appreciate the force of its contention that, in respect of the matters referred to, the Madras Government has not accorded to the Chamber's representations that consideration to which they are entitled. The Chamber ventures to hope that His Excellency will receive a small deputation to discuss the matters in person, as it is confident that its representations will meet with sympathetic consideration, and so conduce to a better understanding between the Government and itself:—

Madras Harbour Improvements.—The first subject to which the Chamber would direct His Excellency's attention is that of Madras Harbour Improvements. As His Excellency is aware, the Harbour Improvements Committee—appointed under G.O., No. 47, Marine, dated the 9th February 1895—in paragraph 15 of its report, made a strong recommendation in favour of the adoption in Madras of the procedure existing in Bombay, "by which the Harbour Trust Board would remove into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months deliver to the Collector any goods not then cleared through the Sea Customs office." On the 14th July last, the Chamber addressed Government expressing a hope that "early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee"—a hope, it should be mentioned, which was expressed in the Chamber's letter to Government, dated the 24th August 1895. Some 20 months have elapsed since the above recommendation of the Harbour Improvements Committee was made, and yet nothing has been done, for the matter, as stated in G.O., No. 1670-R., dated the 27th August 1896, "is under reference to the Honourable the Advocate-General." The Chamber ventures to hope that His Excellency will, as far as possible, expedite the disposal of this most important subject which so vitally affects the prosperity of this port. The Chamber does not overlook the weighty questions that may have to be decided, but it trusts that something may be done at an early date to give effect to the recommendations of the Harbour Improvements Committee so as to enable the Harbour Trust Board to arrive at a decision in connection with the other proposals of the committee.

* * * * *

Order—No. 682, Revenue, dated 1st December 1896.

Miscellaneous.

His Excellency the Governor in Council is of opinion that it is desirable to allow the Harbour Trust Board to undertake the storage of goods for the trade of Madras in the same manner as the Bombay Harbour Trust has done for Bombay, and that the Harbour Trust Board should be allowed to provide the buildings necessary for such service.

2. It seems to His Excellency in Council, however, that under the existing Customs law, the Harbour Trust Board can only be allowed to undertake this duty as servants of the Sea Customs authorities. Under the Advocate-General's opinion read above there can be no dual control; hence the custody of the Harbour Trust Board must be that of the Sea Customs authorities. Since the Customs authorities are not responsible for any loss or damage except under section 197 of the Act, the mercantile community will have no greater remedy against the Harbour Trust Board than they have now against the Customs authorities for any loss or damage occurring after the goods have been placed in the custody of the Harbour Trust Board for storage at their sheds. It also follows that the Harbour Trust Board will have no lien for any fees due to them for storage and will not be able to detain the goods for such dues. It will be necessary, however, to make such arrangements that the control of the Sea Customs authorities shall be complete and sufficient for the due realization of the Customs revenue, and for this end it will be necessary to declare the Harbour Trust sheds a part of the Custom House. Storage fees can then be realized under section 199 of the Act; such fees being made over to the credit of the Harbour Trust Board.

3. In view to definitely settling the relations between the Harbour Trust Board and the Sea Customs authorities, His Excellency the Governor in Council thinks it necessary that definite rules laying down the conditions on which the Harbour Trust Board may be allowed to undertake this service be drawn up in communication, if necessary, with the Government Solicitor and agreed on by the Sea Customs authorities and the Harbour Trust Board.

4. Before issuing final orders on this subject, however, His Excellency the Governor in Council thinks it desirable to forward to the Chamber of Commerce the material papers connected with this subject and to invite an expression of their views on the desirability of the above arrangement from the point of view of the convenience of the trade of the port.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Board of Revenue (Separate Revenue).
„ the Chamber of Commerce.
„ the Government Solicitor.
„ the Public Works Department.
„ Marine Department.

Exd. C. Rajagopaul

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Government {1896} of Madras.

REVENUE.

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G.O., No. 682, 1st December 1896.

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DECEMBER.

Storage of goods.

Considering that the Madras Harbour Trust Board should be allowed to undertake the — for the trade of Madras in the same manner as the Bombay Harbour Trust has done, and to provide the buildings necessary for such service, that these sheds should be declared a part of the Custom House for the due realization of the Customs revenue and storage fees and that definite rules should be laid down for settling the relations between the Harbour Trust Board and Sea Customs authorities, and desiring to have the views of the Chamber of Commerce before passing final orders on the subject.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again G.O., Mis. No. 2911, Revenue, dated 20th July 1895.

Abstract.—Referring to the Board of Revenue for remarks proposal to abandon the present site of the public bonded warehouse for Madras.

Read—again the following G.O., No. 1530-R., dated 24th September 1895:—

Read—the following letter from the Hon'ble Mr. G. L. CHAMBERS, Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 24th August 1895:—

In paragraph 15 of its report, the Madras Harbour Improvements Committee, on the suggestion of the Chamber, "strongly recommended" the adoption in Madras of a system similar to that obtaining in Bombay; whereby the Harbour Trust Board would receive into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office.

2. The plans and estimates of scheme No. A-1, which was adopted by the Madras Harbour Improvements' Committee, and of certain new proposals will shortly be in the possession of the Harbour Trust Board, but no decision can be arrived at until Government has signified its acceptance or rejection of the above-mentioned proposals; in the former case the Board would have to provide the necessary Custom House accommodation, whereas in the latter case it would not have to do so.

3. As the question of the adoption of the new procedure was raised by the Chamber, I have the honour to request that the Government will be pleased to give a decision on this point as soon as possible, so that there may be no delay in the settlement of the question of the harbour improvements.

Endorsement No. 2022.

Referred to the Chairman, Harbour Trust Board, with advertence to paragraph 3 of G.O., No. 190, Marine, dated 1st July 1895, to which a reply is awaited.

Ootacamund,
30th August 1895.

(Signed) J. F. PRICE,
Chief Secretary.

Read—the following letter from H. LE FANU, Esq., I.C.S., Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 3rd September 1895, No. 2275:—

I have the honour to acknowledge the receipt of letter, dated 24th August, from the Chairman of the Chamber of Commerce, forwarded under your Endorsement No. 2022, dated 30th August, Current No. 671, herewith returned; and with reference thereto, and to paragraph 3 of G.O., Marine, No. 190, dated 1st July, to report that, should Government approve of the transfer of the custody of goods landed, from the Collector of Sea Customs to the Harbour Board, the Trustees would be prepared to accept the responsibility, and make the necessary arrangements, in any scheme for harbour improvements which may be ultimately adopted, with the approval and sanction of Government.

2. The procedure would be, for the Trustees to build substantial and secure sheds, into which the Traffic Department would receive general cargo, as landed, and grant receipts to the agents of steamers. A landing account would then be furnished to the Collector of Sea Customs, and the Board would be responsible that no package was delivered, except upon a pass order from the Collector or his Deputy.

3. Upon the expiration of four months from the date of entry of any vessel, any goods then remaining uncleared for home consumption, would be made over to the Collector of Sea Customs under section 88 of the Sea Customs Act.

4. The sheds built by the Board would have to be declared part of the Sea Custom-house under section 11.

5. The Board would also have to provide warehouses, for storing goods under section 96, subject to the rules relating to goods in a warehouse, as provided in the Sea Customs Act, and would generally have to conform to all provisions of that Act.

Enclosures.

Extract of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 6th day of September 1895.

* * * * *

9. Read Endorsement No. 2022, dated 30th August, Current No. 671, from the Chief Secretary to Government forwarding in reference to paragraph 3 of G.O., No. 190, Marine, letter from the Chairman of the Chamber of Commerce, dated 24th idem, regarding the transfer of the custody of goods landed at this port, from the Collector of Sea Customs to the Harbour Trust Board.

Read printed draft letter addressed to the Chief Secretary to Government, No. 2275, reporting as directed.

Approved.

* * * * *

Endorsement No. 2220.

Referred to the Revenue Department for favour of early remarks.

Ootacamund,
20th September 1895.

(Signed) J. F. PRICE,
Chief Secretary.

Order—No. 1530-R., dated 24th September 1895.

Referred to the Board of Revenue, in continuation of G.O., No. 2911, dated 20th July 1895, for early remarks.

(Signed) E. GIBSON,
Secretary to Government.

Read—again the following G.O., Mis. No.154, Revenue, dated 15th January1896:—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4676, dated 5th November 1895:—

Read—again the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4317, dated 9th October 1895:—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 20th September 1895, No. 4493-G.:—

With reference to Board's enquiry in Resolution, Mis. No. 3192, dated 29th July 1895, I have the honour to state that the new Public warehouse, the completion of which has been stopped, is conveniently situated for Customs purposes and if it is decided to abandon it, for reasons mentioned in paragraphs 12 and 13 of the committee's report, there is no other alternative but to continue the present system of licensing private warehouses, under section 16 of the Customs Act, until another site

equally advantageous is available. This matter may, however, be settled after the Harbour Trustees have decided what to do and probably their plans will show the way to a new bonded warehouse, if necessary.

2. With reference to paragraph 15 of the report, there is no objection to our adopting the Calcutta and Bombay system of receiving, handling and delivering cargo, through the Harbour Trust Board. In fact the Calcutta practice is identical with that followed here and a reference to the correspondence noted in the margin shows that in Bombay also goods landed on the wharf are received into the Port Trust sheds, but when a ship discharges into lighters in midstream under cover of boat notes, a proper tally is taken of the cargo by the Customs preventive staff before the goods are passed into the custody of the Trustees. This is in accordance with section 76 of the Customs Act.

Vide paragraph 14 of letter from Secretary, Bombay Port Trust, to the Secretary, Harbour Trust Board, Madras, No. 987, dated 22nd March 1893, printed on page 6 as appendix to committee's report. *Vide* latter portion of paragraph 2 of report accompanying Bombay Sea Customs Collector's letter, No. 11868-C., dated 21st August 1895.

3. There was a doubt felt at first as to whether the existing establishment engaged in the operations of gauging, testing, bonding and examining imported liquors would be sufficient to carry on the work independently in sheds apart from the office without adequate supervision. At present our establishment consists of a supervisor on Rs. 175 *plus* Rs. 25 carriage allowance to carry on work in fourteen private warehouses in Town and on the Mount Road, in addition to attending to Messrs. Best and Company's petroleum store occasionally and conducting the tedious operations of receiving and passing thousands of cases of kerosine oil from two warehouses in Rayapuram. The only assistance given him to do all this and to gauge, test and sample liquor in the Customs House sheds is a cooper on Rs. 15 and a gauger on Rs. 20.

4. I append in the margin a statement showing separately the duty derived from liquors at the Ports of Calcutta, Bombay and Madras during the years 1890–91—1892–93 with the cost of collection at Madras as that compared with Bombay.*

Ports.	Gross amount of duty collected.				Cost of establishment per mensem.	Percentage of establishment to total collections.
	1890–91.	1891–92.	1892–93.	Total.		
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Madras ..	10,20,759	9,52,709	9,68,076	29,41,544	235	·024
Calcutta ..	16,12,130	16,00,443	16,76,054	48,88,627	..	..
Bombay ..	17,68,164	17,52,598	17,91,185	53,11,947	1,617	·091

* *Vide* Bombay Collector's letter, No. 12340-C., dated 31st August 1895, and enclosures.

5. The Collector of Calcutta is not able to give me the cost of establishment employed exclusively in gauging, testing, bonding and examining imported liquors, as the work is taken up at that port by one of the appraisers—*vide* his letter, No. 4909, dated 4th September 1895. In the proposition statement, dated 10th January 1895, for an increase of establishment, four appraisers were provided for and as we have now got that number, I propose to utilise the services of one of them at a time as they do in Calcutta until I can see the necessity for an increased staff to deal specially with spirits.

Enclosures.

From F. H. B. SKRINE, Esq., Officiating Collector of Customs, Calcutta, to the Collector of Sea Customs, Madras, dated 4th September 1895, No. 4909.

Referring to the enquiry contained in your telegram of the 29th ultimo, I have the honour to state that it is not possible to furnish any statement of the establishment exclusively employed in the gauging, testing, bonding and examining of imported liquors as these goods are dealt with generally as other importations by the entire staff.

2. The gauging and testing work is taken up in turn weekly by one of the appraisers, but the work of ascertaining the strength of spirits by distillation is one officer's duty.

3. The bonding staff is similarly not employed for liquors especially, but attends to all bonding operations, whether of liquors, hardware, salt, etc., and is supervised by an officer who, in addition to these functions, is accountant of the establishment.

4. Under these circumstances I have mentioned, I fear that any attempt to enter into details of the cost of establishment for your guidance would be misleading.

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 31st August 1895, C. No. 12340.

With reference to your telegram of the 29th instant, I have the honour to forward a statement showing the details of establishment therein asked for.

Gauging Department.

		Rs.
1	head gauger	350
1	2nd ,,	300
1	3rd ,,	225
1	4th ,,	150
1	5th ,,	125
1	6th ,,	100
1	7th ,,	80
1	8th ,,	70
1	gauger's clerk	50
1	laboratory attendant	30—50
1	do. hawal	10
6	peons at Rs. 9½ each	57
17		Total ... 1,567

Bonding Department.

		Rs.	
1	clerk	50	
		—	50
18		Total ...	1,617

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 21st August 1895, C. No. 11868.

With reference to your letter, No. 3612-G., dated the 8th instant, I have the honour to forward a copy of the report No. 871 of the 16th idem, of the Superintendent, Preventive Service, which gives the information required by you.

From J. WALSH, Esq., Superintendent, Preventive Service, to the Acting Collector of Sea Customs, Madras, dated 16th and 17th August 1895, No. 871.

In reply to the letter from the Collector of Customs, Madras, the Superintendent begs to say that the imposition of Customs duty has made no change as to the landing, storage, custody and delivery of goods, either free or foreign, so far as the Customs department is concerned. Every thing connected with the landing and importing is done under Customs supervision, so far that the Preventive department of the Custom House see that all cargo manifested is accounted for. When a vessel is discharged no matter where she is from, Preventive officers check the manifest and send the import department a statement of shortages and excesses. The import department then calls on the agents of the steamer to account for the shortages and enter the excesses on the ships' manifest, if there are any, for it is responsible that every item on the manifest is properly cleared. Beyond this a Government department has nothing to do with a ship's cargo, it is manipulated by the consignee or his muccadum. See section 196 of the Sea Customs Act.

2. At the docks, the port trust lands, stores and delivers cargo, with the exception of specie and jewellery, which are taken delivery of by consignees direct from the ships. Goods in the sheds are in the charge of the trust alone, there is no such thing as joint custody here or elsewhere. The delivery is only made on the importer producing an "out-of-charge" note, that is to say, out of Customs charge. The out-of-charge note is only given when the Assistant Collector in charge of the docks is satisfied that the goods have been examined either actually

or by invoice. In the docks in cases where cargo is not discharged on to the quay but is put out overside for some bunder, or for transhipment, Preventive officers tally it and grant boat-notes. All cargo from foreign ports landed at the various wharves or bunders from a ship discharging in the stream is tallied by Customs officers placed on board for that purpose. The landing, storage and custody of all such cargo is done by the vessel's agent, or the consignee's muccadum. The Customs officers confine themselves to seeing that the goods do not pass beyond Customs limits without complete import documents, by which free goods as well as dutiable, must be covered.

3. Under section 83 of the Customs Act goods, principally specie and jewellery, are sometimes made over to the Customs Collector, and in such cases the Superintendent has the custody of them and sees to the delivery. But this is such a small business that it scarcely falls, the Superintendent thinks, within the question from the Collector of Madras. Goods taken charge of under section 88 are likewise in our custody as unclaimed, but these are not the cases the Superintendent thinks the enquiry is about.

Resolution—Mis. No. 4317, dated 9th October 1895.

The Collector's remarks in paragraph 1 of the letter read above are not clear. He is requested to state definitely whether no other suitable site for the public warehouse is at present available.

(True Copies and Extract.)

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

To the Collector of Sea Customs, Madras.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4979-G :—

In answer to Board's enquiry in Resolution, Mis. No. 4317, dated 9th October 1895, I have the honour to state that no other suitable sites for the public warehouse is at present available.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4980-G :—

In returning the papers * referred for report under Board's Proceedings, Mis. No. 4286, dated 8th instant, I have the honour to submit the following remarks on the proposals now made by the Chairman, Harbour Trust Board, in addition to those contained in my No. 4493-G., dated 20th September.

* G.O., No. 1530-R, dated 24th September 1895, and enclosures.

2. The procedure proposed to be adopted by the Chairman may generally be accepted, but as the Customs Department is bound to maintain its own landing account independently with a view to adjustment of duty on missing or short-landed packages under clause 17, section 167 of Act VIII of 1878, and as the Collector has frequently to arbitrate, in cases of dispute, between Agents, Merchants, and the Harbour Trust Board, in order to fix responsibility and facilitate the disposal of claims, it is essential that he should maintain a separate landing account independently of that kept by the Harbour Trust Board. The Board would also have to account for all cargoes received by it according to customs accounts. As regards supervision, it is presumed that customs officials will have free access to all parts of the sheds for purposes of weighment, examination, &c., of goods, in order to carry out the provisions of the Customs, Tariff, Merchandise Marks, and other enactments, and that the sheds will be under the joint locks of the Custom House and the Harbour Trust Board, deliveries being made by the Harbour Trust Board in the presence of the "pass" clerks of the Custom House or the authority of passes issued by the Collector or his Deputy. The necessary accommodation will, it is understood, be also provided for the staff required to be located in the sheds. If these details are arranged for by the Harbour Trust Board, it seems to me that the proposals may be accepted.

Resolution—Mis. No. 4676, dated 5th November 1895.

Submitted to Government with reference to G.O., Mis. No. 2911, Revenue, dated 20th July 1895, and R. No. 1530, Revenue, dated 24th September 1895.

2. With reference to paragraphs 12 and 13 of the Harbour Improvement Committee's report, the Collector reports that no other suitable site for the public warehouse is at present available. The Chairman of the Harbour Trust Board has, however, in his letter to Government, undertaken to provide warehouses.

3. With reference to paragraph 15 of the report, the Board of Revenue supports the recommendation of the committee to adopt a procedure similar to that in force in Bombay. The report forwarded by the Collector of Customs, Bombay, with his letter, dated 21st August 1895, forming an enclosure to the letter of the Collector of Sea Customs, Madras, dated 20th September 1895, No. 4493-G., makes the matter clear.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department,
with Government Register No. 1070 and enclosures (returned).

Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 154, Revenue, dated 15th January 1896.

It appears from the correspondence submitted to Government with Board's Proceedings, Mis. No. 4156, dated 14th October 1893, that the three local firms representing the owners of the regular liners are unwilling to land cargo under section 85 of the Sea Customs Act in their capacity as ships' agents, or, as suggested by Government in G.O., Mis. No. 4824, dated 4th November 1892, to employ the Harbour Trust Board as their agents for landing. It follows, therefore, that the procedure in force at the docks in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85.

2. It was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892 (*vide* papers printed in G.O., No. 201, dated 28th February 1893), and the Board of Revenue is requested to state how it proposes to overcome the difficulty now and whether the firms concerned are now willing to land goods under section quoted.

3. The question of completing the Government Warehouse would seem to depend upon the answer to this inquiry.

(True Extract.)

(Signed) E. GIBSON,
Secretary to Government.

To the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3268, Revenue, dated 14th August 1896 :—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 2692, dated 26th June 1896 :—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 27th February 1896, No. 1186-G. :—

With reference to Board's Proceedings, Mis. No. 248 * (Separate Revenue), dated 20th January 1896, I have the honour to forward herewith, for the information of the Board and Government, a copy of the letters as per margin † from Messrs. Binny & Co., Arbuthnot & Co. and Gordon, Woodroffe & Co., who are the agents of the regular home lines, from which it will be seen that they are now, as in 1892, decidedly opposed to entrusting

* Referring to the Collector of Sea Customs, Madras, for reports, G.O., Mis. No. 154, (Revenue), dated 15th January 1896.

† Dated 10th, 12th and 14th February, respectively.

their landing to any agency outside their own control, or to land under section 85 of the Sea Customs Act in their capacity as ships' agents.

2. The reason for this is obvious, as the arrangement would tend to bind the agents to discharge all claims for shortage and damage preferred by importers, leaving them (the agents) to recoup themselves as best they can from those directly responsible, although the goods may have left the ship's tackle intact. The only way out of the difficulty therefore, is for the Harbour Trust Board by a special agreement with the agents, to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition at any wharf belonging to the Trust, and taken into their sheds. A receipt will, of course, be passed by the Trust to the master of the vessel for all such goods as are landed in their original or good condition, while all damaged packages will at once be taken to a separate strong room, to be surveyed in order to fix responsibility. This is briefly what is required, and the Chamber of Commerce may be addressed in the matter of arranging details.

3. From the replies received, the agents do not appear to appreciate the difference between landing under the two sections quoted. They seem to think that landing under section 83, as at present, should not interfere with the proposal of the Harbour Improvements Committee that the goods so landed may be stored in sheds belonging to the Trust, and the Trust be allowed to have the custody of them. This arrangement, it will however be observed, is only permissible and specially provided for by section 85.

Enclosures.

From GORDON, WOODROFFE and Co., Agents, "Clan," "Hansa" and Hamburg, Calcutta Lines, to the Collector of Sea Customs, dated Madras, 14th February 1896.

We have the honour to acknowledge receipt of your No. 714-G of 6th instant, and in reply to inform you that so far as we can see the circumstances under which cargo is landed here now are the same as those existing when we wrote to you on the same subject in 1892. We therefore beg to confirm our letter, dated 20th December of that year.

2. We are, we must confess, at a loss to understand why the proposed erection of new customs sheds should alter in any way the routine of water and land carriage from what presently obtains in the transport of goods to the existing Custom House.

From Messrs. BINNY and Co., to the Collector of Sea Customs, dated Madras, 10th February 1896.

We have the honour to acknowledge receipt of your No. 713-G. of 6th instant, regarding a proposal before Government for the erection of Customs sheds on the beach for the reception, storage and delivery of all foreign cargo and enquiring whether we are prepared to employ the Harbour Trust Board as our landing agency, and in reply have to say that we are now, as in 1892, when the matter was brought up strongly opposed to entrust the landing to any agency outside our own direct control and from which we should have no guarantee that the quick despatch of steamers for which we act as agents would be secured.

2. It is not quite apparent to us under what clause in the section quoted in yours under reply (section 85 of Act VIII of 1878) it is proposed to give the Harbour Trust Board the necessary authority as the section above referred to does not appear to empower any such body to undertake the landing of cargo, nor is the landing of cargo in boats done by the Bombay Harbour Trust Board.

3. In any case the Madras Harbour Trust Board is not authorised by its Act to undertake landing and shipping of cargo, as has been already decided by the Advocate-General.

4. Furthermore the Harbour Improvements' Committee made no recommendation that the Harbour Trust Board should undertake such work nor does it appear what connection there is between section 85 and the landing being conducted by the Harbour Trust Board.

From Messrs. ARBUTHNOT and Co., to the Collector of Sea Customs, dated Madras, 12th February 1896.

We have the honour to acknowledge your letter, No. 712-G., dated 6th instant, and in reply beg to inform you that, for the reasons stated in our letter of the 6th December 1892, we are not prepared to undertake to land under section 85 of the Sea Customs Act VIII of 1878.

2. We submit that in order to carry out the suggestions of the Harbour Trust Board it is not necessary that steamer agents should agree to land under the section quoted (section 85). All that is necessary is that the sheds contemplated should be declared to be part of the Custom House accommodation and that the Collector should, if necessary, delegate part of his control over them to the Chairman of the Harbour Trust Board.

3. Sections 83 and 85 of the Sea Customs Act are altogether different in their scope, and the latter is not suited or applicable to a port like Madras.

Copy of paragraph 4 of the letter from the Chairman, Harbour Trust Board, Madras, dated 9th December 1890, No. 837.

* * * * *

4. With a view however to the settlement of claims by consignees the following practice has arisen :—

(*a*) If noted as discharged in bad order the ship pays any claim; (*b*) If not so noted when discharged, but if landed in broken condition and so reported, the landing contractors pay; and (*c*) should any package be received by the Harbour Trust Board without any report as to its being in a broken or repacked condition, and is afterwards found to be so, the Harbour Trust Board meets the claims for shortage provided the package has not been made over to the custody of the Sea Customs Department and received as in good order.

Read—again the following Board's Reference thereon, dated 23rd March 1896, to the Collector of Sea Customs, Madras.

The course proposed in paragraph 2 of the Collector's letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage before the Harbour Trust Board takes charge of the goods on the pier or beach.

2. The landing of the goods under section 85 does not, however, appear to be indispensably necessary. The present practice is understood to be for landing contractors (as agents of consignees) to land goods on the pier or on the beach, and for the Harbour Trust Board to remove the goods thence to the Custom House. The master of the ship is responsible for damage or short delivery up to the time of discharge from the ship, the landing agents from the time of discharge from the ship to the time of landing on the pier or on the beach, and the Harbour Trust Board up to delivery in the Customs House—*vide* paragraph 4 of Harbour Trust Board Chairman's letter in Board's Proceedings, Mis. No. 3730 (Separate Revenue), dated 19th December 1890. The Chairman of the Harbour Trust Board has stated that, if the custody of goods landed be transferred from the Collector to the Harbour Trust Board, the Trustees would be prepared to accept the responsibility to construct sheds to receive all goods as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Sea Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act. The exceptions to this course would be the particular cases mentioned in section 83, in which the Customs Collector should take charge of the goods owing to delay in landing by the consignees and grant receipts. If such cases are not likely to be numerous, the course above stated may be suggested for the approval of Government owing to the objection of the agents of vessels to land goods under section 85. There can be no objection to the Harbour Trust Board taking charge of the goods in all other cases as proposed by it if the sheds to be constructed for keeping the goods in are declared part of the Custom House as suggested in G.O., Mis. No. 4824, dated 4th November 1892. The Collector is requested to state whether the particular cases in which he will have to take charge of the goods under section 83 will not be very rare, and whether the adoption of the course indicated above will not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st April 1896, No. 2107-G :—

With reference to Board's Reference, dated 23rd March 1896, on General Register No. 2064, I have the honour to state that, so far as this department is concerned, there is no objection to the arrangement therein proposed provided there is no legal difficulty, and the proposals made in my letter No. 4980-G, dated 21st October 1895, are accepted by the Harbour Trust.

2. At present goods from foreign ports are landed for the consignees by the several steamer agents' dubashes, and on their arrival at the pier or beach are taken charge of by the Harbour Trust, and conveyed by them, as porterage contractors, to the Custom House where they remain in the joint custody of the Trust and the Customs Collector, the latter holding the goods for the master, subject to a lien for freight, boat hire and other charges that may be due thereon under section 83 of the Sea Customs Act. It is, therefore, doubtful whether the Collector can legally delegate any portion of his control over the goods vested in him by the Act to the Chairman, Harbour Trust Board, as contemplated by the Board in its reference above quoted. It is accordingly suggested that the opinion of the Advocate-General be taken on the point at issue, especially as the Harbour Trust at present merely intervene as porterage contractors.

3. In this connection I beg to solicit the Board's attention to paragraph 6 *et. seq.* of my letter No. 1874-G, dated 30th August 1892, in which this subject was fully gone into, and paragraph 5 of their Resolution thereon, Mis. No. 3646, dated 21st September 1892.

4. The Board is aware that, though section 85 of the Sea Customs Act has been extended to this port, its provisions have never been enforced owing to the refusal of steamer agents to act under it and the Chairman, Harbour Trust Board, has already pointed out that the Harbour Trust cannot undertake the landing of goods—*vide* my letter No. 1709-G, dated 12th October 1893, read in Board's Proceedings, Mis. No. 4156, dated 14th October 1893.

5. It would seem also desirable to consult the Chamber of Commerce and the Trades Association as representing the mercantile and trade interests before passing final orders on the subject.

Resolution—Mis. No. 2692, dated 26th June 1896.

Submitted to Government with reference to G.O., Mis. No. 154, Revenue, dated 15th January 1896.

2. In paragraph 3 of G.O., No. 190 (Marine), dated 1st July 1895, Government asked for the views of the Harbour Trust Board on the suggestion of the Harbour Improvement Committee to transfer the custody of goods landed at Madras from the Collector of Sea Customs to the Harbour Trust Board. That Board stated in reply that if Government should approve of the transfer the trustees would be prepared to accept the responsibility to receive general cargo as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act.

3. On the above proposals being referred to the Collector of Sea Customs for remarks, he stated that the procedure proposed to be adopted by the Chairman of the Harbour Trust Board might be approved, but that a separate landing account would have to be maintained by the Customs Department independently of that kept by the Harbour Trust Board, that the Board would have to account for all cargo received by it according to the Customs accounts, that Customs officials should have free access to all parts of the Harbour Trust Board's sheds for the purpose of weighment, examination, &c., of goods in order to carry out the provisions of the Customs Tariff, Merchandise Marks and other enactments, that the sheds should be under the joint

locks of the Customs Collector and the Harbour Trust Board, deliveries being made by the Board in the presence of the pass clerk of the Custom House on the authority of passes issued by the Collector or his Deputy, and that the necessary accommodation should be provided for the Customs staff required to be located in the sheds. The Collector's report was submitted to Government in Board's Proceedings, Mis. No. 4676, dated 5th November 1895.

4. Government in its order under reply remarked that, as it appears that the local firms are still unwilling to land cargo under section 85 in their capacity of ships' agents or to supply the Harbour Trust Board as their agents for landing, it follows that the procedure in force in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85, and that it was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892—*vide* G.O., No. 201, Revenue, dated 28th February 1893. Government therefore requested the Board to state how it proposes to overcome this difficulty now.

5. With reference to this, the Collector of Sea Customs stated that the agents of the regular home liners are decidedly opposed to entrust the landing to any agency outside their own control or to land under section 85 of the Sea Customs Act, and that the only way out of the difficulty is for the Harbour Trust Board by a special agreement with the agents to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition, at any wharf belonging to the Board and taken into its sheds, and to pass a receipt, to the master for all such goods as are landed in their original or good condition, while all damaged packages would at once be taken to a separate strong room to be surveyed in order to fix responsibility. He suggested that the Chamber of Commerce might be addressed in the matter of arranging details.

6. This Board then pointed out to the Collector that the course suggested in his letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage occurring before the Harbour Trust Board takes charge of the goods on the pier or the beach, and remarked that goods might continue to be landed by the agents of consignees, and after being landed might be received by the Harbour Trust Board, which would then follow the course indicated in paragraph 2 *supra*. It was remarked, however, that the foregoing procedure would not be applicable to the particular cases mentioned is section 83 in which the Customs Collector has to take charge of goods owing to delay on the part of consignees in landing them. The Collector was requested to state whether such cases would not be very rare, and whether the adoption of the course stated above would not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

7. The Collector now states that, so far as his department is concerned, there is no objection to adopting the above course provided there is no legal difficulty, and that his former proposals noticed in paragraph 3 above are accepted by the Harbour Trust Board. He further observes that at present goods from foreign ports are landed for the consignees by the dubashes of the several steamer agents, that on their arrival at the pier or beach they are taken charge of by the Harbour Trust Board and conveyed by it as porterage contractor to the Custom House where they remain in the joint custody of the trust and the Customs Collector, and points out that, as the latter sometimes holds, the goods for the master of the vessel subject to a lien for freight, boat hire and other charges which may be due thereon under section 83 of the Sea Customs Act, it is doubtful whether the Collector can legally delegate any portion of the control over the goods vested in him by the Act to the Chairman of the Harbour Trust Board. He suggests a reference on the point to the Advocate-General, and draws attention to paragraph 6 of his letter, No. 1874-G., dated 30th August 1892, printed on pages 4 to 9 of G.O., No. 201, Revenue, dated 28th February 1893.

With reference to these remarks of the Collector, it is observed that the last clause of section 83 under which the master of a vessel gives notice that the goods landed are to remain subject to a lien for freight and other charges and the Customs Collector holds the goods until he receives notice that the charges have been paid, refers only to the particular cases in which goods are not landed by landing contractors (as agents for consignees) but by the master or the Customs officer on the master's

application. Such cases, it is considered, will be very few and can, if necessary, be specially dealt with. In ordinary cases in which goods are landed by dubashes as agents of consignees the Sea Customs Act does not provide for the interference of the Collector with regard to the payment of freight and other charges by the consignees. If official interference is necessary, that provided by section 52 of the Madras Harbour Trust Act II of 1886 may be availed of.

The objections stated in paragraph 6 of the Collector's letter of 1892 referred to are not applicable to the present proposals. The proposal which was objected to in 1892 was to store free goods in the Harbour Trust Board's sheds and dutiable goods in the Custom House, while the present proposal is to store the whole of the cargo in the Harbour Trust Board's sheds which will be constituted a part of the Custom House.

8. When the new scheme regarding Harbour improvements is carried out, it will be out of the question to use the present Custom House for the storage of goods pending clearance. Whatever form the proposal ultimately takes, it will, the Board believes, include boat basins, wharves with convenient sheds alongside and direct connection with the Madras, South Indian and East Coast Railways and the Buckingham Canal, and to drag goods away from these advantages up to the Custom House would be an outrage on the trade of the port. The course which the Board has indicated above seems to be the only way of meeting the difficulty. The Board would treat the Harbour Trust Board as contractors for the safe custody of goods in charge of the Customs Collector in the same way as the Collector of Customs now treats it as porterage contractor, and would constitute the premises provided by it a part of the Custom House, taking all steps necessary to make it so in fact as well as in name by posting customs guards at the entrance and adopting similar precautions. There seems to be no reason why in the few cases in which the Collector has to take charge of goods under section 83 of the Sea Customs Act the Harbour Trust Board should not do all that is necessary for him as its premises will form part of the Custom House. As the Harbour Trust Board has agreed to be responsible for all goods delivered into its charge, there appears to be no objection to this course unless some legal one exists. It might be advisable to consult the Advocate-General on this point and also as to the necessity of requiring the Harbour Trust Board to acknowledge its responsibility by the execution of such legal documents as may be deemed necessary. The possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law but under an ordinary contract. The Harbour Trust Board would of course expect some return for the expense which it would incur in erecting the necessary sheds. The Board begs to suggest that its views on this point should be asked for.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 3268, dated 14th August 1896.

The Proceedings read above will be forwarded to the Hon'ble the Advocate-General for favour of opinion as to whether there is any legal objection to the adoption of the course advocated by the Board of Revenue in paragraph 8 of its Proceedings and if there is none whether the Harbour Trust Board should be required to acknowledge its responsibility in regard to goods delivered to its charge by the execution of a legal document.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

To the Hon'ble the Advocate-General (through the Government Solicitor),
with enclosures (to be returned).
Copy to the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3286, Revenue, dated 15th August 1896 :—

Read—the following G.O., No. 503, Marine, dated 16th July 1896 :—

Read—the following letter from the Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 14th July 1896 :—

With reference to my letter of the 24th August 1895, in which I drew the attention of Government to paragraph 15 of the Report of the Harbour Improvements Committee appointed under G.O., No. 47, Marine, dated 9th February 1895, which paragraph contained a strong recommendation in favour of the adoption at Madras of the procedure existing at Bombay "by which the Harbour Trust Board would remove into their sheds all cargo, as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office," I have the honour to inform you that the Chamber has desired me to again express a hope that early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee.

Read—again the following letter from the Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 11th July 1896, No. 1471 :—

In view of a recent block of work upon the iron screw pile pier, when the appliances thereon proved inadequate to meet the import and export movements of cargo proceeding simultaneously, the Presidency Port officer in a letter dated 11th June suggested that two low pontoon jetties, extending from the beach into the harbour, should be constructed to relieve the traffic on the pier.

2. This proposal was considered by the Trustees at their meeting of the 19th June, and I submit herewith copy of resolution then passed thereon.

3. The question of the custody of the goods when landed, which was so strongly recommended by the Harbour Improvements Committee, should be vested in the Harbour Trustees, as at Bombay, is regarded by the Board as the key of the whole situation and it therefore hopes that Government will see its way to pass early orders on this point, for unless the proposals of the Chamber of Commerce are sanctioned, the Board will not be justified in incurring any heavy outlay of Harbour Trust Funds.

Enclosure.

Extract of Proceedings of the Trustees of the Harbour of Madras at a meeting held at the offices of the Board on Friday, the 19th day of June 1896.

* * * * *

5. Read letter, No. 625-M, dated 11th June 1896, from the Presidency Port Officer suggesting additional temporary facilities for landing cargo.

Read minutes by trustees.

Resolved that the Chairman is invited to address Government with reference to the proposed boat basin and improved Custom House arrangements recommended by the Harbour Improvements Committee appointed by Government under G.O., No. 47, Marine, dated 9th February 1895.

* * * * *

(True Extract.)

(Signed) C. PINSENT,
Secy., Harbour Trust Board.

Order—No. 503, Marine, dated 16th July 1896.

Communicated in continuation of paragraph 4 of G.O., No. 119, Marine, dated 26th February 1896, to the Revenue Department, for early consideration of the question of the transfer to the Harbour Trust Board of the custody of imported goods.

(True Extract.)

(Signed) C. T. R. SCOVELL,
for Secretary to Government.

To the Revenue Department.
,, the Chairman, Harbour Trust Board.

Order—Mis. No. 3286, Revenue, dated 15th August 1896.

Recorded with reference to G.O., Mis. No. 3268, dated 14th August 1896.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

Read—again the following G.O., Mis. No. 3996, Revenue, dated 5th October 1896 :—

Read—endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 26th August 1896, No. 405, forwarding the following with reference to G.O., Mis. No. 3268, Revenue, dated 14th August 1896.

[*Re* the proposed transfer of the custody of imported goods from the Collector of Sea Customs to the Harbour Trust Board.]

Opinion.

The Board of Revenue propose that the sheds which the Harbour Trust Board purpose building shall be declared to be part of the Custom House; that all cargo shall be stored therein; and that the Harbour Trust Board shall be responsible for the safe custody of such of the goods so stored as are in the custody of the Collector of Sea Customs. The Harbour Trust Board are willing to accept this responsibility. I am asked whether there is any legal objection to the proposed arrangement, and whether it is necessary to obtain from the Harbour Trust Board documents acknowledging their responsibility if the arrangement be carried out.

2. The Collector of Sea Customs cannot legally transfer his custody of dutiable goods to the Harbour Trust Board so as to relieve himself of the duty of safe-guarding them; and the proposed arrangement is not intended, I understand, to effect such a transfer. The Collector of Sea Customs is to retain charge of the goods and do every thing necessary to ensure their safe custody in the premises which will form part of the Custom House—"in fact as well as in name." The Board of Revenue "would treat the Harbour Trust Board as contractors for the safe custody of goods in the custody of the Customs Collector," in other words would treat them as bailees of goods in the Custom House. The Sea Customs Act, 1878, does not allow of joint control over such property, and the Harbour Trust Act, 1886, does not empower the Board to become bailees of such goods. The Board of Revenue admit that "the possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law, but under an ordinary contract." A contract of bailment by which the bailor is to retain in his own premises absolute control over the property bailed, and the bailee is to be responsible to the bailor for the safe custody of that property is unknown to the law.

3. I am of opinion that on legal grounds the proposed arrangement is objectionable.

Madras,
26th August 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

In connection with the proposals for the improvement of the Madras Harbour it has been suggested that the Harbour Trust Board should discharge for the port at Madras the same duties which the Port Trust in Bombay does for that port, viz.,

storage and safe custody of goods. To this proposal is raised the legal objection that the Collector of Sea Customs cannot make over to the Harbour Trust Board the custody of the goods entrusted to him by law. The opinion of the Honourable the Advocate-General will be asked for on the following questions :—

(1) When are goods landed under the Sea Customs Act in the custody of the Sea Customs Collector, Madras ?

It would seem that under the Act goods can come into the custody of the Sea Customs Collector only under sections 83, 84 and 85 (*a*), which latter section, however, has not been extended to Madras.

(2) What is the nature of his custody in regard to such goods as are not placed in his custody in accordance with sections 83, 84 and 85 (*a*)?

It may be said that, though such goods may not be in his actual custody, they are in his custody at least constructively, the owner or the Port Trust, or whoever it may be, being in actual custody on his behalf. This would seem to follow from the provision of section 76 as to the delivery of the boat-note to the Customs Officer on the arrival of the boat.

On the other hand, it may be said they are not in the possession of the Customs department, nor are they held on its responsibility. They are held either by the master of the ship or by the owner, subject to the *control* of the Customs department, but only to the extent and in the manner defined by law and enforced by specific penalties in the Act. Within the limits laid down, the owner may deal with them as he pleases and as freely as if the Customs control did not exist. The Customs department is in no sense a "bailee" of the goods (*vide* section 148 *et seq.* of the Contract Act IX of 1872). It follows that the owner or master may store the goods when landed as he pleases within the conditions prescribed by law, or may employ any agency he pleases to land, move or otherwise deal with the goods.

(3) When such goods as are referred to in the last question are landed under Customs supervision and are received and stored on landing by any agency such as a Port Trust, is such agency a bailee of the goods for the owner of the goods or master of the ship, as the case may be, or for the Customs department ?

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Honourable the Advocate-General, through the
Government Solicitor, with one printed enclosure to be returned.

Read—also endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 19th October 1896, No. 550, forwarding the following with reference to G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

[*Reference.*—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.]

Opinion.

The importation of dutiable goods creates a debt by the consignee to Government to the extent of the duties leviable upon the goods. Government has a lien on the goods for the unpaid duty. "The right of the Government to the duties does not arise from the possession of the goods, nor is it confined to the goods."(*a*) For example in cases to which section 39 is applicable though the lien is lost, the claim can be enforced in the manner prescribed.

(*a*) Elwe's "Law of the Customs," page 15, section 31.

In the interests of trade, the Legislature have empowered the Collector in certain cases to abandon the lien and to accept in its place a bond and securities prescribed, *e.g.*, in section 41.

Importation is complete as soon as the goods are brought within the limits of the port with the intention of unlading them.

2. The Collector's custody of dutiable goods extends throughout the period during which the lien attaches. Where goods are in the Custom House or in a warehouse, his custody is

actual; where they are entered for transportation or exportation, they are during transit at least constructively in his custody until the duty thereon is paid. He is in no sense a bailee of the goods, and is not responsible to the consignee for any loss which is not due to his personal misconduct or neglect in the discharge of his duties.(*b*) No dutiable goods can be taken out of the Collector's custody until the duties have been fully paid or have been duly secured by bond in the manner prescribed by law. The manifest by the master (*c*) gives the Custom's Collector the information he must have before he can issue his permit, without which the unlading of goods is not allowed in order to prevent the unlawful importation of goods.(*d*)

(*b*) Section 197.

(*c*) Sections 53 to 60.

(*d*) Sections 81, 82 and 85. In the order of Government above referred to, it is said that section 85 has not been extended to Madras, but see Notification No. 22, dated 3rd January 1885.

When the permit has been granted and the goods have been landed, the consignee must deliver to the Collector a bill of entry which is *primâ facie* evidence of their value in order that the Collector may assess the duty payable thereon.(*e*) When the duty is paid the lien is at an end, and the consignee is entitled to remove the goods.(*f*)

(*e*) Sections 29 and 86.

(*f*) Section 89.

In order to encourage trade and commerce, and to meet the convenience of importers, while, at the same time, securing the enterests of Government, the system of warehousing was adopted by the Legislature.(*g*) The liberty to warehouse dutiable goods is a privilege conceded, not a contract entered into by Government. To prevent an abuse of the privilege, the time during which goods may be deposited in a warehouse without duty being paid thereon is limited. The lien of Government on the goods warehoused continues until payment of the duties, and the goods remain in the custody of the Customs Collector. They are forwarded to the warehouse in charge of one of his officers,(*h*) and remain there under his control.(*i*) The control or custody may pass from one Chief Customs Officer to another under the provisions of sections 104 to 108, but the lien of Government still attaches to the goods, and their custody, at least constructively, remains in the Customs Officer.

(*g*) Chapter XI.

(*h*) Sections 93 and 94.

(*i*) Sections 97 to 102.

3. By the Act, the Collector is required—

(1) to *detain* goods coming within the provisions of Chapter IV;

(2) to *detain* goods which have been undervalued by the consignee; (*j*)

(3) to *take charge of* and grant receipts for goods deposited with him under sections 83 and 84, or discharged under section 85 (*a*).

(*j*) Section 32.

The provisions of Chapter IV were framed on grounds of public policy, and have nothing to do with any lien possessed by Government, or custody by its servant.

The provisions contained in section 32 do relate to such lien and custody, the existence of which is of course recognised.

The provisions of section 83 in no way deal with, or affect the Government's lien or the Collector's custody. That lien and custody are unaffected by sections 84 and 85.

4. My answers to the question put to me are as follows:—

(1) In my opinion the Collector's custody of dutiable goods *for the purpose of securing the payment of the duty leviable thereon* lasts as long as the lien of Government exists, viz., from importation till clearance.

(2) His custody is that of a servant of Government duly empowered by the Act to enforce the lien of Government and to collect the duty or debt due to Government by the consignee. He is in no sense a bailee of the goods in his custody. In my opinion dated the 26th August, I said that he cannot delegate his powers of control over them.

(3) In the view I take, the question of bailment cannot arise. If the buildings be declared to be part of the Custom House under section 11 (*f*), the owner of the buildings would not be a bailee. The goods would be in the Custom House in the sole and absolute control of the Collector.

If the buildings be appointed public warehouses under section 15 (*k*) or be licensed as private warehouses under section 16, the rules relating to such warehouses will apply. Consignees cannot be compelled to warehouse their goods, but if they desire to do so, the goods "shall be forwarded in charge of an officer of Customs" to the warehouses, where they will be deposited and will remain at the risk and expense of the owners, but will continue to be in the possession and control of the Collector. The extent of the responsibility of the warehouse-keeper is laid down by section 123. I do not understand that there is any intention to declare the Port Trust buildings "public warehouses" when they are erected. So long as goods are not "cleared," the owners cannot store

(*k*) By Notification, dated 11th December 1883, under section 14, Madras was declared to be a Warehousing Port.

them where they please. They must make entry of the goods for "home consumption" or "warehousing." (*l*) If they make entry for "home consumption," they must proceed to "clear" them by paying the duty thereon. (*m*) Until they do so, the goods remain in the custody of the Collector *in the Custom House*. If the goods are entered for warehousing, (*n*) they must be assessed, and then be warehoused *in some warehouse* "appointed or licensed under this Act." (*o*)

(*l*) Section 86.

(*m*) Sections 87 and 89.

(*n*) Section 87.

(*o*) Section 90.

Madras,
17*th October* 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Read—also the following letter from the Chairman, Chamber of Commerce, Madras, to the Private Secretary to His Excellency the Governor, dated Madras, 23rd October 1896:—

I have the honour, on behalf of the Chamber, to request that you will place the following statement before His Excellency the Governor, in the hope that a perusal of the facts set forth will enable His Excellency to appreciate the force of its contention that, in respect of the matters referred to, the Madras Government has not accorded to the Chamber's representations that consideration to which they are entitled. The Chamber ventures to hope that His Excellency will receive a small deputation to discuss the matters in person, as it is confident that its representations will meet with sympathetic consideration, and so conduce to a better understanding between the Government and itself:—

Madras Harbour Improvements.—The first subject to which the Chamber would direct His Excellency's attention is that of Madras Harbour Improvements. As His Excellency is aware, the Harbour Improvements Committee—appointed under G.O., No. 47, Marine, dated the 9th February 1895—in paragraph 15 of its report, made a strong recommendation in favour of the adoption in Madras of the procedure existing in Bombay, "by which the Harbour Trust Board would remove into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months deliver to the Collector any goods not then cleared through the Sea Customs office." On the 14th July last, the Chamber addressed Government expressing a hope that "early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee"—a hope, it should be mentioned, which was expressed in the Chamber's letter to Government, dated the 24th August 1895. Some 20 months have elapsed since the above recommendation of the Harbour Improvements Committee was made, and yet nothing has been done, for the matter, as stated in G.O., No 1670-R., dated the 27th August 1896, "is under reference to the Honourable the Advocate-General." The Chamber ventures to hope that His Excellency will, as far as possible, expedite the disposal of this most important subject which so vitally affects the prosperity of this port. The Chamber does not overlook the weighty questions that may have to be decided, but it trusts that something may be done at an early date to give effect to the recommendations of the Harbour Improvements Committee so as to enable the Harbour Trust Board to arrive at a decision in connection with the other proposals of the committee.

* * * * *

Order—No. 682, Revenue, dated 1st December 1896.

Miscellaneous.

His Excellency the Governor in Council is of opinion that it is desirable to allow the Harbour Trust Board to undertake the storage of goods for the trade of Madras in the same manner as the Bombay Harbour Trust has done for Bombay, and that the Harbour Trust Board should be allowed to provide the buildings necessary for such service.

2. It seems to His Excellency in Council, however, that under the existing Customs law, the Harbour Trust Board can only be allowed to undertake this duty as servants of the Sea Customs authorities. Under the Advocate-General's opinion read above there can be no dual control; hence the custody of the Harbour Trust Board must be that of the Sea Customs authorities. Since the Customs authorities are not responsible for any loss or damage except under section 197 of the Act, the mercantile community will have no greater remedy against the Harbour Trust Board than they have now against the Customs authorities for any loss or damage occurring after the goods have been placed in the custody of the Harbour Trust Board for storage at their sheds. It also follows that the Harbour Trust Board will have no lien for any fees due to them for storage and will not be able to detain the goods for such dues. It will be necessary, however, to make such arrangements that the control of the Sea Customs authorities shall be complete and sufficient for the due realization of the Customs revenue, and for this end it will be necessary to declare the Harbour Trust sheds a part of the Custom House. Storage fees can then be realized under section 199 of the Act; such fees being made over to the credit of the Harbour Trust Board.

3. In view to definitely settling the relations between the Harbour Trust Board and the Sea Customs authorities, His Excellency the Governor in Council thinks it necessary that definite rules laying down the conditions on which the Harbour Trust Board may be allowed to undertake this service be drawn up in communication, if necessary, with the Government Solicitor and agreed on by the Sea Customs authorities and the Harbour Trust Board.

4. Before issuing final orders on this subject, however, His Excellency the Governor in Council thinks it desirable to forward to the Chamber of Commerce the material papers connected with this subject and to invite an expression of their views on the desirability of the above arrangement from the point of view of the convenience of the trade of the port.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Board of Revenue (Separate Revenue).
„ the Chamber of Commerce.
„ the Government Solicitor.
„ the Public Works Department.
„ Marine Department.

Exd. C. Rajagopaul.

70 Copies.

Government {1896} of Madras.

REVENUE.

Recd. / *Regd.* } 1896. *Enclosures* / *Spare copies*

G.O., No. 682, 1st December 1896.

137 w of 16-1-97

DECEMBER.

Storage of goods.

Considering that the Madras Harbour Trust Board should be allowed to undertake the — for the trade of Madras in the same manner as the Bombay Harbour Trust has done, and to provide the buildings necessary for such service, that these sheds should be declared a part of the Custom House for the due realization of the Customs revenue and storage fees and that definite rules should be laid down for settling the relations between the Harbour Trust Board and Sea Customs authorities, and desiring to have the views of the Chamber of Commerce before passing final orders on the subject.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again G.O., Mis. No. 2911, Revenue, dated 20th July 1895.

Abstract.—Referring to the Board of Revenue for remarks proposal to abandon the present site of the public bonded warehouse for Madras.

Read—again the following G.O., No. 1530-R., dated 24th September 1895:—

Read—the following letter from the Hon'ble Mr. G. L. CHAMBERS, Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 24th August 1895:—

In paragraph 15 of its report, the Madras Harbour Improvements Committee, on the suggestion of the Chamber, "strongly recommended" the adoption in Madras of a system similar to that obtaining in Bombay; whereby the Harbour Trust Board would receive into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office.

2. The plans and estimates of scheme No. A-1, which was adopted by the Madras Harbour Improvements' Committee, and of certain new proposals will shortly be in the possession of the Harbour Trust Board, but no decision can be arrived at until Government has signified its acceptance or rejection of the above-mentioned proposals; in the former case the Board would have to provide the necessary Custom House accommodation, whereas in the latter case it would not have to do so.

3. As the question of the adoption of the new procedure was raised by the Chamber, I have the honour to request that the Government will be pleased to give a decision on this point as soon as possible, so that there may be no delay in the settlement of the question of the harbour improvements.

Endorsement No. 2022.

Referred to the Chairman, Harbour Trust Board, with advertence to paragraph 3 of G.O., No. 190, Marine, dated 1st July 1895, to which a reply is awaited.

Ootacamund,
30th August 1895. (Signed) J. F. PRICE,
Chief Secretary.

Read—the following letter from H. LE FANU, Esq., I.C.S., Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 3rd September 1895, No. 2275:—

I have the honour to acknowledge the receipt of letter, dated 24th August, from the Chairman of the Chamber of Commerce, forwarded under your Endorsement No. 2022, dated 30th August, Current No. 671, herewith returned; and with reference thereto, and to paragraph 3 of G.O., Marine, No. 190, dated 1st July, to report that, should Government approve of the transfer of the custody of goods landed, from the Collector of Sea Customs to the Harbour Board, the Trustees would be prepared to accept the responsibility, and make the necessary arrangements, in any scheme for harbour improvements which may be ultimately adopted, with the approval and sanction of Government.

2. The procedure would be, for the Trustees to build substantial and secure sheds, into which the Traffic Department would receive general cargo, as landed, and grant receipts to the agents of steamers. A landing account would then be furnished to the Collector of Sea Customs, and the Board would be responsible that no package was delivered, except upon a pass order from the Collector or his Deputy.

3. Upon the expiration of four months from the date of entry of any vessel, any goods then remaining uncleared for home consumption, would be made over to the Collector of Sea Customs under section 88 of the Sea Customs Act.

4. The sheds built by the Board would have to be declared part of the Sea Custom-house under section 11.

5. The Board would also have to provide warehouses, for storing goods under section 96, subject to the rules relating to goods in a warehouse, as provided in the Sea Customs Act, and would generally have to conform to all provisions of that Act.

Enclosures.

Extract of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 6th day of September 1895.

* * * * *

9. Read Endorsement No. 2022, dated 30th August, Current No. 671, from the Chief Secretary to Government forwarding in reference to paragraph 3 of G.O., No. 190, Marine, letter from the Chairman of the Chamber of Commerce, dated 24th idem, regarding the transfer of the custody of goods landed at this port, from the Collector of Sea Customs to the Harbour Trust Board.

Read printed draft letter addressed to the Chief Secretary to Government, No. 2275, reporting as directed.

Approved.

* * * * *

Endorsement No. 2220.

Referred to the Revenue Department for favour of early remarks.

Ootacamund,
20th September 1895. (Signed) J. F. PRICE,
Chief Secretary.

Order—No. 1530-R., dated 24th September 1895.

Referred to the Board of Revenue, in continuation of G.O., No. 2911, dated 20th July 1895, for early remarks.

(Signed) E. GIBSON,
Secretary to Government.

Read—again the following G.O., Mis. No.154, Revenue, dated 15th January1896:—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4676, dated 5th November 1895:—

Read—again the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4317, dated 9th October 1895:—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 20th September 1895, No. 4493-G.:—

With reference to Board's enquiry in Resolution, Mis. No. 3192, dated 29th July 1895, I have the honour to state that the new Public warehouse, the completion of which has been stopped, is conveniently situated for Customs purposes and if it is decided to abandon it, for reasons mentioned in paragraphs 12 and 13 of the committee's report, there is no other alternative but to continue the present system of licensing private warehouses, under section 16 of the Customs Act, until another site

equally advantageous is available. This matter may, however, be settled after the Harbour Trustees have decided what to do and probably their plans will show the way to a new bonded warehouse, if necessary.

2. With reference to paragraph 15 of the report, there is no objection to our adopting the Calcutta and Bombay system of receiving, handling and delivering cargo, through the Harbour Trust Board. In fact the Calcutta practice is identical with that followed here and a reference to the correspondence noted in the margin shows that in Bombay also goods landed on the wharf are received into the Port Trust sheds, but when a ship discharges into lighters in midstream under cover of boat notes, a proper tally is taken of the cargo by the Customs preventive staff before the goods are passed into the custody of the Trustees. This is in accordance with section 76 of the Customs Act.

Vide paragraph 14 of letter from Secretary, Bombay Port Trust, to the Secretary, Harbour Trust Board, Madras, No. 987, dated 22nd March 1893, printed on page 6 as appendix to committee's report. *Vide* latter portion of paragraph 2 of report accompanying Bombay Sea Customs Collector's letter, No. 11868-C., dated 21st August 1895.

3. There was a doubt felt at first as to whether the existing establishment engaged in the operations of gauging, testing, bonding and examining imported liquors would be sufficient to carry on the work independently in sheds apart from the office without adequate supervision. At present our establishment consists of a supervisor on Rs. 175 *plus* Rs. 25 carriage allowance to carry on work in fourteen private warehouses in Town and on the Mount Road, in addition to attending to Messrs. Best and Company's petroleum store occasionally and conducting the tedious operations of receiving and passing thousands of cases of kerosine oil from two warehouses in Rayapuram. The only assistance given him to do all this and to gauge, test and sample liquor in the Customs House sheds is a cooper on Rs. 15 and a gauger on Rs. 20.

4. I append in the margin a statement showing separately the duty derived from liquors at the Ports of Calcutta, Bombay and Madras during the years 1890–91—1892–93 with the cost of collection at Madras as that compared with Bombay.*

Ports.	Gross amount of duty collected.				Cost of establishment per mensem.	Percentage of establishment to total collections.
	1890–91.	1891–92.	1892–93.	Total.		
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Madras ..	10,20,759	9,52,709	9,68,076	29,41,544	235	·024
Calcutta ..	16,12,130	16,00,443	16,76,054	48,88,627	..	..
Bombay ..	17,68,164	17,52,598	17,91,185	53,11,947	1,617	·091

* *Vide* Bombay Collector's letter, No. 12340-C., dated 31st August 1895, and enclosures.

5. The Collector of Calcutta is not able to give me the cost of establishment employed exclusively in gauging, testing, bonding and examining imported liquors, as the work is taken up at that port by one of the appraisers—*vide* his letter, No. 4909, dated 4th September 1895. In the proposition statement, dated 10th January 1895, for an increase of establishment, four appraisers were provided for and as we have now got that number, I propose to utilise the services of one of them at a time as they do in Calcutta until I can see the necessity for an increased staff to deal specially with spirits.

Enclosures.

From F. H. B. SKRINE, Esq., Officiating Collector of Customs, Calcutta, to the Collector of Sea Customs, Madras, dated 4th September 1895, No. 4909.

Referring to the enquiry contained in your telegram of the 29th ultimo, I have the honour to state that it is not possible to furnish any statement of the establishment exclusively employed in the gauging, testing, bonding and examining of imported liquors as these goods are dealt with generally as other importations by the entire staff.

2. The gauging and testing work is taken up in turn weekly by one of the appraisers, but the work of ascertaining the strength of spirits by distillation is one officer's duty.

3. The bonding staff is similarly not employed for liquors especially, but attends to all bonding operations, whether of liquors, hardware, salt, etc., and is supervised by an officer who, in addition to these functions, is accountant of the establishment.

4. Under these circumstances I have mentioned, I fear that any attempt to enter into details of the cost of establishment for your guidance would be misleading.

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 31st August 1895, C. No. 12340.

With reference to your telegram of the 29th instant, I have the honour to forward a statement showing the details of establishment therein asked for.

Gauging Department.

		Rs.
1	head gauger	
1	2nd "	350
1	3rd "	300
1	4th "	225
1	5th "	150
1	6th "	125
1	7th "	100
1	8th "	80
1	gauger's clerk	70
1	laboratory attendant	50
1	do. hawal	30—50
6	peons at Rs. 9½ each	10
		57
17		
	Total ...	1,567

Bonding Department.

		Rs.	
1	clerk ...	50	
		—	50
18			
	Total ...		1,617

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 21st August 1895, C. No. 11868.

With reference to your letter, No. 3612-G., dated the 8th instant, I have the honour to forward a copy of the report No. 871 of the 16th idem, of the Superintendent, Preventive Service, which gives the information required by you.

From J. WALSH, Esq., Superintendent, Preventive Service, to the Acting Collector of Sea Customs, Madras, dated 16th and 17th August 1895, No. 871.

In reply to the letter from the Collector of Customs, Madras, the Superintendent begs to say that the imposition of Customs duty has made no change as to the landing, storage, custody and delivery of goods, either free or foreign, so far as the Customs department is concerned. Every thing connected with the landing and importing is done under Customs supervision, so far that the Preventive department of the Custom House see that all cargo manifested is accounted for. When a vessel is discharged no matter where she is from, Preventive officers check the manifest and send the import department a statement of shortages and excesses. The import department then calls on the agents of the steamer to account for the shortages and enter the excesses on the ships' manifest, if there are any, for it is responsible that every item on the manifest is properly cleared. Beyond this a Government department has nothing to do with a ship's cargo, it is manipulated by the consignee or his muccadum. See section 196 of the Sea Customs Act.

2. At the docks, the port trust lands, stores and delivers cargo, with the exception of specie and jewellery, which are taken delivery of by consignees direct from the ships. Goods in the sheds are in the charge of the trust alone, there is no such thing as joint custody here or elsewhere. The delivery is only made on the importer producing an "out-of-charge" note, that is to say, out of Customs charge. The out-of-charge note is only given when the Assistant Collector in charge of the docks is satisfied that the goods have been examined either actually

or by invoice. In the docks in cases where cargo is not discharged on to the quay but is put out overside for some bunder, or for transhipment, Preventive officers tally it and grant boat-notes. All cargo from foreign ports landed at the various wharves or bunders from a ship discharging in the stream is tallied by Customs officers placed on board for that purpose. The landing, storage and custody of all such cargo is done by the vessel's agent, or the consignee's muccadum. The Customs officers confine themselves to seeing that the goods do not pass beyond Customs limits without complete import documents, by which free goods as well as dutiable, must be covered.

3. Under section 83 of the Customs Act goods, principally specie and jewellery, are sometimes made over to the Customs Collector, and in such cases the Superintendent has the custody of them and sees to the delivery. But this is such a small business that it scarcely falls, the Superintendent thinks, within the question from the Collector of Madras. Goods taken charge of under section 88 are likewise in our custody as unclaimed, but these are not the cases the Superintendent thinks the enquiry is about.

Resolution—Mis. No. 4317, dated 9th October 1895.

The Collector's remarks in paragraph 1 of the letter read above are not clear. He is requested to state definitely whether no other suitable site for the public warehouse is at present available.

(True Copies and Extract.)

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

To the Collector of Sea Customs, Madras.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4979-G :—

In answer to Board's enquiry in Resolution, Mis. No. 4317, dated 9th October 1895, I have the honour to state that no other suitable sites for the public warehouse is at present available.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4980-G :—

In returning the papers * referred for report under Board's Proceedings, Mis. No. 4286, dated 8th instant, I have the honour to submit the following remarks on the proposals now made by the Chairman, Harbour Trust Board, in addition to those contained in my No. 4493-G., dated 20th September.

* G.O., No. 1530-R, dated 24th September 1895, and enclosures.

2. The procedure proposed to be adopted by the Chairman may generally be accepted, but as the Customs Department is bound to maintain its own landing account independently with a view to adjustment of duty on missing or short-landed packages under clause 17, section 167 of Act VIII of 1878, and as the Collector has frequently to arbitrate, in cases of dispute, between Agents, Merchants, and the Harbour Trust Board, in order to fix responsibility and facilitate the disposal of claims, it is essential that he should maintain a separate landing account independently of that kept by the Harbour Trust Board. The Board would also have to account for all cargoes received by it according to customs accounts. As regards supervision, it is presumed that customs officials will have free access to all parts of the sheds for purposes of weighment, examination, &c., of goods, in order to carry out the provisions of the Customs, Tariff, Merchandise Marks, and other enactments, and that the sheds will be under the joint locks of the Custom House and the Harbour Trust Board, deliveries being made by the Harbour Trust Board in the presence of the "pass" clerks of the Custom House or the authority of passes issued by the Collector or his Deputy. The necessary accommodation will, it is understood, be also provided for the staff required to be located in the sheds. If these details are arranged for by the Harbour Trust Board, it seems to me that the proposals may be accepted.

Resolution—Mis. No. 4676, dated 5th November 1895.

Submitted to Government with reference to G.O., Mis. No. 2911, Revenue, dated 20th July 1895, and R. No. 1530, Revenue, dated 24th September 1895.

2. With reference to paragraphs 12 and 13 of the Harbour Improvement Committee's report, the Collector reports that no other suitable site for the public warehouse is at present available. The Chairman of the Harbour Trust Board has, however, in his letter to Government, undertaken to provide warehouses.

3. With reference to paragraph 15 of the report, the Board of Revenue supports the recommendation of the committee to adopt a procedure similar to that in force in Bombay. The report forwarded by the Collector of Customs, Bombay, with his letter, dated 21st August 1895, forming an enclosure to the letter of the Collector of Sea Customs, Madras, dated 20th September 1895, No. 4493-G., makes the matter clear.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department,
with Government Register No. 1070 and enclosures (returned).

Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 154, Revenue, dated 15th January 1896.

It appears from the correspondence submitted to Government with Board's Proceedings, Mis. No. 4156, dated 14th October 1893, that the three local firms representing the owners of the regular liners are unwilling to land cargo under section 85 of the Sea Customs Act in their capacity as ships' agents, or, as suggested by Government in G.O., Mis. No. 4824, dated 4th November 1892, to employ the Harbour Trust Board as their agents for landing. It follows, therefore, that the procedure in force at the docks in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85.

2. It was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892 (*vide* papers printed in G.O., No. 201, dated 28th February 1893), and the Board of Revenue is requested to state how it proposes to overcome the difficulty now and whether the firms concerned are now willing to land goods under section quoted.

3. The question of completing the Government Warehouse would seem to depend upon the answer to this inquiry.

(True Extract.)

(Signed) E. GIBSON,
Secretary to Government.

To the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3268, Revenue, dated 14th August 1896 :—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 2692, dated 26th June 1896 :—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 27th February 1896, No. 1186-G. :—

With reference to Board's Proceedings, Mis. No. 248 * (Separate Revenue), dated 20th January 1896, I have the honour to forward herewith, for the information of the Board and Government, a copy of the letters as per margin † from Messrs. Binny & Co., Arbuthnot & Co. and Gordon, Woodroffe & Co., who are the agents of the regular home lines, from which it will be seen that they are now, as in 1892, decidedly opposed to entrusting

* Referring to the Collector of Sea Customs, Madras, for reports, G.O., Mis. No. 154, (Revenue), dated 15th January 1896.

† Dated 10th, 12th and 14th February, respectively.

their landing to any agency outside their own control, or to land under section 85 of the Sea Customs Act in their capacity as ships' agents.

2. The reason for this is obvious, as the arrangement would tend to bind the agents to discharge all claims for shortage and damage preferred by importers, leaving them (the agents) to recoup themselves as best they can from those directly responsible, although the goods may have left the ship's tackle intact. The only way out of the difficulty therefore, is for the Harbour Trust Board by a special agreement with the agents, to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition at any wharf belonging to the Trust, and taken into their sheds. A receipt will, of course, be passed by the Trust to the master of the vessel for all such goods as are landed in their original or good condition, while all damaged packages will at once be taken to a separate strong room, to be surveyed in order to fix responsibility. This is briefly what is required, and the Chamber of Commerce may be addressed in the matter of arranging details.

3. From the replies received, the agents do not appear to appreciate the difference between landing under the two sections quoted. They seem to think that landing under section 83, as at present, should not interfere with the proposal of the Harbour Improvements Committee that the goods so landed may be stored in sheds belonging to the Trust, and the Trust be allowed to have the custody of them. This arrangement, it will however be observed, is only permissible and specially provided for by section 85.

Enclosures.

From GORDON, WOODROFFE and Co., Agents, "Clan," "Hansa" and Hamburg, Calcutta Lines, to the Collector of Sea Customs, dated Madras, 14th February 1896.

We have the honour to acknowledge receipt of your No. 714-G of 6th instant, and in reply to inform you that so far as we can see the circumstances under which cargo is landed here now are the same as those existing when we wrote to you on the same subject in 1892. We therefore beg to confirm our letter, dated 20th December of that year.

2. We are, we must confess, at a loss to understand why the proposed erection of new customs sheds should alter in any way the routine of water and land carriage from what presently obtains in the transport of goods to the existing Custom House.

From Messrs. BINNY and Co., to the Collector of Sea Customs, dated Madras, 10th February 1896.

We have the honour to acknowledge receipt of your No. 713-G. of 6th instant, regarding a proposal before Government for the erection of Customs sheds on the beach for the reception, storage and delivery of all foreign cargo and enquiring whether we are prepared to employ the Harbour Trust Board as our landing agency, and in reply have to say that we are now, as in 1892, when the matter was brought up strongly opposed to entrust the landing to any agency outside our own direct control and from which we should have no guarantee that the quick despatch of steamers for which we act as agents would be secured.

2. It is not quite apparent to us under what clause in the section quoted in yours under reply (section 85 of Act VIII of 1878) it is proposed to give the Harbour Trust Board the necessary authority as the section above referred to does not appear to empower any such body to undertake the landing of cargo, nor is the landing of cargo in boats done by the Bombay Harbour Trust Board.

3. In any case the Madras Harbour Trust Board is not authorised by its Act to undertake landing and shipping of cargo, as has been already decided by the Advocate-General.

4. Furthermore the Harbour Improvements' Committee made no recommendation that the Harbour Trust Board should undertake such work nor does it appear what connection there is between section 85 and the landing being conducted by the Harbour Trust Board.

From Messrs. ARBUTHNOT and Co., to the Collector of Sea Customs, dated Madras, 12th February 1896.

We have the honour to acknowledge your letter, No. 712-G., dated 6th instant, and in reply beg to inform you that, for the reasons stated in our letter of the 6th December 1892, we are not prepared to undertake to land under section 85 of the Sea Customs Act VIII of 1878.

2. We submit that in order to carry out the suggestions of the Harbour Trust Board it is not necessary that steamer agents should agree to land under the section quoted (section 85). All that is necessary is that the sheds contemplated should be declared to be part of the Custom House accommodation and that the Collector should, if necessary, delegate part of his control over them to the Chairman of the Harbour Trust Board.

3. Sections 83 and 85 of the Sea Customs Act are altogether different in their scope, and the latter is not suited or applicable to a port like Madras.

Copy of paragraph 4 of the letter from the Chairman, Harbour Trust Board, Madras, dated 9th December 1890, No. 837.

* * * * *

4. With a view however to the settlement of claims by consignees the following practice has arisen :—

(*a*) If noted as discharged in bad order the ship pays any claim; (*b*) If not so noted when discharged, but if landed in broken condition and so reported, the landing contractors pay; and (*c*) should any package be received by the Harbour Trust Board without any report as to its being in a broken or repacked condition, and is afterwards found to be so, the Harbour Trust Board meets the claims for shortage provided the package has not been made over to the custody of the Sea Customs Department and received as in good order.

Read—again the following Board's Reference thereon, dated 23rd March 1896, to the Collector of Sea Customs, Madras.

The course proposed in paragraph 2 of the Collector's letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage before the Harbour Trust Board takes charge of the goods on the pier or beach.

2. The landing of the goods under section 85 does not, however, appear to be indispensably necessary. The present practice is understood to be for landing contractors (as agents of consignees) to land goods on the pier or on the beach, and for the Harbour Trust Board to remove the goods thence to the Custom House. The master of the ship is responsible for damage or short delivery up to the time of discharge from the ship, the landing agents from the time of discharge from the ship to the time of landing on the pier or on the beach, and the Harbour Trust Board up to delivery in the Customs House—*vide* paragraph 4 of Harbour Trust Board Chairman's letter in Board's Proceedings, Mis. No. 3730 (Separate Revenue), dated 19th December 1890. The Chairman of the Harbour Trust Board has stated that, if the custody of goods landed be transferred from the Collector to the Harbour Trust Board, the Trustees would be prepared to accept the responsibility to construct sheds to receive all goods as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Sea Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act. The exceptions to this course would be the particular cases mentioned in section 83, in which the Customs Collector should take charge of the goods owing to delay in landing by the consignees and grant receipts. If such cases are not likely to be numerous, the course above stated may be suggested for the approval of Government owing to the objection of the agents of vessels to land goods under section 85. There can be no objection to the Harbour Trust Board taking charge of the goods in all other cases as proposed by it if the sheds to be constructed for keeping the goods in are declared part of the Custom House as suggested in G.O., Mis. No. 4824, dated 4th November 1892. The Collector is requested to state whether the particular cases in which he will have to take charge of the goods under section 83 will not be very rare, and whether the adoption of the course indicated above will not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st April 1896, No. 2107-G :—

With reference to Board's Reference, dated 23rd March 1896, on General Register No. 2064, I have the honour to state that, so far as this department is concerned, there is no objection to the arrangement therein proposed provided there is no legal difficulty, and the proposals made in my letter No. 4980-G, dated 21st October 1895, are accepted by the Harbour Trust.

2. At present goods from foreign ports are landed for the consignees by the several steamer agents' dubashes, and on their arrival at the pier or beach are taken charge of by the Harbour Trust, and conveyed by them, as porterage contractors, to the Custom House where they remain in the joint custody of the Trust and the Customs Collector, the latter holding the goods for the master, subject to a lien for freight, boat hire and other charges that may be due thereon under section 83 of the Sea Customs Act. It is, therefore, doubtful whether the Collector can legally delegate any portion of his control over the goods vested in him by the Act to the Chairman, Harbour Trust Board, as contemplated by the Board in its reference above quoted. It is accordingly suggested that the opinion of the Advocate-General be taken on the point at issue, especially as the Harbour Trust at present merely intervene as porterage contractors.

3. In this connection I beg to solicit the Board's attention to paragraph 6 *et. seq.* of my letter No. 1874-G, dated 30th August 1892, in which this subject was fully gone into, and paragraph 5 of their Resolution thereon, Mis. No. 3646, dated 21st September 1892.

4. The Board is aware that, though section 85 of the Sea Customs Act has been extended to this port, its provisions have never been enforced owing to the refusal of steamer agents to act under it and the Chairman, Harbour Trust Board, has already pointed out that the Harbour Trust cannot undertake the landing of goods—*vide* my letter No. 1709-G, dated 12th October 1893, read in Board's Proceedings, Mis. No. 4156, dated 14th October 1893.

5. It would seem also desirable to consult the Chamber of Commerce and the Trades Association as representing the mercantile and trade interests before passing final orders on the subject.

Resolution—Mis. No. 2692, dated 26th June 1896.

Submitted to Government with reference to G.O., Mis. No. 154, Revenue, dated 15th January 1896.

2. In paragraph 3 of G.O., No. 190 (Marine), dated 1st July 1895, Government asked for the views of the Harbour Trust Board on the suggestion of the Harbour Improvement Committee to transfer the custody of goods landed at Madras from the Collector of Sea Customs to the Harbour Trust Board. That Board stated in reply that if Government should approve of the transfer the trustees would be prepared to accept the responsibility to receive general cargo as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act.

3. On the above proposals being referred to the Collector of Sea Customs for remarks, he stated that the procedure proposed to be adopted by the Chairman of the Harbour Trust Board might be approved, but that a separate landing account would have to be maintained by the Customs Department independently of that kept by the Harbour Trust Board, that the Board would have to account for all cargo received by it according to the Customs accounts, that Customs officials should have free access to all parts of the Harbour Trust Board's sheds for the purpose of weighment, examination, &c., of goods in order to carry out the provisions of the Customs Tariff, Merchandise Marks and other enactments, that the sheds should be under the joint

locks of the Customs Collector and the Harbour Trust Board, deliveries being made by the Board in the presence of the pass clerk of the Custom House on the authority of passes issued by the Collector or his Deputy, and that the necessary accommodation should be provided for the Customs staff required to be located in the sheds. The Collector's report was submitted to Government in Board's Proceedings, Mis. No. 4676, dated 5th November 1895.

4. Government in its order under reply remarked that, as it appears that the local firms are still unwilling to land cargo under section 85 in their capacity of ships' agents or to supply the Harbour Trust Board as their agents for landing, it follows that the procedure in force in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85, and that it was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892—*vide* G.O., No. 201, Revenue, dated 28th February 1893. Government therefore requested the Board to state how it proposes to overcome this difficulty now.

5. With reference to this, the Collector of Sea Customs stated that the agents of the regular home liners are decidedly opposed to entrust the landing to any agency outside their own control or to land under section 85 of the Sea Customs Act, and that the only way out of the difficulty is for the Harbour Trust Board by a special agreement with the agents to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition, at any wharf belonging to the Board and taken into its sheds, and to pass a receipt, to the master for all such goods as are landed in their original or good condition, while all damaged packages would at once be taken to a separate strong room to be surveyed in order to fix responsibility. He suggested that the Chamber of Commerce might be addressed in the matter of arranging details.

6. This Board then pointed out to the Collector that the course suggested in his letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage occurring before the Harbour Trust Board takes charge of the goods on the pier or the beach, and remarked that goods might continue to be landed by the agents of consignees, and after being landed might be received by the Harbour Trust Board, which would then follow the course indicated in paragraph 2 *supra*. It was remarked, however, that the foregoing procedure would not be applicable to the particular cases mentioned is section 83 in which the Customs Collector has to take charge of goods owing to delay on the part of consignees in landing them. The Collector was requested to state whether such cases would not be very rare, and whether the adoption of the course stated above would not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

7. The Collector now states that, so far as his department is concerned, there is no objection to adopting the above course provided there is no legal difficulty, and that his former proposals noticed in paragraph 3 above are accepted by the Harbour Trust Board. He further observes that at present goods from foreign ports are landed for the consignees by the dubashes of the several steamer agents, that on their arrival at the pier or beach they are taken charge of by the Harbour Trust Board and conveyed by it as porterage contractor to the Custom House where they remain in the joint custody of the trust and the Customs Collector, and points out that, as the latter sometimes holds, the goods for the master of the vessel subject to a lien for freight, boat hire and other charges which may be due thereon under section 83 of the Sea Customs Act, it is doubtful whether the Collector can legally delegate any portion of the control over the goods vested in him by the Act to the Chairman of the Harbour Trust Board. He suggests a reference on the point to the Advocate-General, and draws attention to paragraph 6 of his letter, No. 1874-G., dated 30th August 1892, printed on pages 4 to 9 of G.O., No. 201, Revenue, dated 28th February 1893.

With reference to these remarks of the Collector, it is observed that the last clause of section 83 under which the master of a vessel gives notice that the goods landed are to remain subject to a lien for freight and other charges and the Customs Collector holds the goods until he receives notice that the charges have been paid, refers only to the particular cases in which goods are not landed by landing contractors (as agents for consignees) but by the master or the Customs officer on the master's

application. Such cases, it is considered, will be very few and can, if necessary, be specially dealt with. In ordinary cases in which goods are landed by dubashes as agents of consignees the Sea Customs Act does not provide for the interference of the Collector with regard to the payment of freight and other charges by the consignees. If official interference is necessary, that provided by section 52 of the Madras Harbour Trust Act II of 1886 may be availed of.

The objections stated in paragraph 6 of the Collector's letter of 1892 referred to are not applicable to the present proposals. The proposal which was objected to in 1892 was to store free goods in the Harbour Trust Board's sheds and dutiable goods in the Custom House, while the present proposal is to store the whole of the cargo in the Harbour Trust Board's sheds which will be constituted a part of the Custom House.

8. When the new scheme regarding Harbour improvements is carried out, it will be out of the question to use the present Custom House for the storage of goods pending clearance. Whatever form the proposal ultimately takes, it will, the Board believes, include boat basins, wharves with convenient sheds alongside and direct connection with the Madras, South Indian and East Coast Railways and the Buckingham Canal, and to drag goods away from these advantages up to the Custom House would be an outrage on the trade of the port. The course which the Board has indicated above seems to be the only way of meeting the difficulty. The Board would treat the Harbour Trust Board as contractors for the safe custody of goods in charge of the Customs Collector in the same way as the Collector of Customs now treats it as porterage contractor, and would constitute the premises provided by it a part of the Custom House, taking all steps necessary to make it so in fact as well as in name by posting customs guards at the entrance and adopting similar precautions. There seems to be no reason why in the few cases in which the Collector has to take charge of goods under section 83 of the Sea Customs Act the Harbour Trust Board should not do all that is necessary for him as its premises will form part of the Custom House. As the Harbour Trust Board has agreed to be responsible for all goods delivered into its charge, there appears to be no objection to this course unless some legal one exists. It might be advisable to consult the Advocate-General on this point and also as to the necessity of requiring the Harbour Trust Board to acknowledge its responsibility by the execution of such legal documents as may be deemed necessary. The possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law but under an ordinary contract. The Harbour Trust Board would of course expect some return for the expense which it would incur in erecting the necessary sheds. The Board begs to suggest that its views on this point should be asked for.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 3268, dated 14th August 1896.

The Proceedings read above will be forwarded to the Hon'ble the Advocate-General for favour of opinion as to whether there is any legal objection to the adoption of the course advocated by the Board of Revenue in paragraph 8 of its Proceedings and if there is none whether the Harbour Trust Board should be required to acknowledge its responsibility in regard to goods delivered to its charge by the execution of a legal document.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

To the Hon'ble the Advocate-General (through the Government Solicitor),
with enclosures (to be returned).
Copy to the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3286, Revenue, dated 15th August 1896:—

Read—the following G.O., No. 503, Marine, dated 16th July 1896:—

Read—the following letter from the Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 14th July 1896:—

With reference to my letter of the 24th August 1895, in which I drew the attention of Government to paragraph 15 of the Report of the Harbour Improvements Committee appointed under G.O., No. 47, Marine, dated 9th February 1895, which paragraph contained a strong recommendation in favour of the adoption at Madras of the procedure existing at Bombay "by which the Harbour Trust Board would remove into their sheds all cargo, as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office," I have the honour to inform you that the Chamber has desired me to again express a hope that early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee.

Read—again the following letter from the Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 11th July 1896, No. 1471:—

In view of a recent block of work upon the iron screw pile pier, when the appliances thereon proved inadequate to meet the import and export movements of cargo proceeding simultaneously, the Presidency Port officer in a letter dated 11th June suggested that two low pontoon jetties, extending from the beach into the harbour, should be constructed to relieve the traffic on the pier.

2. This proposal was considered by the Trustees at their meeting of the 19th June, and I submit herewith copy of resolution then passed thereon.

3. The question of the custody of the goods when landed, which was so strongly recommended by the Harbour Improvements Committee, should be vested in the Harbour Trustees, as at Bombay, is regarded by the Board as the key of the whole situation and it therefore hopes that Government will see its way to pass early orders on this point, for unless the proposals of the Chamber of Commerce are sanctioned, the Board will not be justified in incurring any heavy outlay of Harbour Trust Funds.

Enclosure.

Extract of Proceedings of the Trustees of the Harbour of Madras at a meeting held at the offices of the Board on Friday, the 19th day of June 1896.

* * * * *

5. Read letter, No. 625-M, dated 11th June 1896, from the Presidency Port Officer suggesting additional temporary facilities for landing cargo.

Read minutes by trustees.

Resolved that the Chairman is invited to address Government with reference to the proposed boat basin and improved Custom House arrangements recommended by the Harbour Improvements Committee appointed by Government under G.O., No. 47, Marine, dated 9th February 1895.

* * * * *

(True Extract.)

(Signed) C. PINSENT,
Secy., Harbour Trust Board.

Order—No. 503, Marine, dated 16th July 1896.

Communicated in continuation of paragraph 4 of G.O., No. 119, Marine, dated 26th February 1896, to the Revenue Department, for early consideration of the question of the transfer to the Harbour Trust Board of the custody of imported goods.

(True Extract.)

(Signed) C. T. R. SCOVELL,
for Secretary to Government.

To the Revenue Department.
,, the Chairman, Harbour Trust Board.

Order—Mis. No. 3286, Revenue, dated 15th August 1896.

Recorded with reference to G.O., Mis. No. 3268, dated 14th August 1896.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

Read—again the following G.O., Mis. No. 3996, Revenue, dated 5th October 1896 :—

Read—endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 26th August 1896, No. 405, forwarding the following with reference to G.O., Mis. No. 3268, Revenue, dated 14th August 1896.

[*Re* the proposed transfer of the custody of imported goods from the Collector of Sea Customs to the Harbour Trust Board.]

Opinion.

The Board of Revenue propose that the sheds which the Harbour Trust Board purpose building shall be declared to be part of the Custom House; that all cargo shall be stored therein; and that the Harbour Trust Board shall be responsible for the safe custody of such of the goods so stored as are in the custody of the Collector of Sea Customs. The Harbour Trust Board are willing to accept this responsibility. I am asked whether there is any legal objection to the proposed arrangement, and whether it is necessary to obtain from the Harbour Trust Board documents acknowledging their responsibility if the arrangement be carried out.

2. The Collector of Sea Customs cannot legally transfer his custody of dutiable goods to the Harbour Trust Board so as to relieve himself of the duty of safe-guarding them; and the proposed arrangement is not intended, I understand, to effect such a transfer. The Collector of Sea Customs is to retain charge of the goods and do every thing necessary to ensure their safe custody in the premises which will form part of the Custom House—"in fact as well as in name." The Board of Revenue "would treat the Harbour Trust Board as contractors for the safe custody of goods in the custody of the Customs Collector," in other words would treat them as bailees of goods in the Custom House. The Sea Customs Act, 1878, does not allow of joint control over such property, and the Harbour Trust Act, 1886, does not empower the Board to become bailees of such goods. The Board of Revenue admit that "the possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law, but under an ordinary contract." A contract of bailment by which the bailor is to retain in his own premises absolute control over the property bailed, and the bailee is to be responsible to the bailor for the safe custody of that property is unknown to the law.

3. I am of opinion that on legal grounds the proposed arrangement is objectionable.

Madras, 26th August 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

In connection with the proposals for the improvement of the Madras Harbour it has been suggested that the Harbour Trust Board should discharge for the port at Madras the same duties which the Port Trust in Bombay does for that port, viz.,

storage and safe custody of goods. To this proposal is raised the legal objection that the Collector of Sea Customs cannot make over to the Harbour Trust Board the custody of the goods entrusted to him by law. The opinion of the Honourable the Advocate-General will be asked for on the following questions :—

(1) When are goods landed under the Sea Customs Act in the custody of the Sea Customs Collector, Madras ?

It would seem that under the Act goods can come into the custody of the Sea Customs Collector only under sections 83, 84 and 85 (*a*), which latter section, however, has not been extended to Madras.

(2) What is the nature of his custody in regard to such goods as are not placed in his custody in accordance with sections 83, 84 and 85 (*a*) ?

It may be said that, though such goods may not be in his actual custody, they are in his custody at least constructively, the owner or the Port Trust, or whoever it may be, being in actual custody on his behalf. This would seem to follow from the provision of section 76 as to the delivery of the boat-note to the Customs Officer on the arrival of the boat.

On the other hand, it may be said they are not in the possession of the Customs department, nor are they held on its responsibility. They are held either by the master of the ship or by the owner, subject to the *control* of the Customs department, but only to the extent and in the manner defined by law and enforced by specific penalties in the Act. Within the limits laid down, the owner may deal with them as he pleases and as freely as if the Customs control did not exist. The Customs department is in no sense a "bailee" of the goods (*vide* section 148 *et seq.* of the Contract Act IX of 1872). It follows that the owner or master may store the goods when landed as he pleases within the conditions prescribed by law, or may employ any agency he pleases to land, move or otherwise deal with the goods.

(3) When such goods as are referred to in the last question are landed under Customs supervision and are received and stored on landing by any agency such as a Port Trust, is such agency a bailee of the goods for the owner of the goods or master of the ship, as the case may be, or for the Customs department ?

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Honourable the Advocate-General, through the
Government Solicitor, with one printed enclosure to be returned.

Read—also endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 19th October 1896, No. 550, forwarding the following with reference to G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

[*Reference.*—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.]

Opinion.

The importation of dutiable goods creates a debt by the consignee to Government to the extent of the duties leviable upon the goods. Government has a lien on the goods for the unpaid duty. "The right of the Government to the duties does not arise from the possession of the goods, nor is it confined to the goods."(*a*) For example in cases to which section 39 is applicable though the lien is lost, the claim can be enforced in the manner prescribed.

(*a*) Elwe's "Law of the Customs," page 15, section 31.

In the interests of trade, the Legislature have empowered the Collector in certain cases to abandon the lien and to accept in its place a bond and securities prescribed, *e.g.*, in section 41.

Importation is complete as soon as the goods are brought within the limits of the port with the intention of unlading them.

2. The Collector's custody of dutiable goods extends throughout the period during which the lien attaches. Where goods are in the Custom House or in a warehouse, his custody is

actual; where they are entered for transportation or exportation, they are during transit at least constructively in his custody until the duty thereon is paid. He is in no sense a bailee of the goods, and is not responsible to the consignee for any loss which is not due to his personal misconduct or neglect in the discharge of his duties.(*b*) No dutiable goods can be taken out of the Collector's custody until the duties have been fully paid or have been duly secured by bond in the manner prescribed by law. The manifest by the master (*c*) gives the Custom's Collector the information he must have before he can issue his permit, without which the unlading of goods is not allowed in order to prevent the unlawful importation of goods.(*d*)

(*b*) Section 197.

(*c*) Sections 53 to 60.

(*d*) Sections 81, 82 and 85. In the order of Government above referred to, it is said that section 85 has not been extended to Madras, but see Notification No. 22, dated 3rd January 1885.

When the permit has been granted and the goods have been landed, the consignee must deliver to the Collector a bill of entry which is *primâ facie* evidence of their value in order that the Collector may assess the duty payable thereon.(*e*) When the duty is paid the lien is at an end, and the consignee is entitled to remove the goods.(*f*)

(*e*) Sections 29 and 86.

(*f*) Section 89.

In order to encourage trade and commerce, and to meet the convenience of importers, while, at the same time, securing the enterests of Government, the system of warehousing was adopted by the Legislature.(*g*) The liberty to warehouse dutiable goods is a privilege conceded, not a contract entered into by Government. To prevent an abuse of the privilege, the time during which goods may be deposited in a warehouse without duty being paid thereon is limited. The lien of Government on the goods warehoused continues until payment of the duties, and the goods remain in the custody of the Customs Collector. They are forwarded to the warehouse in charge of one of his officers,(*h*) and remain there under his control.(*i*) The control or custody may pass from one Chief Customs Officer to another under the provisions of sections 104 to 108, but the lien of Government still attaches to the goods, and their custody, at least constructively, remains in the Customs Officer.

(*g*) Chapter XI.

(*h*) Sections 93 and 94.

(*i*) Sections 97 to 102.

3. By the Act, the Collector is required—

(1) to *detain* goods coming within the provisions of Chapter IV;

(2) to *detain* goods which have been undervalued by the consignee; (*j*)

(*j*) Section 32.

(3) to *take charge of* and grant receipts for goods deposited with him under sections 83 and 84, or discharged under section 85 (*a*).

The provisions of Chapter IV were framed on grounds of public policy, and have nothing to do with any lien possessed by Government, or custody by its servant.

The provisions contained in section 32 do relate to such lien and custody, the existence of which is of course recognised.

The provisions of section 83 in no way deal with, or affect the Government's lien or the Collector's custody. That lien and custody are unaffected by sections 84 and 85.

4. My answers to the question put to me are as follows:—

(1) In my opinion the Collector's custody of dutiable goods *for the purpose of securing the payment of the duty leviable thereon* lasts as long as the lien of Government exists, viz., from importation till clearance.

(2) His custody is that of a servant of Government duly empowered by the Act to enforce the lien of Government and to collect the duty or debt due to Government by the consignee. He is in no sense a bailee of the goods in his custody. In my opinion dated the 26th August, I said that he cannot delegate his powers of control over them.

(3) In the view I take, the question of bailment cannot arise. If the buildings be declared to be part of the Custom House under section 11 (*f*), the owner of the buildings would not be a bailee. The goods would be in the Custom House in the sole and absolute control of the Collector.

If the buildings be appointed public warehouses under section 15 (*k*) or be licensed as private warehouses under section 16, the rules relating to such warehouses will apply. Consignees cannot be compelled to warehouse their goods, but if they desire to do so, the goods "shall be forwarded in charge of an officer of Customs" to the warehouses, where they will be deposited and will remain at the risk and expense of the owners, but will continue to be in the possession and control of the Collector. The extent of the responsibility of the warehouse-keeper is laid down by section 123. I do not understand that there is any intention to declare the Port Trust buildings "public warehouses" when they are erected. So long as goods are not "cleared," the owners cannot store

(*k*) By Notification, dated 11th December 1883, under section 14, Madras was declared to be a Warehousing Port.

them where they please. They must make entry of the goods for "home consumption" or "warehousing." (*l*) If they make entry for "home consumption," they must proceed to "clear" them by paying the duty thereon. (*m*) Until they do so, the goods remain in the custody of the Collector *in the Custom House*. If the goods are entered for warehousing, (*n*) they must be assessed, and then be warehoused *in some warehouse* "appointed or licensed under this Act." (*o*)

(*l*) Section 86.

(*m*) Sections 87 and 89.

(*n*) Section 87.

(*o*) Section 90.

Madras,
17*th October* 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Read—also the following letter from the Chairman, Chamber of Commerce, Madras, to the Private Secretary to His Excellency the Governor, dated Madras, 23rd October 1896:—

I have the honour, on behalf of the Chamber, to request that you will place the following statement before His Excellency the Governor, in the hope that a perusal of the facts set forth will enable His Excellency to appreciate the force of its contention that, in respect of the matters referred to, the Madras Government has not accorded to the Chamber's representations that consideration to which they are entitled. The Chamber ventures to hope that His Excellency will receive a small deputation to discuss the matters in person, as it is confident that its representations will meet with sympathetic consideration, and so conduce to a better understanding between the Government and itself:—

Madras Harbour Improvements.—The first subject to which the Chamber would direct His Excellency's attention is that of Madras Harbour Improvements. As His Excellency is aware, the Harbour Improvements Committee—appointed under G.O., No. 47, Marine, dated the 9th February 1895—in paragraph 15 of its report, made a strong recommendation in favour of the adoption in Madras of the procedure existing in Bombay, "by which the Harbour Trust Board would remove into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months deliver to the Collector any goods not then cleared through the Sea Customs office." On the 14th July last, the Chamber addressed Government expressing a hope that "early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee"—a hope, it should be mentioned, which was expressed in the Chamber's letter to Government, dated the 24th August 1895. Some 20 months have elapsed since the above recommendation of the Harbour Improvements Committee was made, and yet nothing has been done, for the matter, as stated in G.O., No. 1670-R., dated the 27th August 1896, "is under reference to the Honourable the Advocate-General." The Chamber ventures to hope that His Excellency will, as far as possible, expedite the disposal of this most important subject which so vitally affects the prosperity of this port. The Chamber does not overlook the weighty questions that may have to be decided, but it trusts that something may be done at an early date to give effect to the recommendations of the Harbour Improvements Committee so as to enable the Harbour Trust Board to arrive at a decision in connection with the other proposals of the committee.

* * * * *

Order—No. 682, Revenue, dated 1st December 1896.

Miscellaneous.

His Excellency the Governor in Council is of opinion that it is desirable to allow the Harbour Trust Board to undertake the storage of goods for the trade of Madras in the same manner as the Bombay Harbour Trust has done for Bombay, and that the Harbour Trust Board should be allowed to provide the buildings necessary for such service.

2. It seems to His Excellency in Council, however, that under the existing Customs law, the Harbour Trust Board can only be allowed to undertake this duty as servants of the Sea Customs authorities. Under the Advocate-General's opinion read above there can be no dual control; hence the custody of the Harbour Trust Board must be that of the Sea Customs authorities. Since the Customs authorities are not responsible for any loss or damage except under section 197 of the Act, the mercantile community will have no greater remedy against the Harbour Trust Board than they have now against the Customs authorities for any loss or damage occurring after the goods have been placed in the custody of the Harbour Trust Board for storage at their sheds. It also follows that the Harbour Trust Board will have no lien for any fees due to them for storage and will not be able to detain the goods for such dues. It will be necessary, however, to make such arrangements that the control of the Sea Customs authorities shall be complete and sufficient for the due realization of the Customs revenue, and for this end it will be necessary to declare the Harbour Trust sheds a part of the Custom House. Storage fees can then be realized under section 199 of the Act; such fees being made over to the credit of the Harbour Trust Board.

3. In view to definitely settling the relations between the Harbour Trust Board and the Sea Customs authorities, His Excellency the Governor in Council thinks it necessary that definite rules laying down the conditions on which the Harbour Trust Board may be allowed to undertake this service be drawn up in communication, if necessary, with the Government Solicitor and agreed on by the Sea Customs authorities and the Harbour Trust Board.

4. Before issuing final orders on this subject, however, His Excellency the Governor in Council thinks it desirable to forward to the Chamber of Commerce the material papers connected with this subject and to invite an expression of their views on the desirability of the above arrangement from the point of view of the convenience of the trade of the port.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Board of Revenue (Separate Revenue).
„ the Chamber of Commerce.
„ the Government Solicitor.
„ the Public Works Department.
„ Marine Department.

Exd. C. Rajagopaul.

70 Copies.

Government {1896} of Madras.

REVENUE.

Recd. } 1896. *Enclosures*
Regd. } *Spare copies*

G.O., No. 682, 1st December 1896.

Rev 137 w dy 6-1-97

DECEMBER.

Storage of goods.

Considering that the Madras Harbour Trust Board should be allowed to undertake the — for the trade of Madras in the same manner as the Bombay Harbour Trust has done, and to provide the buildings necessary for such service, that these sheds should be declared a part of the Custom House for the due realization of the Customs revenue and storage fees and that definite rules should be laid down for settling the relations between the Harbour Trust Board and Sea Customs authorities, and desiring to have the views of the Chamber of Commerce before passing final orders on the subject.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again G.O., Mis. No. 2911, Revenue, dated 20th July 1895.

Abstract.—Referring to the Board of Revenue for remarks proposal to abandon the present site of the public bonded warehouse for Madras.

Read—again the following G.O., No. 1530-R., dated 24th September 1895:—

Read—the following letter from the Hon'ble Mr. G. L. CHAMBERS, Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 24th August 1895:—

In paragraph 15 of its report, the Madras Harbour Improvements Committee, on the suggestion of the Chamber, "strongly recommended" the adoption in Madras of a system similar to that obtaining in Bombay; whereby the Harbour Trust Board would receive into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office.

2. The plans and estimates of scheme No. A-1, which was adopted by the Madras Harbour Improvements' Committee, and of certain new proposals will shortly be in the possession of the Harbour Trust Board, but no decision can be arrived at until Government has signified its acceptance or rejection of the above-mentioned proposals; in the former case the Board would have to provide the necessary Custom House accommodation, whereas in the latter case it would not have to do so.

3. As the question of the adoption of the new procedure was raised by the Chamber, I have the honour to request that the Government will be pleased to give a decision on this point as soon as possible, so that there may be no delay in the settlement of the question of the harbour improvements.

Endorsement No. 2022.

Referred to the Chairman, Harbour Trust Board, with advertence to paragraph 3 of G.O., No. 190, Marine, dated 1st July 1895, to which a reply is awaited.

Ootacamund,
30th August 1895.

(Signed) J. F. PRICE,
Chief Secretary.

Read—the following letter from H. LE FANU, Esq., I.C.S., Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 3rd September 1895, No. 2275:—

I have the honour to acknowledge the receipt of letter, dated 24th August, from the Chairman of the Chamber of Commerce, forwarded under your Endorsement No. 2022, dated 30th August, Current No. 671, herewith returned; and with reference thereto, and to paragraph 3 of G.O., Marine, No. 190, dated 1st July, to report that, should Government approve of the transfer of the custody of goods landed, from the Collector of Sea Customs to the Harbour Board, the Trustees would be prepared to accept the responsibility, and make the necessary arrangements, in any scheme for harbour improvements which may be ultimately adopted, with the approval and sanction of Government.

2. The procedure would be, for the Trustees to build substantial and secure sheds, into which the Traffic Department would receive general cargo, as landed, and grant receipts to the agents of steamers. A landing account would then be furnished to the Collector of Sea Customs, and the Board would be responsible that no package was delivered, except upon a pass order from the Collector or his Deputy.

3. Upon the expiration of four months from the date of entry of any vessel, any goods then remaining uncleared for home consumption, would be made over to the Collector of Sea Customs under section 88 of the Sea Customs Act.

4. The sheds built by the Board would have to be declared part of the Sea Custom-house under section 11.

5. The Board would also have to provide warehouses, for storing goods under section 96, subject to the rules relating to goods in a warehouse, as provided in the Sea Customs Act, and would generally have to conform to all provisions of that Act.

Enclosures.

Extract of Proceedings of the Trustees of the Harbour of Madras, at a meeting held at the offices of the Board on Friday, the 6th day of September 1895.

* * * * *

9. Read Endorsement No. 2022, dated 30th August, Current No. 671, from the Chief Secretary to Government forwarding in reference to paragraph 3 of G.O., No. 190, Marine, letter from the Chairman of the Chamber of Commerce, dated 24th idem, regarding the transfer of the custody of goods landed at this port, from the Collector of Sea Customs to the Harbour Trust Board.

Read printed draft letter addressed to the Chief Secretary to Government, No. 2275, reporting as directed.

Approved.

* * * * *

Endorsement No. 2220.

Referred to the Revenue Department for favour of early remarks.

Ootacamund,
20th September 1895.

(Signed) J. F. PRICE,
Chief Secretary.

Order—No. 1530-R., dated 24th September 1895.

Referred to the Board of Revenue, in continuation of G.O., No. 2911, dated 20th July 1895, for early remarks.

(Signed) E. GIBSON,
Secretary to Government.

Read—again the following G.O., Mis. No. 154, Revenue, dated 15th January 1896:—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4676, dated 5th November 1895:—

Read—again the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 4317, dated 9th October 1895:—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 20th September 1895, No. 4493-G.:—

With reference to Board's enquiry in Resolution, Mis. No. 3192, dated 29th July 1895, I have the honour to state that the new Public warehouse, the completion of which has been stopped, is conveniently situated for Customs purposes and if it is decided to abandon it, for reasons mentioned in paragraphs 12 and 13 of the committee's report, there is no other alternative but to continue the present system of licensing private warehouses, under section 16 of the Customs Act, until another site

equally advantageous is available. This matter may, however, be settled after the Harbour Trustees have decided what to do and probably their plans will show the way to a new bonded warehouse, if necessary.

2. With reference to paragraph 15 of the report, there is no objection to our adopting the Calcutta and Bombay system of receiving, handling and delivering cargo, through the Harbour Trust Board. In fact the Calcutta practice is identical with that followed here and a reference to the correspondence noted in the margin shows that in Bombay also goods landed on the wharf are received into the Port Trust sheds, but when a ship discharges into lighters in midstream under cover of boat notes, a proper tally is taken of the cargo by the Customs preventive staff before the goods are passed into the custody of the Trustees. This is in accordance with section 76 of the Customs Act.

Vide paragraph 14 of letter from Secretary, Bombay Port Trust, to the Secretary, Harbour Trust Board, Madras, No. 987, dated 22nd March 1893, printed on page 6 as appendix to committee's report. *Vide* latter portion of paragraph 2 of report accompanying Bombay Sea Customs Collector's letter, No. 11868-C., dated 21st August 1895.

3. There was a doubt felt at first as to whether the existing establishment engaged in the operations of gauging, testing, bonding and examining imported liquors would be sufficient to carry on the work independently in sheds apart from the office without adequate supervision. At present our establishment consists of a supervisor on Rs. 175 *plus* Rs. 25 carriage allowance to carry on work in fourteen private warehouses in Town and on the Mount Road, in addition to attending to Messrs. Best and Company's petroleum store occasionally and conducting the tedious operations of receiving and passing thousands of cases of kerosine oil from two warehouses in Rayapuram. The only assistance given him to do all this and to gauge, test and sample liquor in the Customs House sheds is a cooper on Rs. 15 and a gauger on Rs. 20.

4. I append in the margin a statement showing separately the duty derived from liquors at the Ports of Calcutta, Bombay and Madras during the years 1890–91—1892–93 with the cost of collection at Madras as that compared with Bombay.*

Ports.	Gross amount of duty collected.				Cost of establishment per mensem.	Percentage of establishment to total collections.
	1890–91.	1891–92.	1892–93.	Total.		
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Madras ..	10,20,759	9,52,709	9,68,076	29,41,544	,, 235	·024
Calcutta ..	16,12,130	16,00,443	16,76,054	48,88,627	..	..
Bombay ..	17,68,164	17,52,598	17,91,185	53,11,947	1,617	·091

* *Vide* Bombay Collector's letter, No. 12340-C., dated 31st August 1895, and enclosures.

5. The Collector of Calcutta is not able to give me the cost of establishment employed exclusively in gauging, testing, bonding and examining imported liquors, as the work is taken up at that port by one of the appraisers—*vide* his letter, No. 4909, dated 4th September 1895. In the proposition statement, dated 10th January 1895, for an increase of establishment, four appraisers were provided for and as we have now got that number, I propose to utilise the services of one of them at a time as they do in Calcutta until I can see the necessity for an increased staff to deal specially with spirits.

Enclosures.

From F. H. B. SKRINE, Esq., Officiating Collector of Customs, Calcutta, to the Collector of Sea Customs, Madras, dated 4th September 1895, No. 4909.

Referring to the enquiry contained in your telegram of the 29th ultimo, I have the honour to state that it is not possible to furnish any statement of the establishment exclusively employed in the gauging, testing, bonding and examining of imported liquors as these goods are dealt with generally as other importations by the entire staff.

2. The gauging and testing work is taken up in turn weekly by one of the appraisers, but the work of ascertaining the strength of spirits by distillation is one officer's duty.

3. The bonding staff is similarly not employed for liquors especially, but attends to all bonding operations, whether of liquors, hardware, salt, etc., and is supervised by an officer who, in addition to these functions, is accountant of the establishment.

4. Under these circumstances I have mentioned, I fear that any attempt to enter into details of the cost of establishment for your guidance would be misleading.

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 31st August 1895, C. No. 12340.

With reference to your telegram of the 29th instant, I have the honour to forward a statement showing the details of establishment therein asked for.

Gauging Department.

		Rs.	
1	head gauger	350	
1	2nd ,, ...	300	
1	3rd ,, ...	225	
1	4th ,, ...	150	
1	5th ,, ...	125	
1	6th ,, ...	100	
1	7th ,, ...	80	
1	8th ,, ...	70	
1	gauger's clerk	50	
1	laboratory attendant	30—50	
1	do. hawal	10	
6	peons at Rs. 9½ each	57	
17		Total ...	1,567

Bonding Department.

		Rs.	
1	clerk	50	50
18		Total ...	1,617

From J. M. CAMPBELL, Esq., I.C.S., C.I.E., Collector of Land Revenue, Customs and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 21st August 1895, C. No. 11868.

With reference to your letter, No. 3612-G., dated the 8th instant, I have the honour to forward a copy of the report No. 871 of the 16th idem, of the Superintendent, Preventive Service, which gives the information required by you.

From J. WALSH, Esq., Superintendent, Preventive Service, to the Acting Collector of Sea Customs, Madras, dated 16th and 17th August 1895, No. 871.

In reply to the letter from the Collector of Customs, Madras, the Superintendent begs to say that the imposition of Customs duty has made no change as to the landing, storage, custody and delivery of goods, either free or foreign, so far as the Customs department is concerned. Every thing connected with the landing and importing is done under Customs supervision, so far that the Preventive department of the Custom House see that all cargo manifested is accounted for. When a vessel is discharged no matter where she is from, Preventive officers check the manifest and send the import department a statement of shortages and excesses. The import department then calls on the agents of the steamer to account for the shortages and enter the excesses on the ships' manifest, if there are any, for it is responsible that every item on the manifest is properly cleared. Beyond this a Government department has nothing to do with a ship's cargo, it is manipulated by the consignee or his muccadum. See section 196 of the Sea Customs Act.

2. At the docks, the port trust lands, stores and delivers cargo, with the exception of specie and jewellery, which are taken delivery of by consignees direct from the ships. Goods in the sheds are in the charge of the trust alone, there is no such thing as joint custody here or elsewhere. The delivery is only made on the importer producing an "out-of-charge" note, that is to say, out of Customs charge. The out-of-charge note is only given when the Assistant Collector in charge of the docks is satisfied that the goods have been examined either actually

or by invoice. In the docks in cases where cargo is not discharged on to the quay but is put out overside for some bunder, or for transhipment. Preventive officers tally it and grant boat-notes. All cargo from foreign ports landed at the various wharves or bunders from a ship discharging in the stream is tallied by Customs officers placed on board for that purpose. The landing, storage and custody of all such cargo is done by the vessel's agent, or the consignee's muccadum. The Customs officers confine themselves to seeing that the goods do not pass beyond Customs limits without complete import documents, by which free goods as well as dutiable, must be covered.

3. Under section 83 of the Customs Act goods, principally specie and jewellery, are sometimes made over to the Customs Collector, and in such cases the Superintendent has the custody of them and sees to the delivery. But this is such a small business that it scarcely falls, the Superintendent thinks, within the question from the Collector of Madras. Goods taken charge of under section 88 are likewise in our custody as unclaimed, but these are not the cases the Superintendent thinks the enquiry is about.

Resolution—Mis. No. 4317, dated 9th October 1895.

The Collector's remarks in paragraph 1 of the letter read above are not clear. He is requested to state definitely whether no other suitable site for the public warehouse is at present available.

(True Copies and Extract.)

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

To the Collector of Sea Customs, Madras.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4979-G :—

In answer to Board's enquiry in Resolution, Mis. No. 4317, dated 9th October 1895, I have the honour to state that no other suitable sites for the public warehouse is at present available.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st October 1895, No. 4980-G :—

In returning the papers * referred for report under Board's Proceedings, Mis. No. 4286, dated 8th instant, I have the honour to submit the following remarks on the proposals now made by the Chairman, Harbour Trust Board, in addition to those contained in my No. 4493-G., dated 20th September.

* G.O., No. 1530-R, dated 24th September 1895, and enclosures.

2. The procedure proposed to be adopted by the Chairman may generally be accepted, but as the Customs Department is bound to maintain its own landing account independently with a view to adjustment of duty on missing or short-landed packages under clause 17, section 167 of Act VIII of 1878, and as the Collector has frequently to arbitrate, in cases of dispute, between Agents, Merchants, and the Harbour Trust Board, in order to fix responsibility and facilitate the disposal of claims, it is essential that he should maintain a separate landing account independently of that kept by the Harbour Trust Board. The Board would also have to account for all cargoes received by it according to customs accounts. As regards supervision, it is presumed that customs officials will have free access to all parts of the sheds for purposes of weighment, examination, &c., of goods, in order to carry out the provisions of the Customs, Tariff, Merchandise Marks, and other enactments, and that the sheds will be under the joint locks of the Custom House and the Harbour Trust Board, deliveries being made by the Harbour Trust Board in the presence of the "pass" clerks of the Custom House or the authority of passes issued by the Collector or his Deputy. The necessary accommodation will, it is understood, be also provided for the staff required to be located in the sheds. If these details are arranged for by the Harbour Trust Board, it seems to me that the proposals may be accepted.

Resolution—Mis. No. 4676, dated 5th November 1895.

Submitted to Government with reference to G.O., Mis. No. 2911, Revenue, dated 20th July 1895, and R. No. 1530, Revenue, dated 24th September 1895.

2. With reference to paragraphs 12 and 13 of the Harbour Improvement Committee's report, the Collector reports that no other suitable site for the public warehouse is at present available. The Chairman of the Harbour Trust Board has, however, in his letter to Government, undertaken to provide warehouses.

3. With reference to paragraph 15 of the report, the Board of Revenue supports the recommendation of the committee to adopt a procedure similar to that in force in Bombay. The report forwarded by the Collector of Customs, Bombay, with his letter, dated 21st August 1895, forming an enclosure to the letter of the Collector of Sea Customs, Madras, dated 20th September 1895, No. 4493-G., makes the matter clear.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department,
with Government Register No. 1070 and enclosures (returned).

Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 154, Revenue, dated 15th January 1896.

It appears from the correspondence submitted to Government with Board's Proceedings, Mis. No. 4156, dated 14th October 1893, that the three local firms representing the owners of the regular liners are unwilling to land cargo under section 85 of the Sea Customs Act in their capacity as ships' agents, or, as suggested by Government in G.O., Mis. No. 4824, dated 4th November 1892, to employ the Harbour Trust Board as their agents for landing. It follows, therefore, that the procedure in force at the docks in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85.

2. It was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892 (*vide* papers printed in G.O., No. 201, dated 28th February 1893), and the Board of Revenue is requested to state how it proposes to overcome the difficulty now and whether the firms concerned are now willing to land goods under section quoted.

3. The question of completing the Government Warehouse would seem to depend upon the answer to this inquiry.

(True Extract.)

(Signed) E. GIBSON,
Secretary to Government.

To the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3268, Revenue, dated 14th August 1896 :—

Read—the following Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 2692, dated 26th June 1896 :—

Read—the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 27th February 1896, No. 1186-G. :—

With reference to Board's Proceedings, Mis. No. 248 * (Separate Revenue), dated 20th January 1896, I have the honour to forward herewith, for the information of the Board and Government, a copy of the letters as per margin † from Messrs. Binny & Co., Arbuthnot & Co. and Gordon, Woodroffe & Co., who are the agents of the regular home lines, from which it will be seen that they are now, as in 1892, decidedly opposed to entrusting

* Referring to the Collector of Sea Customs, Madras, for reports, G.O., Mis. No. 154, (Revenue), dated 15th January 1896.

† Dated 10th, 12th and 14th February, respectively.

their landing to any agency outside their own control, or to land under section 85 of the Sea Customs Act in their capacity as ships' agents.

2. The reason for this is obvious, as the arrangement would tend to bind the agents to discharge all claims for shortage and damage preferred by importers, leaving them (the agents) to recoup themselves as best they can from those directly responsible, although the goods may have left the ship's tackle intact. The only way out of the difficulty therefore, is for the Harbour Trust Board by a special agreement with the agents, to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition at any wharf belonging to the Trust, and taken into their sheds. A receipt will, of course, be passed by the Trust to the master of the vessel for all such goods as are landed in their original or good condition, while all damaged packages will at once be taken to a separate strong room, to be surveyed in order to fix responsibility. This is briefly what is required, and the Chamber of Commerce may be addressed in the matter of arranging details.

3. From the replies received, the agents do not appear to appreciate the difference between landing under the two sections quoted. They seem to think that landing under section 83, as at present, should not interfere with the proposal of the Harbour Improvements Committee that the goods so landed may be stored in sheds belonging to the Trust, and the Trust be allowed to have the custody of them. This arrangement, it will however be observed, is only permissible and specially provided for by section 85.

Enclosures.

From GORDON, WOODROFFE and Co., Agents, "Clan," "Hansa" and Hamburg, Calcutta Lines, to the Collector of Sea Customs, dated Madras, 14th February 1896.

We have the honour to acknowledge receipt of your No. 714-G of 6th instant, and in reply to inform you that so far as we can see the circumstances under which cargo is landed here now are the same as those existing when we wrote to you on the same subject in 1892. We therefore beg to confirm our letter, dated 20th December of that year.

2. We are, we must confess, at a loss to understand why the proposed erection of new customs sheds should alter in any way the routine of water and land carriage from what presently obtains in the transport of goods to the existing Custom House.

From Messrs. BINNY and Co., to the Collector of Sea Customs, dated Madras, 10th February 1896.

We have the honour to acknowledge receipt of your No. 713-G. of 6th instant, regarding a proposal before Government for the erection of Customs sheds on the beach for the reception, storage and delivery of all foreign cargo and enquiring whether we are prepared to employ the Harbour Trust Board as our landing agency, and in reply have to say that we are now, as in 1892, when the matter was brought up strongly opposed to entrust the landing to any agency outside our own direct control and from which we should have no guarantee that the quick despatch of steamers for which we act as agents would be secured.

2. It is not quite apparent to us under what clause in the section quoted in yours under reply (section 85 of Act VIII of 1878) it is proposed to give the Harbour Trust Board the necessary authority as the section above referred to does not appear to empower any such body to undertake the landing of cargo, nor is the landing of cargo in boats done by the Bombay Harbour Trust Board.

3. In any case the Madras Harbour Trust Board is not authorised by its Act to undertake landing and shipping of cargo, as has been already decided by the Advocate-General.

4. Furthermore the Harbour Improvements' Committee made no recommendation that the Harbour Trust Board should undertake such work nor does it appear what connection there is between section 85 and the landing being conducted by the Harbour Trust Board.

From Messrs. ARBUTHNOT and Co., to the Collector of Sea Customs, dated Madras, 12th February 1896.

We have the honour to acknowledge your letter, No. 712-G., dated 6th instant, and in reply beg to inform you that, for the reasons stated in our letter of the 6th December 1892, we are not prepared to undertake to land under section 85 of the Sea Customs Act VIII of 1878.

2. We submit that in order to carry out the suggestions of the Harbour Trust Board it is not necessary that steamer agents should agree to land under the section quoted (section 85). All that is necessary is that the sheds contemplated should be declared to be part of the Custom House accommodation and that the Collector should, if necessary, delegate part of his control over them to the Chairman of the Harbour Trust Board.

3. Sections 83 and 85 of the Sea Customs Act are altogether different in their scope, and the latter is not suited or applicable to a port like Madras.

Copy of paragraph 4 of the letter from the Chairman, Harbour Trust Board, Madras, dated 9th December 1890, No. 837.

* * * * *

4. With a view however to the settlement of claims by consignees the following practice has arisen :—

(*a*) If noted as discharged in bad order the ship pays any claim; (*b*) If not so noted when discharged, but if landed in broken condition and so reported, the landing contractors pay; and (*c*) should any package be received by the Harbour Trust Board without any report as to its being in a broken or repacked condition, and is afterwards found to be so, the Harbour Trust Board meets the claims for shortage provided the package has not been made over to the custody of the Sea Customs Department and received as in good order.

Read—again the following Board's Reference thereon, dated 23rd March 1896, to the Collector of Sea Customs, Madras.

The course proposed in paragraph 2 of the Collector's letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage before the Harbour Trust Board takes charge of the goods on the pier or beach.

2. The landing of the goods under section 85 does not, however, appear to be indispensably necessary. The present practice is understood to be for landing contractors (as agents of consignees) to land goods on the pier or on the beach, and for the Harbour Trust Board to remove the goods thence to the Custom House. The master of the ship is responsible for damage or short delivery up to the time of discharge from the ship, the landing agents from the time of discharge from the ship to the time of landing on the pier or on the beach, and the Harbour Trust Board up to delivery in the Customs House—*vide* paragraph 4 of Harbour Trust Board Chairman's letter in Board's Proceedings, Mis. No. 3730 (Separate Revenue), dated 19th December 1890. The Chairman of the Harbour Trust Board has stated that, if the custody of goods landed be transferred from the Collector to the Harbour Trust Board, the Trustees would be prepared to accept the responsibility to construct sheds to receive all goods as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Sea Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act. The exceptions to this course would be the particular cases mentioned in section 83, in which the Customs Collector should take charge of the goods owing to delay in landing by the consignees and grant receipts. If such cases are not likely to be numerous, the course above stated may be suggested for the approval of Government owing to the objection of the agents of vessels to land goods under section 85. There can be no objection to the Harbour Trust Board taking charge of the goods in all other cases as proposed by it if the sheds to be constructed for keeping the goods in are declared part of the Custom House as suggested in G.O., Mis. No. 4824, dated 4th November 1892. The Collector is requested to state whether the particular cases in which he will have to take charge of the goods under section 83 will not be very rare, and whether the adoption of the course indicated above will not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

Read—also the following letter from the Collector of Sea Customs, Madras, to the Secretary to the Commissioner of Salt, Abkári and Separate Revenue, dated 21st April 1896, No. 2107-G :—

With reference to Board's Reference, dated 23rd March 1896, on General Register No. 2064, I have the honour to state that, so far as this department is concerned, there is no objection to the arrangement therein proposed provided there is no legal difficulty, and the proposals made in my letter No. 4980-G, dated 21st October 1895, are accepted by the Harbour Trust.

2. At present goods from foreign ports are landed for the consignees by the several steamer agents' dubashes, and on their arrival at the pier or beach are taken charge of by the Harbour Trust, and conveyed by them, as porterage contractors, to the Custom House where they remain in the joint custody of the Trust and the Customs Collector, the latter holding the goods for the master, subject to a lien for freight, boat hire and other charges that may be due thereon under section 83 of the Sea Customs Act. It is, therefore, doubtful whether the Collector can legally delegate any portion of his control over the goods vested in him by the Act to the Chairman, Harbour Trust Board, as contemplated by the Board in its reference above quoted. It is accordingly suggested that the opinion of the Advocate-General be taken on the point at issue, especially as the Harbour Trust at present merely intervene as porterage contractors.

3. In this connection I beg to solicit the Board's attention to paragraph 6 *et. seq.* of my letter No. 1874-G, dated 30th August 1892, in which this subject was fully gone into, and paragraph 5 of their Resolution thereon, Mis. No. 3646, dated 21st September 1892.

4. The Board is aware that, though section 85 of the Sea Customs Act has been extended to this port, its provisions have never been enforced owing to the refusal of steamer agents to act under it and the Chairman, Harbour Trust Board, has already pointed out that the Harbour Trust cannot undertake the landing of goods—*vide* my letter No. 1709-G, dated 12th October 1893, read in Board's Proceedings, Mis. No. 4156, dated 14th October 1893.

5. It would seem also desirable to consult the Chamber of Commerce and the Trades Association as representing the mercantile and trade interests before passing final orders on the subject.

Resolution—Mis. No. 2692, dated 26th June 1896.

Submitted to Government with reference to G.O., Mis. No. 154, Revenue, dated 15th January 1896.

2. In paragraph 3 of G.O., No. 190 (Marine), dated 1st July 1895, Government asked for the views of the Harbour Trust Board on the suggestion of the Harbour Improvement Committee to transfer the custody of goods landed at Madras from the Collector of Sea Customs to the Harbour Trust Board. That Board stated in reply that if Government should approve of the transfer the trustees would be prepared to accept the responsibility to receive general cargo as landed and to grant receipts to the agents of steamers. A landing account would be furnished to the Collector and the Harbour Trust Board would be responsible that no package was delivered except upon a pass order from the Collector or his Deputy. The sheds built by the Board would have to be declared part of the Custom House under section 11 (*f*) and the Board would generally conform to the provisions of the Sea Customs Act.

3. On the above proposals being referred to the Collector of Sea Customs for remarks, he stated that the procedure proposed to be adopted by the Chairman of the Harbour Trust Board might be approved, but that a separate landing account would have to be maintained by the Customs Department independently of that kept by the Harbour Trust Board, that the Board would have to account for all cargo received by it according to the Customs accounts, that Customs officials should have free access to all parts of the Harbour Trust Board's sheds for the purpose of weighment, examination, &c., of goods in order to carry out the provisions of the Customs Tariff, Merchandise Marks and other enactments, that the sheds should be under the joint

locks of the Customs Collector and the Harbour Trust Board, deliveries being made by the Board in the presence of the pass clerk of the Custom House on the authority of passes issued by the Collector or his Deputy, and that the necessary accommodation should be provided for the Customs staff required to be located in the sheds. The Collector's report was submitted to Government in Board's Proceedings, Mis. No. 4676, dated 5th November 1895.

4. Government in its order under reply remarked that, as it appears that the local firms are still unwilling to land cargo under section 85 in their capacity of ships' agents or to supply the Harbour Trust Board as their agents for landing, it follows that the procedure in force in Bombay cannot be adopted in Madras as the Harbour Trust Board can only take charge of goods landed under section 85, and that it was this difficulty that led Government to reject a similar proposal made by the Chamber of Commerce in 1892—*vide* G.O., No. 201, Revenue, dated 28th February 1893. Government therefore requested the Board to state how it proposes to overcome this difficulty now.

5. With reference to this, the Collector of Sea Customs stated that the agents of the regular home liners are decidedly opposed to entrust the landing to any agency outside their own control or to land under section 85 of the Sea Customs Act, and that the only way out of the difficulty is for the Harbour Trust Board by a special agreement with the agents to undertake to meet all claims for damage or short delivery which may be established by the owners of goods in respect of such cargo only as may be landed in good condition, at any wharf belonging to the Board and taken into its sheds, and to pass a receipt, to the master for all such goods as are landed in their original or good condition, while all damaged packages would at once be taken to a separate strong room to be surveyed in order to fix responsibility. He suggested that the Chamber of Commerce might be addressed in the matter of arranging details.

6. This Board then pointed out to the Collector that the course suggested in his letter would probably not commend itself to the agents of vessels, as it would not relieve them from responsibility for damage occurring before the Harbour Trust Board takes charge of the goods on the pier or the beach, and remarked that goods might continue to be landed by the agents of consignees, and after being landed might be received by the Harbour Trust Board, which would then follow the course indicated in paragraph 2 *supra*. It was remarked, however, that the foregoing procedure would not be applicable to the particular cases mentioned is section 83 in which the Customs Collector has to take charge of goods owing to delay on the part of consignees in landing them. The Collector was requested to state whether such cases would not be very rare, and whether the adoption of the course stated above would not obviate the difficulty in the transfer of the custody of goods to the Harbour Trust Board.

7. The Collector now states that, so far as his department is concerned, there is no objection to adopting the above course provided there is no legal difficulty, and that his former proposals noticed in paragraph 3 above are accepted by the Harbour Trust Board. He further observes that at present goods from foreign ports are landed for the consignees by the dubashes of the several steamer agents, that on their arrival at the pier or beach they are taken charge of by the Harbour Trust Board and conveyed by it as porterage contractor to the Custom House where they remain in the joint custody of the trust and the Customs Collector, and points out that, as the latter sometimes holds, the goods for the master of the vessel subject to a lien for freight, boat hire and other charges which may be due thereon under section 83 of the Sea Customs Act, it is doubtful whether the Collector can legally delegate any portion of the control over the goods vested in him by the Act to the Chairman of the Harbour Trust Board. He suggests a reference on the point to the Advocate-General, and draws attention to paragraph 6 of his letter, No. 1874-G., dated 30th August 1892, printed on pages 4 to 9 of G.O., No. 201, Revenue, dated 28th February 1893.

With reference to these remarks of the Collector, it is observed that the last clause of section 83 under which the master of a vessel gives notice that the goods landed are to remain subject to a lien for freight and other charges and the Customs Collector holds the goods until he receives notice that the charges have been paid, refers only to the particular cases in which goods are not landed by landing contractors (as agents for consignees) but by the master or the Customs officer on the master's

application. Such cases, it is considered, will be very few and can, if necessary, be specially dealt with. In ordinary cases in which goods are landed by dubashes as agents of consignees the Sea Customs Act does not provide for the interference of the Collector with regard to the payment of freight and other charges by the consignees. If official interference is necessary, that provided by section 52 of the Madras Harbour Trust Act II of 1886 may be availed of.

The objections stated in paragraph 6 of the Collector's letter of 1892 referred to are not applicable to the present proposals. The proposal which was objected to in 1892 was to store free goods in the Harbour Trust Board's sheds and dutiable goods in the Custom House, while the present proposal is to store the whole of the cargo in the Harbour Trust Board's sheds which will be constituted a part of the Custom House.

8. When the new scheme regarding Harbour improvements is carried out, it will be out of the question to use the present Custom House for the storage of goods pending clearance. Whatever form the proposal ultimately takes, it will, the Board believes, include boat basins, wharves with convenient sheds alongside and direct connection with the Madras, South Indian and East Coast Railways and the Buckingham Canal, and to drag goods away from these advantages up to the Custom House would be an outrage on the trade of the port. The course which the Board has indicated above seems to be the only way of meeting the difficulty. The Board would treat the Harbour Trust Board as contractors for the safe custody of goods in charge of the Customs Collector in the same way as the Collector of Customs now treats it as porterage contractor, and would constitute the premises provided by it a part of the Custom House, taking all steps necessary to make it so in fact as well as in name by posting customs guards at the entrance and adopting similar precautions. There seems to be no reason why in the few cases in which the Collector has to take charge of goods under section 83 of the Sea Customs Act the Harbour Trust Board should not do all that is necessary for him as its premises will form part of the Custom House. As the Harbour Trust Board has agreed to be responsible for all goods delivered into its charge, there appears to be no objection to this course unless some legal one exists. It might be advisable to consult the Advocate-General on this point and also as to the necessity of requiring the Harbour Trust Board to acknowledge its responsibility by the execution of such legal documents as may be deemed necessary. The possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law but under an ordinary contract. The Harbour Trust Board would of course expect some return for the expense which it would incur in erecting the necessary sheds. The Board begs to suggest that its views on this point should be asked for.

(True Copies and Extract.)

(Signed) EDMUND MILLETT,
Assistant Secretary.

To the Secretary to Government, Revenue Department.
Copy to the Collector of Sea Customs, Madras.

Order—Mis. No. 3268, dated 14th August 1896.

The Proceedings read above will be forwarded to the Hon'ble the Advocate-General for favour of opinion as to whether there is any legal objection to the adoption of the course advocated by the Board of Revenue in paragraph 8 of its Proceedings and if there is none whether the Harbour Trust Board should be required to acknowledge its responsibility in regard to goods delivered to its charge by the execution of a legal document.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

To the Hon'ble the Advocate-General (through the Government Solicitor),
with enclosures (to be returned).
Copy to the Board of Revenue (Separate Revenue).

Read—again the following G.O., Mis. No. 3286, Revenue, dated 15th August 1896:—

Read—the following G.O., No. 503, Marine, dated 16th July 1896:—

Read—the following letter from the Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 14th July 1896:—

With reference to my letter of the 24th August 1895, in which I drew the attention of Government to paragraph 15 of the Report of the Harbour Improvements Committee appointed under G.O., No. 47, Marine, dated 9th February 1895, which paragraph contained a strong recommendation in favour of the adoption at Madras of the procedure existing at Bombay "by which the Harbour Trust Board would remove into their sheds all cargo, as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months, deliver to the Collector any goods not then cleared through the Sea Customs office," I have the honour to inform you that the Chamber has desired me to again express a hope that early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee.

Read—again the following letter from the Chairman, Harbour Trust Board, Madras, to the Chief Secretary to Government, dated 11th July 1896, No. 1471:—

In view of a recent block of work upon the iron screw pile pier, when the appliances thereon proved inadequate to meet the import and export movements of cargo proceeding simultaneously, the Presidency Port officer in a letter dated 11th June suggested that two low pontoon jetties, extending from the beach into the harbour, should be constructed to relieve the traffic on the pier.

2. This proposal was considered by the Trustees at their meeting of the 19th June, and I submit herewith copy of resolution then passed thereon.

3. The question of the custody of the goods when landed, which was so strongly recommended by the Harbour Improvements Committee, should be vested in the Harbour Trustees, as at Bombay, is regarded by the Board as the key of the whole situation and it therefore hopes that Government will see its way to pass early orders on this point, for unless the proposals of the Chamber of Commerce are sanctioned, the Board will not be justified in incurring any heavy outlay of Harbour Trust Funds.

Enclosure.

Extract of Proceedings of the Trustees of the Harbour of Madras at a meeting held at the offices of the Board on Friday, the 19th day of June 1896.

* * * * *

5. Read letter, No. 625-M, dated 11th June 1896, from the Presidency Port Officer suggesting additional temporary facilities for landing cargo.

Read minutes by trustees.

Resolved that the Chairman is invited to address Government with reference to the proposed boat basin and improved Custom House arrangements recommended by the Harbour Improvements Committee appointed by Government under G.O., No. 47, Marine, dated 9th February 1895.

* * * * *

(True Extract.)

(Signed) C. PINSENT,
Secy., Harbour Trust Board.

Order—No. 503, Marine, dated 16th July 1896.

Communicated in continuation of paragraph 4 of G.O., No. 119, Marine, dated 26th February 1896, to the Revenue Department, for early consideration of the question of the transfer to the Harbour Trust Board of the custody of imported goods.

(True Extract.)

(Signed) C. T. R. SCOVELL,
for Secretary to Government.

To the Revenue Department.
,, the Chairman, Harbour Trust Board.

Order—Mis. No. 3286, Revenue, dated 15th August 1896.

Recorded with reference to G.O., Mis. No. 3268, dated 14th August 1896.

(True Extract.)

(Signed) A. T. ARUNDEL,
Ag. Secretary to Government.

Read—again the following G.O., Mis. No. 3996, Revenue, dated 5th October 1896 :—

Read—endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 26th August 1896, No. 405, forwarding the following with reference to G.O., Mis. No. 3268, Revenue, dated 14th August 1896.

[*Re* the proposed transfer of the custody of imported goods from the Collector of Sea Customs to the Harbour Trust Board.]

Opinion.

The Board of Revenue propose that the sheds which the Harbour Trust Board purpose building shall be declared to be part of the Custom House; that all cargo shall be stored therein; and that the Harbour Trust Board shall be responsible for the safe custody of such of the goods so stored as are in the custody of the Collector of Sea Customs. The Harbour Trust Board are willing to accept this responsibility. I am asked whether there is any legal objection to the proposed arrangement, and whether it is necessary to obtain from the Harbour Trust Board documents acknowledging their responsibility if the arrangement be carried out.

2. The Collector of Sea Customs cannot legally transfer his custody of dutiable goods to the Harbour Trust Board so as to relieve himself of the duty of safe-guarding them; and the proposed arrangement is not intended, I understand, to effect such a transfer. The Collector of Sea Customs is to retain charge of the goods and do every thing necessary to ensure their safe custody in the premises which will form part of the Custom House—"in fact as well as in name." The Board of Revenue "would treat the Harbour Trust Board as contractors for the safe custody of goods in the custody of the Customs Collector," in other words would treat them as bailees of goods in the Custom House. The Sea Customs Act, 1878, does not allow of joint control over such property, and the Harbour Trust Act, 1886, does not empower the Board to become bailees of such goods. The Board of Revenue admit that "the possession of goods on behalf of the Collector by the Harbour Trust Board will not be under any provision of law, but under an ordinary contract." A contract of bailment by which the bailor is to retain in his own premises absolute control over the property bailed, and the bailee is to be responsible to the bailor for the safe custody of that property is unknown to the law.

3. I am of opinion that on legal grounds the proposed arrangement is objectionable.

Madras,
26th August 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Order—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

In connection with the proposals for the improvement of the Madras Harbour it has been suggested that the Harbour Trust Board should discharge for the port at Madras the same duties which the Port Trust in Bombay does for that port, viz.,

storage and safe custody of goods. To this proposal is raised the legal objection that the Collector of Sea Customs cannot make over to the Harbour Trust Board the custody of the goods entrusted to him by law. The opinion of the Honourable the Advocate-General will be asked for on the following questions :—

(1) When are goods landed under the Sea Customs Act in the custody of the Sea Customs Collector, Madras?

It would seem that under the Act goods can come into the custody of the Sea Customs Collector only under sections 83, 84 and 85 (*a*), which latter section, however, has not been extended to Madras.

(2) What is the nature of his custody in regard to such goods as are not placed in his custody in accordance with sections 83, 84 and 85 (*a*)?

It may be said that, though such goods may not be in his actual custody, they are in his custody at least constructively, the owner or the Port Trust, or whoever it may be, being in actual custody on his behalf. This would seem to follow from the provision of section 76 as to the delivery of the boat-note to the Customs Officer on the arrival of the boat.

On the other hand, it may be said they are not in the possession of the Customs department, nor are they held on its responsibility. They are held either by the master of the ship or by the owner, subject to the *control* of the Customs department, but only to the extent and in the manner defined by law and enforced by specific penalties in the Act. Within the limits laid down, the owner may deal with them as he pleases and as freely as if the Customs control did not exist. The Customs department is in no sense a "bailee" of the goods (*vide* section 148 *et seq.* of the Contract Act IX of 1872). It follows that the owner or master may store the goods when landed as he pleases within the conditions prescribed by law, or may employ any agency he pleases to land, move or otherwise deal with the goods.

(3) When such goods as are referred to in the last question are landed under Customs supervision and are received and stored on landing by any agency such as a Port Trust, is such agency a bailee of the goods for the owner of the goods or master of the ship, as the case may be, or for the Customs department?

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Honourable the Advocate-General, through the
Government Solicitor, with one printed enclosure to be returned.

Read—also endorsement of E. BARCLAY, Esq., Government Solicitor, to the Secretary to Government, Revenue Department, dated Madras, 19th October 1896, No. 550, forwarding the following with reference to G.O., Mis. No. 3996, Revenue, dated 5th October 1896.

[*Reference.*—G.O., Mis. No. 3996, Revenue, dated 5th October 1896.]

Opinion.

The importation of dutiable goods creates a debt by the consignee to Government to the extent of the duties leviable upon the goods. Government has a lien on the goods for the unpaid duty. "The right of the Government to the duties does not arise from the possession of the goods, nor is it confined to the goods."(*a*) For example in cases to which section 39 is applicable though the lien is lost, the claim can be enforced in the manner prescribed.

(*a*) Elwe's "Law of the Customs," page 15, section 31.

In the interests of trade, the Legislature have empowered the Collector in certain cases to abandon the lien and to accept in its place a bond and securities prescribed, *e.g.*, in section 41.

Importation is complete as soon as the goods are brought within the limits of the port with the intention of unlading them.

2. The Collector's custody of dutiable goods extends throughout the period during which the lien attaches. Where goods are in the Custom House or in a warehouse, his custody is

actual; where they are entered for transportation or exportation, they are during transit at least constructively in his custody until the duty thereon is paid. He is in no sense a bailee of the goods, and is not responsible to the consignee for any loss which is not due to his personal misconduct or neglect in the discharge of his duties.(*b*) No dutiable goods can be taken out of the Collector's custody until the duties have been fully paid or have been duly secured by bond in the manner prescribed by law. The manifest by the master (*c*) gives the Custom's Collector the information he must have before he can issue his permit, without which the unlading of goods is not allowed in order to prevent the unlawful importation of goods.(*d*)

(*b*) Section 197.

(*c*) Sections 53 to 60.

(*d*) Sections 81, 82 and 85. In the order of Government above referred to, it is said that section 85 has not been extended to Madras, but see Notification No. 22, dated 3rd January 1885.

When the permit has been granted and the goods have been landed, the consignee must deliver to the Collector a bill of entry which is *primâ facie* evidence of their value in order that the Collector may assess the duty payable thereon.(*e*) When the duty is paid the lien is at an end, and the consignee is entitled to remove the goods.(*f*)

(*e*) Sections 29 and 86.

(*f*) Section 89.

In order to encourage trade and commerce, and to meet the convenience of importers, while, at the same time, securing the enterests of Government, the system of warehousing was adopted by the Legislature.(*g*) The liberty to warehouse dutiable goods is a privilege conceded, not a contract entered into by Government. To prevent an abuse of the privilege, the time during which goods may be deposited in a warehouse without duty being paid thereon is limited. The lien of Government on the goods warehoused continues until payment of the duties, and the goods remain in the custody of the Customs Collector. They are forwarded to the warehouse in charge of one of his officers,(*h*) and remain there under his control.(*i*) The control or custody may pass from one Chief Customs Officer to another under the provisions of sections 104 to 108, but the lien of Government still attaches to the goods, and their custody, at least constructively, remains in the Customs Officer.

(*g*) Chapter XI.

(*h*) Sections 93 and 94.

(*i*) Sections 97 to 102.

3. By the Act, the Collector is required—

(1) to *detain* goods coming within the provisions of Chapter IV;

(2) to *detain* goods which have been undervalued by the consignee; (*j*)

(3) to *take charge of* and grant receipts for goods deposited with him under sections 83 and 84, or discharged under section 85 (*a*).

(*j*) Section 32.

The provisions of Chapter IV were framed on grounds of public policy, and have nothing to do with any lien possessed by Government, or custody by its servant.

The provisions contained in section 32 do relate to such lien and custody, the existence of which is of course recognised.

The provisions of section 83 in no way deal with, or affect the Government's lien or the Collector's custody. That lien and custody are unaffected by sections 84 and 85.

4. My answers to the question put to me are as follows:—

(1) In my opinion the Collector's custody of dutiable goods *for the purpose of securing the payment of the duty leviable thereon* lasts as long as the lien of Government exists, viz., from importation till clearance.

(2) His custody is that of a servant of Government duly empowered by the Act to enforce the lien of Government and to collect the duty or debt due to Government by the consignee. He is in no sense a bailee of the goods in his custody. In my opinion dated the 26th August, I said that he cannot delegate his powers of control over them.

(3) In the view I take, the question of bailment cannot arise. If the buildings be declared to be part of the Custom House under section 11 (*f*), the owner of the buildings would not be a bailee. The goods would be in the Custom House in the sole and absolute control of the Collector.

If the buildings be appointed public warehouses under section 15 (*k*) or be licensed as private warehouses under section 16, the rules relating to such warehouses will apply. Consignees cannot be compelled to warehouse their goods, but if they desire to do so, the goods "shall be forwarded in charge of an officer of Customs" to the warehouses, where they will be deposited and will remain at the risk and expense of the owners, but will continue to be in the possession and control of the Collector. The extent of the responsibility of the warehouse-keeper is laid down by section 123. I do not understand that there is any intention to declare the Port Trust buildings "public warehouses" when they are erected. So long as goods are not "cleared," the owners cannot store

(*k*) By Notification, dated 11th December 1883, under section 14, Madras was declared to be a Warehousing Port.

them where they please. They must make entry of the goods for "home consumption" or "warehousing." (*l*) If they make entry for "home consumption," they must proceed to "clear" them by paying the duty thereon. (*m*) Until they do so, the goods remain in the custody of the Collector *in the Custom House*. If the goods are entered for warehousing, (*n*) they must be assessed, and then be warehoused *in some warehouse* "appointed or licensed under this Act." (*o*)

(*l*) Section 86.

(*m*) Sections 87 and 89.

(*n*) Section 87.

(*o*) Section 90.

Madras,
17*th October* 1896.

(Signed) J. H. SPRING BRANSON,
Advocate-General.

Read—also the following letter from the Chairman, Chamber of Commerce, Madras, to the Private Secretary to His Excellency the Governor, dated Madras, 23rd October 1896:—

I have the honour, on behalf of the Chamber, to request that you will place the following statement before His Excellency the Governor, in the hope that a perusal of the facts set forth will enable His Excellency to appreciate the force of its contention that, in respect of the matters referred to, the Madras Government has not accorded to the Chamber's representations that consideration to which they are entitled. The Chamber ventures to hope that His Excellency will receive a small deputation to discuss the matters in person, as it is confident that its representations will meet with sympathetic consideration, and so conduce to a better understanding between the Government and itself:—

Madras Harbour Improvements.—The first subject to which the Chamber would direct His Excellency's attention is that of Madras Harbour Improvements. As His Excellency is aware, the Harbour Improvements Committee—appointed under G.O., No. 47, Marine, dated the 9th February 1895—in paragraph 15 of its report, made a strong recommendation in favour of the adoption in Madras of the procedure existing in Bombay, "by which the Harbour Trust Board would remove into its sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods upon warrant, and at the expiration of four months deliver to the Collector any goods not then cleared through the Sea Customs office." On the 14th July last, the Chamber addressed Government expressing a hope that "early orders may be passed on the above recommendation, as pending such it understands that the Harbour Trust Board is unable to make arrangements for proceeding with the other improvements recommended by the Harbour Improvements Committee"—a hope, it should be mentioned, which was expressed in the Chamber's letter to Government, dated the 24th August 1895. Some 20 months have elapsed since the above recommendation of the Harbour Improvements Committee was made, and yet nothing has been done, for the matter, as stated in G.O., No. 1670-R., dated the 27th August 1896, "is under reference to the Honourable the Advocate-General." The Chamber ventures to hope that His Excellency will, as far as possible, expedite the disposal of this most important subject which so vitally affects the prosperity of this port. The Chamber does not overlook the weighty questions that may have to be decided, but it trusts that something may be done at an early date to give effect to the recommendations of the Harbour Improvements Committee so as to enable the Harbour Trust Board to arrive at a decision in connection with the other proposals of the committee.

* * * * *

Order—No. 682, Revenue, dated 1st December 1896.

Miscellaneous.

His Excellency the Governor in Council is of opinion that it is desirable to allow the Harbour Trust Board to undertake the storage of goods for the trade of Madras in the same manner as the Bombay Harbour Trust has done for Bombay, and that the Harbour Trust Board should be allowed to provide the buildings necessary for such service.

2. It seems to His Excellency in Council, however, that under the existing Customs law, the Harbour Trust Board can only be allowed to undertake this duty as servants of the Sea Customs authorities. Under the Advocate-General's opinion read above there can be no dual control; hence the custody of the Harbour Trust Board must be that of the Sea Customs authorities. Since the Customs authorities are not responsible for any loss or damage except under section 197 of the Act, the mercantile community will have no greater remedy against the Harbour Trust Board than they have now against the Customs authorities for any loss or damage occurring after the goods have been placed in the custody of the Harbour Trust Board for storage at their sheds. It also follows that the Harbour Trust Board will have no lien for any fees due to them for storage and will not be able to detain the goods for such dues. It will be necessary, however, to make such arrangements that the control of the Sea Customs authorities shall be complete and sufficient for the due realization of the Customs revenue, and for this end it will be necessary to declare the Harbour Trust sheds a part of the Custom House. Storage fees can then be realized under section 199 of the Act; such fees being made over to the credit of the Harbour Trust Board.

3. In view to definitely settling the relations between the Harbour Trust Board and the Sea Customs authorities, His Excellency the Governor in Council thinks it necessary that definite rules laying down the conditions on which the Harbour Trust Board may be allowed to undertake this service be drawn up in communication, if necessary, with the Government Solicitor and agreed on by the Sea Customs authorities and the Harbour Trust Board.

4. Before issuing final orders on this subject, however, His Excellency the Governor in Council thinks it desirable to forward to the Chamber of Commerce the material papers connected with this subject and to invite an expression of their views on the desirability of the above arrangement from the point of view of the convenience of the trade of the port.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Board of Revenue (Separate Revenue).
„ the Chamber of Commerce.
„ the Government Solicitor.
„ the Public Works Department.
„ Marine Department.

Exd. C. Rajagopaul.

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