

Public Works (1898) Department.

G.O., No.

5552

DATED

3rd March 1898

[Despatch Abstract.]

Port of Tuticorin, Pros: Marine Dept
directing with remarks that the owners of the
private jetties at the — be called on by the
Collector to acknowledge the rights of Govt
by paying a nominal rent for the portion
of the foreshore occupied by them and that
steps be taken for bringing the Landing
and Shipping rules Act into force at the
port, Comd to S.E. C. (C. 1).

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

Directing, with remarks, that the owners of the private jetties at the — be called on by the Collector to acknowledge the rights of Government, and in recognition thereof to pay a nominal rent for the portion of the foreshore occupied by them, and that steps be taken for bringing the Landing and Shipping Dues Act into force at the port.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

READ—the following papers :—

From Messrs. Dymes & Co., dated 5th November 1897.

From R. B. CLEGG, Esq., Acting Collector, Tinnevely District, to the Secretary to Government, Marine Department (through the Presidency Port Officer, Madras), dated 28th November 1897, Dis. No. 2359-G1.

In reply to G.O., No. 849, Marine, dated 1st October 1897, I have the honour to enclose a report drafted on the 13th November by Mr. Higgins who made personal inquiries into the matter before I joined the district. The report could not be submitted earlier, as a memorandum on the history of the private jetties had to be prepared and the opinion of the Government Pleader obtained on the legal rights of the owners in each case, and the means by which those rights might be terminated.

ENCLOSURES.

From A. W. B. HIGGINS, Esq., Collector, Tinnevely District, to the Secretary to Government, Marine Department (through the Presidency Port Officer, Madras), dated 13th November 1897.

I have the honour to submit the following report on G.O., No. 849, Marine, dated 1st October 1897.

2. It is a fact that there are at Tuticorin the six private jetties specified in paragraph 1 of the Government Order. These jetties have been constructed from time to time by the firms named or their predecessors in interest as a convenient means of shipping and landing their goods. Most of them are situated at the point on the foreshore immediately opposite the firm's godowns, and some are connected with the godowns by a tramway. The goods shipped by the firms concerned are all or nearly all shipped over the private jetties. Goods that are landed by the firms are to a large extent landed at the Government jetty, but some are merely examined there, and are landed at the private jetties. It is thus a fact that goods shipped by the firms concerned do not pay the fees levied under the Madras Piers Act V of 1863 on goods which use the Government jetty, but goods which are landed by the firms do, to a large extent, pay those dues.

3. I am not aware of any valid objection to the introduction at the port of Tuticorin of the Landing and Shipping Dues Act (III of 1885). Except by way of port dues paid by the vessels which use the roadstead, which fall indirectly on the merchants, neither the owners of private jetties nor other merchants who ship over the Government jetty pay anything for the upkeep of the port. Those who use the Government jetty do something of course towards paying for the cost of the construction of that jetty and for the recent reclamation of the adjoining foreshore, both of which works have cost large sums of money; but no fund is thereby made available for such expenses as dredging and for further improvements of the foreshore. Such a fund could be provided from dues levied in the manner proposed and would be very advantageous to the port. The owners of private jetties have sent me a petition on the subject, and four representatives of the firms, who signed the petition met the port officer and myself on the 11th instant to discuss the matter. The result of the discussion was that the merchants who own private jetties do not object on principle to the introduction of the Act, provided the rate to be charged is reasonable. It was suggested that, in lieu of the rate of one pie per cwt. which is levied at Cocanada, a rate of one anna per ton would be reasonable at all events at the beginning; and this, I submit, is reasonable. The Port officer stated that he presumed that the fund to be raised by the imposition of a rate under the Act on all goods landed and shipped would be administered, as at Cocanada, by a committee, partly official and partly non-official, as a separate local fund for the benefit of the port. This suggestion met with the approval of those present and has my support. The merchants said that they considered that dredging should be carried

out from the ordinary port fund and not from the special fund. In this opinion I do not concur, but this is a detail which can be determined subsequently. In any case it was agreed that further improvements to the foreshore and the extension of the present Government jetty were desirable objects on which to spend the special fund.

4. In regard to the remark made by Government that the effect of the measure advocated would be that persons who used their own jetties would pay only one set of charges, while those who employed the Government pier would pay two sets of charges, it is a fact that this result would occur as regards goods shipped from the port; but, as already stated, the owners of private jetties do use the Government jetty for a large proportion of their imports and pay pier dues thereon. It is also to be remarked that the tax paid by those who use the Government jetty may be fairly treated as interest recovered on the fund from which the Government jetty was built, and therefore does not seem to be an inequitable charge; while, on the other hand, the owners of private jetties have spent, and do spend, considerable sums on their construction and repair.

5. In reference to paragraph 4 of the Government Order, I enclose a memorandum on the history of each private jetty, so far as it is known from official records, with a note by the local Government Pleader on the legal rights of the owners in each case and the means by which those rights might be terminated. Regarding the propriety of terminating those rights, I venture to suggest that, provided that the dues under the Landing and Shipping Dues Act are paid, there seems to be no necessity to abolish the private jetties. The jetties are extremely convenient to the merchants and *pro tanto* improve the capabilities of the port. Care must, I believe, be taken that they are not extended beyond their present length, lest they should cause an undue deposit of silt near the foreshore, but otherwise they do no harm. Further, it is, I am informed by the Port officer, a fact that, if the private jetties were removed, the Government jetty would not suffice for the requirements of the large export trade of the port, and constant congestion of goods and friction between rival merchants and between the merchants and the port officer, whose duty it is to regulate the traffic, would ensue.

6. The order prohibiting the grant of further concessions will be observed and a notice issued to the merchants owning private jetties as ordered by Government.

Memorandum.

There are six private jetties as specified below within the port limits of Tuticorin :—

	Date of erection of jetty.
Messrs. Gaddum, Bythel & Co.	1848
" Volkart Brothers	1871
" A. & F. Harvey	1887
" Darly, Butler & Co.	1879
" Milligan & Co.	1883
The Tuticorin Cotton Press Company (now Dymes & Co.)	1865

A short history of each jetty as appears from the records available in the office is given below :—

I. Messrs. Kemp, Welch & Co. applied to the Port officer on the 22nd June 1883 for permission to erect a short jetty on wooden piles. Mr. G. A. Phipps, the Port officer, Tuticorin, in his communication, to the firm, dated 23rd June 1883, stated that there was no objection to the firm erecting a short jetty on wooden piles to facilitate loading bales and cargo from the press nor to the construction of the necessary masonry abutment at the shore end. In this communication it is further stated that the masonry abutment should be placed at high water mark so as not to project beyond the line of beach and that the jetty may be connected with the press house by a made pathway. The jetty constructed by Messrs. Kemp, Welch & Co. is at present owned by Messrs. Milligan & Co. who purchased that firm's press and other property.

II. In 1879, Messrs. Darly, Butler & Co. applied to the Port officer, Tuticorin, for permission to construct a private jetty. In his communication, dated 22nd June 1879, Mr. G. A. Phipps, the Port officer, stated that there was no objection to the firm erecting a private jetty in front of its press for the purpose of shipping and landing such goods as are permitted under the Government order to be landed or shipped at other places than the Custom house.

III. Messrs. A. and F. Harvey, Managers of Coral Mills Company, Tuticorin, applied on the 25th July 1887 for permission to construct a jetty in front of its premises on the beach. The jetty was intended to be 300 feet from the shore. The firm said that the jetty will be used by it and by another firm should the latter agree. Mr. G. A. Phipps, the Port officer, Tuticorin, recommended to the Presidency Port Officer in his letter No. 128, dated 30th July 1887, that a construction of wooden piles, 8 feet broad, might be permitted. In reply, the Presidency Port Officer, Mr. J. H. Taylor, in his communication No. 7951, dated 12th August 1887, stated that

it was not expedient to grant permission for the erection of a jetty as proposed by Messrs. A. & F. Harvey. He observed that "the whole of the port within the defined limits is under the jurisdiction of the Conservator and that it is not open to Government without special legislation to surrender any rights to private individuals. The present pier is presumably sufficient for all the traffic of the port at present and it would be well to ascertain how boilers, machinery and other articles of a heavy description have hitherto been landed at Tuticorin. If once a private pier is allowed it may develop into a 'Company' business and thus cut out the Government pier from work altogether."

On the 28th September 1887, Messrs. A. & F. Harvey, Managers, Coral Mills Company, stated that they had modified their plans, that they intended to erect only a small landing stage in front of their premises to be used exclusively for landing and shipping their own goods and requested permission to construct the jetty. On receipt of this communication, the Port officer, Mr. G. A. Phipps, in his letter of the 3rd October 1887, wrote to say that there was no objection to the firm putting up the stage or jetty for the purpose of landing and shipping goods belonging to the firm or to the mill for which the firm was agent. It was stated that this permission was subject to the condition that no other person or firm should be permitted by the firm to make use of the jetty for any purpose whatever. The firm was asked to prevent any erosion of the beach, to erect the masonry abutment so as not to project beyond the high water mark.

It is stated that the permission given by the Port officer was in pursuance of the verbal permission given by Captain Taylor, the then Master Attendant, Madras, on his visit to Tuticorin.

There is no correspondence available in the office in respect of the private jetties constructed by the remaining three firms. As regards the Tuticorin Cotton Press Company, the Press, &c., belonging to the company was purchased by Messrs. Dymes & Co. In 1892, there was an enquiry made as to the claim of the company to a part of the foreshore to the east of its premises. In that enquiry, the Agent of Messrs. Dymes & Co. proposed some terms of compromise towards the settlement of the dispute about the extent of land claimed by the firm. One of the terms was that the Government should recognize the claim of the firm to maintain and use the tramway leading from the company's premises to the jetty. Then it was clearly pointed out by Mr. G. S. Forbes, that the right will be continued only so long as the Government continues to the company the privilege of maintaining and using the private jetty itself. Mr. G. S. Forbes observed that "the Government have and must always retain, in the public interest, free and absolute control over the use and disposal of the foreshore from high water mark seawards." The firm's agent then replied that he quite understood the position Government took as regards the jetty and that he was quite willing that this company's jetty should be placed on the same footing as any other private jetties which were in use then.

This correspondence is referred to to show that using a private jetty on the sea front was merely a privilege which the Government might withdraw at any time.

28th November 1897.

(Signed) R. B. CLEGG,
Acting Collector.

No. 741 E.

Forwarded to the Presidency Port Officer, through whom the letter is addressed.

9th December 1897.

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

From Commander H. A. STREET, R.I.M., Presidency Port Officer, Madras, to the Secretary to Government, Marine Department, dated 6th January 1898, No. 956/6 G.

In forwarding the accompanying papers from the Collector of Tinnevely connected with the proposal to introduce Madras Act III of 1885 at Tuticorin, and the legal right of persons owning jetties at that port, I have the honour to make the following remarks for the information of Government, viz.:—

(a) That according to the Collector's statement (*vide* paragraph 3 of his letter dated 13th November 1897) the merchants who own private jetties do not object to the introduction of the Act, provided the rate to be charged is reasonable, and that the rate considered so by the owners of private jetties as well as by the Collector is one anna per ton; I see no objection to this rate being levied so far as private jetties are concerned.

(b) The Collector in paragraph 4 of his letter, in commenting on the remark made by Government that the effect of the measure would be that persons who used their own jetties would pay only one set of charges, while those who employed the Government pier would be paying two distinct sets of charges, points out that the owners of private jetties *do use* the Government pier for a large proportion of their imports and pay dues thereon.

(c) The persons owning private jetties would, in the case of exports passed over their own jetty, pay only one anna per ton, while a person exporting over the Government jetty would have to pay one anna per ton landing and shipping dues, *plus* the pier due, which, in the case of *ordinary* weights, is two annas per ton, or three annas, in all, per ton, on ordinary weights. The private jetty owner would therefore be only on the same footing with a person using the Government pier on occasions when his imports are passed over it, but, on the other hand, he has to bear the cost of keeping his own jetty in a state of repair.

2. In paragraph 5 of this office letter, No. 956/349 G., dated 23rd September 1897, I intended the proposal contained therein to apply to private jetties and not to the pier as well, and I submit that this would be the fairest way of dealing with the matter as the private owner has to keep his jetty in repair, whereas the Government pier is kept in repair from the fund collected from goods passed over it.

3. Under section 7 of Madras Act III of 1885, an officer of Government has to be appointed to levy and receive all fees leviable under the Act, and the section does not contemplate the formation of a committee, but only the appointment of such persons as the officer appointed by Government shall think fit to assist him in carrying out the provisions of the Act; I therefore submit that, on the Act being applied to Tuticorin, the Port officer should be appointed the officer under section 7 to levy the dues without a committee.

ORDER—No. 100, Marine, dated 7th February 1898.

In G.O., No. 849, Marine, dated 1st October 1897, the Government directed inquiry to be made as to the legal rights of persons who had erected jetties in the port of Tuticorin, and the propriety and the means of terminating those rights. The Collector was also asked to report on the question of the introduction, at the port of Tuticorin, of Madras Act III of 1885 (The Landing and Shipping Dues Act). The papers read above are the replies to that order.

2. It would appear that the jetties in question have been erected either without sanction, or under the permission of local officers not empowered to grant sanction and that there is nothing in the law to prevent the Government at once terminating the privileges enjoyed by the owners of these jetties. It is reported, however, that the jetties relieve the export traffic on the pier at seasons when it is liable to congestion. The Government accordingly resolves to allow them to remain, but as pointed out by a former Collector in this connection, the Government has and must always retain, in the public interest, free and absolute control over the use and disposal of the foreshore from high water mark seawards. The Government has no desire at all to interfere with the jetties so long as their existence does not prejudice the public interest and prevent improvements to the port; but in view of possible contingencies it is necessary to make sure that it will not do so. The owners of these private jetties will therefore be called on by the Collector to acknowledge the rights of Government, and in recognition thereof to pay a nominal rent for the portion of the foreshore occupied by them. This rent should be fixed at Rs. 10 per annum in each case, with effect from the current year. The owners should further be informed the jetties must that in no way be extended without the previous sanction of Government.

3. The introduction of the Landing and Shipping Dues Act at the port is advocated both by the Collector and the Presidency Port Officer, and is not objected to by local merchants. Steps will accordingly be taken for bringing the Act into force.

A rate of 1 anna per ton is proposed to be levied on all goods landed and shipped. This is approved to start with. The sanction of the Government of India will accordingly be requested, under section 4 of the Act, to the levy of fees at this rate. On the receipt of such sanction, notifications will issue bringing the Act into force and notifying the rates to be levied.

4. In accordance with the Presidency Port Officer's recommendation, the Port officer at Tuticorin will be appointed, under section 7, to levy and receive all fees payable under the Act, and to perform the other duties specified in this section.

5. Meanwhile the Presidency Port Officer will, in consultation with the Collector, frame the rules to be issued under section 6 and submit them to Government.

[Here enter No. 101, Marine, dated 7th February 1898.]

(True Extract.)

Ag *Srinivas*
Under Secretary to Government.

To the Presidency Port Officer.
" Collector of Tinnevely.
" Public Works Department. ✓