M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2204	Press Mis.
167-168	
Dated 13-10-1862	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 13th October 1862.

No. 167 Read the following Proceedings of the Board of Revenue, dated 6th October 1862 :—

Read the following papers :—

From C. J. SHUBRICK, Esq., Collector of Sea Customs, Madras, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 27th August 1862, No. 483 :—

SIR,

1. Referring to the Board's Order of the 15th instant, giving cover to the Draft Bill and Report on the proposed Customs Act, and to Proceedings of Government No. 1,721 of the 14th idem, calling for the rules under which ships' agents by general agreement now land entire cargoes, and make them over to the Custom House, and enquiring whether in such cases the agents recover their freight, &c., through the instrumentality of the Customs officers ; I have the honor to submit a few notes on the proposed consolidated Bill, and to state that there are no rules that I am aware of, or that have obtained the sanction of this office, of the nature referred to ; neither is any freight, &c., ever recovered through the instrumentality of the Customs officers.

2. I presume that the Supreme Government in applying for these rules must have had in view the observations of the Chamber of Commerce on Section XLI of the Consolidated Customs Act, forwarded with the Board's letter to Government, No. 6,718 of the 4th December 1861. The Chamber merely state that the practice (not rules) of the port is one that has been found to be very convenient, and to facilitate the landing of cargoes ; but they err in describing the goods as delivered by the ships' agents to the respective consignees, as in reality all goods other than from free or subordinate ports, are delivered into the Custom House, and there detained till cleared by the importers or consignees. Goods from free or subordinate ports are permitted to be removed from the beach direct.

3. The only way in which freight may be said to be recovered through the agency of the Custom House, is by requiring the production of a receipted Bill of Lading before the goods are allowed to be removed from the yard. The production of such a receipted Bill of Lading necessarily implies that the freight has been discharged and the applicant is entitled to the goods.

4. There are many parts of the proposed Bill which are not applicable to the usages of this port, but as they have been noticed by my predecessor or the Chamber of Commerce in their comments on the former rough Bill, I have not again referred to them.

5. Adverting to my note on Section XVIII I think it also further questionable whether the existing land drawback to Pondicherry may be legally allowed to continue after the Act comes into effect. The Act makes no provision whatever for drawback by land, under any circumstances, and the remission of duty permitted by Section XVIII under "exceptional cases" can scarcely, I think, be held to permit the creation of a privilege which would be beyond the scope of the Act altogether. Should the Board concur with me in opinion and in the desirability of continuing the privilege, they may perhaps think it necessary to draw the attention of Government to the subject, in order that the requisite alteration may be made in the Act to give it legal effect. In doing this it may perhaps be as well to bear in mind that the exceptional state of things as regards Pondicherry will cease with the establishment of the Overland French Mail Steamers. When these vessels touch at Pondicherry, direct communication with France will have been established, and the necessity for continuing the present privileges of drawback will be removed. As bearing on this subject, it may not be out of place here to mention that the amount of drawback on goods exported by land to Pondicherry since that privilege was extended to goods imported* by sailing vessels, which before had been limited to goods imported by the P. and O. Steamers, has risen from the 25th June last, the date on which the first drawback was issued, to the 23rd instant, to Rupees 1,118-11-8 against Rupees 63-0-5 granted during the same period in 1861-62.

* Procs. of Govt. No. 1,22[illegible], dated 4th June 1862.

REMARKS ON THE AMENDED CONSOLIDATED CUSTOMS BILL.

XVIII. Section XVII Act VI of 1841 being repealed, it follows by this Section that the provisions under which grain has been heretofore permitted by the Madras Government to be exported by land to Pondicherry without payment of duty will cease; and duty hereafter have to be levied, as it cannot I think be said that the circumstances under which grain is taken to that Settlement are of an "exceptional nature."

LVII. In practice all goods are landed by the ship's agent at this port, and brought into the Custom House yard. No inconvenience of any kind has been the consequence, as the goods remain in the yard till cleared for consumption or warehoused. But receipts are never given. It is clear that if receipts are to be given a large increase of establishment will be necessary. I do not see what the Custom House has to do with goods coming into it, unless they are combustible, when they should be kept out, its duty concerns goods leaving it. In the case of iron and metals the trouble would be endless, identifying and weighing the different boat loads and consignments in the absence of the consignees and Bills of Lading, and giving receipts for them.

LVIII. I think the duties of the Custom House should be limited to the levy of duties. I cannot see the grounds on which in this and other Sections both before and after, the Collector of Customs is required to see the payment of primage, freight, and other ship's charges. Such has never been hitherto the case.

SEA CUSTOM HOUSE,
Madras 27th August 1862.

(Signed) C. J. SHUBRICK,
Collector Sea Customs.

From W. H. CRAKE, Esq., Acting Chairman Chamber of Commerce, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 15th September 1862.

SIR,

1. I have the honor to acknowledge the receipt of your Official Memorandum of the 15th August, forwarding for the report of this Chamber the last amended Consolidated Customs Bill, under date the 16th July 1862.

2. The Chamber having in Committee carefully considered the clauses of the amended Bill, observes with satisfaction that the alterations recommended in a former report of this Chamber, have in the present Bill received attention, and that in some instances wholly and in others partially the emendations asked for have been conceded. The Chamber considers therefore that excepting certain requirements noticed hereafter, the present Bill is a successful combination of the good points of the various Customs Acts hitherto in force, and that, generally, it is likely in its provisions to afford the necessary security to Government and protection to the merchant.

3. The Chamber however upon the clauses following desires to make some observations, and to lay before Government certain recommendations, the adoption of which it considers would be advantageous to Government and the mercantile public.

Clause 17.—It is presumed that this does not apply to Indian-made spirits.

Clause 24.—This clause withdraws the protection which the corresponding clause of the old Act gave against vexatious seizures. The clause in the old Act made the Customs Officer pay half the loss Government sustained on the sale, this was a most salutary rule, and its withdrawal in the present Act is strongly deprecated.

In its present form this section leaves the merchant at the mercy of any ill-disposed Customs Officer, who will receive reward for every seizure, and prompted by his immunity from all penalty for wrong doing, may make them as numerous as possible.

At Home when goods are seized a per centage is added to the declared value, this is but an act of justice to the merchant that it is hoped may find its place in this Section.

Clause 51.—Goods landed without a Boat Note liable to confiscation or fine of double duty. The Committee considers that though this clause is an improvement upon the corresponding clause No. 31 of the old Bill, inasmuch as confiscation may be commuted into a fine of double duty on the party ordering the landing, yet that the working of it would be oppressive.

The Act it is thought should provide a power of enforcing a small penalty for landing duty *free* goods without a Boat Note.

In Madras Roads it is not the practice to make delivery on board the ship, and, indeed, such a course is impossible in an open roadstead, the cargo is landed by the ship with consent of the consignees or their agents; it would seem therefore equitable to prevent carelessness on the part of ship's officers, that the penalty should fall on the ship, and that a small fine not exceeding a few Rupees should be levied by the Chief Customs authority when boats are sent on shore without Boat Notes.

Clause 61.—The Chief Customs Officer is here empowered to direct the place where sales of damaged goods for determining their dutiable value shall be made.

It is presumed that this simply applies to granting permission in certain cases for sales to be made at the Custom House; any further interference in the shape of directing by whom the goods are to be sold would be open to grave objections.

Clause 122.—This clause levies a duty of 2 per cent. extra on dutiable, and 2 per cent. on non-dutiable goods passed for shipment after port clearance of vessel.

The Chamber's recommendations under this head, Clause 96 of the former Act, have not been met, but a simple alteration made chiefly as respects non-dutiable goods.

At Madras a case of the kind so rarely occurs that no legislative enactment for checking any such is needed.

The shipments are assumed to be quite regular, no one is defrauded, no one is injured. A small penalty levied, as a fee, sufficient to meet the extra trouble imposed on the officers of Customs seems all that is necessary here.

Clause 125.—This clause, regulating transhipments from vessels that have put back from stress of weather may, it is presumed, be held to apply also to vessels leaving one Indian port and putting in at another.

From J. G. COLEMAN, Esq., Chairman, Madras Trade Association, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 19th September 1862.

SIR,

1. With reference to the Extract of the Proceedings of the Board of Revenue dated 15th ultimo, transmitting to the Madras Trade Association copy of a Bill to consolidate and amend the Laws relating to the administration of the Department of the Sea Customs in India they have, in compliance with the wishes of Government, taken the Bill into consideration, and I have the honor herewith to forward their remarks on several of the clauses of the Bill which seem to the members of the Association to need alteration and amendment.

2. The Bill is more adapted for the port of Calcutta than Madras, the latter being destitute of a harbour is exposed to an open roadstead with a surf that sometimes interrupts the communication with the ships in the roads, which are generally at a distance of a mile from the shore, so that more time ought to be allowed than fifteen working days, as provided by the Bill, for landing and shipping cargo at Madras.

3. The Bill being rather lengthy, containing CCIX Clauses, which it was necessary for the members of the Association to consider and determine how far the Bill would operate with reference to the interest of the trade at Madras, this had taken up more time than was anticipated, and they regret that the remarks now forwarded were not sent to you before.

Remarks by the Madras Trade Association on the Consolidated Customs Bill.

GENERAL PROVISIONS.

Clause XXIV.—Under-valuation of goods how to be dealt with.

It may so happen that the goods may arrive before the Invoice is received; it is therefore necessary to provide for such a contingency, or the miscarriage of the Invoice; in all such cases, the assumed value may be taken on an indemnity being given to pay the difference of duty

when the Invoice is produced, or to refund the excess, if the goods are under-valued ; failing to do this within a reasonable time, say three months, the goods may then be subject to the higher duty as may be fixed by the Officer of Customs.

IMPORTATION.

Clause XLVII.—Consequences of exceeding period of landing import cargo.

A period of fifteen working days in many cases would be too short a time for landing cargo in Madras, this ought to be extended to twenty working days, or according to the quantity and description of cargo to be landed, as difficulties may occur from the weather or the rise of the surf, and even from the want of boats to land the cargo within a shorter time, which often occurs when boats are taken up for landing or embarking Troops.

Clause XLIX.—Goods landed at any other except appointed wharves and places, &c.

10th line. The transhipping of goods from one boat to another may arise from necessity, or from the apprehension of a boat in a leaky state being about to sink ; and if done under such circumstances for the safety of the goods, an exception ought to be made, to exempt the goods in such cases from the liability of confiscation ; the distance being generally a mile from the shore to the ships.

Clause L.—Goods to be forthwith removed from importing ship and landed.

A small fine is ample punishment to the boat owner or the crew, without subjecting the former to the confiscation of his boat ; and it is hard that the owner of the goods, who may in no way be implicated in the offence, should be subject to the confiscation of his goods.

Clause LI.—Goods landed without a Boat Note liable to confiscation.

Not if a Boat Note should be lost in the way, and it would be too much to subject the owner to the confiscation of his goods or to forfeit a sum to twice the amount of duty leviable thereon, for an act in which he may have had no share whatever, a small fine would, we think, be sufficient to punish the party by whom the neglect or carelessness might have been occasioned.

The landing and shipping of goods at Madras are effected by means of private boats, the owners of which have no connection with the consignors or consignees, we think no option should be given to any officer of Customs to confiscate the goods of the latter for any offence of the former ; it is presumed that this and the preceding clause are intended to apply to a river or harbour, and not to an open roadstead like that of Madras, subject to currents, gales, &c.

Clause LV.—Penalty for any person not being the owner, &c., attesting any declaration to the value of the goods.

The vigilance of the Custom House officers ought to prevent this ; and if discovered to be an attempt to defraud, it ought to be punishable by law, for if the offender is a beggar he has nothing to forfeit.

Clause LIX.—Goods not claimed or cleared within two months from date of entry to be sold.

Notice ought to be given in one or two other papers besides the official Gazette, as it often happens that the party for whom the goods are intended does not see the official Gazette, and as he may be at a distance, three months' time would not be too much to allow, before it is decided by the officer in charge of the Custom House to sell such goods by public auction ; except they be of a perishable nature, when they may be sold before that time ; and we think that goods so advertised should bear the expense of the charge for advertising whether in the official Gazette or otherwise.

Clause LXI.—Damaged goods to be sold by auction, and duties levied on amount of gross sale proceeds less duty.

The damaged goods may be sold by public auction at such time as the officer in charge of the Custom House shall appoint, on giving the owner previous notice thereof. Wines, Spirits or Beer or other articles damaged, on which duties are levied on quantity and not on value should bear only a proportionate charge of duty.

WAREHOUSING.

Clause LXV.—Penalty for improper carrying into Warehouse.

From 6th to 9th line. The carrying goods "in such manner by such persons, within such time, and by such roads or ways, as such officers shall direct," appears to be objectionable, as the persons so carrying them may not be owners, so that to punish them for carrying without authority, should be left to the discretion of the proper officer of Customs, and not subject the goods to confiscation.

Clause LXXVII.—Penalty for keeper or Licensee of a Warehouse neglecting to stow goods properly.

5th line. Perhaps it would be better to use the word refuse, instead of neglect, and to omit the words in the 8th line, for "every such neglect ;" as the forfeiture would be too heavy for an offence, which may be owing to forgetfulness or some other trivial cause.

Clause LXXIX.—Goods entered to be warehoused, if not duly warehoused, or concealed or removed, to be confiscated.

The keeper of such Warehouse may be fined by the Collector of Customs, to the extent of the value of the goods, and the amount of duty payable thereon, and the said goods, if found, shall be liable to confiscation, if the owner or importer shall be implicated therein and not otherwise.

The penalty in this and the preceding clause is hardly necessary, for the bond given for the warehousing of the goods guarantees the payment of duty under any circumstances, and it is only for any act of irregularity the owners can be made punishable, and the payment of double duty would be adequate for such offence.

EXPORTATION.

CXI. Goods not to be shipped except in proper days and places nor until entry or clearance.

Why confiscate the vessel or boat when the owner thereof may in no wise be concerned in the affair. It is manifestly the duty of the Customs authorities to reject applications either for export or import until the rules of the port have been complied with by the commanders of vessels ; and consignors or consignees should not be held responsible for any neglect of such rules by commanders of vessels or others.

Clause CXII. Penalty for obstructing Customs officer in opening package and examining goods shipped.

Not unless he shall have reason to suspect that it contains any other goods than those cleared for shipment, otherwise the inconvenience would be great to the shipper, and who ought to be reimbursed the expense of re-packing and paid any damage that may be done to his goods.

Clause CXXI. Goods on board to correspond with the Manifest.

Lines 9 and 10. After the words " short shipped," add, or shall fail to show cause why the same was not shipped.

It sometimes occurs that after Receipt Notes are given by the Officer in charge of the vessel, a package is returned ashore on discovery of some damage being sustained on its shipment ; the Bill of Lading is signed by the Captain on shore without any knowledge of this circumstance, and the package included therein, may from some unavoidable cause not be re-shipped before the vessel sails, in such case it would be manifestly unjust to confiscate the goods.

COASTING TRADE.

Clause CXLIX. Customs Officers may go on board and examine any coasting vessel.

First line after the words "any Officer of Customs," add, when so empowered and can produce an authority for so doing from the officer in charge of the Custom House.

OFFENCE AND PENALTIES.

Clause CLXXXI. Vessel and conveyance used in removal of run goods to be confiscated. Provided it is done with the knowledge of the party to whom such conveyance, &c., belongs.

Clause CXCIII. Officers of Customs or Excise may on probable cause, stop carts, &c., and search for goods.

After the word "law" 16th line, add, provided he reimburse the expense that may be incurred, or pay any loss that may be sustained by any unnecessary examination of such cart, &c.

Clause CCV. Appropriation of penalties, &c., and grant of rewards, last line, add, and to pay any loss or expense that may be occasioned to any party by reason of the conduct of the officers of Customs in the execution of their office.

1. Ordered that the above papers be submitted to Government with the annexed abstract of opinions and the Board's comments, with reference to the Proceedings of Government dated 14th August 1862, No. 1,721, Revenue Department, forwarding for report the revised Draft Bill for the consolidation of the Sea Customs Law.

2. Mr. Shubrick's letter explains the matter on which the Government of India ask for information relative to the landing of cargo by the ships' agents.

3. The whole cargo is discharged by them, and delivered at the Customs House. The parties entitled to the goods clear them thence by payment of duty. The landing charges are settled as a private matter between the owners and the ships' agents. The Bill of Lading with the receipt of the latter for freight, &c., is considered sufficient authority for allowing the goods to be removed when duty has been paid.

4. The Board do not concur in Mr. Shubrick's opinion that the change in the law precludes the continuance of the privilege conceded by Government to the French Government of Pondicherry. Section XVIII of the Bill appears to them to convey ample authority, but Mr. Shubrick has lost sight of the fact that the Bill relates to Sea Customs only.

5. The remission of the Land Customs duty on export of the grain needed for consumption in the French territory is evidently a distinct matter.

6. The allowance of drawback on goods for the French territory imported at Madras on board the Mail Steamers and exported by land into the French territory under seal and certificate is strictly analogous in principle with the drawback, to which such goods would be entitled were they exported from Madras to Pondicherry by sea.

7. The Board regret that the pressure of other matters and the magnitude of the Bill has prevented them from submitting their remarks at an earlier date.

(A true Extract.)

(Signed) W. HUDLESTON, *Secretary.*

Remarks of the undermentioned authorities on the Bill for the consolidation and amendment of the Laws relating to Customs Duties.

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
1	2	3	4	5
II.—Laws repealed. XV.—Import Customs.				The Sections repealed of Act 6 of 1844, should include Section 46. The heading levy of and exemption from Customs Duties should come *before*, not *after* Section XV both in list of Sections and body of Act.
XVII.—No duties on goods carried from one Indian port to another not being a free port.		It is presumed that this does not apply to Indian made Spirits.		The Board observe that under the existing Law (Act 32 of 1845) Spirits made in the Presidency by the European method can be sold only to the Commissariat or to the Abkarry renters. So that although there is no duty between the ports of this Presidency on the article, it cannot be brought into the general market except through the Abkarry farmers. The effect of the excise in Bengal is similar there as regards imports from this Presidency of Madras made Spirits. Section XX Act I of 1852 produces the same result for Bombay.
XVIII.—Local Government may in certain cases authorize exemption from payment of duty.	Section XVII, Act VI of 1844 being repealed, it follows by this Section that the provision under which grain has been heretofore permitted by the Madras Government to be exported by land to Pondicherry without payment of duty will cease; and duty hereafter have to be levied, as it cannot I think be said that the circumstances under which			The Board do not concur in the objection raised by the Collector of Sea Customs to the continuance under this Section of the privilege hitherto conceded by the Madras Government to goods intended for Pondicherry landed at a Madras port, and conveyed thence by land under seal and certificate of its Customs officers. The Section appears to continue the powers conferred by Section XVII Act 6 of 1844.

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
1	2	3	4	5
	grain is taken to that Settlement are of an "exceptional nature."			
XX Clause 2.—Prohibitions and restrictions.				It might be well to add the epithet "base" to the description of coin the importation or exportation of which is prohibited.
			GENERAL PROVISIONS.	
XXIV.—Undervalued goods how to be dealt with.		This Clause withdraws the protection which the corresponding Clause of the old Act gave against vexatious seizures. The Clause in the old Act made the Customs officer pay half the loss Government sustained on the sale, this was a most salutary rule and its withdrawal in the present Act is strongly deprecated. In its present form this Section leaves the merchant at the mercy of any ill-disposed Customs officer, who will receive reward for every seizure, and prompted by his immunity from all penalty for wrong doing may make them as numerous as possible. At Home when goods are seized a percentage is added to the declared value, this is but an act of justice to the merchant that it is hoped may find its place in this Section.	Under-valuation of goods how to be dealt with. It may so happen that the goods may arrive before the Invoice is received, it is therefore necessary to provide for such a contingency, or the miscarriage of the Invoice; in all such cases, the assumed value may be taken on an indemnity being given to pay the difference of duty when the Invoice is produced, or to refund the excess, if the goods are undervalued; failing to do this within a reasonable time, say three months, the goods may then be subject to the higher duty as may be fixed by the Officer of Customs.	The Chamber's remark refers apparently to Section 156 of the former Draft Bill. The then Collector of Sea Customs condemned the provision in question in remarking on that Bill, and the Board concur with him. They see no reason to modify the opinion they then expressed. It does not appear to the Board necessary to make the special provision proposed by the Trade Association, as ample provision is made for amending the valuation under such conditions as the chief Officer of Customs may determine See also Section LIV, which provides for examination of goods by the importer to determine the value in the absence of the necessary information on the subject. Considering that a liberal margin is allowed in practice for valuing goods, and that full opportunity is given for amending the valuation, it does not appear to the Board necessary to allow the merchant the additional percentage on his declared value, for which the Chamber contend.
XXXI.—On failure Master to forfeit 1,000 Rs.				The Board would modify this Clause by declaring the Commander offending, as therein prescribed, to be *liable* to a penalty not exceeding, &c.

		As now worded, the Section does not provide for cases of undesigned mis-description in a Manifest. The Board do not understand why any *absolute* penalty should be denounced against these cases, accident or necessity may have compelled or caused the act and why "stowing" cargo should be penal, the Board fail to understand.
XLIII.—Master or Commander to deliver Bill of Lading, &c., to officer in charge of Custom House.			
		IMPORTATION.	
XLVII.—Consequence of exceeding period for landing import cargo.		Consequences of exceeding period of landing import cargo. A period of 15 working days in many cases would be too short a time for landing cargo in Madras, this ought to be extended to 20 working days, or according to the quantity and description of cargo to be landed, as difficulties may occur from the weather or the rise of the surf, and even from the want of boats to land the cargo within a shorter time, which often occurs when boats are taken up for landing or embarking Troops.	The Bill provides for an extension of the period of landing goods at the discretion of the Officer in charge of the Customs House. This seems to afford all necessary latitude, and the Chamber have made no objection to the Section as it stands. The period of time that is sufficient in a river may be inadequate at an open roadstead, but the Board do not think to alter the Section the effect of which might be to give in *every* case an unnecessarily long period at Calcutta.
XLIX.— Goods landed at any other except appointed wharves and places, &c.		Goods landed at any other except appointed wharves and places, &c. 10th line. The transhipping of goods from one boat to another may arise from necessity, or from the apprehension of a boat in a leaky state being about to sink; and if done under such circumstances for the safety of the goods, an exception ought to be made to exempt the goods in such cases from the liability of confiscation; the distance being generally a mile from the shore to the ships.	The Section only declares that the goods shall be be *liable* to confiscation. Transhipment under the circumstances supposed by the Trade Association would of course be excepted from this penalty by the Customs authorities at the port.

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
1	2	3	4	5
L.—Goods to be forthwith removed from importing ship and landed.			Goods to be forthwith removed from importing ship and landed. A small fine is ample punishment to the boat owner or the crew, without subjecting the former to the confiscation of his boat; and it is hard that the owner of the goods, who may in no way be implicated in the offence, should be subject to the confiscation of his goods.	The same remarks apply here. The goods are only *liable*, &c., and unless the complicity of the owners or their agents were proved or plainly inferrible, the penalty would certainly not be applied.
LI.—Goods landed without a a Boat Note liable to confiscation.		Goods landed without a Boat Note liable to confiscation or fine of double duty. The Committee considers that though this Clause is an improvement upon the corresponding Clause No. 31 of the old Bill, inasmuch as confiscation may be commuted into a fine of double duty on the party ordering the landing, yet that the working of it would be oppressive. The Act it is thought should provide a power of enforcing a small penalty for landing duty *free* goods without a Boat Note. In Madras roads it is not the practice to make delivery on board the ship, and, indeed, such a course is impossible in an open roadstead, the cargo is landed by the ship with consent of the consignors or their agents; it would seem therefore equitable to prevent carelessness on the part of ship's officers, that the penalty should fall on the ship, and that a small fine not exceeding a few Rupees should be levied by the Chief Customs authority when boats are sent on shore without Boat Note.	Goods landed without a Boat Note liable to confiscation. Not if a Boat Note should be lost in the way, and it would be too much to subject the owner to the confiscation of his goods or to forfeit a sum to twice the amount of duty leviable thereon, for an act in which he may have had no share whatever, a small fine would, we think, be sufficient to punish the party by whom the neglect or carelessness might have been occasioned. The landing and shipping of goods at Madras are effected by means of private boats, the owners of which have no connection with the consignors or consignees, we think no option should be given to any officer of Customs to confiscate the goods of the latter for any offence of the former; it is presumed that this and the preceding Clause are intended to apply to a river or harbour, and not to an open roadstead like that of Madras, subject to currents, gales, &c.	The Board observe that the goods are only declared *liable* to confiscation and this penalty corresponds with that provided by Section XXXVIII Act VI of 1844. The Board see no reason to alter this, but they would modify the concluding part of the Section by declaring the party by whose authority the goods are being landed, *liable* to forfeit twice the amount of duty leviable on the goods, and they would add a Clause empowering the Customs Officer to inflict a fine of Rupees on the boatmen in lieu of the other penalties when he sees reason to believe that *they* are the parties really to blame. By Section 181 of the Bill, the boat as well as the goods is liable to confiscation in such cases.
LV.—Penalty for any person not being the owner, &c., attesting any declaration to the value of goods.			Penalty for any person not being the owner, &c., attesting any declaration to the value of the goods. The vigilance of the Custom House officers ought to prevent this, and if discovered to be an attempt to defraud, it ought to be punishable by law, for if the offender is a beggar he has nothing to forfeit.	It is presumed that it is not necessary to declare in this Act that fraud or intent to defraud is punishable under the Criminal Law. Section 187 of the Bill will moreover meet the case of pauper delinquents.
LVII.—Penalty for not discharging cargo in any earlier period specified in Bill of Lading.	In practice all goods are landed by the ship's agent at this port, and brought into the Custom House yard. No inconvenience of any kind has been the consequence, as the goods remain in the yard till cleared for consumption or warehoused. But receipts are never given. It is clear that if receipts are to be given a large			The Collector's objection will apply equally to the preceding Section which likewise provides for receipts being granted to the Master of the ship, and a like provision is made in Section 47, Act 6 of 1844. It does not follow that because the Collector is required to grant receipts for goods landed at the risk of the importer or his agreement without his concurrence therefore they shall similarly be granted in all cases when for his convenience or in accordance with the practice of the port they are so landed voluntarily. It may be observed also that at this port the ship's agent is very generally the agent also of the consignee or importer,

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
1	2	3	4	5
	increase of establishment will be necessary. I do not see what the Custom House has to do with goods coming into it, unless they are combustible, when they should be kept out. Its duty concerns goods leaving it. In the case of iron and metals the trouble would be endless, identifying and weighing the different boat loads and consignments in the absence of the consignees and Bills of Lading, and giving receipts for them.			and also that it is not to goods landed by the *ship's agent* at the port that the sections apply, but the goods landed by the Master or Commander of the ship owing to the neglect of the importers or their agents. The cases where the ship's agents are not the importers' agents also or where the agents of the importer are not on the spot and acting must be comparatively rare, but to meet them and to guard the ship's Master from loss and delay it is necessary that provision should be made, and it seems not unreasonable to grant him a receipt for goods so brought into the Customs House, and rendered available for the levy of the Government duty. The Board are not apprehensive that in practice the provision would work badly, but they observe with reference to the marginal abstract of Section 57 of the bill that no "*penalty*" whatever is provided for the neglect of duty by the party importing the goods, though such would seem to have been intended, and might not improperly be inflicted. It will be seen from the statement of reasons which accompanied the original Draft, that this provision is in accordance with the English Law on the subject, and it is only reasonable that when the Master of the ship acts for the general convenience and for the security of the public revenue his own interests should be carefully guarded.
LVIII.—Consequence of non-payment of duties within two months after entry of vessel.	I think the duties of the Custom House should be limited to the levy of duties. I cannot see the grounds on which in this and other Sections both before and after, the Collector of Customs is required to see to the payment of primage, freight and other ship's charges. Such has never been hitherto the case.			

LIX.—Goods not claimed if cleared within two months from the date of entry to be sold.			Goods not claimed or cleared within two months from date of entry to be sold. Notice ought to be given in one or two other papers besides the official Gazette, as it often happens that the party for whom the goods are intended does not see the official Gazette, and as he may be at a distance three months' time would not be too much to allow, before it is decided by the Officer in charge of the Custom House to sell such goods by public auction; except they be of a perishable nature, when they may be sold before that time; and we think that goods so advertised should bear the expense of the charge for advertising whether in the Official Gazette or otherwise.	Three months' time from the entry of the ship was allowed by Section 47, Act 6 of 44 for claiming and clearing goods so landed. The English Law it is believed allows three months from the expiration of the time allowed by law or by the terms of the Bill of Lading for landing the goods. The Bill allows *two* months from the date of landing the goods. In all the cases the officer in charge of the Customs House is vested with discretion to extend the period. The Board are disposed to recommend that three months' time from the landing of the goods be allowed for goods not of a perishable nature. They do not support the recommendation that the intended sale should be advertised by the Government Officers in any other publication than the official Gazette.
LXI.—Damaged goods to be sold by auction and duty levied on amount of gross sale proceeds less duty.	The Chief Customs Officer is here empowered to direct the place where sales of damaged goods for determining their dutiable value shall be made. It is presumed that this simply applies to granting permission in certain cases for sales to be made at the Custom House, any further interference in the shape of directing by whom the goods are to be sold would be open to grave objections.		Damaged goods to be sold by auction, and duties levied on amount of gross sale proceeds less duty. The damaged goods may be sold by public auction at such time as the Officer in charge of the Custom House shall appoint, on giving the owner previous notice thereof. Wines, Spirits, or Beer, or other articles damaged, on which duties are levied on quantity and not on value, should bear only a proportionate charge of duty.	The Board understand the intention to be that the Chief Customs Officer shall decide where the sale is to take place. The question as to the allowance of ullage or wastage of liquor *in Bond* was discussed with reference to the original Draft. The Government of India decided that it should be allowed to a reasonable extent, but Mr. Spooner was opposed even to this concession, which had not been allowed in Bombay though it had in Calcutta. The provision in the present Draft that no allowance for *damage* shall be made in respect of goods chargeable with duty on *quantity* and not on *value* may not be intended to apply to ullage or wastage.

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
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				The Board would recommend that duty be charged only on the actual quantity imported in such cases. The notice of the intended sale in the Gazette appears sufficient. It would perhaps be well to define who shall appoint the *seller* of the goods.
			WAREHOUSING.	
LXV.—Penalty for improper carrying into Warehouse.			Penalty for improper carrying into Warehouse. From 6th to 9th line. The carrying goods "in such manner by such persons. within such time, and by such roads or ways, as such officers shall direct," appears to be objectionable, as the persons so carrying them may not be owners, so that to punish them for carrying without authority, should be left to the discretion of the proper officer of Customs, and not subject the goods to confiscation.	The goods are only declared *liable* to confiscation. It must be presumed that a proper discretion will be exercised in all such matters, and that the owners will not be made to suffer without sufficient cause. The Board would modify the conclusion of the Section so as to make the parties *liable* to forfeit, &c., and not absolutely decree forfeiture.
LXXVII.—Penalty for keeper or Licensee of a Warehouse neglecting to store goods properly.			Penalty for keeper or licensee of a Warehouse neglecting to store goods properly. 5th line. Perhaps it would be better to use the word refuse, instead of neglect, and to omit the words in the 8th line, for "every such neglect;" as the forfeiture would be too heavy for an offence which may be owing to forgetfulness or some other trivial cause.	The Board would modify the Clause so as to make the party *liable* to forfeit, &c.

LXXIX.—Goods entered to be warehoused, if not duly warehoused, or concealed or removed, to be confiscated.			Goods entered to be warehoused, if not duly warehoused, or concealed or removed, to be confiscated. The keeper of such Warehouse may be fined by the Collector of Customs, to the extent of the value of the goods, and the amount of duty payable thereon, and the said goods, if found, shall be liable to confiscation, if the owner or importer shall be implicated therein and not otherwise. The penalty in this and the preceding Clause is hardly necessary, for the Bond given for the warehousing of the goods guarantees the payment of duty under any circumstances, and it is only for any act of irregularity the owners can be made punishable, and the payment of double duty would be adequate for such offence.	The penalty in Section LXXVIII is for the protection of the owner of the goods as much as of the revenue, and the Board would not alter the Section. In Section LXXIX the goods are declared *liable* to confiscation, and the interests of the owner would doubtles be duly guarded were he not implicated in the offence. The Board do not consider the penalty excessive should complicity be proved in an act which is distinctive to the system which for the benefit of trade and at a certain amount of risk to the revenue is permitted on a footing of mutual reliance.
CVIII.-Provisions relating to private Warehouse applicable to Bengal Bonded Warehouse Association.				It would be well to add "or other similar Association" to the description Bengal Bonded Warehouse Association in the Section.
CXI.—Goods not to be shipped except on proper days and places, nor until entry and clearance.			EXPORTATION. Goods not to be shipped except on proper days and places nor until entry or clearance. Why confiscate the vessel or boat when the owner thereof may in no wise be concerned in the affair. It is manifestly the duty of the Customs authorities to reject	The term is "shall be *liable* to confiscation." Thus guarded, the Board see no objection to it.

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
1	2	3	4	5
			applications either for Export or Import until the Rules of the port have been complied with by the Commanders of vessels, and consignors or consignees should not be held responsible for any neglect of such Rules by Commanders of vessels or others.	
CXII. — Penalty for obstructing Customs officer in opening the package and examining goods shipped.			Penalty for obstructing Customs officer in opening package and examining goods shipped. Not unless he shall have reason to suspect that it contains any other goods than those cleared for shipment, otherwise the inconvenience would be great to the shipper, and who ought to be reimbursed the expense of repacking and paid any damage that may be done to his goods.	If without sufficient and with the intention to annoy or extort, any Customs officer should abuse his authority, the sufferer would have his remedy under Section 175. It may perhaps be desirable to make some more distinct provision for abuse of this authority by extending the terms of section 183, or in such manner as may be deemed best.
CXXI. — Goods on board to correspond with the anifest.			Goods on board to correspond with the Manifest. Lines 9th and 10th after the words "short shipped," add, or shall fail to show cause why the same was not shipped. It sometimes occurs that after Receipt Notes are given by the Officer in charge of the vessel, a package is returned ashore on discovery of some damage being sustained on its shipment; the Bill of Lading is signed by the Captain on shore without any knowledge of this circumstance, and the package included therein, may from some unavoidable cause not be re-shipped before the vessel sails, in such case it would be manifestly unjust to confiscate the goods.	The Goods are only *liable* to confiscation, but the Board see no objection to the proposed addition if deemed necessary.
CXXII.—Goods passed for shipment after Port Clearance has been granted how to be treated.		This clause levies a duty of 2 per cent. extra on dutiable, and 2 per cent. on non-dutiable goods passed for shipment after port clearance of vessel. The Chamber's recommendations under this head, Clause 96 of the former Act, have not been met, but a simple alteration made chiefly as respects non-dutiable goods. At Madras a case of the kind so rarely occurs that no legislative enactment for checking any such is needed. The shipments are assumed to be quite regular, no one is defrauded, no one is injured. A small penalty levied as a fee sufficient to meet the extra trouble imposed on the officers of Customs seems all that is necessary here.	The Board concur with the Chamber in considering the penalty unduly heavy as regards the circumstances of the Madras port, and they are at a loss to understand what object is in view in fixing it at so large a sum as 2 per cent. on the value of the goods in addition to any duty. The Section, moreover, is badly worded. Free goods and dutiable goods with Tarif values are provided for, but not so dutiable goods charged on the market value.
CXXV.—Goods re-landed from a vessel put back from stress of weather, how to be disposed of.		This Clause, regulating transhipments from vessels that have put back from stress of weather may, it is presumed, be held to apply also to vessels leaving one Indian port and putting in at another.		The Board would refer the point for consideration. The proposal appears to them free from objection under due precautions and when limited to cases of vessels driven to shelter by stress of weather.

Sections.	Collector of Sea Customs.	Chamber of Commerce.	Trade Association.	Board of Revenue.
1	2	3	4	5
CXXVI.—Drawback of Customs allowed on the re-export of certain goods under certain conditions.				The concluding portion of this Section would seem to leave it *optional* with the Chief Customs authority to allow the refund of any import duty in excess of the export duty that may be leviable on the goods when re-exported. While if no export duty be leviable the owner can claim the refund of the whole import duty as of right. The reason or intention of the distinction is not apparent.
			COASTING TRADE.	
CXLIX. — Customs officers may go on board and examine any coasting vessel.			Customs Officers may go on board and examine any coasting vessel. First line after the word any officer of Customs, add, when so empowered and can produce an authority for so doing from the officer in charge of the Custom House.	The addition of the words " when duly authorized and on production of written authority" seems unobjectionable.
CLXXI. — Unvalued goods how to be assessed.				The principle involved in the last three lines of this Section is that the amount of the duty on the whole value of the goods at the *market* rate is to be deducted and duty to be charged on the balance value only. If this be intended there appears no reason why the application should not be made general. It is applied in Section 61 to damaged goods. Is it intended that this allowance shall not be made for goods included in the *Tariff* and valued at fixed rates?
			OFFENCES AND PENALTIES.	
CLXXXI.—Vessels and conveyance used in removal of run goods to be confiscated.			Vessel and conveyance used in removal of run goods to be confiscated. Provided it is done with the knowledge of the party to whom such conveyance, &c., belongs.	The term is *liable* to confiscation which leaves a discretion in the hands of the authorities. This appears to the Board to be sufficient to prevent injustice to individuals. " *Prima facie*" complicity is to be inferred.
CXCIII.—Officers of Customs or Excise, may, on probable cause stop carts, &c., and search for goods.			Officers of Customs or Excise may on probable cause, stop carts, &c., and search for goods. After the word " Law" 16th line, add, provided he reimburse the expense that may be incurred, or pay any loss that may be sustained by any unnecessary examination of such cart, &c.	Reasonable suspicion is the justification for the search. Where such exists the officer should not be held liable to pay damages even though smuggled goods may not be found. It would however be well to provide generally against abuse of authority by Customs Officers. See above on Section 112.
CCIII.—Powers of Customs Officers in respect to confiscations and fines.				The appeal from the decisions of Deputy and Assistant Collectors should be to their immediate superior, the chief Customs Officer, who it is presumed in Madras would be the Collector of the District, while the chief Customs authority would also seem under Section III, Clause 3 to be the Board of Revenue.
CCV.—Appropriation of penalties, &c., and grant of rewards.			Appropriation of penalties, &c., and grant of rewards, last line, add, and to pay any loss or expense that may be occasioned to any party by reason of the conduct of the officers of Customs in the execution of their office.	The Board do not recommend the addition proposed by the Trade Association to this Section. The object in view should be provided for by more legitimate means when officers of Customs misconduct themselves in the discharge of their duty, or abuse their authority.

(Signed) W. HUDLESTON,
Secretary Board of Revenue.

Ordered that the following letter be despatched.

No. 168: From T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Home Department, dated 13th October 1862, No. 2,204.

SIR,

1. With reference to Mr. Officiating Deputy Secretary Macpherson's letter, dated 24th July 1862, No. 26, I am directed by the Governor in Council to forward to you an abstract of the observations of the Collector of Sea Customs, the Chamber of Commerce, the Trade Association and the Board of Revenue on the amended Consolidated Customs Bill, together with copies of the papers noted in the margin.* The information required on the subject of the landing of cargo by the Ships' Agents will be found in the letter from the Collector of Sea Customs.

* From Collector of Sea Customs to Board of Revenue, dated 27th August 1862, with one enclosure.
From Chamber of Commerce to ditto, dated 15th September 1862.
From Trade Association to ditto, 19th September 1862, with one enclosure.
Procs. of the Board of Revenue, dated 6th October 1862.

2. I am to add that the Government have no remarks to offer on the Bill.

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from A. G. MACPHERSON, Esq., Officiating Deputy Secretary to the Government of India, Home Department, to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to the Government of Fort Saint George, dated Fort William, the 24th July 1862, No. 26 :—

SIR,

1. I am directed to forward, for submission to His Excellency the Governor in Council, six printed copies of the Report of the Select Committee on the Consolidated Customs Bill and of the Bill as amended by them, with the request that the opinions of those authorities and others who were consulted on the former Bill, may be taken on the present one and forwarded to me within two months.

2. I am desired at the same time to ask for a copy of the Rules under which (as would appear from papers recently forwarded by the Government of Bengal) Ship's Agents at Madras by a general agreement now land the entire cargoes and make them over to the Custom House ; and to enquire whether, in such cases, the Agents recover their freight, &c., through the instrumentality of the Customs Officers.

ORDER THEREON, 14th August 1862, No. 1,721.

Resolved that the Report and the Bill be referred to the Board of Revenue for early report after communication with the Chamber of Commerce, the Trade Association and the Collector of Sea Customs. The Board will also submit the Rules and information required in paragraph 2 of this letter.

(True Extract.)

(Signed) T. PYCROFT,
Chief Secretary.

To the Board of Revenue with four copies of the Bill and the Report.

Exd. S. T. Augustin.

Revenue 1862 Dept.
Pro. of Govt. for Augt.
No. 1721.
Pro. of the Madras
Government
Dt. 14th August 1862

Rec. Sept. 16
Ans. Sept. 16
Letter Sept. 16

No. 2204

To the Secretary to the
Govt of India,
Home Department.

Sir,

With reference to Mr. officiating Sy. Secy. Macpherson's letter dated 26th July 1862, No. 26 I am directed by the Governor in Council to forward to you herewith an abstract of the observations of the collectors of sea customs, the Chamber of commerce, the Trade Association and the Board of Revenue on the amended consolidated customs Bill together with copies of the papers noted in the margin. The information required on the subject of the landing of cargo

× From collectors of sea customs to Board of Revenue dated 27th Augt 1862 with 1 encl:—
From Chamber of commerce to do dated 15th Sept. 1862.—
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~~Collector of Sea Customs~~

2. ~~I am to add that~~
~~the Govt have no remarks~~
~~to offer on the bill~~

From Lt. George
13th Oct. 1808

Revenue 1862 Deptt.
Proc: of Govt for October

No 2204.

To
The Secretary to the
Government of India
Home Deptt.

Dated 13th October 1862.

Forwarding abstract of observations of certain authorities on the amended consolidated Customs Bill.

Read Letter from Madras
Forwarding Observations
on Consolidated Customs Bill

Pros No. 167-168
14-2-62

No. 167 & 168.