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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	130	Press
B.P. No.		Mis.
Dated	21-11-1872	196 .

Not to be folded or roughly handled

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Proceedings of the Madras Government, Marine Department,
15th November 1872.

No. 11. Read the following letter from the Secretary to the Government of India, Marine Department, to the Secretary to the Government of Bombay, Marine Department, dated Simla, 12th October 1872, No. 22:—

With reference to your letter, No. 891, dated the 10th August 1872, I am directed to forward, for the information of the Honourable the Governor in Council, the accompanying copy of the opinion of the Officiating Advocate-General on the question whether the Shipping Master is authorized to furnish copies of documents placed in his charge to parties who have suits pending in the different Courts of Judicature, and to convey the sanction of the Government of India to its being acted on.

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From the Officiating Advocate-General, to the Assistant Secretary to the Government of India, dated Calcutta, 9th September 1872.

With reference to my opinion as to how the present law stands on the subject of the correspondence forwarded, requested by your memorandum of the 31st August 1872, I beg to state as follows:—

The provisions of Act I. of 1859 (with the exception of Section 46 noticed hereafter) do not render it imperative or compulsory on the Shipping Master to furnish copies of documents placed in his charge. If any documents coming within the designation of Agreements, Crew Lists, Official Logs, &c., placed in the custody of the Shipping Master, in accordance with the provisions of the Merchant Shipping Act (Act I. of 1859), are required to be produced in a Court of Law, the proper mode of proceeding to be adopted for that purpose is to obtain a subpoena *duces tecum* directed to the Shipping Master, calling upon him to produce the documents required describing the same. If, however, parties require to consider the terms or effect of documents before adducing the same in evidence, and for that purpose desire copies to be furnished to them by the Shipping Master, it is but just and equitable that the Shipping Master should be entitled to make a reasonable charge for searching and copying. This charge should neither be considered nor demanded as a fee, as Act I. of 1859 does not authorize the levying of fees, and it should simply be made to compensate for the trouble of searching and copying. The charge when made is to be considered as remuneration in respect of the labour employed in searching for and copying the document required, and for the indulgence granted in furnishing the same.

Clause 3 of Section 46 of Act I. of 1859 provides that a copy of the release mentioned in clause of that section, certified under the hand of the Shipping Master, shall be given to any party requiring the same. This is apparently to be done without charge. The reason for supplying such a copy is obvious, as the copy so given is made evidence by the above-mentioned clause. The enclosures are returned.

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No. 66.

Copy of the foregoing forwarded to the Secretary to Government, Fort St. George, Military Department, for the information of His Excellency the Governor in Council.

FORT WILLIAM,
28th October 1872.

(By order.)

(Signed) B. E. BACON, Colonel,
Offg. Secy. to the Govt. of India.

B. E. Bacon

*Proceedings of the Madras Government, Marine Department,
15th November 1872.*

Fort St. George,
5th November 1872.

Transferred to the Marine Department.

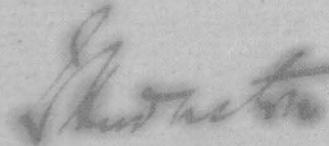
(Signed)

C. A. GALTON,
*Under Secy. to Govt.,
for Military Secretary.*

No. 12.

ORDER THEREON, 15th November 1872, No. 277.

Communicated to the Master Attendant, Madras, and to the Board of Revenue.
(True Extract.)


Officiating Chief Secretary.

To the Master Attendant, Madras.

„ Revenue Department.
„ Judicial „

Perman Disput
H. 3730.

Govt. of 1872 Madras.

MARINE.

To

THE MASTER ATTENDANT,

Madras,

Ac,

Ac,

Ac.

Dated November, 15th.

Recd. a 20.

Encl.

G. O. 15th November 1872, No. 277.

do file
NOVEMBER.
Nos. 11-12.

Communicating correspondence forwarded by the Government of India on the question whether a Shipping Master is authorized to furnish copies of documents placed in his charge to parties who have suits pending in the different Courts of Judicature.

H. 3730.
Sept 1871
20th Nov 72