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MADRAS RECORD OFFICE

Government of Madras

Revenue DEPARTMENT

G.O. No. / ~~B.P. No.~~	45	~~Press~~ / Mis.
Dated	9. 1. 1872	195 .

Not to be folded or roughly handled

Proceedings of the Madras Government, Marine Department, 16th December 1871.

Read again Proceedings of Government, 14th August 1871, No. 237, and 25th September 1871, No. 272.

Read also the following papers :—

Notification in this Department, dated 7th October 1871, published at page 1588 of the *Fort St. George Gazette* of the 10th idem.

No. 16. From the Government Solicitor, to the Chief Secretary to Government, Fort St. George, dated Madras, 23rd November 1871, No. 468, transmitting the following opinion of the Acting Advocate-General :—

OPINION.

Madras Act VII. of 1867 only alters the working and provisions of Act XXII. of 1855 with reference to Sections 41 to 43 of the latter Act. Formerly a distinct Act was necessary in order to enable port dues to be levied in any port in which they were not leviable at the time Act XXII. of 1855 was passed. Now it is lawful for the Madras Government to add the name of any port within the Presidency to the Schedule to Madras Act VII. of 1867, and to extend the provisions of that Act to such port. But the provisions of Act VII. of 1867 only relate to the levying and disposal of port dues and fees. For all other purposes Act XXII. of 1855 is untouched. If, therefore, Government desire to extend the general provisions of Act XXII. of 1855, other than those relating to port dues, to any port, or to alter the limits of any port, or to make Port Rules for such port, it will still be necessary to obtain the previous sanction of the Governor-General of India in Council under Sections 3 to 5 and 7.

(Signed) JOHN D. MAYNE,
Acting Advocate-General.

23rd November 1871.

PORT RULES FOR PORTO NOVO.

I. All vessels within the Port of Porto Novo shall be bound to take up such berth as may be appointed for them by the Conservator, and shall change their berths or remove when required by such authority.

II. All vessels taking in or discharging ballast or any particular kind of cargo within the Port of Porto Novo shall take up such berth as the Conservator may direct.

III. A free passage shall be kept to piers, jetties, landing places, wharves, quays, docks, and moorings, and all vessels shall be bound to move when required by the Conservator to clear such passages.

IV. All vessels within the Port of Porto Novo shall anchor, moor, and unmoor when and where required by the Conservator.

V. The Cargo Boat Rules, published by Government under date the 30th September 1867, shall be in force at the Port of Porto Novo.

VI. All vessels in the roadstead of Porto Novo shall, when at anchor between sunset and sunrise, have a good light hoisted at the starboard foreyard arm ; and all vessels under weigh at night shall show a good light at the foreroyal or upper foremast head, and, when under weigh in tow of a steamer, shall in addition show

a light at each foreyard arm, the steamer showing the usual light prescribed by the Admiralty Regulations.

N. B.—An infraction of any of the above Rules renders a Commander liable to a penalty of Rupees 100.

(By Order of His Excellency the Governor in Council.)

R. S. ELLIS,
Chief Secretary.

No. 17.

ORDER THEREON, 16th December 1871, No. 344.

In their Proceedings read above, the Government directed the extension of the provisions of the Port Conservancy Act No. XXII. of 1855 and of the Madras Port Dues Act VII. of 1867 to the Port of Porto Novo; and Notifications* were accordingly published in the *Fort St. George Gazette*, declaring the port in question to be subject to Act XXII. of 1855, and setting forth the Port Rules to be observed, and the rate of port dues to be levied thereat from and after the 22nd of October 1871. Since the publication of these Notifications, but before the date fixed for the levy of port dues at Porto Novo, it was found that the previous sanction of the Governor-General in Council had not been obtained to the extension of Act XXII. of 1855 to that port and to the promulgation of the Port Rules, as contemplated by Sections 3 and 5 of that Act; and as it was thought that without such previous sanction the Notifications referred to could not be legally acted upon, they were cancelled by the Notification read above, under date the 7th October 1871.

* Dated 14th August and 25th September 1871, published respectively at page 1344 of the Gazette of the 22nd August, and at page 1557 of the Gazette of the 3rd October 1871.

2. Doubts, however, having been entertained as to whether, looking at the provisions of Section 14 of Madras Act VII. of 1867, quoted in the margin, it was still necessary to obtain the previous sanction of the Governor-General in Council to the extension of the Port Conservancy Act to any port—this procedure being considered a mere matter of form—it was deemed advisable to refer the question to the Acting Advocate-General. This was done; and Mr. Mayne has submitted his opinion, which is recorded above.

Section 14.—"It shall be lawful for the Government of Fort St. George, by Notification in the Official Gazette from time to time to declare the rate of port dues chargeable under Section 3 of this Act at the several ports named in Schedules A and B, and to add to the said Schedules the name of any port situated within the territories of the Government of Fort St. George, and to extend the provisions of this Act to such port."

3. It appears, from this opinion, that Madras Act VII. of 1867 only alters the working and provisions of Act XXII. of 1855 with reference to Sections 41, 42, and 43 of the latter Act, which relate to the levy of port dues and fees; that for all other purposes—the agency by which the dues and fees are to be collected (see Section 45) being one of these purposes—Act XXII. of 1855 is untouched; and that, therefore, if Government desire to extend the general provisions of Act XXII. of 1855 to any port, or to make Port Rules for such port, it will still be necessary to obtain the previous sanction of the Governor-General in Council.

4. An application will accordingly be submitted to the Government of India for the requisite sanction to the extension of the Port Conservancy Act to Porto Novo; and pending the receipt of intimation of this sanction having been

Proceedings of the Madras Government, Marine Department,
16th December 1871.

granted, and the publication of a declaration under Sections 3 and 8 of the Act, no action will be taken for the levy of port dues at that port under the orders of Government noted in the margin, which are to be considered as cancelled.

G. O., 14th Aug. 1871, No. 237.
„ 25th Sept. „ „ 272.

5. The Government approve of the Draft of Port Rules for Porto Novo forwarded by the Master Attendant with his letter of the 7th September 1871, No. 5242,* with the exception of Rule VI. and the first clause of the *nota bene* at the end of the Rules. Rule VI. is unnecessary, as Sections 26 and 27 of Act XXII. of 1855 already provide that no vessel within the limits of any port brought under the operation of the Act shall boil any pitch or dammer on board, or draw off spirits on board by candle-light or other artificial light. It should therefore be omitted. The first clause of the *nota bene* should also be omitted, as, besides the reference made therein to Rule VI., it sets forth that an infraction of Rule II. will render the Commander of a vessel liable to a penalty of 200 Rupees—a statement which is not warranted by any of the provisions of Act XXII. of 1855, or of any other enactment.

* Recorded in Proceedings of Government, 25th September 1871, No. 272.

6. The rules will be amended with reference to the foregoing remarks, and, as amended, will be submitted for the sanction of the Government of India, as required by Section 7 of the Act.

7. The proposition to proceed with the erection of the boundary pillars for defining the limits of the port, and to report the cost for the sanction of Government, is approved.

8. Ordered that the following letter be despatched:—

(Here enter letter to the Secretary to the Government of India, Marine Department.)

(True Extract.)

R. Ellis
Chief Secretary.

To the Collector of South Arcot.
„ Master Attendant, Madras.
„ Revenue Department.
„ Board of Revenue.
„ Accountant-General.
„ Public Works Department.

Exd. J. Wright.

Revenue 1872. Oct.
No. 66.

Govt. of {1871} Madras.

MARINE.

To THE COLLECTOR OF SOUTH ARCOT,
&c., &c., &c.

Dated December, 16th.

Recd Dec. 9th 1872. Encl.

G. O., 16th December 1871, No. 344.

DECEMBER.
Nos. 16—18.

Directing that an application be submitted to the Government of India for sanction to the extension of the Port Conservancy Act to the Port of Porto Novo, and for authority to adopt the Port Rules proposed, and, pending this sanction, the Orders of Government dated 14th August and 25th September 1871, Nos. 237 and 272, to be considered as cancelled.

No. 45.

RECORDED.