

1898.
January 13.

LE MESURIER v. MURRAY.

C. R., Batticaloa, 4,405.

*Licensed cargo boat—Duty of owner to obey orders of Master Attendant—
Liability of Master Attendant for hire—Ordinance No. 6 of 1865,
s. 24.*

Although under section 24 of Ordinance No. 6 of 1865 the owner of a licensed boat in any port is bound to obey the order of the Master Attendant of such port to proceed to a ship in such port, the Master Attendant does not, by giving such order, become liable to such owner in hire of such boat, if, in consequence of obedience to such order, the boat be availed of and used in landing cargo from such ship.

THE facts of the case sufficiently appear in the judgment.

Van Langenberg, for appellant.

De Alwis, for respondent.

13th January, 1898. LAWRIE, A.C.J.—

There seems to have been a dispute between the Master Attendant at Batticaloa and the officers of the ss. *Lady Gordon*.

The officers wished to take their cargo to and from the ship in their own boats; the Master Attendant insisted on the ship officers using only the licensed boats of the port.

Whether the Master Attendant was right or wrong in this instance is not before me. It seems that in prosecution of his design to prevent unlicensed boats from being employed, he ordered the plaintiff, Mr. Le Mesurier, who is the owner of several licensed cargo boats, to send his boats out to meet the ss. *Lady Gordon* in April last year.

These boats of the plaintiff were used, and made several trips from the shore to the ship and from the ship to the shore.

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For some reason, which has not been disclosed, the plaintiff did not get payment of his hire of his boats either from the ss. Lady Gordon or from the owners or consignees of the goods, and in this action he raised the question of the liability of the Master Attendant. The 24th section of the Ordinance No. 6 of 1865 obliges the owner of licensed cargo boats to obey the orders of the Master Attendant, *inter alia*, to send licensed boats to vessels to land and to ship cargo.

LAWRIE
A.C.J.

There is nothing in the Ordinance as to who is to pay. It seems to me that by giving an order that the boats be sent out, the Master Attendant does not guarantee that the boats will be used, for it may turn out that there is no cargo to unload ; nor can the order be construed to be an implied promise by the Master Attendant to pay the hire of the boats or the charges for taking goods in the boats.

I hold that the Master Attendant is not liable personally to the owner of the licensed boats. Of course, a Master Attendant, like any one else, may make himself liable by express contract, but that is not alleged and proved here.
