

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No. 457

Press
Mis.

Dated 22.10.1857

Not to be folded or roughly handled

Fort Saint George, Marine Consultation, 29th October 1857.

No. 1. From R. B. CHAPMAN, Esq., Officiating Under Secretary to the Government of India; to E. MALTBY, Esq., Acting Chief Secretary to the Government of Fort Saint George, dated the 29th September 1857, No. 1634.

Home Department. SIR,

With reference to your letter, No. 354, dated the 4th Instant, I am directed to forward the accompanying copy of the opinion of Her Majesty's Attorney and Solicitor General, and of the East India Company's Standing Counsel, as to the construction to be placed on the term "Natural born British Subjects" used in the Merchant Shipping Act of 1854.

(Signed) R. B. CHAPMAN,
Offg. Under Secretary to the Govt. of India.

CASE.

FOR THE EAST INDIA COMPANY.

By the Merchant Shipping Act 1854, 17 and 18 Vic., C. 104, Sec. 18 and 38. It is enacted as follows, *viz.* No Ship shall be deemed to be a British Ship unless she belongs wholly to Owners of the following description that is to say.

1. Natural born British Subjects.

Provided that no Natural born Subject who was taken the Oath of Allegiance to any Foreign Sovereign or State shall be entitled to be such Owner as aforesaid unless he has subsequently to taking such last mentioned Oath, taken the Oath of Allegiance to Her Majesty and is and continues to be during the whole period of his so being an Owner Resident in some place within Her Majesty's Dominions, or if not so Resident Member of a British Factory or Partner in a House actually carrying on business in the United Kingdom, or in some other place within Her Majesty's Dominions.

2nd. Persons made Denizen by Letters of Denization as naturalized by or pursuant to any Act of the Imperial Legislature, or by or pursuant to any Act or Ordinance of the proper Legislative Authority in any British Possession.

Provided that such persons are and continue to be during the whole period of their so being Owners Resident in some place within Her Majesty's Dominions, or if not so Resident Members of a British Factory or Partners in a House actually carrying on business in the United Kingdom, or in some other place within Her Majesty's Dominions, and have taken the Oath of Allegiance to Her Majesty, subsequently to the period of their being so made Denizens or naturalized.

3rd. Bodies corporate established under subject to the laws of and having their principal place of business in the United Kingdom or some British Possession.

No person shall be entitled to be Registered as Owner of a Ship or any share therein until he has made and subscribed a Declaration in the Form marked B, in the Schedule hereto referring to the Ship as described in the Certificate of the Surveyor, and containing the following particulars (that is to say.) 1. A Statement of his qualification to be an Owner of a share in a British Ship.

2nd. A Statement of the time when and the place where such Ship was built or (if the Ship is Foreign built and the time and place of building not known) a Statement that she is Foreign built and that he does not know the time or place of her building, and in addition thereto in the case of a Foreign Ship, a Statement of her Foreign name or (in case of a Ship condemned) a Statement of the time and place and Court at and by which she was condemned.

3rd. A Statement of the name of the Master.

4th. A Statement of the number of shares in such Ship of which he is entitled to be Registered as Owner.

5th. A Denial that to the best of his knowledge and belief any unqualified person or body of persons is entitled as Owner to any legal or beneficial interest in such Ship or any share therein. The above Declaration of Owners shall be made and subscribed in the presence of the

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Registrar if the Declarant reside within five miles of the Custom House of the Port of Registry but if beyond that distance in the presence of any Registrar or of any Justice of the Peace.

The following is a copy of the Form of Declaration prescribed by the foregoing Section.
I the undersigned A. B. of _____ in the County of _____ declare as follows:

1. I am a natural born British Subject
born at (naming birth place)
and have never taken the Oath of Allegiance to
any Foreign State

or

and have since I took the Oath of Allegiance to
a Foreign State (naming State) and on the
day of _____ taken the Oath of Allegiance to
Her Majesty and am* Resident at (naming place)
being a place within Her Majesty's Dominions
I am
a Denizen by letters of Denization dated the
day of _____

or

naturalized by Act of Parliament of the United
Kingdom of (Cite the year of the reign in which
the Act was passed its Chapter and Title.

or

naturalized by an Ordinance of the proper Le-
gislative Authority of (naming British Posses-
sion) Cite the year in which the Ordinance was
passed its Chapter and Title,

and am Resident at (naming place) being a place within Her Majesty's Dominions.

And I have

since I so became a Denizen] or [since the passing of the said Act or Ordinance and on the
day of _____ taking the of Oath Allegiance to Her Majesty.
2. The Ship the description of which is prefixed to this my Declaration was built at (naming
the Country and place) on the _____ day of _____ and her Foreign name is
(these words to be added of the Ship is Foreign.)

or { is Foreign built and I do not know the } or { was condemned by the Court of (naming
time when or the place where she was } Court) on the _____ day of _____ at
built and her Foreign name is. } 3rd C. D. of _____ is the
Master of the said Ship.

† If the Declaration is made by a joint Owner
add the word "joint" before Owner.

4. I am entitled to be Registered as
Owner† of _____ shares in the said Ship.
5. To the best of my knowledge and belief no person or body of persons other than such
persons or bodies of persons as are by the Merchant Shipping Act 1854 qualified to be Owners
of British Ships is entitled as Owner to any interest whatever either legal or beneficial in the
said Ship.

And I make this Solemn Declaration conscientiously believing the same to be true dated at
Signed _____ the _____ day of _____ 18
made and subscribed by the above named A. B. in the presence of me
Signed _____
Peace Acting in and for _____ name of Registrar or Justice of the

YOUR OPINION IS REQUESTED.

1st. How far the term natural born British Subject used in the Declaration of Ownership
prescribed by the Merchant Shipping Act of 1854, is to be considered applicable to the various races
of people Inhabiting the British Settlements in the Straits of Malacca who are or may become
Owners of Vessels for which they desire the privileges of British Registry under that Act.

2nd. Assuming that of such Races none but the Children of settled Inhabitants of those
Settlements and who were also born there can be considered natural born British Subjects. How far
it is competent to the Government of India by Legislative Enactment to give such other Inhabitants

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as labour under this disability (and especially such of them as have become British Subjects by
conquest or cession but not by birth subsequent to the cession of these Settlements to the British
Government) relief or whether an Act of the Imperial Legislature would be necessary for conferring
upon them the privileges of British Ownership provided by the Merchant Shipping Act of 1854,
for such persons as may be natural born British subjects or naturalized by an Ordinance of the
proper *Legislative Authority*.

1st. We are of opinion that the term "natural born British Subjects" includes such of the
people inhabiting the British Settlements in the Straits of Malacca, as were born within those Settle-
ments after the same became part of the Queen's Dominions; as also such as were born elsewhere
within the Queen's Dominions. And (in conformity with the Statutes 4 Geo. 2, C. 21, and 13 Geo.
3, C. 21.) We think the term also includes all persons whose father or paternal Grandfather was born
within the Queen's Dominions, although such persons may themselves not have been born in the
Queen's Dominions. We consider the term will not include any others of the Inhabitants referred to.

2nd. We are of opinion that it is competent to the Indian Legislature, by an Act of naturaliza-
tion, to naturalize all or any of the Inhabitants of the Straits Settlements, and in that manner to
extend to such persons the privileges allowed by the 17th and 18th Vic., C. 104, S. 18, to persons
naturalized by an Act of the proper Legislative Authority in any British Possession. The privilege
thus given would be dependant on the persons continuing to be Resident within the Queen's
Dominions or Members of a House of business within the Queen's Dominions, and on their having
taken the Oath of Allegiance subsequently to the Act.

(Signed) A. E. COCKBURN,

(„) RICHARD BETHELL,

(„) LOFTUS WIGRAM.

(True Copy.)

(Signed) R. B. CHAPMAN,

Offg. Under Secretary to the Govt. of India.

No. 2. ORDER THEREON, No. 457; dated 22nd October 1857.

Ordered that the foregoing letter and its enclosure be communicated to the Honorable
Company's Solicitor, with reference to his letter of the 21st August last, No. 462, and also to the
Registrar of Shipping at Madras.

Exd. J. A. Wilson.

No 457.

Ordered that the foregoing letter and its enclosure be communicated to the Honble Council of the N. C. Solicitor with reference to this letter of the 21st August last No 462, and also to the Registrar of Shipping at Madras.

To Mr. George,
22nd October, 1857.

Wm

To the N. C. Solicitor,
Registrar of Shipping
at Madras.

Dispd 31st