

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No. 504

Press
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Dated 28. 11.

1857

Not to be folded or roughly handled

Fort Saint George, Marine Consultation, 1st December 1857.

No. 5. From J. J. FRANKLIN, Esq., for Registrar of Shipping; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated 25th November 1857, No. 378.

SIR,

I have the honor to forward herewith a letter from the Registrar of Shipping at Cochin bearing date the 6th Instant, together with an Enclosure respecting an East Indian Ship Owner of that Port named G. C. Baumgardt, claiming the privilege of having his Vessel registered under the Merchant Shipping Act of 1854, and I request you will be pleased to submit the same for the consideration of the Right Honorable the Governor in Council.

(Signed) J. J. FRANKLIN,
For the Registrar of Shipping.

From E. CULLIN, Esq., Registrar of Shipping, Cochin; to Captain C. BIDEN, Registrar of Shipping, Madras, dated 6th November, No. 35 of 1857.

SIR,

I have the honor to transmit herewith copy of a letter from Mr. G. C. Baumgardt of Cochin, an East Indian of Dutch descent, dated the 4th November 1857, urging his claim to obtain a Certificate of Registry for a Vessel belonging to him, under the Merchant Shipping Act of 1854.

2. Mr. Baumgardt personally applied to me to have his Vessel registered under the Merchant Shipping Act of 1854, and I informed him that his request could not be complied with as he was an East Indian, but that he could have his Vessel registered under Act X of 1841 of the Government of India.

3. My refusal to grant Mr. Baumgardt a Certificate of British Registry for his Vessel was founded on an opinion expressed by the Advocate General, Madras, under date the 18th February 1856 (quoted below) furnished to me for my guidance with your letter of the 8th April 1856, No. 43.

"The term 'Natural born British Subject' in its natural and ordinary sense, means a person born in Great Britain or Ireland, or at least within the allegiance of the British Crown. The 4th Geo: 2nd, Cap: 21, makes the Children, wherever born, of such natural born British Subject, natural born British Subjects also by Statute. The 13th Geo: 3rd, Cap: 21, extends this benefit to the Children, wherever born, of the before mentioned Children, viz., those who are by the Statute of Geo: 2nd Natural born British Subjects."

4. I respectfully submit that British India is "within the allegiance of the British Crown."

5. The Advocate General in a paper of late date, viz., 7th May 1856, Para: 10, expressed his opinion that "it was the intention of Parliament to make it compulsory on all Natural born British Subjects owning Ships, to register their Ships under the Merchant Shipping Act, leaving Natives, East Indians, and others not natural born British Subjects, to register their Vessels trading within the limits of the East India Company's Charter under Act X of 1841."

Forwarded to me with your letter of the 9th May 1856, No. 51.

6. The above definition of a natural born British Subject would exclude thousands of persons born under the British Flag from the privilege of being registered as owners of British Ships under the Merchant Shipping Act of 1854; and I cannot think such exclusion was contemplated by the Legislature. Many instances might be adduced. The descendants of the French in Canada, the Dutch at the Cape of Good Hope and in the West Indies, &c., &c., &c.

7. I lately granted a Certificate of British Registry for a Vessel owned by Mr. Raffin, a Native of France, who received a Certificate of Naturalization from the Madras Government under Act XXX of 1852. This proceeding was perfectly legal under Clause 2, Section XVIII, of the Merchant Shipping Act of 1854.

8. I cannot believe that it was intended that Indian born British Subjects should be excluded from a privilege which is allowed to naturalized foreigners.

Fort Saint George, Marine Consultation, 1st December 1857.

9. To put the case in a strong point of view, I may remark that if the opinion of the Advocate General is maintained as a rule, it would be necessary for an Indian* born British Subject to apply to the Government for a Certificate of Naturalization to enable him to obtain a Certificate of Registry for a Ship under the Merchant Shipping Act of 1854. The Certificate of Naturalization granted to a foreigner would scarcely be withheld from an Indian born Subject.

10. I write under the full conviction that there has been some mistake or misapprehension on the part of the Advocate General. The Acts quoted by him of the Reigns of George II and George III are probably not applicable to the present claims of the Inhabitants of the British Possessions of India.

11. A few days ago, Mr. Nageon, the owner of the Brig "Surprise," a Creole of the Seychelle Islands in the Indian Ocean, Dependencies of Mauritius, applied to me to have his Brig registered *do novo*, under the Merchant Shipping Act of 1854, as she had undergone alterations.

† Dated Port Louis, 14th December 1855.

The owner produced the old Certificate† for the Brig which had been granted to him at Port Louis, Mauritius, under the Merchant Shipping Act of 1854, and I accordingly granted him a new Certificate‡ under the same Act, although he was purely of French descent.

‡ Dated Cochin, 29th October 1857.

12. I am disposed to believe that the rule established at this Presidency, founded on the Advocate General's opinion, is at variance with the practice in Bengal and Bombay, and in other parts of the British Dominions.

13. The question is one of importance, and I trust I will be pardoned for having written at such length on the subject.

(Signed) E. CULLIN,
Registrar of Shipping.

From G. C. BAUMGARDT, Esq., to E. CULLIN, Esq., Registrar of Shipping, Cochin, dated 4th November 1857.

SIR,

From the conversation I had this morning with you, I regret much your refusing me, being an East Indian, a British Register for my Vessel under the Merchant Shipping Act of 1854, stating that the East Indians are now thereby entirely excluded from this privilege; as it is a matter of very great hardship to my class of people, who are considered Loyal British Subjects, and to me in particular in the present instance, I earnestly solicit the favor of your laying the case before Government for their generous, favorable consideration.

(Signed) G. C. BAUMGARDT,
(True Copy.)

(Signed) E. CULLIN,
Registrar of Shipping.

No. 6. ORDER THEREON, No. 504; dated 28th November 1857.

Mr. Franklin is referred to the opinion communicated to the Registrar of Shipping at Madras in the Order of the 22nd Ultimo, No. 457, as to the construction to be placed on the term "natural born British Subjects" used in the Merchant Shipping Act of 1854. A copy of this opinion should be at once furnished to the Registrars of Shipping at the Out-ports.

Exd. J. A. Wilson.

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20th Dec 57
28th November 1857

To the Registrar of Shipping }
at Madras. } D. P. 2 Decr