

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No.	151	Press ~~Mis.~~
Dated	26. 4	1859.

Not to be folded or roughly handled*M*

Fort Saint George, Marine Consultation, 29th April 1859.

No. 8. From J. R. BOYSON, Esq., Government Solicitor; to the Chief Secretary to Government, dated 9th April 1859, No. 622.

SIR,

1. I have the honor to acknowledge the Extract from Minutes of Consultation, noted in the margin.
Extract Minutes of Consultation, dated 4th April 1859, No. 576, Public Department.

2. I submitted same for the consideration of the Advocate General, and I have since conferred with him thereon.

3. I now forward a copy of his opinion and, I have the honor to be, &c.

COPY OPINION.

I quite concur with the Superintendent of Marine in the remarks contained in his letter to the Chief Secretary, dated 24th March 1859, No. 1266.

Acts XXII of 1855 and VII of 1858, are both defective in the point which he notices, and the only remedy in my opinion is to have a short Act passed upon the subject. I think that the facts noticed by the Superintendent of Marine are sufficient to warrant the introduction of a clause giving retrospective effect to the Act in the case of such gross evasions committed prior to the passing of the new Act.

I think the new Act should also provide what should be deemed to be sufficient evidence before the Collector of Sea Customs at a Port where a Vessel actually is, of the fact of her master having evaded payment of the Port dues at another Port. A Certificate signed by the Collector or other Officer of the Port where payment of Port dues had been evaded, might be declared sufficient proof of this fact. A Statement too in such Certificate that neither the state of the weather nor the absence of any local Officer who ought to have been present (*ex. gr.* to receive payment of Port dues or grant a receipt for them or to grant a Port Clearance, &c., &c.,) nor any other circumstance which to the best of the knowledge or belief of the Officer signing the Certificate might have operated as a reasonable excuse for the Vessels' sudden departure did in point of fact, afford any such excuse when the Vessel went away without paying her Port dues might be declared to be sufficient proof that such evasion was wilful, unless the master of such Vessel shall be able to satisfy the Magistrate before whom he stands charged with such non-payment and wilful evasion that he did not wilfully evade payment thereof and that his departure from such Port, without paying the Port dues thereof, proceeded either from circumstances beyond his control, or, at least took place under such circumstances as in the opinion of the Magistrate amount to a reasonable excuse.

(Signed) T. SYDNEY SMYTH,

Advocate General.

8th April 1859.

(True Copy.)

(Signed) J. R. BOYSON,

Government Solicitor.

No. 9. ORDER THEREON, No. 151; dated 26th April 1859.

Resolved that the correspondence, noted in the margin, in regard to the defects in Acts XXII of 1855 and VII of 1858, be forwarded to the Member for Madras of the Legislative Council, and that he be requested to bring in a Bill to the effect suggested by the Advocate General. The Government, however, would not press for the Act having retrospective operation.

Superintendent of Marine, to Government 24th March 1859, No. 1266.
Government Solicitor, to do. 9th April Instant, No. 622.
Advocate General's opinion, 8th Idem.

(Signed) T. PYCROFT,

Chief Secretary.

Fort Saint George, Marine Consultation, 29th April 1859.

No. 10. To H. FORBES, Esq., MEMBER FOR MADRAS OF THE LEGISLATIVE COUNCIL OF INDIA, dated Fort Saint George 26th April 1859, No. 152.

SIR,

I am desired by the Honorable the Governor in Council to forward to you the correspondence noted in the margin, in regard to the defects in Acts XXII of 1855 and VII of 1858, in consequence of which the dues, leviable under those Acts, when evaded at one Port cannot be recovered at another. In conveying to you the wishes of Government, that a Bill be brought in to the effect suggested by the Advocate General, I have to add that Government would not press for the Act having retrospective operation.

(Signed) T. PYCROFT,
Chief Secretary.

Superintendent of Marine to Government 24th Ultimo, No. 1266.

Government Solicitor to do. 9th Instant, No. 622.

Advocate General's opinion 8th Instant.

No. 157

Resolved that the correspondence, noted in the margin, in regard to the defects in Acts XXII of 1855 & VII of 1858, be forwarded to the Honble the Members for Madras of the Legislative Council — & that he be requested to bring in a bill to the effect suggested by the Advocate General. The Govt., however, would not press for the Act having retrospective operation.

Superintendent of Marine to Govt. - 24th Mar. 1859 No. 1266.
Govt. Solicitor to do - 9th April Instant No. 622.
Advocate General's opinion, 8th Idem.

W M Fort St. George
26th April 1859

To the Supt of Marine }
" Govt Collection } Sir 2d

not need to be
 circulated, as it is
 to the same effect as
 the order - but
 may be kept
 until the order
 is returned from
 the Commission

Marine Department.

N^o 132

The Hon^{ble} H. Forbes Esq^r

Member for Madras of the Legislative Council of India.

Sept 22 1859
 Encls: 1

Sir.

I am desired by the
 Hon^{ble} the Governor in
 Council to forward to you
 the correspondence, noted
 in the margin, in regard to
 the defects in Acts XXII of 1855
 & VII of 1858 in consequence
 of which the dues, leviable under
 those Acts, when exacted at one
 port, cannot be recovered at
 another. In conveying to you
 the wishes of Govt. that a
 bill be brought to the effect
 suggested by the Advocate
 General, I have to add
 that Govt. would not press
 for the Act having retro-
 spective operation.

Superintendent of Marine to
 Govt. 24th Vlt. N^o 1236.
 Govt. Solicitor to do... 9th Vlt.
 N^o 622.
 Advocate General's opinion.
 8th Vlt.

L. G. George
 26th April 1859

JP

Secy to Govt. & incls. to follow
 11. 10. 59

Exd. A. P. W. Begbie.

Entered July 18th May 1839

By the Law 29 April 1839.

Thence 1839 about

of 1832

The House of Lords says

Memorandum for the
of the Legislative
Council of the

about 26 April 1839.

Refers to 27th June 1839
28th 24th