

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No. 195

Press
~~Mis.~~

Dated 8. 6. 1861

Not to be folded or roughly handled

*Proceedings of the Madras Government, Marine Department,
8th June 1861.*

No. 9. Read again letter from the Superintendent of Marine, dated 13th May 1861, No. 1,359, and recorded in Proceedings, 17th idem, No. 169.

Read also the following:—

OPINION.

The facts of the case now referred for my opinion ought to be more distinctly ascertained. The Superintendent of Marine in para. 4 of his letter of 13th May says "the passenger was put on board a ship in the roads, and it is *presumed* was landed from her." It will not do to presume anything of the sort. It is quite consistent with everything in the Superintendent of Marine's letter, that the passenger went on board the vessel lying in the Cochin roads to see a friend and returned to the P. & O. Steamer "China."

On the facts as stated, I can therefore only give it as my opinion that there is nothing to prove that any passenger was "discharged" at all—much less "landed" from the P. & O. Steamer; and that therefore no case for levying Port dues is made out.

It may perhaps however be as well that I should mention my opinion upon the question intended to be raised by the Collector of Malabar and the Superintendent of Marine.

In my opinion the Superintendent of Marine is correct in his interpretation of Acts 19 of 1860, Section 4 and 7 of 1858, Section 3. The words discharging and landing are in no wise synonymous terms; the former being more comprehensive than the latter, and I see no grounds to warrant the assumption that when the Legislature used, advisedly, the word "discharge" they meant to limit it to cases of "landing"—a construction which, as the Superintendent of Marine justly observes, might open a door for many evasions and irregularities.

In my opinion both the letter and spirit of these Acts contemplate the levying of Port dues on any vessel that transfers and leaves any cargo or passenger from herself either to the land or to any vessel lying in any of the Ports named in the Schedule to Act 7 of 1858.

The principle involved being an important one, and one respecting which it is obviously desirable that there should be one uniform rule and practice throughout the three Presidencies, I would submit for the consideration of His Excellency the Governor in Council, the expediency of making a reference upon the subject to the Supreme Government.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

24th May 1861.

No: 10.

ORDER THEREON, 8th June 1861, No. 195.

A copy of the Advocate General's opinion will be furnished to the Superintendent of Marine. Mr. Franklin will ascertain, as far as he may be able, whether the passenger referred to in his letter of the 13th ultimo as having been brought by the P. and O. Steamer "China" to Cochin did land at that Port.

2. Resolved also that as suggested by Mr. T. S. Smyth the papers be forwarded to the Supreme Government for their opinion as to the general principle involved.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Seen

Despatch with 2 Enclos.

Marine Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read again letter from
the Supdt of Marine -
dated 13th May 1861 No 1359 -
& recorded in Proceedings
17th idem No 169.

Read also opinion of
the Advocate General.

Also enter 24th May 1861

Order thereon 8th June 1861 No 195.

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vocate General's opinion
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ciples involved.

JF

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To the Sup^t of Marine }
" Collector of Malabar }
" Advocate General des^d 1st July 1861.

J. J. Macarrell

J. M. C. A. M.

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Maritime 1861. Department.

No. 195.

PROCEEDINGS of the MADRAS
GOVERNMENT.

Dated 8th June 1861.

7th 1861