

Marine (1898) Department.

G.O., No. 865 *Mar*

DATED 11th October '98

[Despatch Abstract.]

Ports for the registry of ships under the English Merchant Shipping Act of 1854:

Letter from the Govt of India passing orders on the proposal of the Govt to declare certain ports in the Presidency to be ports for the registry of ships under the English Merchant Shipping Act of 1854. And stating that the passing of the English Merchant Shipping Act of 1854 has rendered the Indian Act of 1841 inoperative, that registration under those Acts is now legally invalid and should be discontinued. Communicated to the local officer.

[M 4.]
[1.000-8-8-26.]

FURTHER PAPERS.

G.O.	No.	Department.	Date.
Q. 5587	0767-98 x		
	50-1 0720-1 98 x		
	Shapiro		
-	6688	Mar	16-11-97
-	726-7	"	16-8-97
-	4688	"	20-7-97
-	532	-	14-6-97
-	3828	-	30-6-97
-	339	-	7-4-97
-	1468	-	17-3-97
-	2488	-	3-4-97
-	818	"	25-4-97
-	559	-	19-8-97
-	23.24	-	18-1-97
-	462	-	3-12-97
-	421.22	-	2-11-97
-	378	-	22-9-97
-	183	-	22-5-97
-	425.6	-	21-11-97
-	408.9	-	5-11-97
-	232	-	29-10-97
-	228	-	28-6-97
-	2	-	3-1-97

GOVERNMENT OF INDIA.

FINANCE AND COMMERCE DEPARTMENT.

STATISTICS AND COMMERCE.
COMMERCE AND TRADE.
Ports, and Port dues.

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
MARINE DEPARTMENT.

Simla, the 20th September 1898.

SIR,

✱ I am directed to refer to the correspondence ending with your letter No. 587-Marine, dated the 6th July, 1898, on the subject of declaring the ports of Mangalore, Gopalpur, Masulipatam, Vizagapatam and Bimlipatam to be ports for the registry of ships under section 4, clause (e), of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), and am to communicate the orders of the Government of India thereon.

2. In your letter No. 51-Marine, dated the 20th January last, it is said that, in the opinion of the late Acting Advocate General of Madras, registration under the Indian Acts of 1841 and 1850 does not exempt a ship from registration under the English Statute and does not confer on a ship so registered the status of a British ship; and it is explained that the appointment of registrars under the English Act of 1894 is necessary for the purpose of endorsing changes of masters or of ownership which might be advised from original ports of registry, and temporary additions to, or deductions from, a ship's tonnage by reason of spaces specially exempted from measurement for tonnage being brought under use as cargo space.

3. The Government of India have given the matter their careful consideration and accept the law as correctly interpreted by the late Acting Advocate General. It seems to them that since the Statute 3 & 4 Vict., c. 56, was repealed without any saving by the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), compliance with the requirements of the Indian Acts no longer dispenses with the necessity for registration under the English law, and that apparently, on the commencement of the last-mentioned Statute, ships registered under the Indian enactments after the passing of the English Merchant Shipping Act of 1854, became no longer recognizable as British ships. *Prima facie*, therefore, the necessity for action in the direction proposed by the Government of Madras is apparent.

4. But the Governor General in Council further finds that, under section 727 of the English Merchant Shipping Act of 1894, it is not permissible to appoint the same person to be both registrar and surveyor; and that the institution of a port of registry, without a qualified surveyor, would be contrary to the spirit of the Statute, though this is not expressly prohibited. Moreover, if a port of registry without an authorized surveyor were appointed, it would

be possible to register transfers at such a port only if the register of the ship concerned were removed to it from the port of registry at which the ship was originally registered, as provided by section 53 of the Statute of 1894, because, under sections 13 and 26 of that Statute, a transfer of a ship has ordinarily to be registered at the port at which the ship itself was registered. The case is the same in respect of mortgages under section 31 of the Statute. Again, it would apparently be impossible to register alterations at such a port, for section 48 of the Statute requires the production of "a certificate from the proper surveyor stating the particulars of the alteration," and "the proper surveyor" would not exist at the port. Under section 43 (2) mortgages made under certificate of mortgage could apparently be registered at such a port, but, under section 44 (6), sales effected under certificate of sale could not be carried out there, as in that case the ship would have to be registered anew. In the result, then, it seems to the Government of India that very little business could be done at a port of registry, unless a specially trained surveyor also were appointed, and, as the appointment of trained surveyors would be a very expensive measure, while such surveyors, when appointed, would have very little work to do, the Government of India regret that they do not see their way to accepting the suggestion of the Government of Madras.

5. I am, however, to add that, in view of the unsatisfactory state of the law as shown in connection with this case, steps will shortly be taken to introduce in the Council of the Governor General a Bill, based upon Part II of the Indian Merchant Shipping Bill, which will provide for the future registration of ships in this country and their recognition as British ships.

I have the honour to be,

SIR,

Your most obedient Servant,

J. A. Robertson
Offg. Asst. Secy. to the Govt. of India.

Copy of the correspondence forwarded to the Governments of Bombay, Bengal and Burma for information.

GOVERNMENT OF INDIA.
FINANCE AND COMMERCE
DEPARTMENT.

STATISTICS AND COMMERCE.
COMMERCE AND TRADE.
Ports, and Port dues.

To

THE SECY. TO THE GOVTS. OF MADRAS,
BOMBAY, BENGAL AND BURMA.

No. 4104-S.R.

Dated Simla, 20th September 1898.

Communicates the orders of the Government of India on the proposal of the Government of Madras to declare certain ports in that Presidency to be ports for the registry of ships under the English Merchant Shipping Act of 1898; and states that the passing of the English Merchant Shipping Acts has rendered the Indian Acts of 1841 and 1850 inoperative, and that registration under those Acts is now legally invalid and should be discontinued.

19-803

23-3-04

3-2-25 II ✓

4-4-25 II ✓

4-2-03 ✓

[Ref. 4]

15,000-18-5-03.

DEPARTMENT.

Paper taken out of the Records from the charge of the Referencer.

Press
Miscellaneous No. 265, dated 11-10-1909
Routine

Date taken out.	FOR WHAT PURPOSE.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			
~~2-8-13~~	~~Mar~~	~~987~~	~~13~~	~~BB~~		
18-7-09	Mar	813	09	BB	14-11-09	BB
23-3-09	Apr	409	09	BB	1-7-07	BB
4-2-08	to	115	08	BB	22-9-08	BB
15-2-10	Mar	418	10	BB	21/2/10	BB
11/2/10	to	514	10	BB	18/2/15	BB
3-4-25	Mar	1764	25	BB	8-10-25	BB