

3-5-13.✓

Marine (1899) Department.

G.O., No. 31 Marine

DATED 11th Jan^y 1899.

[Despatch Abstract.]

W. R. L. Swann, Late Port Officer, Regensburg

Withdrawing the Censure passed
on _____ for his failure to discover the
unseaworthiness, when in port, of the barge "Herrn
Elizabeth", which subsequently foundered.

BACK PAPERS.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Marine DEPARTMENT.

READ the following:—

Letter from the P.P. Office N^o $\frac{1261}{446}$ G.D. Co. December 1891.

Circulated to

ORDER. No. 31 Mar 21.1.99

With his letter read
above, the Presidency Port
Office submits a petition
from M^r Swan, late
Port Office, Nefapatam, pray-
ing that the 2^d Censure passed
on him, owing to his failure
to discover the unseaworthi-
ness, when in port, of the
barque "Henrietta Eliza",
which subsequently foundered,
may be reconsidered. The
Government has been as-
sured by Commander Street
that when M^r Swan
went on board this vessel
to measure her, prior to her
departure, her condition
might have and probably

MS 9.1.99

would have passed, un-
observed even by an officer
with professional training.
Under these circumstances,
F.E. the Governor in Council
is pleased to withdraw the
insure on Mr. Swan's Com-
mised in the under mentioned
orders:-

S.O. 929 Mar 21. 11. 97

" 35 Mar 21. 1. 98.

CB

12/11/97

3.1.98

To the P.P. Office.

21/11/97



C.M. 1538 (Mad)
GOVERNMENT HOUSE
With a D.O. to P.P.
J. W. D. 20 Dec 1898.

My dear Settleton
Shall has
asked His Excellency to
look into Capt. Swan's Case
again. You will remember
it. the Case of Swan getting
censured for letting a ship
go to sea in an unseaworthy
condition. His Excellency
would be glad if you would
let him have the correspon-
dence again to look at.

Yours sincerely

W.C.
Let the file be kept

W.C.

21.12.97

W.C. file submitted
21/12/97

G.O.

Marine (1898) Department.

CURRENT No. 1538

From

The Presidency Port office
Madras

Order

No. 1261 G
446

Dated 10th December 1898

Received 12-12-98

Enclosures 1

Spare copies

SUBJECT.

Forwarding for favorable consideration a petition from Mr R. L. Swann, Reserve Port officer requesting that the censure conveyed to him in G.O. No 929, Madras of 15th November 1897, may be removed.

The view of the ~~and~~ further representation now made by Port Officer, Mr. Swann and by Captain Steel, and in view of the circumstances mentioned to me by Capt. Steel, in person, on the 19th Inst., I think the censure passed on Mr. Swann was too severe and should be withdrawn. Capt. Steel was positive and emphatic on the point that when Mr. Swann was on board his vessel to measure her, her condition might have, and probably would have been, ascertained by a professional eye. It was because I believed that her condition must have struck an ordinarily observant professional eye, that I passed the order for censure.

The 2nd para. of G.O. No. 35 Marine 15

Jan. 1898, should read p. 7th inst.

I hope, present a ~~circumstance~~ or a ~~like incident~~.

I agree with Mr. Hall that censure should be cancelled. H. H. 23.12.98

P. W. 1,000-14

BACK PAPERS.

No.	Date.
✓ 1058	✓ 18.11.91
✓ 90	✓ 136 m
	✓ 22.2.98
	✓ 116
✓ 738	✓ 4.2.98
✓ 35 m	✓ 18.1.98
✓ 929 m	✓ 15.11.97
✓ 461 m	✓ 17.5.97
✓ 460 m	✓ 17.5.97
✓ 2988	✓ 23.4.97
✓ 886 m	✓ 28.4.97
✓ 1728	✓ 16.4.97
✓ 251-52 m	✓ 16.3.97
✓ 1948	✓ 16.3.97
✓ 658	✓ 23.1.97
✓ 795 m	✓ 18.11.96
✓ 730 m	✓ 28.10.96
✓ 705 m	✓ 14.10.96
✓ 5068	✓ 20.10.96
✓ 599-600 m	✓ 4.9.96
✓ 3928	✓ 6.8.96
✓ 430 m	✓ 10.11.94
✓ 311 m	✓ 7.8.94
✓ 183 m	✓ 22.5.94
✓ 6 m	✓ 8.1.92
✓ 256 m	✓ 9.7.90
✓ 285 m	✓ 5.7.90
✓ 353 m	✓ 13.6.90
✓ 1058	✓ 5.8.88
✓ 32 m	✓ 3.2.88
✓ 283-84 m	✓ 29.7.90

FURTHER PAPERS.

TO

His Excellency the Right Honourable
Sir Arthur Elibank Havelock,
G. C. M. G., G. C. I. E.,
Governor of Port St. George
And its Dependencies.

The Petition of Robert Latham Swann,
Reserve Port Officer.

Respectfully Sheweth,--

That in connection with the result of the prosecution of the Owner of the Barque "Henrietta Elizabeth" ordered in G. O. 651, Judicial, dated the 5th of May 1897 the following censure was passed on the Petitioner, viz,-

"His Excellency the Governor in Council
"is not satisfied that the Port Officer
"Mr. Swann took sufficient pains to ascer-
"tain the seaworthiness of the vessel be-
"fore he allowed her to proceed on her
"last voyage from Negapatam. Judging by
"the evidence adduced before the Court of
"Enquiry as to the unsound condition of
"the vessel, Mr. Swann's survey must have
"been most superficial, and he is there-
"fore much to be blamed. He will be warn-
"ed that on the occurrence of a similar
"act of carelessness his services will
"be dispensed with."

2. That the Petitioner had received no report that the vessel was unseaworthy or had suffered any damage during her previous voyage from Coconada to Negapatam with

Robert. Latham Esq^r
Resident East. Office

a cargo of grain, nor had any rumour reached the Petitioner that the vessel's state was in any way unsatisfactory.

3. That the Petitioner had never been instructed by the Head of his department that it was the duty of a Registering Officer, appointed under G.O., Marine, No. 183 dated 22nd May 1894 as Registering Officer under Act X of 1841 and Act XI of 1850, to survey a vessel as to seaworthiness before granting a Certificate of Registry under Act X of 1841 on account of change of ownership, nor is there anything laid down in the Instructions to Port Officials on the subject, and further, that neither under Sections 7 and 21 of Act X of 1841, by which the Petitioner was guided nor by Section 6 of the English Merchant Shipping Act 1894 is a survey as to seaworthiness required.

Your Petitioner therefore begs that the severe censure passed on him be reconsidered.

And Your Petitioner will,

As in duty bound,

Ever Pray.

Madras,
8th December, 1898.)

Robert Latham Swann
Resident Port Officer

No. $\frac{1261}{446} 9$

Presidency Port Office,
Madras, 10 December 1898.

From

Commander H. A. Street, R.I.M.,
Presidency Port Officer,
Madras,

To

The Secretary to Government,
Marine Department,
Chepak.

Sir,

In forwarding for the favourable consideration of Government the accompanying petition from Mr. R.L. Swann, Reserve Port Officer, in which he begs that the *censure* conveyed to him in G.O., No. 929, Marine, dated 15th November 1897 may be removed, I beg ^{that} the following points may be brought to the notice of Government- viz:-

(a) that sections 7 & 21 of Act No. X of 1841 by which Mr. Swann was guided when measuring the barque "Henrietta Elizabeth" for "registration de novo" do not, in my opinion, require the Registering Officer appointed under section 3 of the Act to examine at the same time a vessel as to seaworthiness, and it is clear from section 6 of the English Merchant Shipping Act of 1894 that all that is required by the Board of Trade of a Surveyor when acting under such section is, to ascertain the tonnage of a vessel and to give such other particulars as may be necessary to identify her hereafter. That this has always been hitherto the view in this Presidency is, I submit, clear from the fact that no instructions to outport Officers as to a survey being necessary in the case of a vessel requiring to be measured de novo have been considered requisite by any of the officers, including myself, who

Mar. Secy
1538/98

who have held the post of Presidency Port Officer or Master Attendant, Madras, and there is nothing on the point in the Instructions to Port Officials issued under the authority of Government by which Mr. Swann like all other Port Officers is guided in matters in connection with his duties.

(b) that there was nothing in the state of the vessel at the time she was lying in the Roadstead of Negapatam to lead Mr. Swann to consider her unseaworthy, and the very fact that she had been permitted to load with grain at Coconada only a short time previously and to clear from that port for Negapatam shows ^{that} the Port Officer Coconada did not consider her state unseaworthy when she cleared from that port.

(c) that the unseaworthiness only came to light at the enquiry held to investigate the loss of the vessel & could only have been discovered by a complete examination of the hull which under the circumstances I do not consider could have been carried out satisfactorily in an ^{open} ~~fine~~ roadstead, and by any officer other than a shipwright surveyor. Had the vessel shown extreme signs of old age and been leaking badly, it would have been Mr. Swann's duty as detaining Officer under section 11 of Act No. VII of 1880 to have detained her under section 12 of the Act, but as the case stands he had no reason for even assuming that she was unseaworthy.

(d) that when the question as to whether Mr. Swann was to blame in any way was referred to me as the Head of his department, I replied in the negative, and with all due deference to the view taken by Government on the matter I am still of that opinion; indeed I will go so far as to state that had I been in Mr. Swann's place on the occasion in question it is probable that ^I should not have considered it necessary under the circumstances to do more than measure the vessel for tonnage. In the certificate specifying tonnage the seaworthiness of a vessel is not required to be stated.

2. Another point in connection with this question is,

that by para 4 of G.O., No. 929, Marine, dated 15th November 1897 the Presidency Port Officer is directed to impress on Port Officers that they are and will be held responsible for certifying unseaworthy ships as seaworthy. I would point out that although no certificate of seaworthiness is required under either Act X of 1841 or Act VII of 1880, the several Port Officers have however been instructed in the sense of para 2 of G.O., No. 35, Marine, dated 18th January 1898.

I have the honour to be,
Sir,

Your Obedient Servant,

H. A. Street

Commander, R.I.M.,

Presidency Port Officer.