

11/9/03

Public Works (189) Department.

G.O., No. 8741 Marine

DATED 8th Sept 89

Null

14/9/09

[Despatch Abstract.]

Laccative Vessels. Observing that the Regulations of 1896 for preventing collisions at sea are not applicable to ~~the~~ and stating that the more powerful side light prescribed by ^{those} ~~these~~ regulations need not be carried by those vessels.

11/10/09

2

INDEXED

14/5/99

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

READ— the following papers:—

- Letter from the Presidency Port Officer, Madras, dated 14th March 1899, No. 498/102 G.
 „ from the Collector of Malabar, dated 2nd April 1899, No. 173 R./S.C.D.
 „ from the Government of Bombay, Marine Dept., dated 15th June 1899, No. 128 G.
 Endorsement from the Government Solicitor, dated 9th August 1899, No. 397, forwarding an opinion of the Advocate-General, dated 8th August 1899.
 Letter from the Collector of Malabar, dated 18th August 1899, No. 173/S.C.D.

ORDER—No. 841, Marine, dated 8th September 1899.

His Excellency the Governor in Council observes that the Regulations of 1896 for preventing collisions at sea, issued with G.O., No. 120, Marine, dated 12th February 1897, are not applicable to Laccadive vessels. The more powerful side lights prescribed in articles 5 and 7 of those regulations need not therefore be carried by those vessels.

2. The Collector of Malabar will be informed accordingly by telegram—

(True Extract.)

Under Secretary to Government.

To the Presidency Port Officer.
 „ Collector of Malabar.
 „ Political Department.

Exd. T. K. Narayana Aiyangar

MARINE DEPARTMENT.

again
 READ the following:—

- Letter from the Presidency Port Officer, Madras, No. 498/102 G, dated 14th March 1899.
 Letter from the Collector of Malabar, No. 173 R./S.C.D. dated 2nd April 1899.
 Letter from the Government of Bombay, Marine Department, No. 128 G, dated 15th June 1899.

- Read also
 Endorsement from the Government Solicitor, No. 397 dated 9th August 1899, forwarding an opinion of the Advocate-General of 8th August 1899.
 Letter from the Collector of Malabar, No. 173 R./S.C.D. dated 18th August 1899.

Circulated to

ORDER.

1 P
 His Excellency the Governor in Council of 1896 observes that the Regulations for preventing collisions at sea, issued with G.O. 120 Marine, dated 12th February 1897, are not applicable to Laccadive vessels. The more powerful side lights prescribed in Articles 5 and 7 of those Regulations need not therefore be carried by those vessels.
 2. The Collector of Malabar will be informed accordingly by telegram.

To the P.O.
 „ Collector of Malabar
 „ Political Dept.

Del. despatched 8. Sep 1899 with fair

Telegram

To the Collector of Malabar
 „ Laccadive vessels not required

required to carry the
more powerful regulation
Side lights. Order follows.

RS.

Handwritten signature/initials.

Handwritten notes in the left margin.

Input

84/16

Marine DEPARTMENT.

again
Read the following:—

Letter from the Presidency Port Officer, Madras, No. 498 G, d/14 March 1899.

Letter from the Collector of Malabar, No. 173 R, dated 2nd April 1899.

Letter from the Government of Bombay, Marine Department, No. 128 G, dated 15th June 1899.

Endorsement from the Government Solicitor No. 397, dated 9th August 1899 forwarding an opinion of the Advocate General, dated 8th August 1899.

(2) Circulated to
H.E. the Governor
The Hon. Mr. A. J. ...
The Hon. Mr. ...
This phrase is not accurate.
a British ship may come from
the Laccadives
The British says
Laccadive vessels.
H.W. 7-9-99

Side Lights for Laccadive Boats.

(1) The Police Dept. for C.I.

Post No. 12 225.8.49.

with ref. to the u.o. in the
in Circular attached, it is
proposed to say that the
Side-light regulations

G.O. 120 Marine, d/12 February 1899.

are not applicable to
vessels from the Laccadive
Islands

Handwritten signature/initials.

Handwritten date/initials.

Handwritten date/initials.

In his letter read above, the
Collector of Malabar raises the
question as to whether it is in-
cumbent on all native Craft
of 20 tons and upwards, whether
registered or not under the English
Merchant Shipping Act of 1894,
to carry the more powerful side
lights prescribed in Articles 5
and 7 of the Regulations of 1896
for preventing Collisions at Sea.
2. In para 9 of his letter, the
Collector assumes that the
Bombay Government does not
approve of the new lights and
has not therefore put the regulations
into force. It is observed
from

Handwritten notes at the bottom left.

from the letter from the Bombay
Government read above that
his assumption is incorrect,
and that all vessels of 20 tons
and upwards leaving ports
of that Presidency are required
to carry the more powerful
side lights prescribed by
regulations.

3. The general question
having been referred to the
present Advocate General,
that officer confirms the opinion
expressed by his predecessor,
and considers that it is
incumbent on all native
craft of 20 tons and upwards
owned by native Indian Subjects,
whether registered or not under the
English Merchant Shipping
Act of 1894, to carry the lights
prescribed in Articles 5 and
7 of the Regulations of 1896.

4. The question as to whether
the Laccadive Islanders are
"natural-born British Subjects"
under the terms of the English
Merchant Shipping Act of
1894

Section 1(a) of the Act

1894 will be considered in
the Political Department.
5. If it be decided that
these Islanders are natural-born
British Subjects, then, the
craft owned by them are
"British Ships", although, as
pointed out by the Advocate
General in para 3 of his
opinion printed above, these
ships are not "recognised
British ships", if not registered,
and the owners would not,
in that case, be entitled to the
benefits of British
ownership. They craft would,
however, have to carry
the prescribed lights, whether
registered or not.

L. H. H. M.
M. H.

To
The P. O.

"Collector of Malabar
all other Collectors of Maritime &c
The Political Dept., with copy of
note by the Hon. Mr. Winterbottom
dated 12th July 1899.
The Government Solicitor

Marine (189 9) Department.

CURRENT No. 1099.

Order

From The Govt Solicitor

No. 397

Dated 9-8-99

Received 12-8-99

Enclosures 2.

Spare copies . . .

SUBJECT.

Forwarding the opinion
of the Advocate General
on the question of whether
it is incumbent on all
native craft of 20 tons
and upwards to carry
the more powerful lights
prescribed in articles 5
and 7 of the Reg^{ms} of 1896 for
the prevention of collision
at sea.

BACK PAPERS.

FURTHER PAPERS.

No.	Date.
686 hal	21.7.99
472-3 hal	31.5.99
299 hal	29.3.99 S.C.
547 hal	28.6.98
	4 papers.
Merchant Shipping Act	
Registration of Ships Act	
488	13.6.98
341	5.5.98
1995	14.4.98
998	1985.14.4.98
152	3.3.98
104	3.3.98
89	2.2.98
953	22-11-97
532	14.6.97 S.C.
120	22.2.97
400	23-7-86 S.C.
251	7.8.82
601	7.12.80
450	10.9.80
361	21.7.80
190	13.5.80
110	22.3.80
60	13.2.80
560/61	30.10.78

OPINION.

I am of opinion that it is incumbent on all native craft of - 20 tons and upwards owned by native Indian subjects whether register- -ed or not under the English Merchant Shipping Act of 1894, to carry the lights prescribed in Articles 5 and 7 of the Regulations of 1896 for preventing Collisions at sea.

2. The Regulations are applicable to "British ships and boats". See the Order in Council dated November 27th 1896. The question is real- -ly governed by Section 1 of the Merchant Shipping Act, 1894, and not by Section 2 (2) of that enactment. The expression "natural born - British subject" as used in Section 1 (a) of the Act applies to - Indian as well as to European British subjects. "It seems clear that "the word British when qualifying subject, in the Merchant Shipping "Act, must mean the same thing as it does when qualifying ship, and in "either case must be taken simply as opposed to foreign". Mayne's - Criminal Law of India, p. 268. If a ship required by the Act to be registered is not registered under the Act, she is not a recognised British ship, but the fact that a ship is not a recognised British - ship does not per se prevent her from being a British Ship. This - seems clear from the wording of Section 72 of the Act, and the Judge- -ments of the Court of Appeal in Union Bank of London v Lenanton - L. R. 3. C. P. D. 243 and of Sir Robert Phillimore in The Andalusian L. R. 2. P. D. 182, See too R v Frank Allen 10 C. C. C. 405

3. The general expression "British ships" was used advisedly in - the Order in Council. The craft in question, if owned by native Indian Subjects, are British ships, although, if not registered, they are not "recognised British ships". The consequence of not registering is "that the owner does not get the benefits of his British ownership" Per Bramwell L.J. in Union Bank of London v Lenanton. In my opinion, therefore, the craft in question come within the scope of the Regula- -tions.

4. I may add that, in my view, there is no real inconsistency between para 1 of the Honble Mr Bhashyam Iyengar's opinion dated 16th February

This is the
view previously
expressed in
the Lenanton
case para 3 of
the opinion
dated 26/4/99
72 in
21/3/99
L.R.

1898 and the passage beginning "It seems, therefore" in para 6 of his opinion dated May 10th, 1897.

C. Arnold White

Advocate General

Madras
8th August 1899.

True Copy

Ernest Barker

Government Solicitor.

C. Arnold White
Advocate General

True Copy

Ernest Barker

Government Solicitor.

Ernest Barker

Ernest Barker

Ernest Barker

(1899) Department

From Ernest Barclay
Government Solicitor
Madras

To The Secretary to Government
Marine Department
Ootacamund

N^o 397.

Dated 9 August 1899
Recd

Enclos 7.

Forwarded with Enclosures with
reference to the Order of Govern-
ment N^o 686, dated 20
July 1899. Mamed.

Ernest Barclay
Government Solicitor

Marine
Public

(1899) Department.

CURRENT No. 1156

To The Political Dept for C.I. For the C.I.
Please to be linked
by C.I.

H. E. the Governor
The Hon. Mr. A. T. Arundel C.S.D.
The Hon. Mr. H. M. Winterbottom.

From The Collector of Malabar

Post No N^o 1581.9.99

Orders.

Submitted in continuation
of the previous papers which were
circulated with a draft order on
the 24th August 1899.

Ref No. 173
S.D.

Dated 18. 8. 99

Received } 25-8-99
Registered }
Enclosures } Plain. mil & rotat.
Spare copies } other mil & rotat.

SUBJECT.

Requesting the favour of
early orders on his letter
regarding lights carried by
native coasting craft.

With the
auth. order in
continuation
H. E. the Governor
A. T. Arundel C.S.D.
H. M. Winterbottom
Political 11/9/99. 2 a/g

Marine

BACK PAPERS.

G.O.	No.	Department.	Date.

Ref on Cu^o 173.
s.c.d. 99

Malabar Collector's Office
Calicut 18th August 1899

From, G. W. Dance Esquire
Collector of Malabar
Calicut

To the Secretary to Government
Marine Department
Madras

Sir,
As the ports in this District will
shortly reopen, I have the honor to request
the favour of early orders on my letter dated
2^d April 1899 Ref on Cu^o 173.
s.c.d.

I have the honor to be
Sir
Your most obedient servant

G. W. Dance
Collector

FURTHER PAPERS.

G.O.	No.	Department.	Date.

A draft order on this
Case was sent in circ:
through the Chief Secretary
on the 25 August. It is
apparently still in the
Chief Secretary's office.
When the order will finally
issue is uncertain -
Meanwhile it may per-
haps be well to instruct
the local Dist. officer to
hold the orders about
improved side lights in
abeyance, so far as the
Islanders are concerned.
It may possibly be decided
that they are not
British subjects within
the terms of the Merchant
Shipping Act.

L.S.
1 Sep. 99

Send the current in
circ: in continuation
of previous file, &
note it up.

L.S.
1.9.99