

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	59	Press
		~~Mis.~~
	46-47	
Dated	18-1-	19-1895

Not to be folded or roughly handled

59 my

Fort St. George, Judicial Consultation, 18th January 1859.

No. 46. Read the following letter from Major W. J. WILSON, Magistrate of Police ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 4th January 1859, No. 2.

SIR,

I have the honor to acknowledge the receipt of an Extract from the Minutes of Consultation under date the 21st December 1858, No. 1772, in which I am called upon to report as to the course pursued in regard to the apprehension and delivery of Deserters from Foreign Vessels.

2. Desertions from Foreign Vessels in the Madras Roads are very rare, and no application has ever been made to me in consequence of such an occurrence. On two or three occasions Deserters from American Ships have been apprehended and placed on board by the Police on the requisition of the late Captain Biden the Master Attendant and Shipping Master, but with these exceptions, I know of no other instances.

3. Section XXVIII of the Marine Police Regulation entitled "A Rule, Ordinance and Regulation for the good order and Civil Government of the Settlement of Fort Saint George, Madras, and of the Port thereof," which was passed in December 1827, and subsequently registered in the Supreme Court, gave full powers to the Master Attendant and his Deputy, or any two Justices of the Peace, to apprehend Deserters from European or American Vessels, and to cause them to be conveyed on board their Ships; but it may be questioned whether their now acting in all such cases would be in conformity with the spirit of the Foreign Deserters Act of 1852.

4. That Act empowered Justices of the Peace and certain other Officers to cause the apprehension of Deserters from the Vessels of such Foreign powers as consented to reciprocate in the case of Deserters from British Ships when within their territories, but this power was by the same Act made contingent on the after publication of an order in Council announcing the existence of such reciprocity, and accordingly from time to time Notifications to that effect have appeared in the Fort Saint George Gazette.

5. While therefore prepared as a matter of course to cause the apprehension of Seamen deserting from the Ships of those Nations with which Her Majesty's Government had entered into an agreement for that purpose, I had determined to submit any other case for the consideration and orders of Government.

6. It must be observed that Justices of the Peace have no jurisdiction in these matters under the Common Law: but act under the authority of special Statutes, even in the case of Deserters from British Ships; and I cannot think that it ever could have been intended that they should interfere except in those instances where their so doing is rendered legal by an order in Council under the Act.

7. It may not be wholly irrelevant to mention that on a few occasions applications have been made by Masters of Foreign Vessels for assistance in consequence of their crews having become disorderly on board, but this assistance has been afforded under the orders of the Police Authorities, the Magistrates confining themselves as much as possible to their own particular duties.

No. 47. ORDER THEREON, No. 59; dated 18th January 1859.

A letter from the Government of Bombay, forwarding copy of a correspondence relative to a recent complaint preferred by the Commanders of American Vessels in the Harbour of Bombay, that the Police Magistrates do not afford them the requisite assistance in recovering Deserters from their Ships, and requesting, by desire of the Home Authorities, that a report may be supplied on the practice which obtains in similar cases at Madras, was lately referred to the Magistrate of the First Division, whose reply is recorded above.

2. It appears from Major Wilson's letter, that during his experience on the bench, which is considerable, no applications have at any time been made to him, to apprehend Deserters from Foreign Vessels. He has however known one or two instances in which the late Master Attendant has required the Police to seize, and place on board their Vessels, Deserters from American

certain Regn, entitled "A Rule,"

27/1/59
Fort St. George, Judicial Consultation, 18th January 1859.

Merchantmen, under the provisions of a certain Regulation, entitled "A Rule, Ordinance and Regulation for the good order and Civil Government of the Settlement of Fort St. George, Madras, and of the Port thereof," which was passed in 1827. This Regulation, the Magistrate believes to be still in force, though it certainly clashes with the "Foreign Deserters Act," 15 Vict. C. 26, the terms of which, it may further be remarked, are embraced, with an important addition, in the penultimate Section of the Presidency Towns Police Act, or Act No. XIII of 1856 of the Indian Legislature.

3. The Government are surprised to learn, that this Regulation is still considered to be in force. They thought it had been repealed, along with the rest of these Rules and Ordinances, by the Act above referred to. They observe that an Ordinance respecting, "the offences of Boatmen" is entered in the Schedule of repealed Regulations, attached to that Act, and they would wish the Advocate General to enquire and report whether the Regulations thus differently described are not in fact one and the same. It has not always borne the same appellation. Some of its provisions were repealed by Act No. IV of 1842, where it is termed the 'Marine Police Regulations.'

4. If they are not the same, and the Regulation of 1827 never has been formally rescinded, then the Advocate General will state, whether, with reference to the fact that it has now been enacted by the Imperial Parliament, that Deserters from Foreign vessels are to be apprehended only where the State to which such vessels belong, has bound itself to follow a reciprocal course, and to the further fact that no order in Council has appeared, announcing that the Government of the United States of America has so bound itself. Deserters from American Ships can be apprehended at Madras under the local Regulation of 1827.

(Signed) T. PYCROFT,
Chief Secretary.

Read the following letter
from Major Wilson, Magistrate
of Police.

Official Sept 2
No 59
Enc. D/18 January 1859.

Here enter No 2
D/4 Jan 59.

A letter from the Govt of Bombay, forwarding copy of a correspondence relative to a recent complaint preferred by the Commanders of American Vessels in the Harbour of Bombay, that the Police Magistrates do not afford them the requisite assistance in recovering deserters from their ships, & request, by desire of the Home Authorities, that a report may be supplied on the practice which obtains in similar cases at Madras, was lately referred to the Magistrate of the First Division, whose reply is recorded above.

3. It appears from Major Wilson's letter, that during his experience on the bench, which is considerable, no applications have at any time been made to him, to apprehend deserters from foreign vessels. He has however known one or two instances in which the late Master Attendant has required the Police to seize & place on board their vessels, deserters from American merchantmen, under the provisions of a certain Regn, entitled "A Rule,

"Ordinances & Regs for the good
 "order & Civil Govt of the Settlements
 "of Fort St George, Madras, & of the
 "Port thereof", which was passed in
 1827. This Regs, the Magistrate
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 Deservers Act", 15 Vict. c. 26, the
 terms of which, it may perhaps
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 an important addition, in the
 penultimate section of the Presi-
 -dency Towns Police Act, or
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 -ters from American Ships can
 be apprehended at Madras under
 the local Regs of 1827.

I should say it has
 been repealed - the last
 act being of 1842 to
 its provisions - would
 have the effect - if
 it has not been so
 repealed

J.P. 11/1-5-59.

To the Hon Secretary
 Magistrate of Police - First District } D. 11/1-5-59

I cannot find anything
 to the point in the corres-
 -pondence about Act XIII
 of 1856. But Mr Edward Elliot,
 it seems, corresponded
 very fully & directly with
 the District Magistrate.

In Cases 18 January.

Judicial 1859 Shepard

No 59

Amos. Mink & Co. v. Mink.

2/18 January 1859

St. A. 102 - Am.

22/68
46557
Taking certain observations
of the Report of Major W. P.
Wilm. - a digest of the
as to the course pursued
in regard to the apprehension
- then and delivery of the
from the origin of the
calling upon the
judicial to furnish certain
information in relation
regulations referred to.