

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No.

398

Press

~~Mis.~~

Dated

24.9.

1857

Not to be folded or roughly handled

Fort Saint George, Marine Consultation, 29th September 1857.

No. 23. From R. B. CHAPMAN, Esq., Officiating Under Secretary to the Government of India; to H. FORBES, Esq., Acting Secretary to the Government of Fort Saint George, dated the 21st August 1857, No. 1389.

Home Department. SIR,

With reference to your letter, No. 103, dated 13th March last, I am directed by the Right Honorable the Governor General in Council to forward the accompanying copy of an opinion of the Advocate General in Bengal as to engagement of Seamen in any Port in British India by the Masters of Ships Registered in the United Kingdom or belonging to any British Possession, and to request that opinion may be acted upon in Madras.

(Signed) R. B. CHAPMAN,
Offg. Under Secretary to the Government of India.

OPINION.

I am clearly of opinion that the view taken by the Junior District Magistrate of Port Louis, in his letter of the 16th October 1856, as to the duty of the Officers appointed for the Shipping of Seamen, whether they be the Registrars of Seamen appointed under Act 28 of 1850, or the Collectors of Customs, to apply the Provisions of the Merchant Shipping Act 1854, (Section 159) to the case of all Ships Registered in the United Kingdom, taking on Board Seamen at any of the Ports of British India, is correct, and I also think with Mr. Westropp, the late Acting Advocate General at Bombay, that the form prescribed by the English Act (Section 159) should be adopted in the case of all Ships Registered in any British Possession, not in India, taking on Board such Seamen in any Port of British India, that as to Seamen Shipped on Board such Ships, the Act 28 of 1850, (Section 2,) and the form thereby prescribed must be considered as superseded and that as to Natives of India or Lascars Shipped on Board such Ships at any such Ports, the Provisions of the English Act of 1854 (Section 544) and of the Merchant Shipping Amendment Act of 1855, (Section 23) are applicable where they are Shipped with a view to a further voyage from the Australian Colonies or from the United Kingdom on their arrival there. But I also think that where even Lascars or Native Sailors are Shipped in an Indian Port, not with a view to such ulterior voyage or under the Provisions last referred to, on Board of Ships Registered in the United Kingdom, or in any British Possession out of India, the form prescribed by the English Act of 1854, is applicable in supercession of that prescribed by the Indian Act of 1850.

The Registrar of Merchant Seamen appointed under that Act may properly superintend the Shipping of Seamen in the form prescribed by the English Act of 1854, and may perform the function of Shipping Master in respect of Ships Registered in the United Kingdom or in any British Possession out of India without receiving the designation of "Shipping Master," and without being placed in other respects in the position of a Shipping Master of the United Kingdom as defined by the Act of 1854. For instance the Fees to be taken by him would not in my opinion, be those prescribed by the Act of 1854 (unless the third part of that Act was adapted and made applicable to India by the Governor General in Council under the 288th Section but those prescribed by the Indian Act of 1850: nor would the Registrar be subject to appointment, removal or control by a Marine Board, or to the immediate control of the Board of Trade as English Shipping Masters are. Though not strictly a Shipping Master within the meaning of the Act of 1854, the Registrar constituted under the Act of 1850, will still be an Officer duly appointed for the purpose of Shipping Seamen, and therefore can stile as Registrar, carry out the Provision of Section 159 as to British Ships Registered in the United Kingdom or out of India, and if the Office were abolished or confined expressly to Ships Registered in India the Collector of Customs would be the proper Officer to carry out the Provision of that Section.

I gave an opinion on the subject of the Fees payable to the Shipping Master at Bombay in a letter to Mr. Beadon of the 5th October 1856, which was, I believe, forwarded to the Government of Bombay: and if so, I think that to prevent misconception, it may be advisable that this opinion should be also forwarded to that Government. I did not in the former letter advert particularly to the 159 Section of the English Act of 1854, or to the form of agreement to be entered into: nor did I mean that there would be any impropriety in designating the Officer before whom Seamen were Shipped at Bombay a Shipping Master. But I meant though I am not sure that I

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expressed quite clearly or fully my meaning that the Officer before whom Seamen were Shipped at Bombay or at any Indian Port would have no larger powers, with reference to the English Acts of 1854, when designated and appointed a Shipping Master, than he would have as Registrar of Shipping, appointed by that designation under Act 28 of 1850, with reference to the English Acts and that with respect to the Fees to be levied, and the Authorities to whom he was subject, the former Act, and not the latter, was to be looked to.

It appears to me, as I have on some former occasions suggested, that it would be much for the convenience of the Shipping interests generally if the Governor General in Council were to extend and adapt to India under the 238th Section the General Provision of the third part of the English Act of 1854, relating to Masters and Seamen so as to place Ships Registered in India in the same position as to the qualification and duties of Masters and the Shipment and duties of Seamen on the same footing as Ships Registered in the United Kingdom, with such exceptions as to Native Vessels, or Seamen, as may be deemed advisable. I think it will be desirable also that the system of Registry Tickets, which has been abolished in England since it was introduced by Act 28 of 1850 into India, should be abolished here also, at all events as to Sailors not being Natives or Lascars, and that the whole system of the engagement of Seamen should be regulated in the same manner as in England.

(Signed) W. RITCHIE,
20th July 1857.

(True Copy.)

(Signed) F. C. SANDES,
Solicitor to the East India Company.

(True Copy.)

(Signed) R. B. CHAPMAN,
Offg. Under Secretary to the Government of India.

No. 24.

ORDER THEREON, No. 398; dated 24th September 1857.

Ordered that a copy of the foregoing letter, with its enclosure, be furnished to the Marine Board, for communication to Subordinate Authorities, with a view to the opinion of the Advocate General in Bengal as to engagement of Seamen in any Port in British India by the Masters of Ships Registered in the United Kingdom or belonging to any British Possession being acted upon.

Exd. J. A. Wilson.

Marine Department.

N^o. 398

Extract from the Minutes of Consultation

Dated 24th September 1857.

*Read the following Letter from
the Offg. Under Secretary to the
Govt. of India.*

(Here enter stamp 15/9/1857)

Ordered that a copy of the

*foregoing letter, with its enclosure,
be furnished to the Marine
Board, for communication
to subordinate authorities, with
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as to engagement of seamen
in any port in British India
by the Masters of ships registered
in*

in the United Kingdom or belong-
ing to any British possession
being acted upon.

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Copy to Marine Board 20

" Honble Comptroller's solicitor
for information }

Sept 20 1890 Copies L E & 10

Due by 4th Nov 29 of 1857
M^{rs} M^{rs} 1857 Department

No. 398

Extract Mins. Cons.

Further from Marine Board of 8 October 1857 No. 429
Dated 24 Sept 1857

At 10th Aug 1857
No. 324 of 1857
No. 22
Relates to 29th Sept 1858.

23-24

25th Sept

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