

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No. <i>50</i>	Press ~~Mis~~
Dated <i>29. 1.</i>	18 <i>87</i>

Not to be folded or roughly handled

No. 25.

DISTRICT COURT, PORT LOUIS,
The 16th October 1856.

FROM

H. M. SELF, Esquire,
Junior District Magistrate.

TO

THE HON'BLE THE COLONIAL SECRETARY,
&c. &c. &c.

SIR,

I HAVE the honor to request you will draw the attention of His Excellency the Governor to an evil which has arrived at such a head as to cause much loss and threaten ruin to the Shipping Interests trading between India and this Port, I allude to the determined refusal on the part of the Officers duly appointed for the purpose of Shipping Seamen at each of the three Presidencies in India to conform to the provisions of Section 159 of the Merchant Shipping Act 1854, when engaging Seamen to serve on board a ship registered in the United Kingdom.

2. You will perceive on reference to the Act that it is enacted by the last paragraph of Section 109 that the whole of the third part of the Act shall apply to all Sea-going Ships registered in the United Kingdom and Section 159 above referred to distinctly declares that whenever the Master of a Ship registered in the United Kingdom engages any Seaman in any British Possession he shall do so before certain parties and in a certain manner as is clearly demonstrated in the said Section. Now it frequently happens that Masters of Ships registered in the United Kingdom and being at one or the other of the three Presidencies are obliged to engage Seamen to complete certain vacancies in their crews and present themselves before the Officer duly appointed by the Government of India for the purpose of shipping Seamen with their Articles of Agreement made out in England to do so, but instead of being allowed to follow the law the Government Officers above referred to absolutely refuse to authorize any such engagement and oblige the Captains to enter into second and separate Agreements on a form made out according to an Indian Act of Parliament and not only differing wholly from the one ordered to be followed by the Merchant Seamen's Act of 1854 but frequently for a perfectly different voyage. Well, the Captains do so and in course of time arrive at this Port and now begin the bad consequences of the evil complained of. A Seaman on board one of these vessels refuses to perform his duty, the Captain brings him before me, I call for the agreement to assure myself that the Seaman has been lawfully engaged and upon the production of the document entered into in India, I am at once not only obliged to dismiss the charge, the man not being lawfully engaged (*vide* Sec. 243 of M. S. Act 1854) but to impose a fine upon the Captain for carrying a Seaman to Sea without entering into an agreement with him in the form and manner required (*vide* Sec. 157 of the Act) you will easily understand that my decision is speedily communicated to any other Seaman there may be in the Ship who are engaged under similar circumstances and who immediately refuse to do any more work and I believe there are at this moment

several Vessels in harbour the whole of those crews have knocked off duty, thus causing great trouble and annoyance to the Captains and very often serious expense to the Owners. Since nothing remains to be done but to discharge these people and engage others for the unexpired portion of the original Voyage and this not only sometimes at an increase of wages, but always when the Vessel has put in here in distress, at a very heavy rate of interest for the money required.

3. The Captains and their Agents of course object strongly to my mode of interpreting the law. The former say that having engaged the people before an Officer duly appointed for the purpose of Shipping Seamen they have done every thing the law obliges them to do. It does not require much time to show the fallacy of this reasoning, Section 159 not only obliges the Master of a Ship registered in the United Kingdom, should he engage any Seamen in any British Possession to engage such Seamen before some Shipping Master or Officer of Customs, but it enacts that the same Rules, qualifications and penalties as are hereinbefore specified with respect to the engagement of Seamen before shipping Masters in the United Kingdom shall apply to such engagements in a British Possession. Now what are the Rules, qualifications and penalties referred to as "*hereinbefore specified*." You will I think find them clearly laid down in Section 136, 149, 150 and 157 of the Act. In each of these several Sections you will find that reference is alone made to the Master and that though he the Master is obliged to engage his Seamen in the presence of the shipping Master still that in the case of a Foreign going Ship, he, the Master, is alone responsible for any inexactitude which may exist. The Agents on their part contend that looking at Section 288 it is clear that until the Governor General of India in Council has by some Act applied or adopted any of the provisions in the third part of the Merchant Shipping Act 1854 to any British Ships registered at, trading with, or being at any place within the territories of the East India Company and to the Owners, Masters, Mates and Crews thereof, such provisions have no force of Law in India. Now this does appear to me to be a very great error. I am well aware that the Imperial Parliament cannot pass an Act to order how Seamen are to be engaged in any British Possession on Board Vessels registered at, trading with or being within the jurisdiction of such British Possession, but surely it is manifestly erroneous to say that the Imperial Parliament has no right to make Laws relative to Ships registered in the United Kingdom and to decide how the Masters of such Ships shall engage their Seamen even when in a British Possession. The Agents also say that the expressions "*trading with, or being at*" used in the 288 Section apply to all British Ship whatever. But here again I think they are in error since in the marginal note to the Section it is shown that the provision of the Act may be applied by the East Indian and Colonial Governments to their own Ships, and therefore the reason why the expressions "*trading with or being at*" are introduced into Section 288 is fully explained by reference to the 5th and 6th paras. of Section 109, Section 159 and the 1st Para. of Section 207 since certain portions of the third part of the Act are made to apply to Colonial Vessels when out of their respective jurisdictions and the whole of the third part to such Vessels when trading between the United Kingdom and a British Possession in which they are not registered. In the construction and for the purposes of the Merchant Shipping Act 1854 all the territories under the Government of the East India Company are declared to be British Possessions and therefore any Seaman engaged in any of such territories to serve on board any Ship registered in the United Kingdom must be engaged before the same parties and subject to the same Rules, qualifications and penalties as would have been required had he been engaged in any other British Possession than the Territories above cited.

4. I will at once admit that I feel warmly for the Captains and Owners of these Vessels placed as they are in a position not only of great annoyance but frequently of heavy loss and this not through any fault of their own but by the wilful acts of persons who, it appears to me, far from forcing them to commit illegalities, are above all other people bound to set them right should they see them falling into error. I rarely inflict the fine but as regards the law between man and man that I am bound to see put properly into force and I am unable to punish a seaman who is not lawfully engaged for refusing to do that which he is not legally bound to perform.

5. I have therefore to pray that His Excellency would be pleased to move in this matter to put an end to the evil herein pointed out and that by a Despatch to the Governor General of India or through such other means as he may see fit to adopt, orders may be issued to the Officers charged, with Shipping Seamen throughout the whole of the Territories under the Government of the East India Company at once and henceforth to comply with and properly put in force the provisions of Section 159 of the Merchant Shipping Act 1854, when engaging any Seaman to serve on board a Ship registered in the United Kingdom.

I have, &c.,

(Signed.) H. M. SELF,

Junior District Magistrate.

(True Copies.)

R. B. CHAPMAN,

Offg. Secretary to the Government of India.

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D. No. 180-12.

FROM

J. DOWLAND, ESQUIRE,
Acting Colonial Secretary.

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA.
&c. &c. &c.

SIR,

I HAVE the honor to transmit to you herewith the copy of a letter from the Junior District Magistrate of Port Louis to His Excellency the Governor, and, under His Excellency's instructions, to request the consideration of the Indian Government to the inconvenience and injury to the Shipping Interests complained of, and at the same time to express the hope entertained by His Excellency, that the Indian Government will either cause the provisions of the "Merchant Seamen's Act 1854" in question, to be conformed to; or adopt such other measure as may be deemed fit, to remedy the evil which the Magistrate has pointed out.

COLONIAL SECRETARY'S OFFICE,
MAURITIUS,
11th November 1856.

I have, &c.,
(Signed) J. DOWLAND,
Acting Colonial Secretary.

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No. 73

FROM R. B. CHAPMAN, ESQUIRE,
Offg. Secy. to the Govt. of India.

TO J. D. BOURDILLON, ESQUIRE,
Secy. to the Govt. of Fort St. George.

Dated the 16th January 1857.

SIR,

HOME DEPT.

I AM directed to forward the accompanying copy of a letter No. 180 dated the 11th November last from the Acting Colonial Secretary at the Mauritius and its enclosure, and to request that with the permission of the Right Honorable the Governor in Council, you will report upon the evils resulting from a non-compliance with the provisions of the Merchant Seamen's Act 1854 therein alluded to.

I have the honor to be,

SIR,

Your most obedient Servant

FORT WILLIAM,
The 16th January 1857. }

R B Chapman

Offg. Secy. to the Govt. of India.

*Transd. to the Secy. to the Govt. of India
the 14 of 1857 Jan 20*

*961857
In No 38*

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To J. D. Bouchillon Esq^r
Secretary to the Government of
Fort Saint George
Dated the 16th January 1857-

I am directed to forward
 the accompanying copy of a letter
 No. 180 dated the 11th November last
 from the Acting Colonial Secretary
 at the Mauritius and its enclosure,
 and to request that with the per-
 mission of the Right Honorable
 the Governor in Council, you will
 report upon the evils resulting from
 a non compliance with the pro-
 visions of the Merchant Seamen's
 Act 1854 therein alluded to. —
 I am, Sir, the honor to be

Sir
Your most Obedt. Servant
Signed R B Chapman
Offg Secy to the Govt of India

Es 50
 Learned that the fore-
 going letter and its enclosure
 has appeared for the report of the
 Maria Reed and Donald
 Company's solicitor.
 Wm. H. H. H.
 Esq. Esq.

[illegible]

Ms 38

With an Order

4th Marine Band. } Corp: 31, Band 2, 20th & 4th Regts
 with 1st & 2nd }
 Mounted Cavalry in the Rank
 Company's Volunteered }
 with its own Co. }

876 Can. 6th February.
Marine 1857 Dept^o

From the Off^o Secretary
Gov^t of India

4th 73

Dated 16th

Rec^d 29th Jan 1857
1 Incl.

1 spare Copy
Complete } no 38.

Forwards Copy of
Correspondence from the
Hon^{ble} Secy Gov^t and
requests that the evils
referred to resulting from
a non compliance
with the provisions
of Merchant Seamen's
Act of 1854 may be re-
ported upon.

Wm. A. Allen

no 57

Ordered that the foregoing
Letter and its enclosures be referred
for the report of the Marine
Board and Honorable Comptrol^r
Solicitor.

For Mr. George } Signed J. P. Joseph
31st January 1857 } Chief Secretary

To the Marine Board } Dept^o 31st
with order

Printed Copy to Hon^{ble} }
Comptrol^r Solicitor } Dept^o 31st
with its Encl^r

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