

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	266	Press
		~~Mis~~
Dated	16.6.	1857

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Marine Department,
from 11th to 17th June 1859.*

No. 21. Read the following letter from J. McKENNIE, Esq., Acting Shipping Master, Madras; to the Chief Secretary to Government, Fort Saint George, dated 15th June 1859, No. 202.

1. In acknowledging the receipt of the order of Government, dated the 4th Instant, No. 244, calling upon me for explanation on a reference made by Major Wilson to Government, respecting the discharge of a Seaman named James Bowman belonging to the "Alice," I cannot but express my deep regret that he should have pursued this course.

2. First, because he has misrepresented my proceeding and kept out of sight the grounds of my refusal. Secondly, because the Office of Shipping Master and Magistrate are quite distinct, and it is not desirable that one Officer should interfere with the other and hand him up to Government, because he does not perform the duties of his Office in accordance with the views of the other. I would further submit that the Office of Shipping Master is not intended to cover crime which it will do if the view of the Magistrate is upheld.

3. This said Seaman struck work and became obnoxious to punishment, his refusal to obey orders being proved before a Magistrate, who instead of punishing him under the Law, not only endeavours to save him from the penalty incurred, but also requests that he may be permitted to take his discharge, for fear he should repeat the crime, for which contingency the Police Code itself provides adequate correction. The Magistrate's opinion I venture to think suggests a principle, in my mind totally subversive of those which induced the Legislature to pass the enactment, inasmuch as it will sanction Seamen obtaining a privilege to be exercised by the Shipping Master, when the very Law under which he is called upon to act, declares the man a Criminal, and lays down the punishment he is to receive.

4. Having found it incumbent on me to make these preliminary observations upon the principles involved in Major Wilson's reference, I now proceed to explain as directed for the information of Government, the reasons which induced me not to consent to the discharge of the Seamen in question.

5. I plainly informed Major Wilson, that the instructions laid down by the Board of Trade, in a book entitled 'Instructions to Officers in the British possessions abroad, concerning their duties with respect to the Masters and crews of British Merchant Ships, under the Merchant Ship-

"Seamen discharged or left abroad.

Leaving
Seamen
abroad.

12. *As great evils have arisen from British Seamen being left destitute in foreign ports, and as great expense is incurred by the Government in relieving them and sending them home, very stringent provisions are made to prevent their being so left, except in cases of necessity, and also unless due precautions are taken for their return to their Native Country. The degree of stringency with which certain of these provisions should be enforced, must depend in some degree upon the circumstances of the case. Thus in a Colony where the demand for labor is great there is comparatively little fear that able-bodied Seamen, if left behind will become destitute, and the reason for objecting to their discharge will not apply to the same extent, as in Countries where they will probably become a burden on the public resources. While therefore the provisions of the Act must be obeyed in all cases, it must rest with the local authorities to determine the mode and extent in and to which the powers given by the Act are to be exercised."*

ping Act 1854,' page 10, which I beg marginally to note, combined with the bad character which the man bore induced me to withhold my sanction to his discharge. That he could not be recommended to any Commander, on the contrary Commanders of Vessels attach a character to Seamen's discharge Certificates, which in this case will prove a bar to his prospects of obtaining a Vessel, and that he would inevitably become eventually an expense to Government. In addition to this, I said that there were many Shipwrecked Seamen awaiting employment, I also observed that as the Seaman committed himself by refusal of duty and brought himself under the penalty of the Police Regulations, I could not understand why the Magistrate did not sentence him accordingly

instead of wishing to throw an additional burthen on my shoulders, in order to relieve himself, and it may not be out of place to remark that the man returned to the Ship and performed his duty for four days, after my refusal to permit his discharge.

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6. I would point out that I acted in accordance with the practice of the Office, the precedents laid down and the instructions from home. The man even if he were not a bad character is a Boatswain (a description of Seamen seldom required by Vessels that frequent this Port) and therefore the more difficult to find a berth for. He is said to have sixteen Pounds to receive, but how long would that last? for although it may be placed under the care of the Master Attendant, still it would be soon drawn off under various pretences, and spent in dissipation, so forming an opinion of his character from the Statement of his Commander, I considered he was likely to be a nuisance to the Port and a most troublesome man to the Police, therefore I withheld my sanction from his discharge.

7. Major Wilson at the conclusion of his letter on this subject deliberately stated that he could not avoid troubling the highest authority on the matter, thereby implying that he and not the Shipping Master was the Officer interested in the welfare of Seamen and protecting the rights of Government.

8. In fine, I cannot call to mind any instance in which it was more necessary for the Shipping Master to withhold his consent to the discharge of a Seaman than the present, as there is a constant influx of Sailors to this Port (independent of local causes) by Vessels arriving from the Colonies with batches of Seamen engaged for the run to be discharged here. It frequently occurs too, that Seamen discharged from Prison after the departure of their respective Vessels come upon the Shipping Master for support, and I may here mention that I had previously been compelled to refuse discharge to Seamen of nine other Vessels, until I could provide for at least the best part of the Ship wrecked men, who as distressed British Seamen were sent up from Negapatam a few weeks ago and had prior claim upon me, and although, I have since, with this precaution in sanctioning discharges, been fortunate in obtaining employment for twenty five of the Ship wrecked men, five more remain on hand, I further regret to say that Her Majesty's Steamer "Coromandel" landed ten more the other day, who are said to be distressed men sent across by the Commissioner of Pegu to enable them to obtain employment here. Independent of these there are now on shore forty two other men of all ranks to be disposed of, making a total of fifty seven in all; besides a large number in Jail who will have to follow those, and when the demand for European Seamen is less than ever, so that I am really over burthened with Seamen whom I know not how to provide for.

9. It appeared at the time that Major Wilson spoke to me and subsequent reflection has confirmed the view I then took, that the spirit of the Act would preclude the Shipping Master from sanctioning the discharge of a man at the very time he stood convicted of a Crime under the Merchant Shipping Act of 1854, under which Act, so far from sanctioning the discharge in such cases, I find the Shipping Master has always required Masters of Vessels to take on Board before their departure such refractory Seamen who have been sent to Jail convicted of a breach of discipline; and in the present case I believe it to be my duty to see J. Bowman boatswain of the "Alice" sent back to his Ship before granting the Vessels' Port Clearance, presuming that I shall be legally acting in doing so, but as I may be wrong myself and the Magistrate having interpreted the Act after his view, and moreover as such cases are occurring daily, I would respectfully request that the whole subject may be referred to the Government Law Officer for his opinion which should serve for the future guidance of the Shipping Master's Office.

No. 22.

ORDER THEREON, 16th June 1859, No. 266.

In original, to be returned.

Resolved accordingly that the above letter and that from the Magistrate of the Town Police Office under date the 3rd Instant, No. 28, be referred to the Advocate General for his opinion upon the subjects to which they relate.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. A. P. W. Begbie.

M.D

Proceedings of the Madras Govt

Recd letter from the Shipping Master of Madras.

*[Recd under 10 June 1859, No. 266]
Order thereon 16 June 1859 No. 266.*

Resolved accordingly

that the above letter and

that from the Advocate

General be referred to the

Town Police Office

under date the 3rd Instant

to be referred to the Adv.

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subjects to which

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J.P.

Govt Secy to Govt. 10 June 1859

At Shipping Master's Office 18 June 1859

Mag Town Police Office

Left of 21 June

No of 100-17 above

6/18/266

Box of 100-17

Q/100-17 June 1859

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