

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No. *646* Press
~~Mis.~~

Dated *20.12.1859*

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Marine Department,
for the month of December 1859.*

Read the following papers:—

No. 35. From J. J. FRANKLIN, Esq., Superintendent of Marine; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 1st December 1859, No. 4754.

I have the honor to annex the accompanying two questions put by the Shipping Master at Cochin regarding his authority over Foreign Commanders having British subjects serving under them. He states that cases of the nature indicated in the first question have come before him, and although Sections 114 to 117 of Act I of 1859, appear to me clearly to point out that Foreign Ships do not come under the provisions of the Act, except as far as entering into agreements with Lascar Seamen engaged in India to leave the country; I would solicit a reference thereon to the Government Law Officers.

Question 1. Are British subjects (Natives of British India) serving on board of Foreign Ships, under Arab, French, or any other colors, subject to my control in port, and can I, as Shipping Master, under Act I of 1859, take cognizance of any complaints made to me, of ill-treatment, bad provisions, &c., whether such subjects are serving under Articles signed before a British functionary or not?

Question 2. Are Commanders of Foreign Ships, amenable to the provisions of Act I of 1859, when British subjects are serving under them.

Referred for the opinion of the Advocate General.

FORT SAINT GEORGE,
5th December 1859.

(Signed) T. PYCROFT,
Chief Secretary.

No. 36. From J. R. BOYSON, Esq., Government Solicitor; to the Chief Secretary to Government, Fort Saint George, dated 10th December 1859, No. 1859.

I. I have the honor to acknowledge
*Order of Government, dated 5th December 1859, the Order of Government noted in the
Marine Department. margin.*

2. I submitted same for the consideration of the Advocate General, and I also conferred with him thereon.

3. I now forward a copy of his opinion, and return the enclosure above noted.

COPY—OPINION.

The Shipping Master at Cochin, has no jurisdiction, under Act I of 1859, as Shipping Master or otherwise, over "any Ship belonging to any Foreign Prince or State or to any Subject of any such Prince or State." I quote the words of the Act.

2. Section 117 is the *one and only* exception to this general exemption.

3. British Subjects (Natives of British India) serving on board of Arab or French Ships are when *ashore* subject to the laws of the land, but unless they have complained of a breach of Section 115, or the Shipping Master has reason to believe such breach has been committed, he has no right to go on board such Foreign Ship, but if such is the case, then the Shipping Master may, under Section 117, board the vessel and muster and examine the Crew under Section 30.

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4. As to the Shipping Master's 2nd question, I refer him to Section 114, which says "nothing in this Act shall extend to" any such Commander as he mentions except under Section 117 and for breach of Section 115.

(Signed) THOMAS SYDNEY SMYTH,
Advocate General.

5th December 1859.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 37. ORDER THEREON, 20th December 1859, No. 646.

The opinion of the Advocate General, received with the Government Solicitor's letter recorded above, relative to the authority of Shipping Masters over Foreign Commanders having British subjects serving under them, will be communicated to the Superintendent of Marine in reference to his letter of the 1st instant, No. 4754.

(Signed) T. PYCROFT,
Chief Secretary.

Marine.

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Proceedings of the Madras Government
Read the following letters—

From the Superintendent
of Marine— *Enter 1st Decem^r 1859*
" the Government— *N^o 4754*
Solicitor— *10th do— N^o 1859.*

Order. 20 December 1859. No. 646.

The Opinion of the Advocate General, received with the Govt. Solicitor's letter recorded above, relative to the authority of Shipping Masters over Foreign Commanders having British Subjects serving under them, will be communicated to the Superintendent of Marine in reference to his letter of the 1st inst. N^o 4754.

*of 2 letters, enclosed
to and from*

The Superintendent of Marine—with Opinion.
Dispt 23.