



*Proceedings of the Madras Government, Marine Department,  
for the month of March 1860.*

No. 4. Read the following Despatch from the Right Honorable Sir C. WOOD, Bart., Secretary of State for India, to His Excellency the Honorable the Governor in Council, Fort Saint George, dated London, 31st January 1860, No. 1.

I forward in the packet for your information and guidance, copy of a Despatch\*  
\* No. 4. which has been this day addressed to the Government of Bombay, in reply to their letter No. 29 in the Judicial Department, dated the 10th October 1859, regarding doubts which have arisen as to the application of Section 211 of the Merchant Shipping Act of 1854, to the cases of Seamen, who may be left in distress and destitute in the ports of British India; and I request your particular attention to the letter from the Secretary† to the Board of Trade forwarded with that Despatch, in which the opinions of the Lords of the Privy Council for

† Letter from Mr. Booth, dated Whitehall, 6th December 1859.

Trade are stated, not only with reference to the construction to be put upon the Law as it now stands, but also with respect to the course of proceeding which should be adopted by the authorities in India, in cases which may arise of Seamen being left in distress in the ports of British India.

From the Right Honorable Sir C. WOOD, Bart., Secretary of State for India, to His Excellency the Right Honorable the Governor in Council, Bombay, dated London, 31st January 1860, No. 4.

Having considered in Council your letter No. 29 in the Judicial Department, dated the 10th of October 1859, with its several enclosures regarding the doubts which have arisen as to the application of Section 211 of the "Merchant Shipping Act of 1854" to the cases of Seamen who may be left in distress in the ports of British India; I forwarded a copy of the papers for the consideration of the Lords of the Committee of Privy Council for Trade, requesting to be favored with their views as to the construction to be put upon the Section referred to; and drawing the special attention of their Lordships to the letter\* from Mr. Bickersteth (your Solicitor) relative to the conflict of opinion between the Advocates General at Madras and at Calcutta as to the meaning and intention of the Legislature on this subject; in the concluding sentence of which letter the reference to the Board of Trade was recommended, "with the view to the insertion of a declaration that the Section extends to India and the Colonies, in any future Act which may be passed to amend the Merchant Shipping Act; on the passing of a special Act, if it be thought necessary.

\* Dated Bombay, 17th September 1859.

2. I transmit for your information a copy of the reply† of the Board of Trade in which it is stated that the views of their Lordships are expressed in the Instructions issued for the guidance of Colonial Officers with respect to the treatment of distressed Seamen, copies of which Instructions have been already sent to India; that, with reference to the construction to be put upon the 211th Section of the Act of 1854, the Board of Trade concur with Mr. Ritchie (Advocate General at Calcutta) in the opinion that the Legislature did intend that Seamen found in distress in British possessions abroad might be relieved and sent home at the expense of the public; that each case must be dealt with as it arises; that, if Masters of vessels refuse to comply with the requirements of the 211th Section, the Board of Trade will, on receiving a report of such refusal, institute enquiries on the arrival of the vessel in the United Kingdom, and, if necessary, take proceedings against the Master; and that, should such proceedings fail from want of sufficient clearness in the Law, there will be opportunities for amending it.

† Letter from Mr. Booth, dated Whitehall, 6th December 1859.

3. In order, however, that such proceedings may be effectual, it is pointed out by their Lordships that the Shipping Masters in India must observe the directions contained in the printed Instructions referred to, and especially those contained in the 45th paragraph.

4. You will be careful that the views of the Board of Trade on this important question are communicated forthwith to the Government Solicitor, the Senior Magistrate of Police, the Shipping Master, and all others who may be concerned, so that all may conform in carrying out the

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Law as to distressed and destitute Seamen, in the manner stated in Mr. Booth's letter dated the 6th of December 1859.

5. I shall forward a copy of this Despatch for the information and guidance of the Government of India, and of the Government of Madras where the case occurred which gave rise to the conflict of opinion as to the construction to be put upon the 211th Section of the Merchant Shipping Act of 1854.

From JAMES BOOTH, Esq., Secretary to the Board of Trade, to the Under Secretary of State for India, India Office, dated Whitehall, 6th December 1859, No. 12,116.

I am directed by the Lords of the Committee of Privy Council of Trade to acknowledge the receipt of your letter of the 28th ultimo, transmitting for the consideration of my Lords a copy of a letter from the Government of Bombay and enclosures, having reference to a doubt which has arisen as to the application of Section 211 of the Merchant Shipping Act 1854 to cases of Seamen left in distress in the Ports of British India, and requesting that my Lords would favor Sir Charles Wood, with their views as to the construction to be put upon the Section referred to.

The views of my Lords are already expressed in the Instructions issued for the guidance of Colonial Officers with respect to the treatment of distressed Seamen, copies of which have already been sent to the India House, and they do not see that any better rules can be adopted than those laid down in the Instructions.

The enactments referred to were taken from previous Acts without the experience which my Lords have since had of their operation, and they are not as clear as could be desired.

The words "Foreign Countries" in the 211th Section might certainly imply a doubt as to the application of that Section to British Possessions, but taking into consideration the connection that exists between the preceding and following Sections, and the fact that the Section 211 refers to the relief that may be administered by "Governors" of Her Majesty, which terms could not be employed unless reference was made to a British Possession, my Lords concur with Mr. Ritchie, in the opinion that the Legislature intended that Seamen found in distress in British Possessions abroad might be relieved and sent home at the expense of the public.

My Lords have not touched upon the other points referred to by the legal advisers of the Indian Government, as they consider that each case must be dealt with as it arises.

They think that if the Instructions above referred to are adhered to, little or no cause of complaint will arise.

If it should be found that Masters of Vessels refuse to comply with the requirements of the 211th Section, my Lords will, upon receiving a report of each refusal, institute enquiries into the case immediately upon the arrival of the Vessel in the United Kingdom, and, if necessary, take proceedings against the Master.

Should those proceedings fail from want of sufficient clearness in the law, there will no doubt be opportunities for amending it.

In order, however, that such proceedings may be effectual, it will be necessary that the Shipping Masters in India observe the directions contained in the printed Instructions and especially those contained in the 45th paragraph.

My Lords, however, do not anticipate that any difficulty will be experienced in sending home distressed Seamen, neither do they think, judging from the number of claims for conveyance of distressed Seamen from India made during the last year viz. 32, that Masters of Vessels will often be required to convey them home.

No. 5. ORDER THEREON, 15th March 1860, No. 100.

Copies of the above Despatch and its enclosures will be furnished to the Government Law Officers, the Shipping Masters, the Superintendent of Marine, and the Magistrate of the Town Police.

(Signed) T. PYCROFT,  
Chief Secretary.

Exd. F. Cartledge.

*Sir*  
*Proceedings of the Madras Govt.*  
*Read Despatch from the*  
*Secretary of State — Enter 31<sup>st</sup> Jan'y 60 No. 1.*

*Order — 15<sup>th</sup> March 1860. No. 100.*

*Copies of the above Despatch & its enclosures will be furnished to the Govt. Law Officers, the Shipping Masters, the Superintendent of Marine, & the Magistrate of the Town Police.*

*J.P.*

*The Govt. Solicitor.*  
*" Shipping Masters.*  
*" Superintendent of Marine*  
*and for communication to all Shipping Masters.*  
*" Magistrate of the Town Police.*

*Dispt. 10<sup>th</sup> 60*

Discharge

No of Govt 20 March  
Marine 1860 Separate

No 100.

Proceedings of 1860

2/15 March 1860 -

Direct that copies  
of the Register and its contents  
be sent to the Secretary of  
State for India on 21st July  
regarding double no which  
have been as to the whole  
of the section 21 of the  
Merchant Shipping Act  
of 1854, to the effect of which  
no one may be left in charge  
and detained in the ports  
of British India - before  
referred to the Port Law  
Office, the Shipping  
Master, the ships of  
Marine and the Master  
of the Town Police -

1145-