Date taken out.	For what purpose.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			

Marine (1897) Department.

ORDINARY.

G.O. No. 251-2

DATED 16th March 1897

[Despatch Abstract.]

of the
to Nancowry

TC
17-3-97

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	~~2728 Ma.~~						
	1948	Ma.:	16-3-97				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2728	Ma.:	14-4-97				

Government {1897} of Madras.

MARINE.

Recd.
} 1897.
Regd.

Enclosures

Spare copies

Letter, No. $\frac{252}{A}$, 16th March 1897.

MARCH.

Barque "Henrietta Elizabeth"

Forwarding copy of Proceedings passing orders on the report of the Court of Inquiry into the circumstances connected with the foundering of the — on a voyage from Negapatam to Nancowry in July last.

No. $\frac{252}{A}$, MARINE, 16TH MARCH 1897.

MARINE DEPARTMENT.

LETTER—from

THE HON'BLE COLONEL D. McNEIL CAMPBELL, R.E.,
Secretary to the Government of Madras,
Marine Department,

To

THE SECRETARY TO THE CHIEF COMMISSIONER,
BURMA.

SIR,

Adverting to your letter, No. 578/1 S.-27, dated 23rd September 1896, forwarding correspondence on the subject of the foundering of the barque *Henrietta Elizabeth* while on a voyage from Negapatam in the month of July last, and recommending an inquiry into the circumstances, I am directed by His Excellency the Governor in Council to inform you that a Court of Inquiry under Act V of 1883, the Merchant Shipping Act, was duly held at Negapatam in October last. I am now to forward, for the Chief Commissioner's information, a copy of the report of the Court of Inquiry and of the Proceedings of this Government thereon, No. 251, Marine, dated 16th March 1897.

I have the honour to be,
Sir,
Your most obedient servant,

Colonel, R.E.,
Secretary to Government.

FORT ST. GEORGE,
16th March 1897.

Exd. Shaik Karim.

Government {1897} of Madras.

MARINE.

Recd. } 1897. *Enclosures*

Regd. *Spare copies*

Letter, No. 252, 16th March 1897.

MARCH.

Barque "Henrietta Elizabeth"

Forwarding copy of Proceedings containing the report of a Court of Inquiry into the circumstances of the foundering of the — on a voyage from Negapatam to Nancowry in July last, and inviting attention to the remarks of the Court on the conduct of the Master and the mate of the vessel.

No. 252, Marine, 16th March 1897.

MARINE DEPARTMENT.

Letter—from

The Hon'ble Colonel D. McNEIL CAMPBELL, R.E.,
Secretary to the Government of Madras,
Marine Department,

To

The Hon'ble the COLONIAL SECRETARY,
Colombo.

Sir,

In forwarding, for the information of His Excellency the Governor of Ceylon, the accompanying copy of the Proceedings of this Government, No. 251, Marine, dated 16th March 1897, containing the report of a Court of Inquiry into the circumstances of the foundering of the barque *Henrietta Elizabeth* on a voyage from Negapatam to Nancowry in the month of July last, I am to invite attention to the remarks of the Court on the conduct of the Master and the mate when it became necessary to abandon the vessel. It will be seen that the Court has, on consideration of the evidence, arrived at the conclusion that these officers displayed both incompetence and cowardice, and it recommends that their certificates, which were issued by the Ceylon Government, be now suspended. I am to enclose the certificates in question.

I have the honour to be,
Sir,
Your most obedient servant,

Colonel, R.E.,
Secretary to Government.

Fort St. George,
16th March 1897.

d. Shaik Karim.

Government (1897) of Madras.

MARINE.

Recd.
} 1897.
Regd.

Enclosures

Spare copies

G.O., No. 251, 16th March 1897.

MARCH.

Barque "Henrietta Elizabeth"

Passing orders on report of the Court of Inquiry into the circumstances connected with the foundering at sea of the — while on a voyage from Negapatam to Nancowry in July last, and on the Presidency Port Officer's recommendations thereon.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

Read—the following papers:—

From the Secretary to the Chief Commissioner, Burma, Commerce Department, to the Chief Secretary to the Government of Madras, dated Rangoon, 23rd September 1896, No. 578/1 S.-27.

I am directed to forward a copy of the correspondence cited in the margin on the subject of the foundering of the native barque *Henrietta Elizabeth* on the 25th July 1896. The Chief Commissioner intended to appoint a Special Court under the Indian Merchant Shipping Act, 1883, to ascertain the facts of the case. But as the surviving members of the crew, including the Nacoda and two Malims, left this port by the S.S. *Putiala* for Negapatam on the 19th September 1896, an enquiry at Rangoon is now impracticable.

Letter, No. 2716–14 W. & C., dated the 11th September 1896, from Port officer, Rangoon, with annexure.

Letter, No. 343/1 S.-27, dated the 12th September 1896, to the Chief Commissioner, Andamans.

Endorsement No. 1062/16–96, dated the 19th September 1896 (with three annexures), from the Commissioner of Arakan.

2. In these circumstances I am to suggest that if His Excellency the Governor in Council sees fit, orders may be issued under section 7 of the Indian Merchant Shipping Act (V of 1883) by the Government of Madras for an investigation into the circumstances under which the vessel was lost.

From Commander H. A. STREET, R.I.M., Presidency Port Officer, Madras, to the Secretary to Government, Marine Department, dated 25th September 1896, No. 1261/323 G.

With reference to the foundering of the barque *Henrietta Elizabeth* of Negapatam at sea while on a voyage from Negapatam to Nancowry (*vide* account in the *Madras Times* of this date), I have the honour to enquire whether Government consider that a prosecution should be instituted against the owner and the master of the vessel under section 5 of Act No. VII of 1880.

2. It seems to me that a prosecution is necessary in view of preventing native-owned vessels from being sent to sea in an unseaworthy condition. There are a number of old sailing vessels of European build owned by natives engaged in the coasting trade, and from their age and appearance I am inclined to think that very few are really in a seaworthy condition.

3. The *Henrietta Elizabeth* appears to have been surveyed at Singapore on the 18th September 1895.

From N. E. MARJORIBANKS, Esq., Acting Head Assistant Magistrate of Tanjore and President of Marine Court of Enquiry, to the Secretary to Government, Marine Department, dated Koradacheri, 24th January 1897, No. 48/Mag.

I have the honour to submit herewith, with reference to G.O., No. 690, Marine, dated 7th October 1896, the report of the Special Court of Marine Enquiry holden at Negapatam to investigate the circumstances connected with the loss of the barque *Henrietta Elizabeth* of that port with connected records as per list appended.

2. I much regret the delay which has taken place in concluding the enquiry and writing the report. It was due to my frequent and unavoidable absences from Negapatam in connection with the enquiries and trials which followed the riots of last October.

Enclosure.

Report of the Special Court of Marine Enquiry held at Negapatam to enquire into the loss of the barque *Henrietta Elizabeth*.

The Court was constituted under the provisions of the Indian Merchant Shipping Act (V of 1883) by G.O., No. 690, Marine, dated 7th October 1896, to enquire into the circumstances connected with the loss of the native barque *Henrietta Elizabeth*.

2. An enquiry into the matter having been held by the Port officer of Negapatam on the 29th September 1896, the names of such of the survivors as were available in Negapatam were obtained from him and they, along with the owners and a former Captain of the vessel, were summoned.

3. The Court first assembled for the examination of witnesses on the 19th of October 1896. After the owners Mr. Mahomed Mustafa Marakayar, the former Captain Oothman Levvai Marakayar, the Captain Nowda Kandu Malumiyar, the mate Mahomed Moideensa, the syrang Salé and a lascar Martin had been examined. the Court considered that there appeared reason to investigate the conduct of the master and the mate of the vessel. A reference was made to the District Magistrate as to the necessity for appointing assessors, for the Court felt that there would be considerable difficulty in procuring the services of independent men with sufficient professional knowledge.

4. The District Magistrate declined to give an authoritative reply, but stated that in his opinion assessors were necessary under section 13 of the Act.

5. Thereupon the Court appointed Messrs. M. Oothman Levvai Marakayar and S. Ghulam Kader Malumiyar as assessors and issued notices to the master and mate, who appeared by vakil and cross-examined at length all the witnesses. At the termination of the enquiry the assessors gave their opinions in writing.

6. *Past history of the Barque.*—The barque *Henrietta Elizabeth* was a vessel of 353 tons burden. The present owner appears to have purchased it at Singapore in 1895. He states the vessel was not examined in dry dock or the copper removed either before purchase or since it came into his possession. The age of the vessel is uncertain. The owner states that the age of the coppering was estimated at about seven or eight years at the time of purchase. The vessel was registered at Singapore on change of ownership on 18th September 1895, and was registered in Negapatam 9th July 1896. On neither occasions does any examination (except as to state of pump and general appearance) as to the soundness or seaworthiness of the vessel seem to have been made. Since the vessel has been in the hands of the present owner, she has gone coasting voyages to Jaffna and Cocanada. No particular unseaworthiness was reported on these occasions. The then Captain reports that coming from Cocanada with full cargo, the vessel leaked a little in bad weather and they pumped her once every six hours. There was about 18 inches at each time of pumping, the ordinary quantity of water being 8 inches. There was a leak about the bows above the copper which they caulked. In one place, owing to a rotten plank the caulking did not hold and they had to nail on a fresh plank. The Captain did not consider the vessel worse than the ordinary run of country barques. No repairs except to the pump were done before the vessel started from Negapatam.

7. *Voyage and casualty.*—The barque started on Thursday, the 23rd of July 1896, from Negapatam bound for the Nicobars with a cargo of 100 or 120 bags of rice and about three or four boxes of cloth, some country and China tobacco and earthen pots; there was also Rs. 200 worth of specie on board. As far as can be ascertained, there were 30 souls on board.

8. On Friday the wind freshened and the sea got rough. The pumps were worked every six hours and according to the Captain the vessel made six inches every six hours. On Saturday the sea was rougher. Water gained in the pumps on Saturday night. According to the Captain the principal leak was in the bottom and could not be found. He admits that four planks sprung on the port side above the copper, but states that not much water came in that way. The mate, however, deposed before the Port officer on 29th September 1896 that the principal leak was in the bows. He was at the time under no misapprehension as he explained why no attempt could be made to lessen the effect of this leak by bowsing a sail tight round that part. Before this Court he stated the leak was somewhere below. His attention having been drawn to his former statement, he endeavours to reconcile his statements stating that the greater quantity of water was coming from below. The syrang Salé also states that there was a leak in the bows and also one by the port forerigging. In cross examination other answers were put into his mouth and he acquiesced. The lascar Martin also swears that the principal leak was in the bows. These witnesses state, however, that owing to the roughness of the sea and the consequent rolling and pitching of the vessel, these leaks could not be stopped. Water having gained in the pumps on Saturday night, the Captain states that the sand ballast choked the

pumps at noon on Sunday and that, then, he decided to lower the boats and quit the vessel. He states that of their three boats the two large ones on port and starboard were lowered and that all the crew got into them and left the ship safely. The ship sank at 2 P.M.

9. The mate stated to the Port officer that the sand choked the pumps at 10 P.M. on Saturday and that they baled afterwards, but he now retracts that statement. The other witnesses put the time at 9 or 10 P.M. on Sunday. According to the Captain's evidence the vessel sank in latitude 8·34 N and longitude 86·26 E, about 390 miles from Negapatam. He arrives at this latitude from noon observation on Saturday and at this longitude by account.

10. On the whole, therefore, and considering the evidence of the former Captain, it appears most probable that the vessel first began to leak in the bows and that as the water gained she began to give all over. The Captain might have adopted the expedient of bowsing a sail tight over the bows, but it is doubtful whether this could have prevented or have materially delayed the foundering of the vessel. The rapidity with which the vessel filled and sank, in the opinion of the Court, proves that she could not have been in a seaworthy state, but the evidence is unanimous and the Court is inclined to agree with it that the vessel was in no worse or better condition than that of the great majority of native sailing craft.

11. *Arrangements made for saving crew, conduct of master and mate.*—The Captain states that he gave orders for both port and starboard boats to be lowered and for half the crew to get into each boat. The boats were lowered, he says, and the crew got into them. He then got into the port boat, not knowing that the mate was there already. He says it was dark and he did not see the mate till the next morning. The other boat, the Captain says, followed theirs at a distance of half a mile, till the rain hid it from sight, and they did not again sight it.

12. The mate, on the other hand, says that he got into the port boat and that the Captain came into it, too, not seeing that he was there. He added that they immediately hailed the other boat so that he might get into it, but that the sea rendered it impossible. He quickly contradicted himself, however, and stated that he heard the Captain call the other boat.

13. The syrang, too, states that the other boat was within a call's distance till rain and mist intervened.

14. The lascar Martin, on the other hand, gives quite a different version. He states that the starboard boat was never lowered at all; that the Captain and mate and others got into the port boat and were casting her off when those left on board cried for assistance and that, thereupon, the head tindal went back to the ship to launch the other boat; that as long as the hull of the vessel was in sight (about one hour), the other boat was not launched and that he saw the masts heel over half an hour after the hull was out of sight. The witness goes on to say that there were 16 men in his boat, but that one, a Muhammadan, fell overboard before they sighted land, and could not be recovered though every effort was made.

15. The evidence as to the rest of the crews' adventures is not conflicting. They appear to have made land on the fifth day the middle Andamans. From there they coasted up the shore to Table Island which they reached on the 27th day. They were at Table Island 18 days and then were brought by the *Dalhousie* to Akyab. At Akyab the lascar Martin got help from a priest, he being a Roman Catholic, and returned to Negapatam *viâ* Calcutta. The rest of the crew went to Rangoon, where most of them appear to have remained. The Captain, mate, syrang, an apprentice lad, and a clerk, all Muhammadans, alone returned to Negapatam. According to the evidence they had sufficient food till they made land. Some biscuits and bread and half a cask of water were put into the boat. On the third day after starting, the water cask was inadvertently left to run out and they had to depend on rain water. After making land, they kept along the coast living on crabs and small fish till they got to Table Island.

16. The lascar Martin, when first examined by the Port officer on 29th September 1896 gave much the same evidence as to the two boats having put off as that now given by the rest of the witnesses. The witness appears to be a Roman Catholic and before this Court he gave his evidence with great appearance of devotion. He states that when he first landed, the ship owners sent for him and coached him up as to what to say, and that he said it. The statement made by him to the Court is very full and detailed, and is not at all shaken by his cross examination.

17. Having consideration to the contradictions, and in some points obvious absurdity, of the statements of the Captain and mate, the fact that among the crew* of the surviving boat we find the Captain, mate, syrang and both cooks and the statement of lascar Martin, the Court gravely doubts whether the second boat was ever launched. It is of opinion that whether the second boat was launched or not, the evidence and the facts of the case show clearly that the Captain and the mate behaved in the most incompetent and inefficient manner in seeing to the lowering of the boats and the saving of the crew.

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* The fifteen survivors who came to Akyab or made up as under (*vide* Captain's evidence)—

1. Captain Nowda Kandu Malumiyar.
2. Mate Mahomed Moideensa Malumiyar.
3. Syrang Salé.
4. Mahomed Mysa, clerk.
5. Kadersa, sukkani.
6. Katch Moideen, storekeeper.
7. Mahomed Husain Saheb, apprentice.
8. Mahomed Moideen, cook.
9. Moideensa, lascar.

10. & 11. Two boys.

12. The lascar's cook.
13. Martin, lascar.
14. Doraisami, lascar.
15. Another lascar.

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18. The Captain Nowda Kandu Malumiyar holds a service certificate No. 764, dated April 1881, granted at Colombo. The mate Mahomed Moideensa Malumiyar holds a service certificate No. 806, dated 5th January 1883, granted also at Colombo. Under G.O., No. 795, dated 18th November 1896, Marine, these certificates are not in force in Indian ports. Except for this ruling, the Court would recommend the suspension of the certificates of the master and the mate.

19. The Court, however, is not disposed to attribute the loss of the vessel in any way to their incompetence or mismanagement.

20. During the course of the enquiry, two other similar disasters were brought to the notice of the Court. The barque *Colonel Fytch* founded off the Nicobars, but all the crew were saved. The barque *Mahomed Samathani* has not been heard of since she left this port. Both the above vessels left Negapatam on the same date as the *Henrietta Elizabeth*.

21. In the opinion of this Court the condition of these vessels calls for a system of periodical examination. The Court would recommend that all native vessels employed in the foreign trade and all employed in the coasting trade of or above 100 tons burden should be dry docked or *heeled* once every five years, and the bottom properly surveyed and the copper renewed if necessary and the vessel granted a survey certificate.

22. To sum up: The court exonerates the Captain and the mate with regard to the loss of the vessel, but finds that they displayed incompetence and cowardice in seeing to the launching of the boats and the saving of the crew. Having regard to the fact that the vessel was neither better nor worse than others of its class, the Court makes the recommendations contained in the preceding paragraph.

(Signed) N. E. MARJORIBANKS,
Ag. Head Asst. Magistrate
and President.

(„) R. L. SWANN,
Ag. Port Officer, Member.

From Commander H. A. STREET, R.I.M., Presidency Port Officer, Madras, to the Secretary to Government, Marine Department, dated 24th February 1897, No. 1261/66 G.

With respect to the recommendations made by the Court which assembled in January last at Negapatam to enquire into the loss of the barque *Henrietta Elizabeth*, I have the honour, in accordance with the instructions contained in Marine Department endorsement, No. 65 E., dated 29th January 1897 (enclosures herewith returned), to make the following remarks for the information of Government, viz.:—

(*a*) I concur in the view taken by the Court in paragraphs 10, 17 and 22, respectively, of its report as (1) to unseaworthiness of the vessel, and (2) to the incompetence of the master and mate.

(*b*) With regard to the remarks contained in paragraph 18, I would recommend that the Ceylon Government be informed of the report of the Court as to the behaviour of the master and mate, in view to the men being deprived of the certificate they respectively hold.

(*c*) The Merchant Shipping Acts have no provisions under which the recommendation contained in paragraph 21 of the report could be carried out. The onus of sending a vessel to sea in an unseaworthy condition rests with the person who sends or attempts to send a vessel to sea in such state (*vide* section 5 of Merchant Shipping Act No. VII of 1880) and it would be unwise, in my opinion, to do anything that might tend to relieve such person of the responsibility. I propose, however, with the sanction of Government, to instruct the several coast port officials to refuse clearance to any native vessel of, or above, 100 tons burthen which has not been docked and examined by a recognised surveyor within the last five years. It is true that there is no legal provision for this, but from the opinion of the Court, expressed in paragraphs 20 and 21 of their report, I submit it may be reasonably assumed that nearly all of the native coasting vessels of 100 tons and over are more or less unseaworthy, and that a vessel of this description could be detained provisionally under section 7 of Act VII of 1880 pending an examination as to her state.

2. As the state of the vessel has been described by the Court as "unseaworthy," think that the owner should be prosecuted under section 5 of Act VII of 1880.

From N. E. MARJORIBANKS, Esq., Acting Head Assistant Magistrate and President, Court of Marine Inquiry, to the Secretary to Government, Marine Department, dated Negapatam, 5th February 1897, No. 67/Mag.

In continuation of my letter, dated 24th January 1897, Dis. No. 48/Mag., reporting on the investigation made into the circumstances connected with the loss of the barque *Henrietta Elizabeth*, I have the honour to submit, herewith, a supplemental list of papers connected with the above inquiry.

I regret that they were omitted from the records already submitted.

Order—No. 251, Marine, dated 16th March 1897.

With his letter, No. 1261/323 G., dated 25th September 1896, the Presidency Port Officer forwarded, for the information of Government, a copy of the issue of the *Madras Times* of the 24th September 1896, containing an account of the foundering at sea of the barque *Henrietta Elizabeth* of Negapatam while on a voyage from Negapatam to Nancowry, and as there seemed *primâ facie* grounds for believing that the vessel had been sent to sea in an unseaworthy condition, he recommended that a prosecution should be instituted against the owner and the Master under section 5 of Act VII of 1880.

2. This report was followed by a letter from the Secretary to the Chief Commissioner, Burma, with which further particulars of the occurrence were communicated, and an inquiry into the circumstances was suggested.

3. His Excellency the Governor in Council accordingly appointed* a Court of Inquiry under Act V of 1883, the Indian Merchant Shipping Act. The Court was to assemble at Negapatam, and to be composed of the Head Assistant Magistrate, as President, and as Members, the Port Officer, Negapatam, and a local merchant to be nominated by the President.

* G.O., No. 690, Marine, dated 7th October 1896.

4. The Court thus constituted assembled for the examination of witnesses on the 19th October 1896, and on the conclusion of this examination resolved to investigate the conduct of the Master and the mate of the vessel. Two assessors having been appointed under section 13 of the Act, the Court proceeded with this investigation.

5. The results of the inquiry are embodied in a report which is submitted by the President with his letter, No. 48/Mag., dated 24th January 1897. The Court arrives at the conclusion that the vessel was in an unseaworthy condition, and that its loss cannot be attributed to any incompetence or mismanagement on the part of the Master or mate, but finds that these officers displayed incompetence and cowardice in their arrangements for the launching of the boats and the saving of the crew when it became necessary to abandon the ship.

6. In the opinion of the Court, the condition of these native craft generally is unsound and calls for a system of periodical examination. It accordingly recommends that all native vessels employed in the coasting trade of, or above, 100 tons burthen, should be dry docked, or heeled over every five years, the bottom properly examined, and the copper renewed, if necessary, after which a survey certificate should be issued.

7. The Presidency Port Officer concurs in the view of the Court as to the unseaworthiness of the vessel, and as to the incapacity displayed by the Master and mate, and recommends that the Ceylon Government be communicated with in view to the certificates of the officers in question, which are held from that Government, being withdrawn. Steps will be taken accordingly.

8. He also points out that the Merchant Shipping Act confers no power to enforce the recommendation made by the Court in regard to the periodical examination of vessels; but under section 7 of Act VII of 1880, the Local Government, if it have reason to believe, on complaint or otherwise, that a British ship in any port to which the section has been applied is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed. And as it would appear that nearly all the native coasting vessels of 100 tons and upwards may be reasonably assumed to be more or less unseaworthy, it is recommended that the power conferred by this section should be enforced. The Presidency Port Officer accordingly proposes to instruct, with the sanction of Government, the several coast port officers to refuse clearance to any native vessel of, or above, 100 tons which has not been docked and examined by a recognised surveyor within the preceding five years.

9. Before giving effect to this recommendation, His Excellency the Governor in Council desires that the Presidency Port Officer will go into the matter more fully, and submit mature proposals in the light of the following remarks:—

Section 7 of Act VII of 1880 can only be applied in a port to which the section has been specially extended, and there is nothing to show whether it has been so extended to any, and if so which, ports of the Madras Presidency. It also seems necessary that the ship detained under this section should not only be "unseaworthy" but actually "unsafe." It is further not clear where the recognised "Surveyors" are to be found.

Section 7 having been extended to a port, the fact that action is taken under it at once brings into force sections 8—10 and 13—23 and 27—31 and possibly sections 24—26. That is, it presupposes, the existence of a machinery which does not exist, and which it will not be easy to supply, and in certain cases (*vide* section 27) it renders Government liable for costs which may amount to a considerable sum.

If section 7 has been extended to any ports it would probably be better that the port officers of these ports should be instructed to refer for orders cases in which they have reason to think vessels "unsafe." If not so extended the Presidency Port Officer might consider to what ports the section should be applied. It should, perhaps, be applied to the principal ports only.

The Presidency Port Officer will also consider whether any, and what, officers should be appointed "detaining officers" under section 11, and should state for each port what arrangements will be practicable for the employment of "Surveyors" and for the appointment of "Courts of Inquiry" or "Scientific referees."

10. Finally, the Presidency Port Officer recommends that as the Court of Inquiry has found that the barque *Henrietta Elizabeth* was "unseaworthy" when it was sent to sea, the owner be prosecuted under section 5 of Act VII of 1880. The Presidency Port Officer will, in the first instance, take legal advice as to the probability of a conviction and report the result for the orders of Government.

[Here enter No. 252, Marine, dated 16th March 1897.]

(True Extract.)

(Signed) D. McNEIL CAMPBELL, Colonel, R.E.,
Secretary to Government.

To the Presidency Port Officer, with ~~20~~ 14 enclosures.

Exd. Shaik Karim.

~~The Hon Mr Bliss C. I. E~~ No 25 (mar of 16-3-97)

- Print emergently

Barque "Henrietta, Elizabeth" -

Marine DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Print without enclosures — Letter from the Secretary to the Chief Commissioner, Burma, No. 578/ $\frac{1S}{27}$ dated 23rd September 1896.

Print — do - from the Presidency Port Officer, Madras, No. 1261/323, dated 25th September 1896.

Print with the report of the Court & two other enclos: — do - from the President of Marine Court of Enquiry, Negapatam, No. 48/Mag. of '97, dated 24th January 1897.

Print — do - from the Presy. Port Officer, Madras, No. 1261/66 G., dated 24th February 1897.

Print without enclos. — do - from the President, Court of Marine Enquiry, Negapatam, dated 5th February 1897.

16B

With his letter No. 1261/323. G., dated 25th September 1896, the Presidency Port Officer forwarded for the information of Government a copy of the issue of the Madras Times of the 24th September 1896 containing an account of the foundering at sea of the barque "Henrietta Elizabeth" of Negapatam while on a voyage from Negapatam to Nancowry, and as there seemed *prima facie* grounds for believing that the vessel had been sent to sea in an unseaworthy condition, he recommended that a prosecution Should be instituted against the owner and the Master, under Section 5 of Act VII of 1880.

2. This

With refce to para 8 of this draft it appears to me that the P.P.O.'s proposal to treat a native vessel which has not been docked & examined within 5 years by a recognized surveyor under S. 7 of Act VIII of 1880 requires a great deal more examin. before it can be approved. In the first place, this section does not apply to all ports but only to such ports as it may be specially extended to. Now I am not aware if it has been so extended to any port. In the second place, the section does not apply to "unseaworthy" ships, but only to "unsafe" ships, that is, to ~~ships~~ which are patently in an extremely unseaworthy state. Thirdly, where is the "recognized surveyor" to be found? I don't know of one in the Pres. ~~[illegible]~~. Is it the Port officer who grants Port clearances? I thought it was the Customs officer.

Then, supposing S. 7 to have been extended to a port, the fact that action is taken under it at once brings into force sections 8—10 and 13—23 and possibly sections 24-26-27—31, and That ~~[illegible]~~ presupposes the existence of a machinery which

P. W. 40.
1,000—16-4-97.

2. This report was followed by a letter from the Secretary to the Chief Commissioner, Burma, with which further particulars of the occurrence were communicated, and an inquiry into the circumstances was suggested.

3. His Excellency the Governor in Council accordingly appointed[×] a Court of Inquiry under Act V of 1883, the Indian Merchant Shipping Act. The Court was ~~to~~ assemble at Negapatam, and to be composed of the Head Assistant Magistrate, as President, and as Members, the Port Officer, Negapatam, and a local merchant to be nominated by the President.

4. The Court thus constituted assembled for the examination of witnesses on the 19th October 1896, and on the conclusion of this examination resolved to investigate the conduct of the Master and the Mate of the vessel. Two assessors having been appointed under Section 13 of the Act, the Court proceeded with this investigation.

5. The results of the inquiry are embodied in a report which is submitted by the President with his letter No.48/Mag. dated 24th January 1897. The Court arrives at the conclusion that the vessel was in an unseaworthy condition, and that its loss cannot be attributed to any

incompetence

[×] G.O.690 Marine, dated 7th October 1896.

does not exist or which it will not be easy to supply, and in certain cases (v. s. 27) it renders Govt. liable for costs which may amount to a considerable sum.

On the whole, I am not prepared to accept the P.P.O.'s proposal as it stands. If s. 7 has been extended to any ports, he may well instruct Port officers to refer for orders cases in which they have reason to think vessels "unsafe" – If not, he may consider to what ports the section should be extended. I should say to the principal ones only. He may also consider whether any & what officers should be appd. "detaining officers" under s. 11, & should state for each port what arrangements will be practicable for the employment of Surveyors and for the appt. of Courts of Survey or Scientific Referees –

I shall be quite willing to consider matured proposals made on these lines, but I cannot sanction the present vague proposal.

Looking at the Act, my eye has fallen on s. 32. The P.P.O. might be asked (by a separate order) how far that is being complied with –

× The Port Clearance depends virtually on the Port officer as it cannot be obtained without a Certificate from that officer that all the Regulations of the Port have been complied with.

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incompetence or mismanagement on the part of the Master or Mate, but finds that these officers displayed incompetence and cowardice in their arrangements for the launching of the boats and the saving of the crew when it became necessary to abandon the ship.

6. In the opinion of the Court, the condition of these Native Crafts generally is unsound, and calls for a system of periodical examination. It accordingly recommends that all Native vessels employed in the coasting trade of, or above, 100 tons burthen, should be dry docked, or heeled ~~once~~ over every five years, the bottom properly examined, and the copper renewed, if necessary, after which a survey certificate should be issued.

7. The Presidency Port Officer concurs in the view of the Court as to the unseaworthiness of the vessel, and as to the incapacity displayed by the Master and Mate, and recommends that the Ceylon Government be communicated with in view to the certificates of the officers in question, which are held from that Government, being withdrawn. Steps will be taken accordingly.

8. He also points out that the Merchant Shipping Act confers no power to enforce the recommendation made by the Court in regard to the

periodical examination of vessels; but under Section 7 of Act VII of 1880, the Local Government, if it have reason to believe, on complaint or otherwise, that a British ship in any port to which the section has been applied is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed. And as it would appear that nearly all the Native coasting vessels of 100 tons and upwards may be reasonably assumed to be more or less unseaworthy, it *is recommended* ~~seems desirable~~ that the power conferred by this section should be enforced. The Presidency Port Officer accordingly proposes, to instruct, with the sanction of Government, *the* several coast port Officers to refuse clearance to any Native vessel of or above 100 tons which has not been docked and examined by a recognised Surveyor within the preceding five years. ~~This proposal is approved.~~

(Parag - See separate sheet)

10 Finally, the Presidency Port Officer recommends that as the Court of Inquiry has found that the barque "Henrietta Elizabeth" was "unseaworthy" when it was ~~mmhh~~ sent to sea, the owner be prosecuted under Section 5 of Act VII of 1880. ~~The prosecution of the owner is sanctioned accordingly.~~ The Presidency Port Officer will *in the first instance* take

As to this, I don't believe that, on the evidence available, a prosecution would succeed. However, ask the Govt. Pleader his opinion

Continuation of draft order on C No 304 18 P

Parag 9.

9. Befor giving effect to this -- recommendation, His Excellency the Governor in Council desires that the Presidency Port Officer will go into the matter more fully, and submit mature proposals in the light of the following remarks:-

Section 7 of Act VII of 1880 can only be applied in a port to which the section has been specially extended, and there is nothing to -- show whether it has been so extended to any, and if so which, ports of the Madras Presidency. It also --- seems necessary that the ship detained under this section should not only be "unseaworthy" but actually "unsafe". It is further not -- clear where the recognised "surveyors" are to be found.

Section 7 having been extended to a port, the fact that action is taken under it at once brings into force Sections 8-10 and 13-23 and 27-31 and possibly, sections 24-26. That is, it presupposes the existence of a machinery which does not exist, and which it will not be easy to supply, and in certain cases (vide Sec. 27) it renders Government liable for costs which may amount to a considerable sum.

If section 7 has been extended to any ports it would probably be better that the port officers of these ports should be instructed to refer for orders cases in which they have reason to think vessels "unsafe". If not so extended the Presidency Port Officer might consider to what ports the section should be applied. It should, perhaps, be applied to the principal ports only.

The Presidency Port Officer will also consider whether any, and what, officers should be appointed "detaining officers" under section 11, and should state for each port what arrangements will be practicable for the employment of "surveyors" and for the appointment of "Courts of Inquiry" or "Scientific Referees".

R.S.

16/3/97

Para 10 of the draft order provides for legal advice being taken by the P.P.O. – The Solicitor is I think the proper officer to be applied to. [illegible] Draft order as amended to issue

15/3/97

[illegible] 15 Mar 97

R.S. 15 Mar 97

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~~take the requisite steps, and in due course,~~ legal advice as to the probability of a conviction and report the result for the ~~information~~ orders of Government.

To

The P.P.O. with (18) enclos. [illegible] 18.3.97

(Note. The certificates of the master & mate are to go to Ceylon)

H.E. No. 252 Mar of 16-3-97

To

The Hon. The Colonial Secretary,
Colombo.

Sir,

In forwarding for the information of His Excellency the Governor of Ceylon, the accompanying copy of the Proceedings of this Government, No. 251 Marine, dated 16-3-97 containing the report of a Court of Inquiry into the circumstances of the foundering of the barque "Henrietta Elizabeth" on a voyage from Negapatam to Nancowry in the month of July last, I am to invite attention to the remarks of the Court on the conduct of the Master and the Mate when it became necessary to abandon the vessel. It will be seen that the Court has, on consideration of the evidence, arrived at the conclusion that these officers displayed both incompetence and cowardice, and it recommends that their certificates, which were issued by the Ceylon Government, be now suspended. I am to enclose the certificates in question.

I have &c.

8/3/97

M.

H.E.

This can go at once

R.S.

Sent the 2 certificates [illegible] 18/3 251 M

R.S.

H.E. No. 252/14 Mar dated 16.3.97

To
The Secretary to the
Chief Commissioner, Burma.

Sir,

Adverting to your letter No. 578/ $\frac{1S}{27}$ dated 23rd September 1896, forwarding correspondence on the subject of the foundering of the barque "Henrietta Elizabeth" while on a voyage from Negapatam in the month of July last, and recommending an inquiry into the circumstances, I am directed by His Excellency the Governor in Council to inform you that a Court Of Inquiry under Act V of 1883, the Merchant Shipping Act, was duly held at Negapatam in October last. I am now to forward for the Chief Commissioner's information, a copy of the report of the Court Of Inquiry and of the Proceedings of this Government thereon No. 251 Marine, dated 16 March 1897.

I have &c.

8/3/97

Mr

9/3/97

Issue with G.O. No 251 M
30/3/97

Print soon
15/3/97

15 Mar 97

L.G. No. 9

Marine (1897) Department.

CURRENT No. 185

Vide 304 &
93 G.O. 97

Order

From The Head Asst. Magistrate & President of Court of Marine Enquiry, Negapatam.
Dis No. 67 Mag of 97

Dated 5.2.97
Received 11.2.97
Enclosures 5
Spare copies

SUBJECT.

Barque:- Submitting a supplemental list of papers connected with the enquiry regarding the loss of the "Henrietta Elizabeth."

Reovide G.O. No. 302 / 3.3.97

Await reply to Endt. No. 65 E of 29 Jany 97

12/2/97

13 Feb 97

M 4.
1,000—8-8-96.

BACK PAPERS.

G.O.	No.	Department.	Date.
cw	90 (97)		

FURTHER PAPERS.

G.O.	No.	Department.	Date.
304 (97)			

Head assistant MAGISTRATE'S OFFICE,
CAMP, Negapatam
Dated 5th February 1897

No. 67/Mag 387

FROM
N. E. Marjoribanks, Esquire,
Ag Head assistant MAGISTRATE ~~OF~~ &
President, Court of Marine Enquiry,
Negapatam

TO
THE Secretary to Government,
Marine Department,
Madras

D. 65 E / 29.1-97

SIR,

In Continuation of my letter dated 24th January 1897 Dis: No. 48/Mag reporting on the investigation made into the circumstances connected with the loss of the barque "Henrietta Elizabeth," I have the honor to submit herewith a Supplemental list of papers connected with the above Enquiry.

I regret that they were omitted from the Records already submitted.

I have the honor to be
Sir
Your most obdt. Servant

NEMarjoribanks
6/2

Ag Head asst magte and
President, Court of
Marine Enquiry Negapatam

MAGISTERIAL DEPARTMENT.

FROM

THE Head assistant MAGISTRATE OF
& President of Court
of Marine Enquiry, Negapatam

To

THE Secretary to Government
Marine Department
Madras

Dated 5th
Despatched 8th February 1897
Received

Dis No. 67/Mag of 97

ENCLOSURES. 4 (Sent separately)

SUBJECT.

Submitting a Supplemental list of papers connected with the Enquiry re the loss of the barque "Henrietta Elizabeth".

Marine (1897) Department.

urgent

CURRENT No. 304

25/1
25/2

C.N. 185 & 93.

Order

For supplemental list of papers received from the Dt. Magistrate vide C.No 185 linked file

From,

The Presidency Port Officer,
Madras

No. 1261/66 G

Dated 24 February 1897

Received 3.3.97

Enclosures + 21

Spare copies

SUBJECT.

Returning with remarks papers in connection with the loss of the barque "Henrietta Elizabeth".

BACK PAPERS.

G.O.	No.	Department.	Date.
Ms. 185(97)			
	93(97)		
705		Marine	14-10-96
690		"	7-10-96
	65 E	"	7-1-97
736		"	28-10-96
	506 E	"	2-10-96
795		"	18-11-96
599-600		"	4-2-96
	392 E	"	6-8-96
436		"	10-11-94
311		"	7-8-94
471		"	22-12-92
464		"	16-12-92
453		"	9-12-92
6		"	5-1-92
280		"	26-6-91
273		"	24-6-91
286		"	9-7-90
255		"	9-7-80
			13-6-80
333		"	3-2-88
32		"	

+ Some Acts (Indian Merchant Shipping Act 1883
Act No. VI of 1891
– VII of 1880

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Report of the Special Court of Marine Enquiry held at Negapatam to Enquire into the loss of the barque "Henrietta Elizabeth."

The Court was constituted under the provisions of the Indian Merchant Shipping act V of 1883 by G.O. No. 690 – Marine dated 7th October 1896 to Enquire into the circumstances connected with the loss of the Native barque Henrietta Elizabeth.

2. An Enquiry into the matter having been held by the Port officer of Negapatam on the 29th September 1896 the names of such of the survivors as were available in Negapatam were obtained from him and they along with the owners and a former captain of the vessel were summoned.

3. The Court first assembled for

the Examination of witnesses on the 19th of October 1896. After the owners Mr Mahomed Mustafa Marakayar, the former Captain Oothman Levvai Marakayar, the Captain Nonda Kandoo Malimiyar the mate Mahomed Moideensa the Syrang Salé and a Lascar Martin had been examined the Court considered that there appeared reason to investigate the conduct of the master and the mate of the vessel. A reference was made to the District Magistrate as to the necessity for appointing Assessors for the Court felt that there would be considerable difficulty in procuring the services of independent men with sufficient professional knowledge.

4- The District Magistrate declined to give an authoritative reply but stated that in his opinion Assessors were necessary under Section 13 of the act.

5 Thereupon the Court appointed Messrs M. Oothman Levvai Marakayar and S. Ghulam Kader Malumiyar as Assessors and issued notices to the master and mate who appeared by vakil and cross-examined at length all the witnesses. At the termination of the Enquiry the Assessors gave their opinions in writing.

Past history of the Barque

6- The barque Henrietta Elizabeth was a vessel of 353 tons burden. The present owner appears to have purchased it at Singapore in 1895. He states the vessel was not examined in dry dock or the copper removed either before purchase or since it came into his possession. The age of the vessel is uncertain. The owner states that the age of the coppering was estimated at about 7 or 8 years at the time of purchase. The vessel was registered at Singapore on change of ownership on 18th September 1895 and was registered in Negapatam 9th July 1896. On neither occasions does any examination (except as to state of pumps and general appearance as to the soundness or seaworthiness of the vessel seem to have been made

Since

Past history of the Barque

Since the vessel has been in the hands of the present owner she has gone coasting voyages to Jaffna and Coconada. No particular unseaworthiness was reported on these occasions. The then captain reports that coming from Coconada with full cargo the vessel leaked a little in bad weather and they pumped her once every 6 hours. There was about 18 inches at each time of pumping the ordinary quantity of water being 8 inches. There was a leak about the bows above the copper which they caulked. In one place owing to a rotten plank the caulking did not hold and they had to nail on a fresh plank. The captain did not consider the vessel worse than the ordinary run of country barques. No repairs except to the pump were done before the vessel started from Negapatam.

Voyage & Casualty

7 The barque started on Thursday the 23rd of July 1896 from Negapatam bound for the Nicobars with a cargo of 100 or 120 bags of rice and about 3 or 4 boxes of cloth some country and China tobacco and earthen pots; there was also 200 Rs worth of specie on board. As far as can be ascertained there were 30 souls on board.

8 On Friday the wind freshened and the sea got rough. The pumps were worked every six hours and according to the captain the vessel made 6 inches every 6 hours. On Saturday the sea was rougher. Water gained in the pumps on Saturday night. According to the captain the principal leak was in the bottom and could not be found. He admits that four planks sprung on the port side above the copper but states that not much water came in that way. The mate however deposed before the Port officer on 29. 9. 96 that the principal leak was in the bows. He was at the time under no misapprehension as he explained why no attempt could be made to lessen the effect of this leak by ~~bowing~~ bowsing a sail tight round the part

out. Before this court he Stated the leak was Somewhere below. His attention having been drawn to his former Statement, he endeavours to reconcile his Statements Stating that the greater quantity of water was coming from below. The Serang Salé also States that there was a leak in the bows and also one by the port fore rigging. In crossexamination other answers were put into his mouth and he acquiesced. The lascar Martin also Swears that the principal leak was in the bows. These witnesses State however that owing to the roughness of the Sea and the consequent rolling and pitching of the vessel these leaks could not be Stopped. Water having gained in the pumps on Saturday night the Captain States that the Sand ballast choked the pumps at noon on Sunday and that then he decided to lower the boats and quit the vessel. He States that of these three boats the two large ones on port and Starboard

were

were lowered and that all the crew got into them and left the Ship Safely. The Ship Sank at 2 p.m. S. P

9. The mate Stated to the Port officer that the Sand choked the pumps at 10 p.m. on Saturday and that they baled afterwards but he now retracts that Statement. The other witnesses put the time at 9 & 10 p.m. on Sunday. According to the Captain's evidence the vessel Sank in Latitude 8.34 N and Longitude 86.26 E about 390 miles from Negapatam. He arrives at the latitude from noon observation on Saturday and at this Longitude by account.

10. On the whole therefore and considering the evidence of the former Captain it appears most probable tha the vessel first began to leak in the bows and that as the water gained she began to give all over. The Captain might have adopted the expedient of bending a sail tight over the bows but it is doubtful whether this could have prevented or have materially delayed the foundering of the vessel. The rapidity with which the vessel filled and sank in the opinion of the Court proves that she could not have been in a sea-worthy state but the; evidence is unanimous and the Court is inclined to agree with it that the vessel was in no worse or better condition than that of the great majority of native sailing craft.

Arrangements made for saving crew, conduct of Master and mate

11. The Captain states that he gave orders for both port and starboard boats to be lowered and for half the crew to get into each boat. The boats were lowered he says and the crew got into them. He then got into the port boat not knowing

that

that the mate was there already. He says it was dark and he did not see the mate till the next morning. The other boat the Captain says followed theirs at a distance of half a mile till the rain hid it from sight and they did not again sight it.

12. The mate on the other hand says that he got into the port boat and that the Captain came into it too not seeing that he was there. He added that they immediately hailed the other boat so that he might get into it but that the sea rendered it impossible. He quickly contradicted himself however and stated that he heard the Captain call the other boat.

13 The Serang too states that the other boat was within a call's distance till rain and mist intervened.

14 The lascar Martin on the

other hand gives quite a different version. He states that the Starboard boat was never lowered at all; that the Captain and Mate and others got into the port boat and were casting her off when those left on board cried for assistance and that thereupon the Head Tindal went back to the Ship to launch the other boat; that as long as the hull of the vessel was in sight! (about one hour) the other boat was not launched and that he saw the masts heel over half an hour after the hull was out of sight. The witness goes on to say that there were 16 men in his boat but that one a Mahomedan fell overboard before they sighted land and could not be recovered though every effort was made.

15. The evidence as to the rest of the crews' adventures is not conflicting. They appear to have made land on the fifth day - the middle Andamans -

Andamans. From there they coasted up the shore to Table Island which they reached on the 27th day. They were at Table Island 18 days and then were brought by the Dalhousie to ~ Akyab. At Akyab the lascar Martin got help from a priest he being a Roman Catholic and returned to Negapatam via Calcutta. The rest of the crew went to Rangoon where most of them appear to have remained. The Captain, mate, Syrang, an apprentice lad and a clerk all Mahomedans alone returned to Negapatam. According to the evidence they had sufficient food till they made land. Some biscuits and bread and half a cask of water were put into the boat. On the third day after starting the water cask was inadvertently left to run out and they had to depend on rainwater. Af making land they kept along the coa living on crabs and small fish till the got to Table Island.-

16. The lascar Martin when first examined by the Port Officer on 29th September 1886 gave much the same evidence as to the two boats having put off as that now given by the rest of the witnesses. The witness appears to be a Roman Catholic and before this Court he gave his evidence with great appearance of devotion. He states that when he first landed the Ship owners sent for him and coached him up as to what to say and that he said it. The Statement made by him to the Court is very full and detailed and is not at all shaken by his cross examination.-

17. Having consideration to the contradictions and in some points obvious absurdity of the Statements of the Captain and mate the fact that among the crew of the Surviving boat we find the x Captain Mate Syrang and both Cooks and the State-ment of Lascar Mart[in] the Court gravely doubts whether the second boat was ever launched. It is of opinion that whether the second boat was launched or not the evidence and the facts of the case show clearly that the Captain and the mate behaved in the most incompetent and inefficient manner in seeing to the lowering of the boats and the saving of the crew.

x The fifteen Survivors who came to Akyab or made up as under vide. Captain's evidence.

1. Captain Nowdu Kandu Malumiyar
2 Mate Mahomed Moideensa Malumiar
3 Syrang Salé
4 Mahomed Mysa - Clerk
5 Kadersa - Sukkani
6 Katch Moideen - Storekeeper
7 Mahomed Husain Sahib - apprentice
8. Mahomed Moideen - Cook
9 Moideensa - lascar
10 + 11 two boys
12 The lascar's cook
13 Martin - lascar
14 Doraisami - lascar
15 Another lascar

9ot to Table I.O.

18. The Captain Nowdakandoo Malumiyar olds a Service certificate No. 764 dated 4th april 1881 granted at Colombo. The Mate Mahomed Moideensa Malumiyar holds a Service certificate No. 806 dated 5th January ~~1886~~ 1883 granted also at Colombo. Under G. O. No. 795 dated 18th November 1886 Marine these certificates are not in force in Indian ports. Except for this Ruling the Court would recommend the Suspension of the certificates of the master and the mate.

19. The Court however is not disposed to attribute the loss of the vessel in any way to their incompetence or mismanagement.

20. During the course of the Enquiry two other Similar disasters were brought to the notice of the Court. The barque Colonel Fytch foundered off the Nicobars but all the crew were saved. The barque Mahomed Samathani has not been heard of since she left this port. Both the above vessels left Negapatam on the Same date as the Henrietta Elizabeth

21. In the opinion of this Court the condition~~s~~ of these vessels calls for a System of periodical Examination. The Court would recommend that all Native vessels employed in the foreign trade and all ~~the~~ employed in the coasting trade of or above 100 tons burden should be dry docked or heeled once every five years and the bottom properly surveyed and the copper renewed if necessary and the vessel granted a Survey certificate.

22. To Sum up the Court exonerate the captain and the mate with regard to the loss of the vessel but finds that they displayed incompetence and cowardice in seeing to the launching

of the boats and the saving of the crew. Having regard to the fact that the vessel was neither better nor worse than others of its class the Court makes the recommendations contained in the preceding paragraph.

H E Marjoribanks
24.1.97
Ag. Head Asst. Master & President

R. L. Swann
Member
Ag. Port Officer
24.1.97.

Sinnamah Coy
Member

MAGISTERIAL DEPARTMENT.

Enclosure to a letter

FROM

THE Head Asst MAGISTRATE & President
of Marine Court of Enquiry
Negapatam

TO

THE Secretary to Government ~~MAGISTRATE OF~~
Marine Department
Madras

Dated 24th
Despatched 25th } January 1897.
Received

No. 48/mag of 97

ENCLOSURE. One

SUBJECT.

Report of the Special Court of Marine Enquiry to enquire into the loss of the barque "Henrietta Elizabeth". ——

Enclos 20 / mar ~~443~~ 384/97

Heading. No. 1261/66 G

PRESIDENCY PORT OFFICE,
Madras, 24 February 1897.
Despatched 2.3.97

From

Commander H. A. Street, R.I.M.,
PRESIDENCY PORT OFFICER,
Madras,

To

THE SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,
Chepak.

SIR,

With respect to the recommendations made by the Court which assembled in January last at Negapatam to enquire into the loss of the barque "Henrietta Elizabeth", I have the honor, in accordance with the instructions contained in Marine department Endorsement No. 65 C, dated 29. January 1897 (enclosures herewith returned), to make the following remarks for the information of Government, viz:-

(a) I concur in the view taken by the Court in paras 10, 17 and 22 respectively of its report as (1) to unseaworthiness of the vessel, and (2) to the incompetence of the Master and Mate,

(b) With regard to the remarks contained in para 18 I would recommend that the Ceylon Government be informed of the report of the Court as to the behaviour of the Master and Mate, in view to the men being deprived of the certificate they respectively hold,

(c) The Merchant Shipping Acts have no provisions under which the recommendation contained in para 21 of the report could be carried out. The onus of sending a vessel to sea in an unseaworthy condition rests with the person who sends or attempts to send a vessel to sea in such state — vide section 5 of Merchant Shipping Act No. VII of 1880 — and it would be unwise in my opinion to do anything that might tend to relieve such person of the responsibility. I propose, however, with the sanction of Government to instruct the several Coast port officials to

refuse

refuse clearance to any Native vessels of or above 100 tons burthen which has not been docked and examined by a recognised surveyor within the last 5 years. It is true that there is no legal provision for this, but from the opinion of the Court expressed in paras 20 and 21 of their report I submit it may be reasonably assumed that nearly all of the Native coasting vessels of 100 tons and over are more or less unseaworthy, and that a vessel of this description could be detained provisionally under section 7 of Act VII of 1880 pending an examination as to her state.

2. As the state of the vessel has been described by the Court as "unseaworthy", I think that, the owner should be prosecuted under section 5 of Act VII of 1880.

I have the honor to be,
Sir,
Your obdt. servant,
H A Street
Commander R.I.M.,
Presy. Port Officer.

MAGISTERIAL DEPARTMENT.

Enclosure to a letter

FROM

THE Ad Hoc MAGISTRATE ~~OF~~
President of Marine Court
of Enquiry,
Vizagapatam.

TO
The Secretary to Government
~~THE MAGISTRATE OF~~
Marine Department
Madras.

Dated 24th
Despatched 25th
Received
January 1897.

No. 48/mag of 97

ENCLOSURES 17.

SUBJECT.

Records connected with the Enquiry into the loss of the barque "Henrietta Elizabeth" —

List of Papers connected with the Enquiry into the loss of barque "Henrietta Elizabeth".

		Total number of Sheets
1.	File of papers (original) received with G.O. No 690 Marine dated 7th October 1896 together with a copy of the Madras Times dated 24th September 96	7
2.	Deposition of Muhammad Mustafa Marakayar (one of the owners)	1
3	Do of Oothuman Levvai Malimiyar	1
4.	Do of Nagoda Kandu Malimiyar (together with a Certificate filed)	2
5.	Do of Mahomed Mohideen Saib (together with a Certificate filed)	2
6	Do of Saib (Serang)	1
7.	Do of Martin (Lascar)	1
8	Do of Muhammad Ibrahim Sahib	1
and 9.	Report of the Assessors (viz. Messrs. M. Oothuman Levvai Marakayar and S. Ghulam Khadir) dated 11th December 1896 - original	1
	Total	17

25/1

25th January 1897.

Offg. Head Asst. Magistrate & President of Marine Court

Pheb 15
Mar ~~113~~ 3044/57

Supplemental list of Papers connected with the Enquiry into the loss of the Barque "Henrietta Elizabeth".

1.	Proceedings of the Court of Marine Enquiry dated 5th December 1896 (on a letter from the District Magistrate of Tanjore dated 22nd November 1896 - Regi: on Gr No. 1616/Marg of 1896) in original.	1
2.	Vakalat filed by Pleader P. S. Samiatha Sastri	1
3.	Lists of witnesses filed on behalf of Master and Mate	2
	Total	4

Wenarasimhulu
S/a

Offg Head Asst Magistrate
& President of Court
of Marine Enquiry

Cu

No. 48/Mag of 97

Head assistant Magistrate's Office,
Camp, Koradacheri
Dated 24th January 1897.

3 P

From
N. E. Marjoribanks, Esquire,
Ag Head assistant Magistrate of Tanjore
and President of Marine Court of Enquiry.

To
The Secretary to Government,
Marine Department,
Madras.

Sir,

I have the honor to submit herewith with reference to G. O. No 690 Marine dated 7th October 1896. the Report of the Special Court of Marine Enquiry holden at Negapatam to investigate the circumstances connected with the loss of the barque "Henrietta Elizabeth" of that port with connected records as per list appended

2. I much regret the delay which has taken place in concluding

Magisterial Department.

FROM

THE Head Asst MAGISTRATE OF
Tanjore
& President of Marine Court
of Enquiry Negapatam,

TO

THE Secretary to Government
Marine Department
Madras

Dated 24th
Despatched 25th January 1897.
Received

No. $\frac{48}{\text{Mag}}$ of 97

ENCLOSURES. 18 (2 files)

SUBJECT.

Submitting with records the Report of the Special Court of Marine Enquiry holden at Negapatam in connection with the loss of the barque "Henrietta Elizabeth"

Ends 21
Mar 304/97

No. 1261
323 G

Heading.

2 P

PRESIDENCY PORT OFFICE,
Madras, 25 September 1896.

From

Commander H. A. Street, R. I. M.,
PRESIDENCY PORT OFFICER,
Madras,

To

THE ~~CHIEF~~ SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,
Chepak.
~~Fort Saint George.~~

SIR,

With reference to the foundering of the barque "Henrietta Elizabeth" of Negapatam at sea while on a voyage from Negapatam to Nancowry - vide account in the "Madras Times" of this date - I have the honor to enquire whether Government consider that a prosecution should be instituted against the owner and the Master of the vessel under section 5 of Act No. VII of 1880.

Hay G

2. It seems to me that a prosecution is necessary in view of preventing native owned vessels from being sent to sea in an unseaworthy condition. There

the Enquiry and writing the Report. It was due to my frequent and unavoidable absences from Negapatam in connection with the Enquiries and trials which followed the riots of last October

I have the honor to be
Sir
Your Most obdt Servant

W. Marjoribanks
25.1.97
Ag Headasstmaste
and President of Marine
Court of Enquiry.

There are a number of old sailing vessels of European build, owned by natives engaged in the coasting trade, and from their age and appearance I am inclined to think that very few are really in a seaworthy condition.

3. The "Henrietta Elizabeth" appears to have been surveyed at Singapore on the 18th September 1895.

I have the honor to be,
Sir,
Your obdt. Servant,

H A Street
Commander, R. I. M.,
Presidency Port Officer

Endos?
Mar 142
304

Marine Dy

1 P

Burma.

Commerce DEPARTMENT.—No. 578/15-27

FROM

The Secretary to the Chief Commissioner, Burma,

TO

The Chief Secretary to the Government of Madras.

Dated Rangoon, the 23 September 1896.

CHIEF SECRETARY GOVERNMENT OF MADRAS
1 OCT. 1896

SIR,

I am directed to forward a copy of the correspondence cited in the margin on the subject of the foundering of the native barque "Henrietta Elizabeth" on the 25th July 1896. The Chief Commissioner intended to appoin a Special Court under the Indian Merchant Shipping Act 1883 to ascerta the facts of the case. But as the surviving members of the crew including the Nacoda and two Malims, left this port by the S.S

Letter No. 2716-14 W+C dated the 11th September 1896 from Port Officer, Rangoon with annexure.

Letter No. 343/15-27, dated the 12th September 1896, to the Chief Commissioner Andamans.

Endorsement No. $\frac{1062}{16-96}$, dated the 10th September 1896 (with three annexures) from the Commissioner of Arakan.

S.S

G. B. C. P. O.—No. 5352, B. S., 20-8-96—960.

S.S. "Putiala" for Negapatam on the 19th September 1896 an enquiry at Rangoon is now impracticable.

2. In these circumstances I am to suggest that if His Excellency the Governor in Council sees fit orders may be issued under section 7 of the Indian Merchant Shipping Act V of 1883 by the Government of Madras for an investigation into the circumstances under which the vessel was lost.

1st

I have the honour to be,

Sir,

Your most obedient servant

Law Clerk

for Secretary

Encl 35
Mar 23/87
3081

V/

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