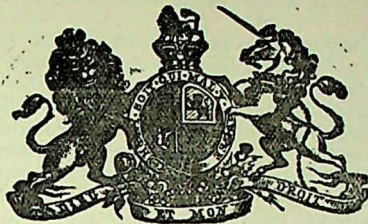


THE



# Bombay Government Gazette.

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*Separate paging is given to this Part in order that it may be filed as a separate compilation*

## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th February 1896.

WE, the undersigned, Members of the Select Committee to which the Bill to

Office Memorandum from Department of Revenue and Agriculture, No. 508—25-2, dated the 17th April, 1895 [Paper No. 1].

Resolution by Finance and Commerce Department, No. S. R.—1643, dated the 12th April, 1895, and enclosures [Papers No. 2].

From High Court, Calcutta, No. 865, dated the 26th April, 1895 [Paper No. 3].

From Shipowners Association, Liverpool, dated the 10th April, 1895 [Paper No. 4].

From the Hon'ble P. Playfair, dated the 13th June, 1895, and enclosures [Papers No. 5].

From Government, Madras, No. 275 (Marine), dated the 11th September, 1895, and enclosures [Papers No. 6].

From the Hon'ble P. Playfair, dated the 14th October, 1895, and enclosures [Papers No. 7].

From Government, Bengal, No. 187-T. Marine, dated the 26th October, 1895, and enclosures [Papers No. 8].

From Chief Commissioner, Burma, No. 440—4S.-17, dated the 25th October, 1895, and enclosures [Papers No. 9].

From Hon'ble P. Playfair, dated the 18th November, 1895, and enclosures [Papers No. 10].

From Government, Bombay, No. 4590, dated the 5th November, 1895, and enclosures [Papers No. 11].

From Bengal Chamber of Commerce, dated 9th December, 1895, and enclosure [Papers No. 12].

From Chamber of Shipping of United Kingdom, London, dated 15th November, 1895, and enclosures [Papers No. 13].

From Government, Bombay, No. 12, dated 10th January, 1896, and enclosures [Papers No. 14].

consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea, was referred, have considered the Bill (No. 11) and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as finally amended by us annexed thereto.

2. We have once more gone carefully over the Bill, and compared its provisions with the corresponding sections of the Merchant Shipping Act, 1894, and have to as great an extent as was possible, brought the provisions and even the phraseology of the former into accord with the latter.

3. The criticisms and suggestions received from the different maritime Governments and from public bodies and private individuals in England and in India, have also been carefully considered; and a large number of corrections and improvements, many of them of a relatively trifling nature, but some of them of considerable importance, have been made. And in this way it is believed that most of the more serious objections which were made to the Bill as it was left in the spring of 1895 have been obviated.

4. In the first Chapter, besides some minor alterations, definitions of "wages" and "effects" have been added from the Merchant Shipping Act, 1894, and the definition of "Asiatic ship" has been transferred to this Chapter from Chapter IV and made a general definition. Similarly, the definition of "native coasting-ship" has been transferred to this Chapter from Chapter II, and a change has been made in the definition which will be noticed later on.

5. The preamble of Chapter II has been altered so as to bring it into closer accord with the wording of the new Merchant Shipping Act, 1894, and further on changes in the same direction have been made.

6. But the most important changes in this Chapter and in Schedule I, Part B, which is closely connected with it, are those with respect to native coasting-ships. The repeal of the Act (XIX of 1838), under which the native ships carrying on a considerable portion of the coasting-trade of the west of India are registered, has been opposed by the Government of Bombay in accordance with the opinions of all the officers who are best acquainted with the circumstances of the trade, and of the different ports to which the coasting-ships resort. After further enquiry and consideration, we have thought it undesirable to repeal the Act under which such ships were registered, so far as ships not affected by the Merchant Shipping Act, 1894, were concerned, and, even with respect to many of the larger ships, we have thought it best to maintain for the present the existing system which has worked satisfactorily, is known and understood not only by the owners affected but by the considerable number of officials on small pay who conduct the registration, many of whom have but an imperfect knowledge of English. With the object of maintaining the present system of registration for all the smaller coasting-craft an addition has been made to section 10 of the Bill exempting native coasting-ships registered under Act XIX of 1838 from the provisions of section 2 of the Merchant Shipping Act, 1894. Further, the definition of "native coasting-ship" has been materially changed. The earlier definition paid, after ownership, exclusive attention to rig, and it was represented to us that this was unfair to native ships employed in the coasting-trade in the upper portion of the Bay of Bengal, which are, in accordance with custom ordinarily square-rigged, as those on the West Coast are lateen-rigged. The new definition is, it is believed, more generally fair than the former one, and the tonnage limit imposed will bring under the English law only those vessels of substantial size which frequent the larger ports, and are owned by persons of considerable means. And finally the exemption (section 16) of native coasting-ships from the provisions of Part III of the Bill has relieved this portion of the shipping along our Indian coasts, from a number of rules and restrictions which those who knew that trade best consider unsuitable and injurious. We have not considered it necessary to maintain the Acts under which the country shipping of the Bay of Bengal is at present registered, for owing to various weather characteristics the number of country craft on this part of the coast is comparatively small, and the new law will offer as many facilities for, and inducements to, registration as the existing law does.

7. In Chapter IV the most important change consists of the addition of a proviso to section 31, which prescribes as the condition of a certificate of competency a sufficient knowledge of English, to receive and communicate orders in English in matters relating to lights and the rule of the road at sea. We have held that such knowledge is essential and should be insisted upon.

8. In Chapter V the most important change which we have made consists of the proviso which enables the Governor General in Council to exempt from the provisions of section 34, foreign-going steam-ships, which call at the Indian ports of Madras and Aden, as an incident in a voyage from or to some foreign port. We think that consideration ought to be paid to established usage in this respect, such as is neither required nor justifiable in the case of a foreign steam-ship engaging in a coasting voyage as such.

9. In this Chapter, as throughout the Bill, we have used the expression "registered tonnage," instead of "tons burden" or its equivalents, unless there was a distinct reason for not doing so.

10. In section 54, Chapter VII, we have added the words "a customary route" to "the direct road," in order to avoid misinterpretation.

11. In section 63 we have added a proviso which will, it is believed, give the master of a ship, a certain amount of security against seamen who ship themselves without any intention of working throughout the voyage for which they engage.

12. In section 73, as also in sections 80, 81, 82 and elsewhere, we have substituted "the Governor General in Council" for "the Local Government" as the authority prescribing various forms, in order that uniformity may be secured with respect to them throughout India.

13. Section 100 has to a considerable extent been re-drafted, on the basis of the corresponding section of the English Act.

14. In section 106 (2) we have inserted a clause, in accordance with a suggestion of the Bengal Chamber of Commerce, in order to prevent delay in the examination of provisions or water on complaint of the crew, and we have added a proviso to section 108, which lays down that inspections shall, if practicable, be made in the presence of the master of the ship.

15. In section 112 we have adopted the phraseology of the Merchant Shipping Act, 1894, as being more distinct, and with the same object we have re-drafted sections 125 (1) and 129.

16. In section 139 we have adopted the recommendation of the Liverpool Steamship Owners' Association and of the Bengal Chamber of Commerce, and have empowered the Local Government to tender to his own ship an apprentice imprisoned for a period not exceeding six months, instead of one month as formerly.

17. With respect to section 152 also we have endeavoured to meet the reasonable objections of the same bodies, by limiting the number of distressed seamen who can be forced upon a ship in any one voyage.

18. With respect to Chapter XIX, dealing with the official log, a considerable number of amendments have been found to be necessary. In section 160, sub-section (2) of section 239 of the Merchant Shipping Act, 1894, has, with the necessary modification, been inserted. In section 161 the order of the first three clauses has been revised, and two clauses providing for the entry of births and deaths have been added.

Section 163 has also to a considerable extent been re-drafted.

19. In section 166 the punishment is limited by the Merchant Shipping Act, 1894, to £5, whereas in the existing Indian law it amounts to Rs. 200. We have followed a middle course and fixed the amount at Rs. 100.

And, finally, section 167 has been re-drafted on the basis of the corresponding section of the Merchant Shipping Act, 1894.

20. Section 169 has been necessarily modified, owing to the change made in the definition of "native coasting-ship"; and in section 171 the final authority of the Local Government has been restricted to this class of ship, while for other ships the power to make rules has been reserved for the Governor General in Council. This, like other similar modifications, has been adopted in order to secure uniformity throughout India with respect to British shipping.

21. In sections 172 and 173 also, changes have been made with a view to bring the wording of the Bill into stricter accordance with that of the Merchant Shipping Act, 1894.

22. From Chapter XXII we have omitted section 183B, as we consider that ships, of whatever kind, which keep the sea at night without lights, are a source of danger to themselves and others. It has been ascertained that the Bombay Native craft are already compelled to observe the light rules.

23. In Chapter XXIII we have modified to a considerable extent the arrangements for the survey of steam-ships, and have followed the English Act in making separate provision for the survey of hull and equipments and for the survey of machinery. With these and other objects in view we have substituted section 283, Merchant Shipping Act, 1894, for section 182 (1) of the Bill, and we have re-drafted section 188 of the Bill on the basis of sub-sections (2), (3) and (4) of section 272 of the Merchant Shipping Act, 1894. The revision of section 188 will also tend to prevent the possibility of future misunderstanding of the nature pointed out by the Liverpool Steamship Owners' Association and the Bengal Chamber of Commerce, although it does not appear that the existing practice, to which objection has been taken on the part of the shipowners, is warranted by the law as it at present stands or by the Bill as originally drafted.

24. We have also made additions to section 190 which will, it is hoped, tend to prevent in future misunderstandings of the kind complained of.

25. For section 195 (2) of the former draft we have substituted, in section 191 (3) and (4) of the revised Bill, sub-sections (2) and (3) of section 281 of the Merchant Shipping Act, 1894, and to section 197 we have added a sub-section permitting of the return of the first fee, should the subsequent survey show the refusal of the declaration on the first occasion not to have been justified.

26. In Chapter XXIV we have made certain necessary alterations and additions in order to give effect to those provisions and regulations under the Deck and Load-lines Act, XVII of 1891, which apply to vessels trading in the Indian seas. By the addition of a proviso to section 201 (2) we have, it is believed, without changing the directions of the English law with respect to the disc, met in a satisfactory manner the objections of the Liverpool Steamship Owners' Association and of the Bengal Chamber of Commerce; and by the addition of section 236 and by the alterations which we have made in section 238, we have enabled the Governor General in Council (and no longer the Local Government) to make such rules as may be required in order to define and mark the special allowances, which are necessary in order to meet the varying circumstances of the Indian seas, in different localities, and at different seasons of the year.

27. In section 243, of Chapter XXV, we have, at the request of the British Corporation for the Survey and Registry of Shipping, supported as it is by the Bengal Chamber of Commerce, added the name of the Corporation to those previously entered in clause (a).

28. In Chapter XXVI we have somewhat modified section 248 on the lines of the corresponding section of the English Act, and to section 255 as previously drafted (now section 251) we have added with the necessary modifications section 522 of the Merchant Shipping Act, 1894.

29. In Part VII, which deals with Native passenger ships, the enactment of the Pilgrim Ships Act, 1895, has rendered necessary an addition to section 273, and the omission of the eight sections which constituted Chapter XXXII in the former draft, and of the four penal sections in Chapter XXXIII of the former draft which referred to them.

30. In section 275 we have added for the purposes of this Part a definition of "port" which tends to the clearer apprehension of the sections which follow, and has facilitated their revision.

31. In Chapter XXX of the Bill as now drafted, an important modification of section 278 has been made in accordance with official representation, and the lessened period of notice insisted upon, must now occur between sunrise and sunset.

32. We have also endeavoured to meet a serious and strongly pressed objection, made by shipowners, by the addition of section 281 (2), which empowers the Local Government to exempt any specified short voyage from the provisions as to food. And we have transferred section 325 of the former draft to its present position as 281.

33. We have to a large extent modified the special provisions as to short, shelter-port and excursion voyages now comprised in Chapter XXXII, and have, it is believed, made these sections clearer than they were.

34. In Chapter XXXVI, section 333, we have extended the qualification of being deemed to be public servants to surveyors appointed under sections 173 and 176; and in section 335 we have provided that, in the case of rules under section 105, the draft shall not be taken into consideration until the expiration of three months from publication, so as to allow, if necessary, a reference to England.

35. We have revised the maximum fees in Schedule II obtained from the English Act at the rate of Rs. 10 to the pound sterling, by substituting a general equivalent of Rs 15 to the pound sterling, which is more nearly in accordance with the existing rate of exchange, and will involve a less serious loss on the present receipts. We have also revised Schedule V in accordance with the rates at present charged in Bombay and Karachi.

36. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India . . . . .	23rd March, 1895.
Fort Saint George Gazette . . . . .	21st May, 1895.
Bombay Government Gazette . . . . .	11th April, 1895.
Calcutta Gazette . . . . .	3rd April, 1895.
Burma Gazette . . . . .	13th April, 1895.

*In the Vernaculars.*

<i>Province</i>	<i>Language.</i>	<i>Date.</i>
Madras . . . . .	Telegu . . . . .	27th August, 1895.
	Kanarese . . . . .	3rd September, 1895.
	Malayalam . . . . .	17th September, 1895.
Bombay . . . . .	Tamil . . . . .	8th October, 1895.
	Marathi . . . . .	19th December, 1895.
	Gujarathi . . . . .	19th December, 1895.

37. We do not think that the Bill has been so altered as to require re-publication, and recommend that it should be passed as now amended.

ALAN CADELL.  
 ALEX. EDW. MILLER.  
 J. WESTLAND.  
 A. S. LETHBRIDGE.  
 C. C. STEVENS.  
 G. P. GLENDINNING.  
 P. PLAYFAIR.

*The 12th February, 1896*

No. III.

THE INDIAN MERCHANT  
SHIPPING BILL, 1896.

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*The Indian Merchant Shipping Bill, 1896.*  
*Part I.—Chapter I.—Preliminary.—Sections 1-3.)*

**No. III.**

*A Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea.*

[Bill of 1867, preamble.] WHEREAS it is expedient to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea;

It is hereby enacted as follows:—

**PART I.**

**CHAPTER I.**

**PRELIMINARY.**

1. (1) This Act may be called the Indian Title and commence- Merchant Shipping Act, 1896; and ment.

(2) Except as provided in section 6 and section 266, it shall come into force on the first day of \_\_\_\_\_.

[Act IX of 1879, s. 2; Act V of 1883, s. 2; Act VI of 1884, s. 3 (2); Act X of 1887, s. 4 (2); Bill of 1867, s. 2; Bill of 1882, s. 2.] 2. (1) On and from the first day of \_\_\_\_\_ the enactments mentioned in Part A of Schedule I shall be repealed to the extent specified in the third column thereof.

(2) But all offices established or constituted, officers appointed, persons nominated or authorised, powers conferred, ports and places appointed, directions given, rules, declarations and exemptions made, bonds executed, forms sanctioned, fees or scales fixed, investigations held, certificates granted, suspended or cancelled, agreements made, proceedings commenced and other things duly done under any enactment repealed by sub-section (1) or under any enactment repealed by any enactment repealed by sub-section (1), shall, so far as may be practicable, be deemed to have been respectively established, constituted, appointed, nominated, authorised, conferred, given, made, executed, sanctioned, fixed, held, granted, suspended or cancelled, commenced and done under this Act.

[Act VI of 1884, s. 3 (3).] (3) For the purposes of sub-section (2), certificates of competency or service as engineer in the sea service or second engineer in the sea service respectively granted under the *Burmese Steamer Survey Act or Bombay Act IV of 1873 (an Act to amend Bombay Act No 11 of 1864 providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels)* or the *Steam Boat Survey Amendment Act, 1868*, shall be deemed to be certificates as first class and second class engineer respectively, and to have been granted under the provisions of *Chapter IV* of this Act.

[Act VI of 1871.]

Ben. I of 1868.

(4) Any enactment or document referring to any enactment repealed by sub-section (1), or to any enactment repealed by any enactment repealed by sub-section (1), shall, so far as may be practicable, be construed to refer to this Act or the corresponding portion thereof.

[Act X of 1887, s. 4 (3); and cf. Act XIII of 1889, s. 2 (3).]

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "ship" includes a steam-ship:

(2) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam:

[Act VII of 1884, s. 3.]

(3) "home-trade ship" means a ship employed in trading between any ports in British India, or between any port in British India and any port or place on the continent of India or in the Maldivé or Laccadive Islands or in the Straits Settlements or in the Island of Ceylon:

[Act I of 1859, s. 118 (am. by Act VI of 1891, s. 5); Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. 1894, s. 742.

(4) "foreign-going ship" means a ship, not being a "home-trade ship" as hereinbefore defined, employed in trading between any port in British India and any other port or place:

[Act I of 1859, s. 118 (am. by Act VI of 1891, s. 5); Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. 1894, s. 742.

(5) "Asiatic ship" means a sailing ship navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen:

(6) "native coasting-ship" means a home-trade ship being a sailing ship of not more than two hundred tons burden which is owned by one or more Indian subjects of Her Majesty:

(7) "seaman" means every person (except masters, pilots, harbour-masters and apprentices duly indentured) employed or engaged in any capacity on board any ship:

[Act I of 1859, s. 118; Act XIII of 1876, s. 2; Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. 1894, s. 742.

(8) "wages" includes emoluments:

(9) "effects" includes clothes and documents:

Cf. 1894, s. 742, lb.

(10) "Board of Trade certificate" means a certificate, either of competency or service, as master, mate or engineer, as the case may be, granted by the Board of Trade under the *Merchant Shipping Act, 1894, or any Act repealed by that Act*:

[57 & 58 Vict., c. 60.]

(11) "Colonial certificate" means a certificate of competency as master, mate or engineer, as the case may be, granted—

(a) in British India, under Chapter IV of this Act, or

(b) in any other British Possession, under the authority of the Legislature of that Possession,

and which has been declared by Order in Council under the *Merchant Shipping*

32 & 48 Vict. (Colonial) Act, 1869, or the Merchant Shipping  
c. 11. Act, 1894, section 102, to be of the same force  
57 & 58 Vict., as if it had been granted under the Merchant  
c. 60. Shipping Acts therein respectively mentioned :

(12) "local certificate" means—

(2) a certificate, either of competency or service, as master, mate or engineer, or

(ii) a certificate of competency as engine-driver,

as the case may be, granted by a Local Government under Chapter IV of this Act, *not being a Colonial certificate as hereinbefore defined :*

[Act IX of 1879, s. 3.]  
Cf. 1894, s. 742.  
VIII of 1878.  
(13) "Customs-collector" means a Customs-collector appointed under the Sea Customs Act, 1878, and includes, for the purposes of Chapter XXXV, any person appointed by the Local Government by name or by virtue of his office to discharge the functions of a Customs-collector under that chapter at any port :

[Act VII of 1884, s. 3.]  
Cf. 1894, s. 267.  
(14) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants: and

[Act VII of 1880, s. 4.]  
Act VII of 1884, s. 3.]  
(15) "prescribed" means prescribed by a rule made under this Act.

Cf. 1894, s. 743.  
4. The provisions of this Act applying to steam-ships shall apply to steam-ships shall apply to ships propelled by electricity, etc. with such modifications as the Governor General in Council may, by notification in the Gazette of India, direct for purposes of adaptation.

[Act I of 1859, s. 114;  
Act IX of 1879, s. 1;  
Act VII of 1880, s. 3,  
80; Act V of 1883, s. 5;  
Act VII of 1884, s. 5 (c);  
Act X of 1887, s. 2 (2)  
(i), (ii), (iii);  
Bill of 1867,  
s. 4; Bill of  
1882, s. 4.]  
Cf. 1894, s. 741.  
5. (1) Nothing in this Act except Chapter XVIII shall apply to any ship belonging to, or in the service of, Her Majesty or the Government of India, or to any ship of war belonging to any foreign Prince or State.

[Act I of 1859, s. 114;  
Act VII of 1880, s. 80;  
Act V of 1883, s. 5;  
Act VII of 1884, s. 5 (d);  
Bill of 1867,  
s. 4; Bill of  
1882, s. 4.]  
(2) Nothing in this Act, except Chapters VII, VIII and XVIII, shall apply to any ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State.

## PART II.

### CHAPTER II.

#### MEASUREMENT AND REGISTRY OF BRITISH SHIPS.

Whereas certain classes of British ships are now registered in British India under certain Acts passed by the Governor General of India in Council;

And whereas certain other classes of ships are now and have for many years been registered in British India under the Merchant Shipping Act, 1854, as amended for the time being by subsequent Acts;

And whereas it is enacted in section 735 of the Merchant Shipping Act, 1894, that "the legislature of any British Possession may, by any Act or Ordinance, confirmed by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (other than those of the Third Part thereof which relate to emigrant ships) relating to ships registered in that Possession; but any such Act or Ordinance shall not take effect until the approval of Her Majesty has been proclaimed in the Possession, or until such time thereafter as may be fixed by the Act or Ordinance for the purpose; "

And whereas it is expedient that certain provisions of the said Merchant Shipping Act, 1894, should be repealed so far as relates to British ships registered in British India, and that other provisions should be enacted in place thereof;

It is hereby enacted as follows:—

Commencement. 6. This chapter shall come into force on the day on which Her Majesty's approval thereof is published in the Gazette of India.

7. (1) On and from the commencement of this chapter, the enactments mentioned in Part B of Schedule I shall be repealed to the extent specified in the third column thereof.

(2) Any enactment or document referring to any enactment repealed by sub-section (1) shall, so far as may be practicable, be construed to refer to the Merchant Shipping Act, 1894, as amended by this chapter.

The Indian Merchant Shipping Bill, 1896.

(Part II.—Chapter II.—Measurement and Registry of British Ships.—Sections 8-13.)

8. (1) Any British ship registered under Act XIX of 1838 or Act X of 1841 may, within a period of twelve months after the commencement of this chapter,

or, if the ship is not within a port of registry in British India at any time before the expiration of the said period, then within one month after her next return to a port of registry in British India,

be re-registered under the Merchant Shipping Act, 1894, as amended by this chapter.

(2) No fee shall be payable for the measurement of the tonnage of any ship for the purposes of re-registration under sub-section (1).

(3) If any ship registered under Act XIX of 1838 or Act X of 1841 is not re-registered as provided by sub-section (1), she shall cease to be recognised as a British ship:

Provided that this sub-section shall not apply in the case of any ship referred to in section 9.

9. (1) Notwithstanding anything in section 2 of the Merchant Shipping Act, 1894, it shall not be obligatory on any person to register under that Act any native coasting-ship which is for the time being registered under Act XIX of 1838 or any British ship which is for the time being registered under Bombay Act I of 1863 (an Act for the registry of vessels and levy of pilotage fees on the river Indus) or any other British ship which plies solely on inland water.

(2) The expression "inland water" means any canal, river, lake or navigable water in British India.

(3) The Local Government may, by notification in the official Gazette, define how much of any tidal water shall be deemed to be inland water for the purposes of this section.

10. (1) So far as regards any ship the tonnage of which is measured, ascertained and marked in accordance with rules made under sub-section (2), the rules and orders on the same subjects prescribed by or under the Merchant Shipping Act, 1894, or under any other Act repealed by that Act, are hereby repealed.

(2) The Local Government may make rules to provide for measuring and ascertaining, whether for the purpose of registry or otherwise, the tonnage of native coasting-ships, and for marking the tonnage on such ships; and it shall be optional to the owner of any such ship to have her tonnage measured, ascertained and

marked in accordance either with rules made under this sub-section or with the rules and orders referred to in sub-section (1).

(3) Rules made under sub-section (2) may provide, among other matters, that if any alteration be made in a native coasting-ship after she has been registered in pursuance of the said rules, the certificate of registry shall be cancelled and the ship re-measured in accordance with the said rules.

(4) The word "alteration" in sub-section (3) means any change, whether temporary or permanent, either in the structure of a native coasting-ship or in the use to which any part of a native coasting-ship is put, by which the capacity of the ship for carrying cargo is, either directly or indirectly, increased.

II. (1) Clauses (d) and (e) of section 4 of the Merchant Shipping Act, 1894, are hereby repealed. [S. 15 in Bill as introduced.] 57 & 58 Vict., c. 60.

(2) The following persons shall be Registrars of British ships in British India, namely:— [Act X of 1841, s. 3 (am. by Act VII of 1891, s. 2).] 57 & 58 Vict., c. 60.

(a) at the ports of Calcutta, Madras, Bombay, Karachi, Aden and Rangoon, the Port Officer or any other person appointed by the Local Government in this behalf by notification in the official Gazette, and

(b) at any other port which has been approved under section 89 of the Merchant Shipping Act, 1894, for the registry of ships, any person appointed by the Local Government in this behalf by a like notification. 57 & 58 Vict., c. 60.

12. In the application of the Merchant Shipping Act, 1894, to British India— [S. 12 in Bill as introduced.] 57 & 58 Vict., c. 60.

sections 7, 47, 77 (2), 78, 80, 85, 86 and 724 (4) and clause 5 of Rule 1 of the Second Schedule shall be read and construed as if the Local Government were therein named instead of the Board of Trade, and [Act X of 1841, s. 11 (am. by Act VII of 1891, s. 3).] 57 & 58 Vict., c. 60.

section 89 shall be read and construed as if the Local Government were therein named instead of the Governor of a British Possession.

13. (1) The following portions of the Merchant Shipping Act, 1894, namely, sections 64 (1) and 77 (2), so far as they relate to fees, and sections 83 and 210 (3), and clauses (6) (7) and (8) of the sixth schedule, are hereby repealed. Fees. 57 & 58 Vict., c. 60.

57 & 58 Vict., c. 60.

57 & 58 Vict., c. 60.

Cf. Act VI of 1884, s. 5, clause (3) (am. by Act III of 1890, s. (1) and clause (4), and s. 65.)

57 & 58 Vict., c. 60.

[Act XI of 1850, s. 3.]



(2) The fees payable in British India in respect of the matters mentioned in Schedule II shall be such sums, not exceeding those specified in that Schedule, as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, appoint.

[S. 16 in Bill as introduced.]  
57 & 58 Vict., c. 60.

14. Sections 31 to 46 (both inclusive) of the Merchant Shipping Act, 1894, are hereby repealed so far as regards native coasting-ships.

Mortgage and sale of native coasting-ships.

[S. 13 in Bill as introduced.]  
57 & 58 Vict., c. 60.

15. (1) Clauses (2), (3), (4) and (5) of the sixth schedule to the Merchant Shipping Act, 1894, are hereby repealed.

Deduction from register tonnage on account of crew space.

(2) No place in any British ship registered in British India which is occupied by seamen or apprentices engaged under this Act and appropriated to their use shall authorise a deduction from register tonnage, unless there be in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as may be approved by a surveyor appointed under section 727 of the Merchant Shipping Act, 1894.

(3) Every place so occupied and appropriated as aforesaid shall, whenever the ship is registered or re-registered in British India, be inspected by a surveyor appointed as aforesaid, who shall, if satisfied that the same is in all respects such as is required by section 112 of this Act, give to the Registrar a certificate to that effect; and if such certificate is obtained, but not otherwise, such space shall be deducted from the register tonnage.

(4) No such deduction shall be authorised unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every place so occupied and appropriated, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen."

(5) Upon any complaint concerning any place so occupied and appropriated as aforesaid, any surveyor appointed as aforesaid may inspect the same, and, if he finds that any of the provisions of section 112 of this Act with respect thereto are not complied with, he shall report the fact to the Registrar at the port where the ship is registered, and thereupon the register tonnage shall be altered, and the deduction aforesaid disallowed, unless and until it is certified by the same surveyor, or by some other surveyor appointed as aforesaid, that the provisions of the said section in respect of such place are fully complied with.

PART III.

MASTERS, SEAMEN AND APPRENTICES.

Whereas it is enacted in section 288 of the Merchant Shipping Act, 1854, that if the Governor General of India in Council should by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the Third Part of that Act contained to any British ships registered at, trading with or being at any place within his jurisdiction, and to the owners, masters, mates and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, should, in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof should be recovered and inflicted, throughout Her Majesty's dominions, in the same manner as if such provisions had been so adapted and applied, and such penalties and punishments had been expressly imposed, by that Act;

[Act I of 1859, preamble. Bill of 1882, preamble.]  
17 & 18 Vict., c. 104.

And whereas the said Merchant Shipping Act, 1854, and the other Acts amending the same have been repealed by the Merchant Shipping Act, 1894, and the above recited provision of the first mentioned Act has been re-enacted in substance by section 264 of the last mentioned Act;

57 & 58 Vict., c. 60.

And whereas by Act I of 1859 (an Act for the amendment of the law relating to Merchant Seamen), and later Acts passed by the Governor General of India in Council, certain of the provisions aforesaid have been applied or adapted to British ships, and certain other provisions enacted with respect to foreign ships, and the owners, masters, mates and crews thereof, respectively, and it is expedient that the said provisions should be re-enacted with the amendments hereinafter appearing;

It is hereby enacted as follows:—

16. Nothing in this Part shall apply to any native coasting-ship.

Exemption of native coasting-ships.

CHAPTER III.

MERCANTILE MARINE OFFICES.

17. (1) A Mercantile Marine Office shall be established at such ports as the Governor General in Council may deem necessary.

[Act I of 1859, ss. 2, 3; Bill of 1867, ss. 100, 101; Bill of 1882, ss. 5, 6.]  
Cf. 1894, s. 240(3), 247(2).

(2) For every such office there shall be a Superintendent, with such Deputy Superintendents, clerks and servants (if any) as the Local Government may consider necessary.

(3) Superintendents and Deputy Superintendents of Mercantile Marine Offices shall be appointed by the Local Government.

(4) Every act done by or before a Deputy Superintendent shall have the same effect as if done by or before a Superintendent.

18. The Local Government may direct that, at any port at which business of Mercantile Marine Office be transacted at Custom-house or elsewhere, the business of the Mercantile Marine Office shall be conducted at the Custom-house, or at the office of the Port Officer, or at such other office as the Local Government shall direct, and thereupon the same shall be there conducted accordingly;

and in respect of such business such Custom-house or office as aforesaid shall for all purposes be deemed to be a Mercantile Marine Office, and the officer to whom such business is committed shall for all purposes be deemed to be a Superintendent of a Mercantile Marine Office within the meaning of this Act.

19. The Local Government may, by special order in any particular case, dispense with the transaction before a Superintendent of a Mercantile Marine Office or in a Mercantile Marine Office of any matters required by this Act to be so transacted; and thereupon those matters, if otherwise duly transacted, shall be as valid as if they were transacted before a Superintendent of, or in, a Mercantile Marine Office.

20. It shall be the general business of Superintendents of Mercantile Marine Offices—

- (a) to superintend and facilitate the engagement of seamen for, and the discharge of seamen from, British ships, in manner hereinafter mentioned,
- (b) to provide means for securing the presence on board at the proper times of men who are so engaged,
- (c) to give to all persons desirous of apprenticing boys to the sea-service, and duly authorised so to do by Act XIX of 1850 (concerning the binding of apprentices), and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships, and

(d) to perform such other duties relating to seamen and British or foreign ships as are for the time being committed to them by or under this Act or the Merchant Shipping Act, 1894.

21. (r) Such fees, not exceeding those specified in Table A in Schedule III, as may be fixed by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette shall be payable—

(a) by owners or masters of British ships, upon all engagements and discharges of seamen effected before a Superintendent of a Mercantile Marine Office, and

(b) by masters of foreign ships, upon all engagements and discharges before a Superintendent of a Mercantile Marine Office of seamen who have been engaged under section 64.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the Mercantile Marine Offices; and all Superintendents, Deputy Superintendents, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Any owner or master who has paid the fees fixed under sub-section (r) in respect of any engagement or discharge of seamen may, for the purpose of in part reimbursing himself, deduct, in respect of each such engagement or discharge, from the wages of all seamen so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in Table B in Schedule III:

Provided as follows:—

(i) if the Local Government has in any case fixed, under sub-section (r), fees lower than those specified in the said Table A, the sums which may be deducted and retained by owners or masters shall not exceed such sums as may be fixed in this behalf by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette;

(ii) the sums so fixed shall bear as nearly as may be the same proportion to the sums specified in the said Table B as the fees fixed under sub-section (r) bear to the fees specified in the said Table A;

(iii) if in any case the sums which an owner or master is authorised by this sub-section to deduct exceed the amount of the fees payable by him, such excess shall be paid by him to the Superintendent in addition to such fees.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen engaged under a running agreement

57 & 58  
Vict., c.  
60.

[Act I of 1859,  
ss. 5, 6, 25,  
116; Bill  
of 1867, ss.  
103, 104, 125,  
129; Bill of  
1882, ss. 8, 9,  
32, 28.]

[Act I of  
1859, s. 8;  
Bill of 1867,  
s. 106; Bill  
of 1882, s.  
11.]  
Cf. 1894, s.  
240(3).

[Bill of 1867,  
s. 107.]  
Cf. 1894, s.  
245.

[Act I of  
1859, s. 4;  
Bill of 1867,  
s. 102; Bill  
of 1882, s. 7.]  
Cf. 1894, ss.  
205, 247(1).

(Part III.—Masters, Seamen and Apprentices.—Chapter III.—Mercantile Marine Offices.—Section 22 Chapter IV.—Examination of, and Grant of Certificates to, Masters, Mates, Engineers and Engine-drivers.—Sections 23—25.)

made under Chapter VII, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged on the termination of the agreement; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

(5) In sub-section (4) "termination" means, when an agreement has been renewed under section 62, the termination of the period for which the agreement has been renewed.

(6) The Local Government, with the previous sanction of the Governor General in Council, may, if it thinks fit, at any time abolish or suspend, by notification in the local official Gazette, the fees payable under sub-section (1) upon engagements and discharges; and in the event of such abolition, or during such suspension, no deduction shall be made under sub-section (3) from the wages of any person engaged or discharged.

22. Any Superintendent or Deputy Superintendent, or any clerk or servant in a Mercantile Marine Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any ship, excepting the fees payable under section 21, shall be liable to fine which may extend to two hundred rupees, and may also be dismissed from his office.

CHAPTER IV.

EXAMINATION OF, AND GRANT OF CERTIFICATES TO, MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS.

23. The Local Government may appoint persons for the purpose of examining the qualifications of persons desirous of obtaining—

- (a) certificates of competency as masters or mates, or
- (b) certificates of competency as engineers or engine-drivers.

24. The Local Government shall grant—

- (a) to every person who is reported by the examiners to possess the necessary qualifications and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, a certificate of competency to the effect that he is competent to act as master or first mate or only mate or second mate of a foreign-going ship, or as master or mate of a home-trade ship, or as master or mate of an Asiatic ship, as the case may be, and

- (b) to every person who is reported by the examiners to possess the necessary qualifications and to have given satisfactory evidence of his sobriety, experience and ability a certificate of competency to the effect that he is competent to act as a first-class engineer, or a second-class engineer, or as an engine-driver, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further enquiry into his testimonials and character.

25. (1) Local certificates of service, differing in form from certificates of competency, shall be granted by the Local Government as follows, that is to say,—

Grant of local certificates of service as master or first mate of a foreign-going ship or as first or second class engineer.

[Act I of 1859, s. 12 (am. by Act VI of 1891, s. 1); Bill of 1867, s. 111; Bill of 1882, s. 15.] Cf. 1894, s. 99.

- (a) every person who has attained or shall attain the rank of lieutenant, sub-lieutenant, navigating lieutenant or navigating sub-lieutenant in Her Majesty's Navy, or of lieutenant in the Royal Indian Marine, shall be entitled to a local certificate of service as master for a foreign-going-ship without examination:

- (b) every person who has attained or shall attain the rank of sub-lieutenant in the Royal Indian Marine shall be entitled to a local certificate of service as first mate for a foreign-going ship without examination:

- (c) every person who has attained or shall attain the rank of engineer or assistant engineer in Her Majesty's Navy or the Royal Indian Marine shall be entitled without examination, if an engineer, to a local certificate of service as first class engineer, and, if an assistant engineer, to a local certificate of service as second class engineer.

(2) A certificate of service granted under sub-section (1) shall have the same effect as a local certificate of competency granted under section 24.

26. Every person who before the passing of this Act has served as master of a home-trade ship of one hundred tons or upwards registered tonnage shall be entitled to

Certificates of service as master of a home-trade ship.

[Act I of 1859, s. 7; Bill of 1867, s. 105; Bill of 1882, s. 10.] Cf. 1894, s. 250.

[Act I of 1859, ss. 9, 10; Act VII of 1884, s. 26; Bill of 1867, ss. 108, 109; Bill of 1882, ss. 12, 13.] Cf. 1894, ss. 94, 96, 102.

[Act I of 1859, s. 11 (am. by Act V of 1883, s. 35); Act VII of 1884, s. 27(1); Bill of 1867, s. 110; Bill of 1882, s. 14.] Cf. 1894, ss. 93, 98.

(Part III.—Masters, Seamen and Apprentices.—Chapter IV.—Examination of, and Grant of Certificates to, Masters, Mates, Engineers and Engine-drivers.—Sections 27-31.)—Chapter V.—Ships required to carry Certificated Officers.—Section 32.)

a certificate of service as master of a home-trade ship of three hundred tons or under registered tonnage.

27 Every certificate of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government shall deliver every such certificate of service to the person entitled thereto upon his proving himself to have served as aforesaid and upon his giving a full and satisfactory account of the particulars aforesaid.

28. Every certificate of competency or service granted under this Chapter shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the Local Government and recorded in the prescribed manner.

29. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency or service in pursuance of the powers contained in this Act shall be entered on the copy of the certificate kept by the Local Government.

30. Whenever a master, mate, engineer or engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Local Government shall, and in any other case may, upon payment of such fee, if any, as the Governor General in Council may direct, cause a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled to be granted to him, and such copy shall have all the effect of the original.

31. (1) The Governor General in Council may make rules to regulate the granting of certificates of competency under this Chapter, and may by such rules—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers or engine-drivers;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, only mates, second mates, masters or mates of Asiatic ships, first-class engineers, second-class engineers or engine-drivers;
- (c) fix the fees to be paid by all applicants for examination;

(d) prescribe the form in which such certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded; and

(e) fix the fees to be paid for copies of certificates granted under section 29:

Provided that no person shall obtain a certificate of any of the kinds mentioned in clause (b) unless he is able to receive and communicate orders in English in matters relating to lights and the rule of the road at sea.

(2) The Governor General in Council may also make rules with respect to the grant of local certificates of service to masters, mates and engineers under this Chapter, and may by such rules—

- (a) fix the fees to be paid for such certificates; and
- (b) prescribe the form in which such certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER V.

SHIPS REQUIRED TO CARRY CERTIFICATED OFFICERS.

32. (1) A foreign-going British ship shall not proceed to sea from any port in British India unless she has, as her master, a Board of Trade, Colonial or local certificate as master of a foreign-going ship.

(2) A foreign-going British ship of one hundred tons or upwards registered tonnage shall not proceed to sea from any port in British India unless she has—

- (a) as her only mate, a person possessing a Board of Trade, Colonial or local certificate as only mate or first mate or master of a foreign-going ship, or
- (b) as her first and second mates, two certificated mates,—
  - (i) the first possessing a Board of Trade, Colonial or local certificate as first mate or master of a foreign-going ship, and
  - (ii) the second possessing a Board of Trade, Colonial or local certificate as second mate of a foreign-going ship or a certificate of a higher grade.

(3) A home-trade British ship carrying passengers, or a home-trade British ship of one hundred tons or upwards registered tonnage not carrying passengers, shall not proceed to sea from any port in British India unless she has, as her master, a person possessing a local certificate as master of a home-

[Act I of 1859, s. 15; Act VII of 1884, ss. 27 (3), 29; Bill of 1867, s. 114; Bill of 1882, s. 18.] Cf. 1894, ss. 99(3), 100.

[Act I of 1859, s. 15; Bill of 1867, s. 114; Bill of 1882, s. 18.] Cf. 1894, s. 100.

[Act I of 1859, s. 16; Act VII of 1884, s. 30; Bill of 1867, s. 115; Bill of 1882, s. 19.] Cf. 1874, s. 101.

[Act I of 1859, s. 10 (am. by Act V of 1883, s. 34); Act VII of 1884, s. 36; Bill of 1867, s. 109; Bill of 1882, s. 13.] Cf. 1894, ss. 94, 96, 100.

[Act VI of 1884, s. 29 (am. by Act XIII of 1891, s. 1).]

[Act I of 1859, ss. 13, 14; Bill of 1867, ss. 113, 117; Bill of 1882, ss. 16, 17.] Cf. 1894, s. 92.

(Part III.—Masters, Seamen and Apprentices.—Chapter V.—Ships required to carry Certificated Officers.—Sections 33—35.)

trade ship, or a Board of Trade, Colonial or local certificate as master of a foreign-going ship.

(4) A home-trade British ship of one hundred tons or upwards registered tonnage shall not proceed to sea from any port in British India unless she has, as her only or first mate, a person possessing a local certificate as mate of a home-trade ship, or a Board of Trade, Colonial or local certificate as only or first mate of a foreign-going ship or a certificate of a higher grade:

(5) Provided that, notwithstanding anything in the foregoing provisions of this section,—  
a home-trade British ship of three hundred tons registered tonnage or under may proceed to sea from any port in British India if she has a master possessing a local certificate of service granted under section 26, and  
an Asiatic ship may proceed to sea from any port in British India if she has a master possessing a local certificate as master of an Asiatic ship.

33. (1) A foreign-going British steam-ship shall not proceed to sea from any port in British India unless she has,—

(a) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers, two certificated engineers,—

(i) the first possessing a Board of Trade, Colonial or local certificate as first-class engineer, and

(ii) the second possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(b) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(2) A home-trade British steam-ship shall not proceed to sea from any port in British India unless she has—

(a) if the steam-ship has engines of fifty nominal horse-power or upwards, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(b) if the steam-ship has engines of under fifty nominal horse-power, as her engineer, a person possessing a local certificate as engine-driver, or a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(3) The Governor of Bombay in Council, with the previous sanction of the Governor General in Council, may, by notification in the

official Gazette, declare that all or any British steam-ships proceeding from Aden to any foreign port on the coast of Arabia or Africa not being more than six hundred miles distant from Aden shall be deemed for the purposes of this section to be home-trade ships.

(4) The foregoing provisions of this section shall not apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable.

34. (1) A foreign steam-ship shall not carry Foreign steam-ships passengers from any port required to carry British in British India to any certificated master, other port in British India mate, engineer or engine-driver. unless she has—

(a) as her master, a person possessing a local certificate as master of a home-trade ship or a Board of Trade, Colonial or local certificate as master of a foreign-going ship;

(b) if the steam-ship is of one hundred tons or upwards registered tonnage, as her only or first mate, a person possessing a local certificate as mate of a home-trade ship or a Board of Trade, Colonial or local certificate as mate of a foreign-going ship or a certificate of a higher grade;

(c) if the steam-ship has engines of fifty nominal horse-power or upwards, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(d) if the steam-ship has engines of under fifty nominal horse-power, as her engineer, a person possessing a local certificate as engine-driver or a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

Provided that the Governor General in Council may, by notification in the Gazette of India, exempt from the operation of this sub-section any specified foreign-going steam-ship carrying passengers between Calcutta and Madras or between Bombay and Aden, provided that such ship is also carrying passengers to or from Calcutta or Bombay, as the case may be, from or to some foreign port.

(2) So much of sub-section (1) as relates to engineers or engine-drivers shall not apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable.

35. (a) If any person who has been engaged to serve in any of the capacities referred to in section 32, section 33 or section 34 in any ship to which those sections apply, respectively, proceeds in the ship in that capacity without being at the time entitled to, and possessed of, the certificate thereby required, or a certificate of a higher grade, or

VI of 1884.

[Act VII of 1884, ss. 31, 32.]  
[Act VII of 1884, s. 92.]

[Act V of 1883, s. 37;  
Bill of 1837, s. 116;  
Bill of 1882, s. 20.]

[Act VII of 1884, ss. 31, 32, 33;  
Bill of 1867, s. 112.]  
[Act VII of 1884, s. 92.]

British steam-ships required to carry certificated engineers, engineer or engine-driver.

(Part III.—Masters, Seamen and Apprentices.—Chapter VI.—Suspension and Cancellation of Certificates of Masters, Mates, Engineers and Engine-drivers, and Grant of New Certificates.—Sections 36-39.)

(b) if any person employs any person in any capacity referred to in section 32, section 33 or section 34 in any ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate thereby required, or a certificate of a higher grade,

he shall be liable to fine which may extend to five hundred rupees.

CHAPTER VI.

SUSPENSION AND CANCELLATION OF CERTIFICATES OF MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS, AND GRANT OF NEW CERTIFICATES.

[Act V of 1883, s. 18; Bill of 1882, s. 147.] Saving of powers conferred by English Acts and Orders in Council in reference to Board of Trade and Colonial certificates.

36. Nothing in this Act shall affect—

(a) the powers conferred by the Merchant Shipping Act, 1894, on Courts making investigations referred to in section 254 or section 257 or holding enquiries under section 256 of this Act to suspend or cancel Board of Trade or Colonial certificates, or

(b) any powers conferred on any Local Government by Order in Council made under the Merchant Shipping (Colonial) Act, 1894, or under the Merchant Shipping Act, 1894, section 102, for dealing with, or granting, Colonial certificates in place of Board of Trade or Colonial certificates which have been suspended or cancelled.

37. (1) When any Court referred to in clause (a) of section 36 suspends or cancels any Board of Trade or Colonial certificate, the Local Government may, if it thinks fit, whether or not a recommendation to that effect has been made by the Court, grant, without examination, to the holder of the certificate, when the certificate is a certificate as master, a local certificate of competency as mate, and, when the certificate is a certificate as mate or engineer, a local certificate of competency as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the suspension or cancellation:

Provided that the power conferred by this sub-section shall not be exercised by any Local Government which is for the time being empowered to grant Colonial certificates in place of Board of Trade or Colonial certificates which have been suspended or cancelled.

(2) A certificate granted under sub-section (1) shall have the same effect as if it had been granted after examination.

38. (1) A local certificate (whether of competency or service) granted to a master, mate or engineer may, if a Court conducting an investigation

[Act V of 1883, s. 24A (1), (2) added by Act VI of 1891, s. 13; Bill of 1867, ss. 195, 196;] Power of Court to suspend or cancel local certificates of masters, mates or engineers.

under Chapter XXVII finds that the loss or abandonment of, or serious damage to, any ship, or any loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be suspended or cancelled by the Court:

Provided that the Court shall not suspend or cancel a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 256 or section 257, as the case may be.

(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open Court the decision to which it may have come with respect to the suspension or cancellation of any certificate.

39. A local certificate (whether of competency or service) granted to a master, mate or engineer may be suspended or cancelled, either by the Local Government which granted the same or by any other Local Government, in any of the following cases, that is to say:—

(a) if, on any investigation made beyond British India under the Merchant Shipping Act, 1894, or on any investigation made beyond British India by any Court or tribunal for the time being authorised by the Legislature of any British Possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ship, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(b) if he is proved to have been convicted of any offence which if committed in British India, would be non-bailable, or, if committed in England, would be a felony;

(c) if, in the case of a master, he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force.

Bill of 1882, s. 148; Cf. 1894, s. 470 (1) (2)

[Act V of 1883, s. 20 (rep. in part by Act VI of 1891, s. 12); Bill of 1867, s. 199; Bill of 1882, s. 148.] Cf. 1894, s. 469.

57 & 58 Vict., c. 50.

57 & 58 Vict., c. 60.

(Part III.—Masters, Seamen and Apprentices.—Chapter VI.—Suspension and Cancellation of Certificates of Masters, Mates, Engineers and Engine-drivers, and Grant of New Certificates.—Sections 40-46.—Chapter VII.—Engagement of Seamen.—Sections 47-48.)

40. Notwithstanding anything in the foregoing provisions of this chapter, the Local Government may at any time, after such enquiry as it may think necessary, suspend or cancel any local certificate granted by it to an engine-driver, if, in its opinion, the holder is, or has become, unfit to act as an engine-driver.

41. (1) Every master, mate or engineer whose certificate has been suspended or cancelled by a Court under section 38 shall deliver the certificate to the Court, and the Court shall forward the same to the Local Government, together with the report which it is required by section 263, sub-section (1), to transmit to that Government.

(2) Every master, mate, engineer or engine-driver whose certificate has been suspended or cancelled under section 39 or section 40 shall deliver the certificate to the Superintendent of the Mercantile Marine Office or to such other person as the Local Government which suspended or cancelled the certificate may direct.

(3) Any master, mate, engineer or engine-driver failing to deliver a certificate as required by this section shall be liable to fine which may extend to five hundred rupees.

42. If the Local Government which suspends or cancels a certificate under section 39 is not the Local Government which granted the certificate, the Local Government so suspending or cancelling the certificate shall report the proceedings, and the fact of suspension or cancellation, to the Local Government which granted the certificate.

43. Every Local Government suspending or cancelling a certificate under section 39 shall, as soon as may be practicable, report to the Board of Trade the fact of such suspension or cancellation.

44. (1) Any Local Government may, at any time, revoke or alter any order of suspension or cancellation which it may have made under section 39 or section 40, or grant, without examination, to any person whose certificate it has so cancelled, a new local certificate of the same or of any lower grade.

(2) A certificate granted under sub-section (1) shall have the same effect as if it had been granted after examination.

45. (1) The Local Government to which a certificate under section 41 may, if it thinks that the justice of the case requires it, re-issue and return the certificate of a master, mate or engineer which has been suspended or cancelled, or shorten the time for which it was suspended, or grant in place thereof a certificate of the same or any lower grade.

(2) A local certificate for a home-trade ship shall be deemed, for the purposes of this and the next preceding section, to be of a lower grade than a local certificate for a foreign-going ship.

46. (1) When any Board of Trade, Colonial or local certificate of a master, mate, engineer or engine-driver is suspended or cancelled under any law for the time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such suspended or cancelled certificate every other Board of Trade, Colonial or local certificate, if any, held by him.

(2) If any master, mate, engineer or engine-driver fails to comply with the requirement of sub-section (1), he shall be liable to fine which may extend to five hundred rupees.

CHAPTER VII.

ENGAGEMENT OF SEAMEN.

47. (1) The Local Government, or any Board or officer authorised by the Local Government in this behalf, may grant licenses to procure seamen or apprentices to such persons as may be deemed fit to engage or supply seamen or apprentices for ships.

(2) Such licenses shall be granted on such terms, shall continue for such periods, and shall be revocable on such conditions, as the Local Government may think proper.

48. (1) A person shall not engage or supply a seaman or apprentice to be entered on board any ship unless that person either holds a license granted under the last preceding section, or is the owner or master or mate of the ship, or is bond fide the servant and in the constant employment of the owner, or is a Superintendent of a Mercantile Marine Office.

(2) A person shall not employ for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship any person, unless that person either holds a license granted as aforesaid, or is the owner or

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(Part III.—Masters, Seamen and Apprentices.—Chapter VII.—Engagement of Seamen.—Sections 49-52.)

master or mate of the ship, or is bond fide the servant and in the constant employment of the owner, or is a Superintendent as aforesaid.

(3) A person shall not receive or accept to be entered on board any ship any seaman or apprentice, if that person knows that the seaman or apprentice has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall, for each seaman or apprentice in respect of whom an offence is committed, be liable to fine which may extend to two hundred rupees, and, if a licensed person, shall forfeit his license.

[Act I of 1850, s. 20; Bill of 1867, s. 110; Bill of 1882, s. 23.] Cf. 1804, s. 112.

49. (1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service, or from a person seeking employment as a seaman or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than any fees authorised by this Act.

(2) If a person acts in contravention of this section, he shall for each offence be liable to fine which may extend to fifty rupees.

[Act V of 1883, s. 26; Bill of 1867, s. 120; Bill of 1882, s. 24.] Cf. 1804, s. 113 (1).

50. The master of every foreign-going British ship shall enter into an agreement in accordance with this Act with every seaman whom he carries to sea as one of his crew from any port in British India.

[Act V of 1883, ss. 27, 28, 29; Bill of 1867, s. 120; Bill of 1882, ss. 25, 26, 27.] Cf. 1804, s. 114 (1), (2), (3).

51. (1) Every such agreement shall be in a form sanctioned by the Governor General in Council, shall be dated at the time of the first signature thereof, and shall be signed by the master or the agent of the owner before any seaman signs the same.

(2) Every such agreement shall contain the following particulars as terms thereof (that is to say)—

(a) either—

(I) the nature and, as far as practicable, the duration of the intended voyage or engagement, or

(II) the maximum period of the voyage or engagement and (i) the places or parts of the world to which the voyage or engagement is to extend, or (ii) the places or parts of the world to which the voyage or engagement is not to extend;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Governor General in Council and published in the Gazette of India;

(g) any regulations as to conduct on board, and as to fines or short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt; and

(h) where it is agreed that the service of any lascar or other native seaman shall end at any port not in British India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped, or to such other port in British India as may be agreed on, or a passage to some port in British India free of charge, or on such other terms as may be agreed on:

Provided that, for the purpose of this section, Aden shall not be deemed to be a port in British India except in the case of seamen shipped from, or ordinarily resident in, that port:

Provided also that a statutory native of India of European race or extraction shall not, except with his own express consent, be deemed to be a native seaman within the meaning of this section.

(3) Every such agreement shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages, supply of warm clothing, or otherwise, as are not contrary to law.

(4) Every stipulation referred to in clause (h) of sub-section (2) shall be signed by the owner of the ship or his agent.

52. (1) Every such agreement shall, subject to the provisions of section (4), be signed by each seaman in the presence of a Superintendent of a Mercantile Marine Office.

(2) The Superintendent shall cause the agreement to be read over and explained to each seaman, in a language understood by him, (1), (2), (3), or shall otherwise ascertain that each seaman (4).

[Act I of 1859, s. 22; Act V of 1883, ss. 27, 29; Bill of 1867, ss. 123, 124; Bill of 1882, ss. 27, 29.] Cf. 1804, s. 114 (1), 115 (1), (2), (3).



understands the same before he signs it, and shall attest each signature.

(3) When the crew is first engaged the agreement shall be signed in duplicate. One copy shall be retained by the Superintendent, and the other shall be delivered to the master and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.

(4) Where a substitute is engaged in the place of a seaman who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before some Superintendent of a Mercantile Marine Office and, when not practicable, the master shall, before the ship puts to sea, if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.

53. (1) If the master of any foreign-going British ship belonging to the United Kingdom or any British Possession other than British India has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages single seamen, not being lascars or other native seamen, at any port in British India, each seaman may sign the agreement so made, and, notwithstanding anything in section 51, it shall not be necessary for him to sign an agreement in the form required by that section.

(2) Each seaman signing an agreement under sub-section (1) shall do so in the presence of a Superintendent of a Mercantile Marine Office.

(3) The Superintendent shall cause the agreement to be read over and explained to the seaman, in a language understood by him, or shall otherwise ascertain that the seaman understands the same before he signs it, and shall attest his signature.

54. (1) In the case of any foreign-going British ship making voyages averaging less than six months in duration, a running agreement with the crew may be made to extend over two or more voyages, but every such agreement shall

terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest :

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India.

(2) The provisions of sections 51 and 52 shall apply to every running agreement made under sub-section (1); and every seaman shall sign the same, whether engaged upon the first commencement thereof or otherwise.

55. (1) The master of every home-trade British ship of eighty tons or upwards registered tonnage shall enter into an agreement with every seaman whom he engages at, and carries to sea from, any port in British India as one of his crew.

(2) The provisions of sections 51 to 54 (both inclusive) shall apply to every such agreement, as if the ship were a foreign-going ship :

Provided as follows :—

(a) the agreement need not, unless the master thinks fit, be signed by the seamen in the presence of a Superintendent of a Mercantile Marine Office ;

(b) where any seaman has not so signed the agreement, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to him, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature ;

(c) where several home-trade ships of eighty tons or upwards registered tonnage belong to the same owner, then—

(i) the agreement with the seamen may be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement ; and

(ii) the owner or his agent may enter into time-agreements, in forms to be sanctioned by the Governor General in Council, with individual seamen to serve in any

Cf. Board of Trade's Instructions No. 446, dated March, 1892.

[Act I of 1859, ss. 26, 32 (1); Act V of 1883, s. 25; Bill of 1867, ss. 120, 130, 136 (1); Bill of 1882, ss. 24, 33, 42 (1).] Cf. 1894, ss. 113, 114, 116.

[Act I of 1859, s. 27, s. 32, second para. (added by Act VI of 1891, s. 3); Bill of 1867, s. 131; Bill of 1882, s. 34.]

[Act I of 1859, s. 22; Act V of 1883, s. 30; Bill of 1867, ss. 120, 123; Bill of 1882, s. 28, 29.] Cf. 1894, s. 114 (4).

[Act I of 1859, s. 23; Bill of 1867, s. 127; Bill of 1882, s. 30.] Cf. 1894, s. 115 (5), (6).

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one or more of such ships, which agreements need not terminate within six months from the dates on which they were respectively executed.

(b) (if made out of Her Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

[Act I of 1859, s. 28; Bill of 1867, s. 132; Bill of 1882, s. 35; Cf. 1894, s. 113 (2).

56. (r) If in any case a master of a British ship carries any seaman to sea with whom no agreement has been entered into in the form and manner and at the place and time hereby in such case required, the master, in the case of a foreign-going ship, and the master or the owner, in the case of a home-trade ship, shall be liable to fine which may extend to fifty rupees for each such seaman.

[Act V of 1883, s. 28; Bill of 1882, s. 26.]

(2) If any master or owner of a British ship enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under section 51, clause (f), he shall be liable to fine which may extend to two hundred rupees for each such seaman.

[Act I of 1859, s. 30; Bill of 1867, s. 134; Bill of 1882, s. 17; Cf. 1894, s. 73.

57. (r) For the purpose of preventing seamen from being taken on board any British ship at any port in British India contrary to the provisions of this Act, any Superintendent or Deputy Superintendent of a Mercantile Marine Office may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

(2) Any person who obstructs a Superintendent or Deputy Superintendent in the exercise of his powers under sub-section (r) shall be liable to fine which may extend to one hundred rupees.

[Act I of 1859, s. 48; Bill of 1867, s. 168; Bill of 1882, s. 60; Cf. 1894, s. 156 (1).

58. (r) If any agreement made under this chapter (other than an irregular stipulations and alterations in agreement signed under section 53) between a master or owner of a British ship and a seaman contains a stipulation which is inconsistent with any provision of this Act, such stipulation shall be void.

[Act I of 1859, s. 33; Bill of 1867, s. 137; Bill of 1882, s. 43; Cf. 1894, s. 122.

(2) Every erasure, interlineation or alteration in any agreement as aforesaid (except additions made under this chapter for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be inoperative unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation—

(a) (if made in Her Majesty's dominions) of some Superintendent of a Mercantile Marine Office, Justice, officer of Customs or other public functionary, or

59. (r) The master of every British ship for which an agreement has been made under this chapter (other than an agreement signed under section 53) shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in the ship so as to be accessible to the crew.

(2) If the master fails without reasonable cause to comply with sub-section (1), he shall for each offence be liable to fine which may extend to fifty rupees.

60. (r) The master of every foreign-going British ship of which the crew has been engaged before a Superintendent of a Mercantile Marine Office in British India shall, before finally leaving British India, sign and send to the nearest Superintendent of a Mercantile Marine Office a full and accurate statement, in a form sanctioned by the Governor-General in Council, of every change which takes place in his crew before finally leaving British India.

(2) Such statements shall be admissible in evidence.

(3) If the master fails without reasonable cause to comply with sub-section (1), he shall for each offence be liable to fine which may extend to fifty rupees.

61. (r) The master of every foreign-going British ship for which a running agreement is made under section 54 shall, upon every return to any port in British India before the termination of the agreement, discharge or engage before the Superintendent of the Mercantile Marine Office at such port any seaman whom he is required by law so to discharge or engage;

and shall, upon every such return, endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required;

and shall deliver the agreement so endorsed to the Superintendent.

(2) Any master who wilfully makes a false statement in such endorsement shall be liable to fine which may extend to two hundred rupees.

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(3) The Superintendent shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

(4) In this section "termination" means, when an agreement has been renewed under section 62, the termination of the period for which the agreement has been so renewed.

[Act I of 1859, s. 24A (inserted by Act VI of 1891, s. 2).] 62. (1) When a running agreement with the crew of a foreign-going British ship has been made under section 54, and the ship arrives, after the expiration of a period of six months from the date on which the agreement was executed, at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the Superintendent of the Mercantile Marine Office, renew the agreement, or he may be required by the Superintendent to renew the same, for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

(2) If the master is required by the Superintendent to renew the agreement and refuses so to do, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter XVIII.

[Act I of 1859, s. 35; Bill of 1867, s. 139; Bill of 1882, s. 45; Cf. 1894, s. 102.] 63. (1) Any seaman belonging to a British ship who has signed an agreement under this chapter, and is afterwards discharged, otherwise than in

accordance with the terms thereof, before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages; and may, on adducing such evidence as the Court or Magistrate hearing the case may deem satisfactory of his having been discharged as aforesaid, recover such compensation, as if it were wages duly earned:

Provided that the master may at any time before the commencement of the voyage require any seaman to be examined by a properly qualified medical practitioner with a view to ascertain whether he is or not physically fit to proceed to sea and perform his duty; and should he be certified to be unfit

to do so may thereupon discharge him without compensation.

(2) A refusal on the part of any seaman to undergo an examination under sub-section (1) if required shall be deemed to be a fault on his part justifying his discharge without compensation.

64. (1) Whenever the master of a foreign-going foreign ship or a home-trade foreign ship of eighty tons or upwards registered tonnage makes an engagement—

[Act I of 1859, s. 115 (am. by Act VI of 1891, s. 4, and Act XII of 1891); Bill of 1867, s. 124; Bill of 1882, s. 38.]

(a) at Aden, with a seaman being a native of Asia or Africa, or

(b) at any other port in British India, with a seaman being a native of India,

to proceed to sea, he shall enter into an agreement with such seaman.

(2) The provisions of section 51, section 52, sub-sections (1), (2) and (3), and sections 58, 59, 60 and 63 shall apply to every agreement made for a foreign-going foreign ship under this section, as if the ship were a British ship.

(3) The provisions of section 51, section 52, sub-sections (1), (2) and (3), and sections 58, 59 and 63 shall apply to every agreement made for a home-trade foreign ship under this section, as if the ship were a British ship:

Provided as follows:—

(i) the agreement need not, unless the master thinks fit, be signed by the seaman in the presence of a Superintendent of a Mercantile Marine Office;

(ii) where any seaman has not so signed the agreement, the master shall, before the ship puts to sea if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to him, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

(4) Whenever an agreement for a foreign-going foreign ship has been made under this section, the master shall give to the Superintendent of the Mercantile Marine Office before whom the agreement was signed a bond, with the security of some approved person resident in British India, for an amount calculated at the rate of one hundred rupees for every seaman signing the agreement and conditioned for the due observance of the agreement and of the provisions referred to in sub-section (2), and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1894, section 191. 57 & 58 Vict., c. 60.

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[ Act I of 1859, s. 117; Bill of 1867, s. 126; Bill of 1882, s. 40. ]

65. If any master of a foreign ship engages any seaman referred to in section 64 to proceed to sea, otherwise than in accordance with the provisions of that section, he shall be liable to fine which may extend to one hundred rupees for each such seaman.

[ Act I of 1859, s. 117; Bill of 1867, s. 126; Bill of 1882, s. 40. ]

66. (1) Any Superintendent or Deputy Superintendent of a Mercantile Marine Office may enter at any time on board any foreign ship upon which he has reason to believe that any such seaman has been shipped, and may muster and examine the several seamen employed therein.

(2) Any person who obstructs a Superintendent or Deputy Superintendent in the exercise of his powers under sub-section (1) shall be liable to fine which may extend to one hundred rupees.

[ Act XIII of 1876, s. 5; Bill of 1882, s. 46. ]

67. (1) The Local Government, or such officer as it may appoint in this behalf, may, by order in writing signed by one of its Secretaries or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any native of India to serve as a seaman on board any ship whether British or foreign, specified in the order; but in every case the reasons for the prohibition shall be stated in writing.

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

CHAPTER VIII.

PRODUCTION OF CERTIFICATES OF OFFICERS AND AGREEMENTS WITH SEAMEN.

[ Act I of 1859, s. 31; Act VII of 1884, s. 35; Bill of 1867, s. 135; Bill of 1882, s. 41. ]

68. (1) The master of every foreign-going British ship for which an agreement is made under Chapter VII (other than an agreement signed under section 53) shall, on signing the agreement, produce to the Superintendent of the Mercantile Marine Office before whom the same is signed the certificate or certificates which the master, mate or mates (if any) and engineer or engineers (if any) are required by Chapter V to possess; and, upon such production being duly made, and the agreement being duly

executed as required by Chapter VII, the Superintendent shall sign and give to the master a certificate to that effect.

(2) Where a running agreement for a foreign-going British ship has been made under section 54, the Superintendent of the Mercantile Marine Office shall, before the second and every subsequent voyage made after the commencement of the agreement, sign and give to the master, on his complying with the provisions contained in Chapter VII with respect to such agreements, and producing to the Superintendent the certificate of any mate or engineer then first engaged by him, a certificate to that effect.

(3) The master of every ship referred to in sub-section (1) or sub-section (2) shall, before proceeding to sea, produce the certificate given to him thereunder to the officer authorised to grant a port-clearance.

(4) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate is so produced; and, if any attempt is made to take any such ship to sea without a clearance, the ship may be detained until such certificate is so produced.

(5) In the case of a voyage terminating in British India, the master of every foreign-going British ship shall, within forty-eight hours after the ship's arrival at her final port of destination, or upon the discharge of the crew at that port, whichever first happens, deliver the agreement with the crew (whether the same was made under this Act or any other law) to the Superintendent of the Mercantile Marine Office.

(6) Such Superintendent shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall permit the entry of any such ship inwards unless such certificate is produced to him.

(7) If any master fails to deliver the agreement with the crew to the Superintendent as directed by sub-section (5), he shall be liable to fine which may extend to fifty rupees.

69. (1) Within a period of twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or, if the ship is not at any port in British India within such period in any year, then within forty-eight hours after her next arrival at any port in British India,

(a) the master or owner of every home-trade British ship which is required by Chapter V to carry a certificated officer or certificated officers shall produce

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to some Superintendent of a Mercantile Marine Office in British India the certificate or certificates which the master, mates, engineers and engine-drivers are required by that chapter to possess, and

(b) the master or owner of every home-trade British ship of more than eighty tons registered tonnage shall transmit or deliver to some Superintendent as aforesaid every agreement made with the crew within the six calendar months next preceding the said thirtieth day of June or thirty-first day of December, as the case may be.

(2) Such Superintendent shall thereupon sign and give to the master or owner a certificate of such production, transmission or delivery, as the case may be.

(3) The master of every ship referred to in sub-section (1) shall, before proceeding to sea, produce the certificate or certificates given to him under sub-section (2) to the officer authorised to grant a port-clearance.

(4) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate or certificates is or are so produced; and, if any attempt is made to take any such ship to sea without a clearance, *the ship may be detained* until such certificate or certificates is or are so produced.

(5) If any agreement made with the crew of any such ship is not transmitted or delivered to a Superintendent as directed by sub-section (1), the master or owner, *as the case may be*, shall be *liable to fine* which may extend to fifty rupees.

70. (1) The master of every foreign steamship which is required by section 34 to carry an officer or officers possessing a local, Board of Trade or Colonial certificate shall, before *taking the ship from* any port in British India, produce the said certificate or certificates to the Superintendent of the Mercantile Marine Office; and, upon such production being duly made, the Superintendent shall sign and give to the master a certificate to that effect.

(2) When any agreement between the master of a foreign ship and a seaman has been duly executed under Chapter VII at any port, and (in the case of a foreign-going ship) the master has given a bond under section 64, sub-section (4), the Superintendent of the Mercantile Marine Office at that port shall sign and give to the master a certificate to that effect.

(3) The master of every ship referred to in sub-sections (1) and (2) shall, before proceeding to sea, produce the certificate or certificates given to him thereunder to the officer authorised to grant a port-clearance.

(4) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate or certificates is or are so produced; and, if any attempt is made to take any such ship to sea without a clearance, *the ship may be detained* until such certificate or certificates is or are so produced.

(5) The master of every foreign ship for which an agreement has been made under section 64 shall, within forty-eight hours after the ship's arrival at her port of final destination in British India, or upon the discharge of the crew at that port, whichever first happens, deliver the agreement to the Superintendent of the Mercantile Marine Office.

(6) Such Superintendent shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall permit the entry of any such ship inwards unless such certificate is produced to him.

(7) If any master fails to deliver the agreement with the crew to the Superintendent as directed by sub-section (5), he shall be *liable to fine* which may extend to fifty rupees.

CHAPTER IX.

WAGES AND DISCHARGE OF SEAMEN AND APPRENTICES, AND SETTLEMENT OF CLAIMS.

*Advance of Wages.*

71. (1) Any agreement with a seaman of a British ship made under Chapter VII may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) *Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.*

(3) Any agreement made otherwise than as authorised by this section, by or on behalf of the

Production of certificates and agreements in the case of foreign ships.

[Act of 1859, ss. 35, 37; Bill of 1867, ss. 140, 141; Bill of 1882, ss. 47, 48.] Cf. 1894, s. 140.

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employer of a seaman of a British ship, for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in British India, shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and no person shall have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(4) Nothing in this section shall affect any allotment made under this chapter.

Allotment of Wages.

[Act I of 1859, s. 38; Bill of 1867, s. 142; Bill of 1882, s. 49.]  
 Cf. 1894, ss. 140 (b), 141.

72. (1) Every agreement with a seaman of a British ship made under Chapter VII shall, if the seaman so require, stipulate for the allotment during his absence of any part not exceeding one-half of the wages of the seaman in favour of any near relative of the seaman.

(2) Every such stipulation shall be signed by the owner of the ship or his agent.

[Act I of 1859, s. 38; Bill of 1867, s. 142; Bill of 1882, s. 49.]  
 Cf. 1894, s. 141.

73. (1) Every such allotment shall be made by means of an allotment-note.

(2) Every allotment-note shall be in a form prescribed by the Governor General in Council, and shall be made for the benefit only of a near relative of the seaman to be named in the note

(3) For the purpose of the provisions of this Act with respect to allotment-notes, the expression "near relative" means one of the following persons, namely, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman.

[Act I of 1859, ss. 39, 40; Bill of 1867, ss. 143, 144; Bill of 1882, sp. 59, 51.]  
 Cf. 1894, ss. 143, 144.

74. (1) A payment under an allotment-note shall begin at the expiration of one month from the date of the agreement with the crew or at such later date as may be fixed by the agreement, and shall be made at the expiration of every subsequent month, or of such other periods as may be fixed by the agreement, and shall be made only in respect of wages earned before the date of payment.

(2) The owner or any agent who has authorised the drawing of an allotment-note shall pay to the Superintendent of the Mercantile Marine Office on demand the sums due under the note, and, if he fails to do so, the Superintendent may sue for and recover the same with costs:

Provided as follows:—

(a) no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited, or ceased to be entitled to, the wages out of which the allotment was to have been paid;

(b) the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate, either by a statement made under section 60 of the change in the crew caused by his absence, or by a duly certified copy of some entry in the official log to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(3) The Superintendent, on receiving any such sum as aforesaid, shall pay it over to the person named in that behalf in the allotment-note.

(4) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the Superintendent or the Deputy Superintendent.

(5) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Legal Rights to Wages and Salvage.

75. (1) No seaman of a British ship shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled.

[Act I of 1859, s. 48; Bill of 1867, s. 160; Bill of 1882, s. 60.]  
 Cf. 1894, s. 156.

(2) Every stipulation in any agreement by which a seaman of a British ship consents to abandon his rights to wages in case of the wreck or loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

(3) Nothing in this section shall apply to any stipulation made by the seamen belonging to any British ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship.

[Bill of 1867, s. 160.]

(Part III.—Masters, Seamen and Apprentices.—Chapter IX.—Wages and Discharge of Seamen and Apprentices, and Settlement of Claims.—Sections 76-81.)

[Act I of 1859, s. 49; Bill of 1867, s. 161; Bill of 1882, s. 61.]  
 76. (1) The right of a seaman of a British ship to wages shall not be dependent on the earning of freight.

(2) Every seaman and apprentice of a British ship who would be entitled to demand and recover any wages if the ship had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.

[Act I of 1859, s. 51; Bill of 1867, s. 163; Bill of 1882, s. 63.]  
 Cf. 1894, s. 158.  
 77. Where the service of any seaman of a British ship terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, or by reason of his being left on shore under a certificate of unfitness or inability to proceed to sea granted under section 188 of the Merchant Shipping Act, 1894, or this Act, the seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

[Act I of 1859, s. 52; Bill of 1867, s. 164; Bill of 1882, s. 64.]  
 Cf. 1894, s. 159.  
 78. No seaman or apprentice of a British ship shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time specified in the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

*Discharge and Payment of Wages, and Settlement of Claims.*

[Act I of 1859, s. 41; Bill of 1867, s. 145; Bill of 1882, s. 52.]  
 Cf. 1894, ss. 127, 131.  
 79. (1) All seamen discharged from any foreign-going British ship at any port in British India shall be discharged and receive their wages through or in the presence of a Superintendent of a Mercantile Marine Office; except in cases where some competent Court otherwise directs.

(2) Any master or owner who discharges any seaman or pays his wages in contravention of the provisions of sub-section (1) shall be liable to fine which may extend to one hundred rupees.

(3) In the case of home-trade British ships of more than eighty tons registered tonnage, seamen may, if the owner or master so desires, be discharged and receive their wages in the presence of a Superintendent of a Mercantile Marine Office at a port in British India, except in cases where some competent Court otherwise directs.

[57 & 58 Vict. c. 60, s. 132.]  
 80. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act, a full and true account, in a form prescribed by the Governor General in Council, of the seaman's wages, and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered—  
 (a) where the seaman is not to be discharged before a Superintendent, to the seaman himself not less than twenty-four hours before the discharge or payment off, and  
 (b) where the seaman is to be discharged before a Superintendent, either to the seaman himself at or before the time of his leaving the ship, or to the Superintendent not less than twenty-four hours before the discharge or payment off.

(3) If the master of a British ship fails without reasonable cause to comply with this section, he shall for each offence be liable to fine which may extend to fifty rupees.  
 (4) No deduction from the wages of any seaman of a British ship (except in respect of any matter happening after such delivery as aforesaid) shall be allowed unless it is included in the account delivered under sub-section (1).  
 (5) The master of every British ship shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for the purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payment.

81. (1) The master of every British ship shall, upon the discharge of any seaman, or upon payment of his wages, sign and give him a certificate of discharge, in a form prescribed by the Governor General in Council, specifying the period of his service and the time and place of his discharge; and shall in default be liable to fine which may extend to one hundred rupees.

[Act I of 1859, s. 43; Bill of 1867, s. 147; Bill of 1882, s. 54.]  
 Cf. 1894, ss. 128, 129.  
 Certificates of discharge, reports of seaman's character, and return of certificates to mates and engineers.

(2) Where a seaman is discharged from a British ship before a Superintendent, the master shall make and sign, in a form prescribed by the Governor General in Council, a report of the conduct, character and qualifications of the seaman discharged, or may state in the said form that he declines to give any opinion upon such particulars or upon any of them, and the Superintendent before whom the discharge is made shall, if the seaman desires, give to him or endorse on his certificate of discharge a copy of such report.

(Part III.—Masters, Seamen and Apprentices.—Chapter IX.—Wages and Discharge of Seamen and Apprentices, and Settlement of Claims.—Sections 82—87.)

(3) The master of every British ship shall, upon the discharge of any certificated officer whose certificate has been delivered to and retained by him, return such certificate, and shall, *if without reasonable cause he fails to do so, be liable to fine* which may extend to two hundred rupees.

82. (1) Upon the completion in the presence of a Superintendent of a Mercantile Marine Office of any discharge and settlement, as between the master or owner of a British ship and a seaman, the master or owner and the seaman shall respectively, in the presence of the Superintendent, sign, in a form sanctioned by the Governor General in Council, a mutual release of all claims in respect of the past voyage or engagement, and the Superintendent shall also attest the release and shall retain the same.

(2) Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of such release, certified under the hand of such Superintendent to be a true copy, shall be given by him to any party to the release who may require the same, and such copy shall be admissible in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original.

(4) In cases in which discharge and settlement through or in the presence of a Superintendent of a Mercantile Marine Office are required by section 79, sub-section (1), no payment, receipt, settlement or discharge otherwise made shall operate as, or be admissible in evidence of, the release or satisfaction of any claim.

83. Notwithstanding anything *hereinbefore contained*, the final settlement of the wages of a seaman of a British ship may, if the seaman consents, be left to the Superintendent of a Mercantile Marine Office under rules (if any) made by the Local Government; and the receipt of the Superintendent shall in that case operate as a release by the seaman under section 82.

84. Upon any payment being made by a master of a British ship before a Superintendent of a Mercantile Marine Office, the Superintendent shall, if so required, sign and give to the master a statement of the whole

amount so paid; and such statement shall, as between the master and his employer, be admissible in evidence that he has made the payments therein mentioned.

85. (1) The owner or master of every *foreign-going* British ship shall pay to each seaman, on *account, at the time when he lawfully leaves the ship* at the end of his engagement, twenty rupees or one-fourth of the balance of wages due to him, whichever is least, and shall pay him the remainder of his wages within two clear days (exclusive of any Sunday or public holiday) after he so leaves the ship.

(2) In the event of a seaman's wages or any part thereof not being paid or settled as by this section required, then, unless the delay is due to the act or default of the seaman, or to some reasonable dispute as to liability or to some other cause not being the *wrongful* act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

86. (1) The master or owner of every *home-trade* British ship shall pay to every seaman his wages within *two days* after the termination of the agreement with the crew or at the time when the seaman is discharged, whichever first happens.

(2) *If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.*

(3) Any sum payable under this section may be recovered as wages.

87. (1) Where an agreement with the master of a British ship stipulates for the payment of wages or any other money to a seaman or apprentice in British sterling or any other currency not being British Indian currency, any payment in British India, if made in British Indian currency, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the time being current at the place where the payment is made.

(2) The Governor General in Council may, by notification in the *Gazette of India*, declare what shall be deemed, for the purposes of sub-section (1), to be the rate of exchange for the time being current at any place in British India.

[Act I of 1859, s. 46; Bill of 1867, s. 157; Bill of 1882, s. 57.] Cf. 1804, s. 136 (1) to (4).

Cf. 1894, s. 134 (b).

[Act I of 1859, s. 40, Bill of 1867, s. 157; Bill of 1882, s. 57.] Cf. 1804, s. 375 (5).

[Act I of 1859, s. 53; Bill of 1867, s. 165; Bill of 1882, s. 65; Cf. 1894, s. 134.

[Act I of 1859, s. 53; Bill of 1867, s. 165; Bill of 1882, s. 65; Cf. 1894, s. 135.

[Act I of 1859, s. 54 (am. by Act XIII of 1876, s. 10); Bill of 1867, s. 166; Bill of 1882, s. 66.] Cf. 1894, s. 130.



The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter IX.—Wages and Discharge of Seamen and Apprentices, and Settlement of Claims.—Sections 88-91. Chapter X.—Master's Wages, Disbursements and Liabilities.—Section 92.)

88. (1) Any Superintendent of a Mercantile Marine Office may hear and decide any question as to wages which is raised before him between the master or owner of a British ship and a seaman or apprentice, provided the amount in question does not exceed fifty rupees and the Superintendent does not consider that the question ought to be decided by a Court of law.

(2) Subject to the provisions of sub-section (1), every Superintendent of a Mercantile Marine Office shall hear and decide any question whatever between a master or owner of a British ship and a seaman or apprentice which both parties agree in writing to submit to him.

(3) Every award made by a Superintendent under sub-section (1) or sub-section (2) shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties.

(4) Any document purporting to be an agreement or award made under this section shall *not require to be stamped and shall* be admissible in evidence.

89. (1) In any proceeding relating to the wages, discharge or claims of any seaman or apprentice of a British ship which is carried on before a Superintendent of a Mercantile Marine Office under the provisions of this Act, the Superintendent may call upon the owner or his agent, the master, or any mate or other member of the crew, to produce any logs, papers or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine on any such matter any of such persons being then at or near the place where such office is situate.

(2) If any person so required fails without reasonable cause to comply with the requisition, he shall for each offence be liable to fine which may extend to fifty rupees.

90. (1) Any seaman or apprentice of a British ship, or any person duly authorised on his behalf, may apply to any Magistrate having jurisdiction in the place at which the service has terminated or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for the recovery of any amount of wages

due to such seaman or apprentice not exceeding five hundred rupees.

(2) Every application dealt with by a Magistrate under sub-section (1) shall be heard and determined in a summary manner, and the order of the Magistrate thereon shall be final.

91. No suit or proceeding for the recovery of wages not exceeding the sum of five hundred rupees shall be instituted by or on behalf of any seaman or apprentice of a British ship in any Colonial Court of Admiralty or (where there is a Court of Small Causes) in any Civil Court other than a Court of Small Causes, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or has been sold by the authority of any such Court, or unless the Magistrate to whom application has been made under section 90 refers the parties to such Court.

CHAPTER X.

MASTER'S WAGES, DISBURSEMENTS AND LIABILITIES.

92. (1) The master of every British ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as by this Act or any other law or any custom a seaman has for the recovery of his wages.

(2) The master of every British ship, and every person lawfully acting as master of a British ship by reason of the disease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements properly made by him on account of the ship and for liabilities properly incurred by him on account of the ship, as a master of a British ship has, by sub-section (1) or any other law or any custom, for the recovery of his wages.

(3) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master of a British ship, or any person lawfully acting as master of a British ship, to

(Part III.—Masters, Seamen and Apprentices.—Chapter XI.—Power to rescind Contracts.—Section 93. Chapter XII.—Wages and Effects of Deceased Seamen and Apprentices.—Sections 94-98.)

wages or such disbursements as aforesaid, or on account of such liabilities as aforesaid, any right of set-off or counter claim is set up, it shall be lawful for the Court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

CHAPTER XI.

POWER TO RESCIND CONTRACTS.

Cf. 1897, ss. 163, 742.

93. (1) Where a proceeding is instituted in or before any Court in relation to any dispute between an owner or master of a British ship and a seaman or apprentice to the sea service, arising out of or incidental to their relation as such, or is instituted for the purposes of this section, the Court, if, having regard to all the circumstances of the case, it thinks it just so to do, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the Court may think just.

(2) The power conferred by this section shall be in addition to any other jurisdiction which the Court can exercise independently of this section.

(3) For the purposes of this section, "Court" includes any Magistrate having jurisdiction in the matter to which the proceeding relates.

CHAPTER XII.

WAGES AND EFFECTS OF DECEASED SEAMEN AND APPRENTICES.

[Act I of 1859, s. 9; Bill of 1867, s. 172; Bill of 1882, s. 72.] Cf. 1894, s. 160.

94. (1) If any seaman or apprentice dies during a voyage in a British ship which is to terminate at a port in British India, the master shall take charge of all money and effects belonging to such seaman or apprentice which are on board the ship.

(2) The master may, if he think fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars:—

(a) a statement of the amount of the money and a description of the effects;

(b) in case of a sale, a description of each article sold and the sum received for each;

(c) a statement of the sum due to the deceased for wages and of the amount of deductions (if any) to be made from the wages.

(4) The entry shall be signed by the master and attested by a mate and some other member of the crew.

95. (1) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver such effects as aforesaid remaining in his hands, and pay all money which he has so taken charge of or received, and also the wages due to the deceased, to the Superintendent of the Mercantile Marine Office at such port, and shall give to such Superintendent an account of the effects, money and wages so to be delivered and paid.

(2) No deductions claimed in such account shall be allowed unless verified,—

(a) if there is an official log-book, by the entry therein required by section 94, sub-section (3), clause (c), and

(b) by such other vouchers (if any) as may be reasonably required by the Superintendent.

96. If any master fails to take charge of any money or effects of a seaman or apprentice or to make or cause to be made entries in respect thereof, or to make delivery or payment, or to give an account, as hereinbefore directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to such Superintendent as aforesaid, and shall pay and deliver the same accordingly; and shall in addition be liable to fine which may extend to treble the value of the money, wages and effects, or, if such value is not ascertained, to five hundred rupees.

97. Where a seaman or apprentice of a British ship registered in British India has been lost with his ship, his wages shall be paid by the owner of the ship to some Superintendent of a Mercantile Marine Office in British India.

98. If any seaman or apprentice dies in British India, and is at the time of his death entitled to claim from the master or owner of any British ship in which he has served any unpaid wages or undelivered effects, such master or owner shall pay such wages, and deliver or account for such effects, to the Superintendent of the Mercantile Marine Office at

(Part III.—Masters, Seamen and Apprentices.—Chapter XII.—Wages and Effects of Deceased Seamen and Apprentices.—Sections 99-103. Chapter XIII.—Provisions, Health and Accommodation.—Section 104.)

the port at which the seaman or apprentice was discharged or was to have been discharged, and in default of so doing shall be liable to fine which may extend to treble the value of the money and effects, or, if such value is not ascertained, to five hundred rupees.

99. Any money, wages or effects referred to in section 94, section 95, section 97 or section 98 may be recovered by the Superintendent of a Mercantile Marine Office in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages.

100. (1) In any proceeding for the recovery of the wages of a seaman or apprentice of a British ship registered in British India who has been lost with his ship,

if it is shown by some official return produced out of the custody of any officer authorized to grant a port-clearance, or by other evidence, that the ship has, twelve months or upwards before the institution of the proceeding, left a port of departure, she shall be deemed to have been lost with all hands on board, either immediately after the time at which she was last heard of, or at such later time as the Court may think probable, unless it is shown that she has been heard of within twelve months after that departure.

(2) The production out of the custody of the Superintendent of any Mercantile Marine Office

of any duplicate agreement or list of the crew made out, or statement of a change of crew delivered, under this Act, at the time of the last departure of the ship from British India, or

of a certificate purporting to be a certificate from a Consular or other public officer at any port beyond British India stating that certain seamen or apprentices were shipped in the ship from such port,

shall, in the absence of proof to the contrary, be sufficient evidence that the seamen or apprentices therein named as belonging to the ship were on board at the time of the loss.

101. When money, wages or effects left by or due to any deceased seaman or apprentice who belonged to a British ship is or are received by a Superintendent of a Mercantile Marine Office, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money, wages or effects as the Superintendent may think proper to allow, the Superintendent may pay and

deliver the said money, wages and effects to any claimants who can prove themselves to his satisfaction to be entitled thereto, and the Superintendent shall be thereby discharged from all further liability in respect thereof;

or, if he thinks fit so to do, the Superintendent may require probate or letters of administration, or a certificate under the Succession Certificate Act, 1889, to be taken out, and thereupon pay and deliver the said money, wages and effects to the legal representative of the deceased.

102. (1) Where the money, wages or effects of any deceased seaman or apprentice who belonged to a British ship has or have been received by a Superintendent of a Mercantile Marine Office, and no claim thereto is substantiated within one year from such receipt, the Superintendent shall cause such effects to be sold and pay the proceeds of the sale, together with the unclaimed money and wages, into the public treasury.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then,

if the claim is established to the satisfaction of the Superintendent, the amount or so much as shall appear to be due to the claimant shall be paid to him, and

if the claim is not so established, the claimant may apply by petition to a Magistrate; and such Magistrate, after taking evidence, either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such unclaimed money, wages or effects by the Superintendent, no claim to such money or wages or to the proceeds of the sale of such effects shall be entertained without the sanction of the Local Government.

103. The provisions of this chapter as to Recovery of wages where freight has not been earned. wages shall apply to wages due to any seaman or apprentice of a British ship under section 76 and remaining unpaid at the date of his death.

CHAPTER XIII.

PROVISIONS, HEALTH AND ACCOMMODATION.

104. The right of a seaman of a British ship to wages and provisions when to wages and provisions shall be taken to begin either at the time at which

VII of 1889.

[Act I of 1859, s. 63 (rep. in part by Act XII of 1876); Bill of 1867, s. 176; Bill of 1882, s. 76.] Cf. 1894, s. 179.

[Act I of 1859, s. 50; Bill of 1867, s. 162; Bill of 1882, s. 62.] Cf. 1894, s. 157 (2).

[Act I of 1859, s. 47; Bill of 1867, s. 159; Bill of 1882, s. 59.] Cf. 1894, s. 155.

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XIII.—Provisions, Health and Accommodation.—Sections 105-109.)

he commences work, or at the time specified in the agreement for his presence on board or commencement of work, whichever first happens.

105. (1) All beef or pork in barrels, preserved meat or vegetables in tins, and flour or biscuits in casks, and all water, intended for the use of the crew of any British ship which is about to proceed to sea from a port in British India on a voyage through the Suez Canal or round the Cape of Good Hope or Cape Horn shall be inspected by an officer appointed by the Local Government in this behalf:

*Provided that no provisions which have been certified under section 206 of the Merchant Shipping Act, 1894, or under this section, for use in any such voyage, shall be so inspected.*

(2) Such inspection shall be made, if practicable, before the articles are placed on board the ship, and shall be made in the prescribed manner.

(3) If the said officer is satisfied that the said articles are fit for such use as aforesaid, he shall sign and give to the master of the ship a certificate to that effect.

(4) *The inspecting officer may at any time proceed on board any such ship to ascertain whether the stores and water provided have been duly inspected, or, if not, whether they are of a quality fit for the use of the crew of the ship; and, if he finds the same not to have been inspected and to be deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction.*

(5) The Local Government may make rules to regulate the inspection of provisions and water under sub-section (1).

(6) *No fee for an inspection under this section shall be levied on the ship.*

106. (1) Any three or more members of the crew of any British ship may complain to any Superintendent of a Mercantile Marine Office or to any officer appointed by the Local Government in this behalf that the provisions or water provided for the use of the crew are or is at any time of bad quality, unfit for use or deficient in quantity.

(2) Any officer to whom such complaint is made shall thereupon, within twenty-four hours or so soon thereafter as may be practicable, by himself or some other duly authorised officer, examine the said provisions or water or cause them or it to be examined; and if, on examination any of such provisions or water are or is found to be of bad quality and unfit for use or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship.

(3) If the master does not thereupon provide other proper provisions or water in place of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be deficient in quantity, or uses any provisions or water which have or has been so signified to be of bad quality and unfit for use, he shall be liable to fine which may extend to two hundred rupees.

(4) When any such examination as aforesaid has been made, the officer to whom complaint was made as aforesaid shall enter a statement of the result of the examination in the official log (if any), and shall, unless he is himself the Superintendent of a Mercantile Marine Office, send a report thereof to such Superintendent.

(5) Such report, if produced out of the custody of such Superintendent, shall be admissible in evidence.

107. If any officer to whom a complaint is made under section 106 certifies in such statement as aforesaid that there was no reasonable ground for the complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding the amount of one week's wages.

108. (1) The Superintendent or Deputy Superintendent of the Mercantile Marine Office at any port in British India may enter at any time on board of any British ship upon which seamen or apprentices have been shipped at such port, and inspect any of the provisions or water provided for the use of the crew, other than provisions or water exempted from inspection under section 105:

*Provided that such inspection shall, if practicable, be made in the presence of the master.*

(2) If on any such inspection any of the provisions or water are or is found to be of bad quality and unfit for use, or deficient in quantity, the Superintendent shall proceed as provided in section 106, and the penalty provided by that section shall be incurred by any default of the master of the ship in respect of such provisions or water.

109. (1) In either of the following cases (that is to say)—

(a) if during a voyage in a British ship the allowance of any of the provisions for which a seaman has stipulated by his agreement is reduced *except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore; or*

Cf. 1894, s. 205.

57 & 58  
Vict., c. 60.

[Act I of 1859, s. 65; Bill of 1867, s. 178; Bill of 1882, s. 78.] Cf. 1894, s. 198 (4).

[Act I of 1859, s. 71; Bill of 1867, s. 184; Bill of 1882, s. 84.]

[Act I of 1859, s. 64; Bill of 1867, s. 177; Bill of 1882, s. 77.] Cf. 1894, s. 198 (1), (2), (3).

[Act I of 1859, s. 66; Bill of 1867, s. 179; Bill of 1882, s. 79.] Cf. 1894, s. 199.

(b) if it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

the seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say)—

(i) if his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding four annas *per diem* in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna *per diem* in the case of a lascar or other native seaman :

(ii) if his allowance is reduced by more than one-third of such quantity, eight annas *per diem* in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas *per diem* in the case of a lascar or other native seaman :

(iii) in respect of such bad quality as aforesaid, a sum not exceeding twelve annas *per diem* in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas *per diem* in the case of a lascar or other native seaman :

Provided that, if it is shown to the satisfaction of the Court or Magistrate trying the case that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in place thereof, the Court or Magistrate shall take such circumstances into consideration, and shall modify or refuse the compensation payable under this sub-section, as the justice of the case may require.

(2) *The Court or Magistrate trying the case may, before making an order awarding compensation under sub-section (1), require the Superintendent of the Mercantile Marine Office, or any other officer appointed by the Local Government in this behalf, to inspect any provisions which are alleged to be bad in quality and unfit for use, and to report to such Court or Magistrate the result of such inspection.*

110. (1) All foreign-going British ships, all home-trade British ships carrying passengers, and all home-trade British ships of eighty tons or upwards registered tonnage not carrying passengers, shall have always on board a sufficient supply of medicines, medical stores, disinfectants and medical appliances suitable for diseases and accidents likely to happen on sea voyages, according to such scale or scales

as may be fixed by the Governor General in Council and published in the Gazette of India.

(2) If in any ship medicines, medical stores, disinfectants or medical appliances are not provided or kept on board as required by sub-section (1), the owner or master of the ship shall be deemed to be in fault and shall be liable to fine which may extend to two hundred rupees, unless he can prove that the non-compliance with the said requirements was not caused by any inattention, neglect or wilful default on his part; and, if it is proved that some person other than the owner or master is in fault, such person shall be liable to fine which may extend to two hundred rupees.

(3) Nothing in this section shall apply to ships navigating from the United Kingdom and complying with the provisions of section 200 of the Merchant Shipping Act, 1894.

111. (1) The master of every British ship shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out to the crew, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises in regard to such quantities.

(2) If the master fails without reasonable cause to comply with sub-section (1), he shall be liable to fine which may extend to one hundred rupees.

112 (1) Every place in any British ship which is occupied by seamen or apprentices engaged under this Act and appropriated to their use shall have,—

(a) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of seventy-two cubic and twelve superficial feet, and

(b) for each lascar or other native seaman or person shipped on the same footing as a lascar, a space of thirty-six cubic and six superficial feet,

measured on the deck or floor of such place.

(2) Every such place shall be so constructed as to make the space aforesaid available for the proper accommodation of the seamen or apprentices who are to occupy it, and shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea and, as far as practicable, properly shut off and protected from effluvia which may be caused by cargo or bilge-water.

(3) No place under the top-gallant forecastle shall be occupied by or appropriated to the use of any lascar or other native seaman or person shipped on the same footing as a lascar unless

57 & 58  
Vict.,  
c. 60.

[Act I of 1859, s. 68; Bill of 1867, s. 181; Bill of 1882, s. 81.] Cf. 1894, s. 201.

[Act I of 1859, s. 70 (am. by Act XIII of 1876, s. 9); Bill of 1867, s. 183; Bill of 1882, s. 83.] Cf. 1894, s. 210.

[Act I of 1859, s. 67 (rep. in part by Act XII of 1876); Bill of 1867, s. 180; Bill of 1882, s. 80.] Cf. 1894, s. 200.

Medicines, medical stores, disinfectants and medical appliances to be provided and kept on board certain ships.

(Part III.—Masters, Seamen and Apprentices.—Chapter XIII.—Provisions, Health and Accommodation.—Sections 113-114.)

the fore-castle deck is not less than five feet six inches above the deck immediately below it.

(4) Every place referred to in sub-section (1) shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage, and if any such place is not so kept free the master shall forfeit and pay to each seaman or apprentice lodged in that place the sum of eight annas for each day during which, after complaint has been made to him by any two or more of the seamen so lodged, it is not so kept free.

(5) If in any other respect the provisions of this section are not observed with respect to any such place, the owner of the ship shall for each offence be liable to fine which may extend to two hundred rupees.

113. The Superintendent or Deputy Superintendent of the Mercantile Marine Office, or any officer appointed for the purpose by the Local Government, at any port

in British India, may enter at any time on board of any British ship upon which seamen or apprentices have been shipped at such port, and inspect the medicines, medical stores, disinfectants and medical appliances, and the accommodation for seamen or apprentices, prescribed by or under this Act or the Merchant Shipping Act, 1894.

114. (1) The following expenses in respect of the illness or burial of the master or any seaman or apprentice of any British ship registered in British India shall be defrayed by the owner of the ship, without any deduction on that account from the wages of the master, seaman or apprentice:—

- (a) when any such master, seaman or apprentice receives any hurt or injury in the service of the ship—the expenses of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, until he is cured, or is brought back to the port from which he was shipped or other port agreed upon, and the expenses of his conveyance to such port, and in case of death the expenses (if any) of his burial;
- (b) when any such master, seaman or apprentice is, on account of illness, temporarily removed from the ship for the

purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty—the expenses of such removal, and of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, while away from the ship;

- (c) when any such master, seaman or apprentice is ill otherwise than as mentioned in clause (a)—the expenses of all medicines and surgical or medical advice and attendance given to him while on board his ship:

Provided that where a seaman or apprentice is during any period, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for that period.

(2) Whenever it is shown that any seaman or apprentice of any British ship registered in British India is ill and has, through the neglect of the owner or master, not been provided with proper food or water according to his agreement, or with such medicines, medical stores, medical appliances, anti-scorbutics or accommodation as are required by or under this Act or the Merchant Shipping Act, 1894, as the case may be, then, unless it can be shown that the illness has been produced by other causes,

the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months' wages), either by the seaman or apprentice himself or on his behalf by—

- (a) any Local Government or Superintendent of a Mercantile Marine Office in British India, or
- (b) any officer authorised in that behalf by the Government of any other British Possession, or
- (c) any British Consular officer.
- (3) Nothing in sub-section (2) shall affect—
- (a) any further liability to which any owner or master is subject in respect of such neglect as aforesaid, or
- (b) any remedy which any seaman or apprentice would have but for that sub-section.
- (4) In cases not provided for by sub-section (1) or sub-section (2), any reasonable expenses

[Act I of 1859, s. 71; Bill of 1867, s. 184; Bill of 1882, s. 84.] Cf. 1894, s. 202.

57 & 58 Vict., c. 60.

57 & 58 Vict., c. 60.

[Act I of 1859, s. 69; Bill of 1867, s. 182; Bill of 1882, s. 82.] Cf. 1894, ss. 160, 207.

[Bill of 1867, s. 180, last clause.]

(Part III.—Masters, Seamen and Apprentices.—Chapter XIV.—Complaints by Seamen and Apprentices.—Section 115.—Chapter XV.—Protection of Seamen and Apprentices from Imposition.—Sections 116-119.)

duly incurred by the owner of a British ship registered in British India—

(a) for a master or seaman in respect of illness, or

(b) in respect of the burial of a master, seaman or apprentice dying while on service,

shall, if duly proved, be deducted from the wages of such master, seaman or apprentice.

(5) Where any expenses referred to in sub-section (1) have been paid by the master, seaman or apprentice himself, or where any expenses are payable under sub-section (2), the same may be recovered as if they were wages duly earned; and, if any such expenses are paid or allowed out of any moneys forming part of the revenues of India, the amount shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State for India in Council.

CHAPTER XIV.

COMPLAINTS BY SEAMEN AND APPRENTICES.

115. (1) If any seaman or apprentice, while on board any British ship, states to the master that he desires to make complaint to a Magistrate or a Superintendent of a Mercantile Marine Office against the master or any member of the crew, the master shall,

if the ship is then at a place where there is a Magistrate or a Superintendent of a Mercantile Marine Office, so soon as the service of the ship will permit, or, if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit,

allow such seaman or apprentice to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint.

(2) If the master fails without reasonable cause to comply with sub-section (1), he shall be liable to fine which may extend to one hundred rupees.

CHAPTER XV.

PROTECTION OF SEAMEN AND APPRENTICES FROM IMPOSITION.

116. (1) No wages due or accruing to any seaman or apprentice of a British ship shall be subject to attachment by order of any Court.

(2) Every payment of wages to a seaman or apprentice of a British ship shall be valid in law, notwithstanding any previous sale or assignment of such wages or any encumbrance thereon.

(3) No assignment or sale of wages or salvage made by a seaman or apprentice of a British ship prior to the accruing thereof shall bind the person making the same, and no power-of-attorney or authority for the receipt of wages or salvage due or accruing to such a seaman or apprentice shall be irrevocable.

(4) Nothing in this section shall affect the provisions of this Act with respect to allotment-notes.

117. No debt exceeding in amount three rupees, incurred by any seaman of a British ship after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

118. If any person demands or receives from any seaman or apprentice of a British ship payment in respect of his board or lodging in the house of such person for a longer period than that during which the seaman or apprentice has actually boarded or lodged therein, he shall for each offence be liable to fine which may extend to one hundred rupees.

119. (1) If any person receives or takes into his possession or under his control any moneys or effects of any seaman or apprentice of a British ship, and does not return the same or pay the value thereof when so required by the seaman or apprentice, subject to the deduction of any sum which may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds with any such moneys or effects, he shall for each offence be liable to fine which may extend to one hundred rupees.

(2) Any Magistrate imposing a fine under sub-section (1) may direct the amount or value of such moneys or effects as aforesaid, subject to such deduction as aforesaid, to be forthwith paid to the seaman or apprentice.

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XV.—Protection of Seamen and Apprentices from Imposition.—Sections 120-121. Chapter XVI.—Discipline.—Sections 122-124.)

[Act I of 1859, s. 77; Bill of 1867, s. 191; Bill of 1882, s. 90.] Cf. 1894, s. 215.

120. Where a British ship is about to arrive is arriving or has arrived at the end of her voyage, every person, not being in Her Majesty's service or not being duly authorised by law for the purpose, who—

(a) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens), or,

(b) being on board the ship, remains there after being warned to leave by the master, or by a police-officer or by an officer of sea customs,

shall for each offence be liable to fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to six months; and the master of the ship may take him into custody, and deliver him up forthwith to a police-officer to be taken before a Court or Magistrate capable of taking cognizance of the offence and dealt with according to law.

[Act I of 1859, s. 78; Bill of 1867, s. 192; Bill of 1882, s. 91.] Cf. 1894, s. 217.

121. If, within twenty-four hours after the arrival of any British ship at any port in British India, any person then being on board the ship solicits any seaman or apprentice to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of any seaman or apprentice, except under the personal direction of the seaman or apprentice and with the permission of the master, he shall be liable to fine which may extend to fifty rupees.

CHAPTER XVI.

DISCIPLINE.

[Act I of 1859, s. 80; Act V of 1883, s. 4 (2); Act XVI of 1891; Bill of 1867, ss. 194, 201; Bill of 1882, s. 107.] Cf. 1894, s. 472.

122. Any Colonial Court of Admiralty in British India, or the principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty, may,

upon application by the owner, a part owner, the agent of the owner, the consignee, any certificated mate, or one-third or more of the

members of the crew, of any British ship being within the jurisdiction of the Court, and upon proof on oath to the satisfaction of the Court that the removal of the master of the ship is necessary, remove him accordingly; and

may, with the consent of the owner or his agent, or the consignee of the ship, or, if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead; and

may make such order, and require such security, in respect of costs in the matter, as it may think fit.

123. (1) If, during the progress of a voyage, the master of any British ship registered in British India is removed or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default be liable to fine which may extend to one thousand rupees.

[Act I of 1859, s. 99; Bill of 1867, s. 218; Bill of 1882, s. 127.] Cf. 1894, s. 258.

On change of master, documents to be handed over to successor.

(2) Such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

124. If any master, seaman or apprentice of a British ship, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness,—

[Act I of 1859, s. 79 (am. by Act V of 1883, s. 36); Bill of 1867, s. 193; Bill of 1882, s. 106.] Cf. 1894, s. 220.

(a) does any act tending to the immediate loss, destruction or serious damage of the ship, or tending immediately to endanger the life or limb of any person belonging to or on board of the ship, or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of the ship from immediate danger to life or limb,

he shall be liable to fine which may extend to one thousand rupees, or to imprisonment for a term which may extend to two years, or to both.



(Part III.—Masters, Seamen and Apprentices.—Chapter XVI.—Discipline.—Sections 125-126.)

125. Whenever any seaman of a British ship who has been lawfully engaged, or any apprentice of a British ship, commits any of the following offences, he shall, notwithstanding anything in Chapter XXII of the Code of Criminal Procedure, 1882, be liable to be tried in a summary way and to be punished as follows (that is to say)—

(1) for desertion he shall be liable—

(a) to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned, and also

(b) if the desertion takes place at any place not in British India, at the discretion of the Court, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to a port in British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also

(c) except in the United Kingdom, to imprisonment for any period not exceeding twelve weeks, with or without hard labour;

(2) for neglecting or refusing, without reasonable cause, to join his ship or proceed to sea in his ship, or

Failing to join ship, or absence without leave.

for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or

for absence at any time without leave and without sufficient reason from his ship or from his duty, where such absence does not amount to desertion or is not treated as such by the master,

he shall be liable to forfeit out of his wages a sum not exceeding two days' pay, and, in addition, for every twenty-four hours of absence, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute, and shall also, except in the United Kingdom, be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour;

(3) for quitting his ship without leave after leaving without her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

(4) for wilful disobedience to any lawful command he shall be liable to imprisonment for a

Disobedience.

term which may extend to four weeks, and shall also be liable, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay:

(5) for continued wilful disobedience to lawful commands, or continued neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable, at the discretion of the Court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute:

(6) for assaulting the master or any mate or certificated engineer of his ship, he shall be liable to imprisonment for a term which may extend to twelve weeks:

Assault on officer.

(7) for combining with any other member or members of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks:

(8) for wilfully damaging his ship, or committing theft or criminal misappropriation in respect of, or wilfully damaging, any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for a term which may extend to twelve weeks:

Wilful damage, theft or criminal misappropriation.

(9) for any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the owner or master, he shall be liable to pay to the owner or master such sum as is sufficient to make good such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Act of smuggling, causing loss or damage to owner or master.

126. Nothing in section 125 shall be deemed to take away or limit any remedy which an owner or master would have but for that section for any breach of contract in respect of matters constituting an offence against that section; but no owner or master shall be compensated more than once in respect of the same damage.

Section 125 not to take away remedy for breach of contract.

Cl. 1894, s. 220.

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XVI.—Discipline.—  
Sections 127-130.)

[Act I of 1859, s. 84; Bill of 1867, s. 203; Bill of 1882, s. 109] Cf. 1894, s. 228.

127. (r) Upon the commission of any offence mentioned in section 125, Entry of offences and acts of misconduct in or if any act of misconduct is committed for which under the offender's agreement a fine may be imposed and it is intended to enforce the fine, the master shall make, or cause to be made, an entry thereof in the official log (if any), and such entry shall be signed by the master and also by the mate or some other member of the crew.

(2) The offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he may think fit.

(3) A statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid.

(4) In any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the Court hearing the case may, at its discretion, refuse to receive evidence of the offence or act of misconduct.

[Act I of 1859, s. 95; Bill of 1867, s. 214; Bill of 1882, s. 123.] Cf. 1894, s. 227.

128. (r) If any seaman of a British ship, on or before being engaged, wilfully and fraudulently makes a false statement as to the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement as to his own name, he shall be liable to fine which may extend to fifty rupees.

(2) Such fine may be deducted from any wages which the seaman may earn by virtue of such engagement as aforesaid, and may be applied in whole or in part in reimbursement of the loss and expenses (if any) occasioned by any previous desertion.

[Act I of 1859, ss. 86, 87; Bill of 1867, ss. 205, 206; Bill of 1882, ss. 111, 112.] Cf. 1894, ss. 222, 223, 224.

129. (r) Whenever, either at the commencement or during the progress of a voyage, any seaman or apprentice deserts from, or neglects or refuses to join or proceed to sea in, any British ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave,

if such desertion or absence takes place in British India, the master or any mate, or the owner, ship's husband or consignee may, with or without the assistance of police-officers, who are hereby directed to give the same if required, convey him on board:

Provided that, if the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter, to be dealt with according to law,

(2) If such desertion or absence takes place out of British India, the master, any mate, the owner, ship's husband or consignee may, in any place in Her Majesty's dominions out of British India, with or without the assistance of the local police-officers or constables, and also at any place out of Her Majesty's dominions, if and so far as the laws in force at that place will permit, arrest him without first procuring a warrant.

(3) Any person so arresting a seaman or apprentice may in any case, and shall in case the seaman or apprentice so requires and it is practicable, convey him before some Court or Magistrate having jurisdiction in the matter to be dealt with according to law, and for that purpose may detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary; but if the seaman or apprentice does not require to be so taken before a Court, or if there is no Court or Magistrate at or near the place capable of taking cognizance of the matter, the person arresting him may at once convey him on board his ship.

(4) If any master, mate, owner, ship's husband or consignee—

(a) conveys a seaman or apprentice on board without first complying with any requisition made by him to be taken before a Court as aforesaid, or

(b) conveys a seaman or apprentice on board, or takes him before a Court, on grounds which appear to the Court to be improper or insufficient,

he shall be liable to fine which may extend to two hundred rupees; but such fine, if inflicted, shall be a bar to any suit for false imprisonment in respect of that arrest.

(5) Whenever any seaman or apprentice is brought before any Court on the ground of his having deserted from, or neglected or refused to join or proceed to sea in, any British ship in which he is engaged to serve, or of having otherwise absenting himself therefrom without leave,

the Court may, if the master or the owner or his agent so requires, cause the seaman or apprentice to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by him so conveyed, and

may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the seaman or apprentice, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

130. (r) Whenever in any proceeding against any seaman or apprentice

Survey of ship alleged by seamen to be unseaworthy or to have insufficient accommodation

belonging to a British ship for the offence of desertion or absence without leave or for otherwise being

Cf. 1894, s. 403.

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XVI.—Discipline.—  
Sections 131-133.)

absent from his ship without leave, it is alleged by one-fourth, or, if their number exceeds twenty, by not less than five, of the seamen belonging to the ship, that the ship is, by reason of unseaworthiness, overloading, improper loading or defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the Court having cognizance of the case shall take such means as may be in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence it may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.

(2) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.

(3) For the purposes of this section the Court shall require any surveyor of ships appointed under this Act, or, if such a surveyor cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other competent person appointed by the Court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the Court thinks fit to put.

(4) Such surveyor or other person shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court, and the Court shall cause the report to be communicated to the parties; and, unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, shall determine the questions before it in accordance with those opinions.

(5) Any person making a survey under this section shall for the purposes thereof have all the powers of a Superintendent of a Mercantile Marine Office under this Act.

(6) The costs (if any) of the survey shall be determined according to a scale of fees to be fixed by the Local Government, and shall be paid in the first instance out of the general revenues.

(7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to the Government.

(8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the

costs of the survey to the Government, and shall be liable to pay to the seaman or apprentice, who has been detained in consequence of the said proceeding before the Court under this section, such compensation for his detention as the Court may award.

131. (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave.

Report of desertions and absences without leave. Leave from a British ship in which he is engaged to serve, the master of the ship shall, if practicable, within forty-eight hours of discovering such desertion or absence, report the same to the Superintendent of a Mercantile Marine Office or to such other officer (if any) as the Local Government may, by notification in the official Gazette, appoint in this behalf, unless in the meantime the deserter or absentee returns.

(2) Any master wilfully neglecting to comply with sub-section (1) shall be liable to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

132. (1) Whenever a seaman or apprentice shipped in British India on a British ship registered in British India deserts therefrom while the ship is out of British India, the master shall produce the entry in the official log (if any) of such desertion to the person or persons required or authorised by section 188 of the Merchant Shipping Act, 1894, to endorse on the agreement a certificate of such desertion.

Entries and certificates of desertion abroad to be copied, sent to British India and admitted in evidence. British India deserts therefrom while the ship is out of British India, the master shall produce the entry in the official log (if any) of such desertion to the person or persons required or authorised by section 188 of the Merchant Shipping Act, 1894, to endorse on the agreement a certificate of such desertion.

(2) Such person or persons shall thereupon make and certify a copy of such entry and a copy of the said certificate of desertion.

(3) The master shall forthwith transmit such copies to the Superintendent of the Mercantile Marine Office at the port at which the seaman or apprentice was shipped, and the Superintendent shall, if required, cause the same to be produced in any legal proceeding.

(4) Such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be admissible in evidence.

133. (1) Whenever a question arises whether the wages of any seaman or apprentice of a British ship are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that the seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or, if the voyage was to terminate at any port in British India, and the ship has not returned to British India, that he is absent from her, and that an entry of the desertion has been duly made in the official log (if any).

Facilities for proving desertion so far as concerns forfeiture of wages. man or apprentice of a British ship are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that the seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or, if the voyage was to terminate at any port in British India, and the ship has not returned to British India, that he is absent from her, and that an entry of the desertion has been duly made in the official log (if any).

(2) Thereupon the desertion shall, so far as relates to any forfeiture of wages under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can

produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reason for leaving his ship.

[Act I of 1859, s. 92; Bill of 1867, s. 211; Bill of 1882, s. 120. Cf. 1894, s. 234.]

134. (1) Where a seaman of a British ship contracts for wages by the voyage or by the run or by the share, and not by the month or any other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

[Act I of 1859, s. 94; Bill of 1867, s. 213; Bill of 1882, s. 122. Cf. 1894, s. 233.]

135. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice of a British ship may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

136. (1) All wages and effects which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied in the first instance in or towards the re-imbursment of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the Court may order the same to be paid accordingly; and, subject to such re-imbursment, the same shall be paid into the public treasury and carried to the account of the Government.

(2) In all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

[Act I of 1859, s. 91; Bill of 1867, s. 210; Bill of 1882, s. 119. Cf. 1894, s. 232.]

137. Whenever, in any proceeding relating to a seaman's or apprentice's wages, it is shown that any seaman or apprentice of a British ship has in the course of the voyage been convicted

Power to deduct from wages costs of procuring conviction.

of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman or apprentice, not exceeding thirty rupees, to be applied in re-imbursing any costs properly incurred by the master in procuring such conviction and punishment.

138. (1) (a) If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in, any British ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of having committed any other breach of discipline, or

(b) if any seaman or apprentice of a British ship who was not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end the services of such seaman or apprentice are required on board his ship.

any Magistrate may, at the request of the master or of the owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by him so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

(2) The officer in charge of the jail in which such seaman or apprentice is confined shall obey all orders given by a Magistrate under this section.

139. (1) If any seaman or apprentice of a British ship, who was not shipped in British India, is imprisoned, on complaint made by or on behalf of the master or owner of the ship, for any offence for which he has been sentenced to imprisonment for a term not exceeding one month in the case of a seaman or six months in the case of an apprentice, then—

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(b) the Local Government, or such officer as it may appoint in this behalf, may tender such seaman or apprentice to the master or owner of the ship, and if such

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner. [Act XIII of 1876, s. 8 (am. by Act XII of 1891); Bill of 1882, s. 116.]

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XVI.—Discipline.—

Sections 140-142.)

master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local Mercantile Marine Office—

(i) the wages due to such seaman or apprentice, and his moury and effects, and

(ii) such sum as may in the opinion of the Local Government or such officer as aforesaid be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

(2) Whoever wilfully disobeys the prohibition contained in clause (a) of sub-section (1) shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when required under clause (b) of sub-section (1) so to do shall be liable to fine which may extend to five hundred rupees, and, in default of payment of such fine, to imprisonment for a term which may extend to three months.

140. (1) Every fine imposed on a seaman of a British ship for any act of misconduct for which under his agreement a fine may be imposed shall be deducted and paid over as follows (that is to say),—

(a) if the offender is discharged at any port in British India,

and the offence, and the entries in respect thereof required by section 127, are proved, in the case of a foreign-going ship, to the satisfaction of the Superintendent of a Mercantile Marine Office before whom the offender is discharged, and, in the case of a home-trade ship, to the satisfaction of the Superintendent of the Mercantile Marine Office at or nearest to the place at which the crew is discharged,

the master or owner shall deduct the fine from the wages of the offender and pay the same over to such Superintendent:

(b) if, before the final discharge of the crew in British India, the offender enters into any of Her Majesty's ships or is

discharged at any place not in British India,

and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs or other person by whose sanction he is so discharged,

the master or owner shall deduct the fine from the wages of the offender, and the master shall make or cause to be made an entry of such deduction in the official log (if any), and such entry shall be signed by such officer or other person as aforesaid, and on the return of the ship to British India the master or owner shall pay over the fine, in the case of a foreign-going ship, to the Superintendent of a Mercantile Marine Office before whom the crew is discharged, and in the case of a home-trade ship to the Superintendent of the Mercantile Marine Office at or nearest to the place at which the crew is discharged.

(2) If any master or owner fails without reasonable cause to pay over any fine to a Superintendent of a Mercantile Marine Office as required by sub-section (1), he shall be liable to fine which may extend to six times the amount of the fine retained by him.

(3) No act of misconduct for which a fine has been deducted under sub-section (1) shall be otherwise punished under the provisions of this Act.

141. (1) If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship or otherwise to absent himself from his duty he shall for each offence in respect of each seaman or apprentice be liable to fine which may extend to fifty rupees.

(2) If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join, or has deserted from, his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to fine which may extend to two hundred rupees.

142. Any person who secretes himself and goes to sea in any British ship without the consent of the master or owner or some other person entitled to give such consent shall be liable to fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks,

[Act I of 1859, s. 96; Bill of 1867, s. 215; Bill of 1882, s. 124.] Cf. 1894, s. 235.

Recovery of fines levied under agreement.

Penalty for enticing to desert or harbouring deserter. *persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship or otherwise to absent himself from his duty he shall for each offence in respect of each seaman or apprentice be liable to fine which may extend to fifty rupees.*

(2) If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join, or has deserted from, his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to fine which may extend to two hundred rupees.

142. Any person who secretes himself and goes to sea in any British ship without the consent of the master or owner or some other person entitled to give such consent shall be liable to fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks,

[Act XIII of 1856, s. 54; Act I of 1859, s. 97; Ben. Act IV of 1866, s. 42; Mad. Act III of 1888, s. 70; Bill of 1867, s. 216; Bill of 1882, s. 125.] Cf. 1894, s. 236.

[Act I of 1859, s. 98; Bill of 1867, s. 217; Bill of 1882, s. 126.] Cf. 1894, s. 237 (1).

(Part III.—Masters, Seamen and Apprentices.—Chapter XVI.—Discipline.—Section 143. Chapter XVII.—Leaving Seamen or Apprentices in British India.—Sections 144-145.)

143. Every seafaring person whom the master of a British ship is, under the authority of this Act or any other law, compelled to take on board and convey, and every person who goes to sea in a British ship without the consent of the master or owner or some other person entitled to give such consent,

shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

CHAPTER XVII.

LEAVING SEAMEN OR APPRENTICES IN BRITISH INDIA.

144. (1) Whenever a British ship, other than a home-trade ship of less than eighty tons registered tonnage, is transferred or disposed of at any port in British India, and any seaman or apprentice belonging to the ship does not, in the presence of the Superintendent of the Mercantile Marine Office, signify his consent in writing to complete the voyage if continued, the master—

shall give to each such seaman or apprentice a certificate of discharge, in the form mentioned in section 81, and,

where a certificated mate or engineer whose certificate has been delivered to and retained by the master is so discharged, shall return such certificate, and

shall, besides paying the wages to which such seaman or apprentice is entitled, either—

- (a) provide him with adequate employment on board some other British ship bound to the port in Her Majesty's dominions at which he was originally shipped, or to such other port in Her Majesty's dominions as may be agreed to by him, or
- (b) provide the means of sending him back to such a port, or
- (c) provide him with a passage home, or
- (d) deposit with such Superintendent as aforesaid such a sum of money as may

by such Superintendent be deemed sufficient to defray the expenses of his subsistence and passage home.

(2) Such Superintendent shall indorse upon the agreement of the ship which the seaman or apprentice is leaving the particulars of every such payment, provision or deposit.

(3) If any master of a British ship fails without reasonable cause to comply with the requirements of this section in respect of any seaman or apprentice, the expenses of the subsistence of the seaman or apprentice and of his passage home shall, unless the seaman or apprentice has been guilty of barratry, be recoverable as follows, that is to say:—

(i) if such expenses are defrayed by such Superintendent as aforesaid, they shall be a charge upon the ship and upon the owner for the time being thereof, and may be recovered from such owner, with costs, as a debt due to the Secretary of State for India in Council, either by ordinary process of law, or in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages;

(ii) if such expenses are defrayed by the seaman or apprentice himself, they may be recovered as wages due to him.

145. (1) No seaman or apprentice of a British ship who was not shipped in British India—

(a) shall be discharged at any port in British India without the previous sanction in writing of the Superintendent of the Mercantile Marine Office, or

(b) shall be left behind at any place in British India without a certificate in writing previously obtained from some Superintendent of a Mercantile Marine Office and indorsed on the agreement with the crew, stating the fact and whether the cause thereof is unfitness or inability to proceed to sea, desertion or disappearance.

(2) Such sanction or certificate shall be given or withheld at the discretion of the Superintendent; but, whenever it is withheld, the reasons for withholding it shall be recorded by him in writing.

(3) The Superintendent to whom any application for a certificate is made under

[Act I of 1859, s. 85; Bill of 1867, s. 204; Bill of 1882, s. 110.] Cf. 1894, s. 237 (2).

[Bill of 1867, s. 148.] Cf. 1894, s. 186.

Discharge of seamen or apprentices on disposal of ship in British India, and procedure thereupon.

[Act XIII of 1876, s. 4; Bill of 1867, ss. 149, 158; Bill of 1882, s. 58.] Cf. 1894, s. 188.

(Part III.—Masters, Seamen and Apprentices.—Chapter XVII.—Leaving Seamen or Apprentices in British India.—Sections 146-147.—Chapter XVIII.—Distressed Seamen and Apprentices.

sub-section (1) shall enquire in a summary way into any allegation of unfitness, inability, desertion or disappearance as aforesaid, and may for that purpose, if he thinks fit so to do, administer oaths.

(4) Any person discharging or leaving behind a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1) shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

146. Upon the trial of any proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of section 145, it shall lie upon such person either to produce the sanction or certificate, as the case may be, required by that section, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

147. (1) The master of every British ship who leaves any seaman or apprentice on shore at any place in British India under a certificate of his unfitness or inability to proceed to sea shall deliver to the Superintendent of the Mercantile Marine Office by whom such certificate is granted a full and true account of the wages due to such seaman or apprentice, and shall pay such wages to the Superintendent of the Mercantile Marine Office either in money or by a bill drawn upon the owner:

Provided that, whenever it is practicable so to do, such payment shall be made in money and not by bill.

(2) Whenever a bill is so drawn, such Superintendent shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's or apprentice's wages,

and shall indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the Board of Trade may require, upon the agreement of the ship.

(3) Where a bill is so drawn, the owner of the ship shall be liable to pay the amount of the same to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon any such bill to prove that the master had authority to draw the same.

(4) Any bill produced out of the custody of a Superintendent of a Mercantile Marine Office

and purporting to be drawn in pursuance of this section, and to be indorsed as herein required, and

any indorsement on any such bill purporting to be made in pursuance of this section, and to be signed by the Superintendent of a Mercantile Marine Office,

shall be admissible in evidence.

(5) If a master fails without reasonable cause to deliver an account of wages, or to pay any wages, as required by sub-section (1), he shall be liable to fine which may extend to one hundred rupees; and if he delivers a false account of such wages he shall be liable to fine which may extend to two hundred rupees; without prejudice in either case to his liability to pay the said wages.

CHAPTER XVIII.

DISTRESSED SEAMEN AND APPRENTICES.

148. In this chapter "local authority" means such person as the Local Government may, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Chapter.

149. Subject to any rules made under section 157, the local authority may provide for the relief of distressed seamen and apprentices at British Indian ports. [Act VII of 1880, s. 54; Bill of 1882, s. 92.]

(a) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any ship belonging to or in the service of Her Majesty or the Government of India, or who have been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign Prince or State, or to the subject of any foreign Prince or State, and who are in distress in any such place; and

(b) of all seamen and apprentices, not being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and who are in distress in any such place,

[Bill of 1867, s. 150.]  
Cf. 1894, s. 188 (4).

[Bill of 1867, ss. 151, 152.]  
Cf. 1894, s. 180.

[Act VII of 1880, s. 54; Bill of 1882, s. 92.]

[Act VII of 1880, s. 55; Bill of 1887, s. 153; Bill of 1882, s. 93.]  
Cf. 1894, s. 191 (1).

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XVIII.—Distressed Seamen and Apprentices.—Sections 150-154.)

until such time as such authority is able to provide them with a passage under the provisions hereinafter contained.

[Act VII of 1880, ss. 56, 57; Bill of 1867, s. 135; Bill of 1882, ss. 94, 95.]  
Cf. 1894, s. 101 (2).

150. (r) Subject as aforesaid, the Local Authority may cause such Distressed seamen and apprentices to be sent home. Seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement and is bound—

- (a) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;
- (b) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British Possession to which they belong (as the case requires); and
- (c) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such seamen or apprentices with a passage in any ship (whether British or foreign) bound as aforesaid.

[Act VII of 1880, s. 58; Bill of 1867, s. 153; Bill of 1882, s. 96.]  
Cf. 1894, s. 191 (3).

151. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section 150 the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

[Act VII of 1880, ss. 59, 60; Bill of 1867, s. 154; Bill of 1882, ss. 97, 98.]  
Cf. 1894, s. 192.

152. (r) The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section 150, not exceeding one for every fifty tons burden, and not exceeding five in any one voyage, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

(2) If the master of any such ship fails without reasonable cause to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of sub-section (r), he shall, for each seaman and apprentice with respect to whom he so fails, be liable to fine which may extend to one thousand rupees.

153. (r) When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum *per diem* as the Governor General in Council may appoint:

[Act VII of 1880, s. 61 Bill of 1882, s. 90.]  
Cf. 1894, s. 192.

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):

- (a) a certificate signed by the Local Authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice and the time when he was received on board; and
- (b) a declaration in writing by such master, stating—
  - (i) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;
  - (ii) the number of men and boys forming the complement of his crew;
  - (iii) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and
  - (iv) every variation (if any) of such number.

(2) The declaration required by clause (b) of sub-section (r) shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a Superintendent of a Mercantile Marine Office or such officer as the Local Government may appoint; and

shall, in other cases, be made and verified in the same manner as declarations made under section 192 of the Merchant Shipping Act, 1894. 57 & 58 Vict., c. 60.

154. (a) If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this Chapter; or

[Act VII of 1880, s. 62; Bill of 1882, s. 100.]  
Cf. 1894, s. 193.



The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XVIII.—Distressed Seamen and Apprentices.—Sections 155-159.)

(b) if any seaman or apprentice, being a Native Indian subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign Prince or State or to the subject of any foreign Prince or State, becomes distressed and is relieved as aforesaid; or

(c) if any seaman or apprentice belonging to any British ship registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

155. (1) All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages.

(2) The Local Government may, by notification in the official Gazette, authorise, either generally or specially, such persons as it may think fit to sue for any such wages and expenses and recover the same.

(3) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (7):

Provided that when any such wages or expenses are due to or in respect of a seaman or apprentice referred to in section 154, clause (c), they may, instead of being recovered by a person authorised under sub-section (2), be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1894, section 193, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

156. In all proceedings under the foregoing provisions of this Chapter, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under the said provisions, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be conclusive proof that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.

157. The Governor General in Council may make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under the foregoing provisions of this Chapter, and generally to carry out the said provisions.

158. (1) Nothing in the foregoing provisions of this Chapter shall apply to seamen or apprentices to whom the provisions of section 191 of the Merchant Shipping Act, 1894, apply.

(2) A certificate signed by a Secretary to the Local Government, or by such other officer as the Local Government may appoint in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections 191, 192 and 193 of the Merchant Shipping Act, 1894, be conclusive proof that such seaman is distressed within the meaning of those sections.

(3) If any master of a British ship refuses without reasonable cause to accept such seaman as a distressed seaman under the provisions of the said sections, he shall, for each seaman with respect to whom he so refuses, be liable to fine which may extend to one thousand rupees.

159. (1) Where any wages or expenses recoverable under section 193 of the Merchant Shipping Act, 1894, are, under that section, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council

[Act VII of 1880, ss. 63, 64, 65; Bill of 1882, ss. 101, 102, 103.] Cf. 1894, s. 193.

1 of 1872.

57 & 58 Vict., c. 60.

[Act VII of 1880, s. 66; Bill of 1882, s. 104.] Cf. 1894, s. 193.

[Act VII of 1880, s. 67; Bill of 1882, s. 105.] Cf. 1894, s. 190.

[Act XIII of 1876, s. 3; Act VII of 1880, s. 54; Bill of 1882, ss. 92, 157.] Cf. 1894, ss. 192, 193, 57 & 58 Vict., c. 60.

57 & 58 Vict., c. 60.

[Act V of 1883, ss. 32, 33; Bill of 1882, s. 71.] Cf. 57 & 58 Vict., c. 60.

may, by notification in the Gazette of India, authorise, either generally or specially, such persons as he may think fit to sue for and recover those wages or expenses in the manner provided in that section.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (7).

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

CHAPTER XIX.

THE OFFICIAL LOG.

160. (1) An official log, in the appropriate form for that ship sanctioned by the Governor General in Council, shall be kept for every British ship registered in British India which is required by section 32 to have a certificated master.

(2) The Governor General in Council shall prescribe forms of official log-books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Act.

(3) The official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or be united therewith: Provided that in the latter case all the entries required by this Act or any other law to be made in the official log be duly made.

161. Every master of a ship for which an official log is required by section 160 shall make or cause to be made in such log entries of the following matters (in addition to all other entries which he is required by this Act or any other law to make therein), that is to say:—

(a) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted:

(b) every offence committed by any member of the crew for which it is intended to take proceedings, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the furnishing of a copy of, or the reading over of, such entry, and concerning the reply (if any) made to the charge, as is required by section 127, sub-sections (2) and (3):

(c) every offence for which punishment is inflicted on board, and the punishment inflicted:

(d) a statement of the conduct, character and qualifications of each member of the crew, or a statement that the master declines to give an opinion on such particulars:

(e) every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any):

(f) every birth taking place on board, with the sex of the child and the names and description of the parents:

(g) every marriage taking place on board, with the names and ages of the parties:

(h) every death taking place on board, with the name, sex, age and description of the deceased and the cause of death:

(i) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof:

(j) the wages due to any seaman who enters Her Majesty's naval service during the voyage:

(k) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom:

(l) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it; and

(m) every collision with any other ship, and the circumstances under which the same occurred.

162. (1) Every entry in such official log shall be made as soon as possible after the event to which it relates, and no entry in respect of an event occurring previously to the arrival of the ship at her final port of discharge shall be made more than twenty-four hours after such arrival.

(2) If any entry is made after the day on which the event to which it relates occurred,

I of 1872.

[Act I of 1859, s. 103; Bill of 1867, s. 219; Bill of 1882, s. 128.] Cf. 1894, s. 239 (1), (2), (3).

[Act I of 1859, s. 105; Bill of 1867, s. 221; Bill of 1882, s. 130.] Cf. 1894, ss. 240, 423.

[Act I of 1859, s. 104; Bill of 1867, s. 220; Bill of 1882, s. 129.] Cf. 1894, s. 239 (4).

The Indian Merchant Shipping Bill, 1896.

(Part III.—Masters, Seamen and Apprentices.—Chapter XIX.—The Official Log.—Sections 163-167. Chapter XX.—Recovery of Fines imposed abroad.—Section 168.)

the dates both of the event and of making the entry shall be shown therein.

163. Every entry in such official log shall be signed by the master and by the mate or some other member of the crew, and also

- (a) every entry of illness, injury, birth or death, by the medical officer of the ship or, if there is no such medical officer, by some other surgeon or medical practitioner (if any) on board ;
- (b) every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, by the mate and by some other member of the crew ;
- (c) every entry of wages due to any seaman who enters Her Majesty's naval service, by the seaman or the officer authorised to receive the seaman into such service.

164. (1) If in any case an official log is not kept as required by this chapter, or if any entry required by this Act to be made by the master or by his direction in such log is not made as required by this Act, or if any entry is not signed by the master as required by this Act, the master shall, if no other penalty is provided by this Act, be liable to fine which may extend to fifty rupees.

(2) Every person who makes or procures to be made or assists in making any entry in an official log kept under this chapter, in respect of any event occurring previously to the arrival of the ship at her final port of discharge, more than twenty-four hours after such arrival, shall be liable to fine which may extend to three hundred rupees.

(3) Every person who wilfully destroys, mutilates or renders illegible any entry in, or wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in, any such official log shall be liable to imprisonment for a term which may extend to one year.

165. All entries made in any such official log in pursuance of this Act or any other law shall, if signed as thereby required, be admissible in evidence.

166. (1) The master of every foreign-going British ship, whether registered in British India or not, shall, within forty-eight hours after the ship's arrival at her final port of destination if in British India, or upon the discharge of the crew, whichever first happens, deliver to the Superintendent of a Mercantile Marine Office before whom the crew is discharged the official log of the voyage.

(2) The master or owner of every home-trade British ship, whether registered in British India or not, which is required by section 32 to have a certificated master shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some Superintendent of a Mercantile Marine Office in British India the official log for the preceding half-year.

(3) Every master or owner who fails without reasonable cause to deliver or transmit an official log as required by this section shall be liable to fine which may extend to one hundred rupees.

167. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required at the same date, the master or owner of the ship shall, if the ship is then in British India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the Superintendent at the port to which the ship belonged the official log-book (if any) duly made out to the time of the cessation.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent at the port to which the ship belonged the official log book (if any) duly made out to the time of the loss or abandonment.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to fine which may extend to one hundred rupees.

CHAPTER XX.

RECOVERY OF FINES IMPOSED ABROAD.

168. Where any person, being the owner or master or a member of the crew of a British ship, is tried under this Part at any place in Her Majesty's dominions beyond British India for an offence for which a fine may be imposed, any fine so imposed shall be recoverable in the currency of such place at the current rate of exchange.

[Act I of 1859, s. 109; Bill of 1867, s. 225; Bill of 1882, s. 134.] Cf. 1894, s. 242.

[Act I of 1859, s. 110; Bill of 1867, s. 226; Bill of 1882, s. 133.] Cf. 1894, s. 243.

[Act VII of 1880, s. 60.]

[Act I of 1859, s. 106; Bill of 1867, s. 22; Bill of 1882, s. 131.] Cf. 1894, s. 239 (4), 238, 239 (5).

[Act I of 1859, s. 107; Bill of 1867, s. 223; Bill of 1882, s. 132.] Cf. 1894, s. 241.

[Act I of 1859, s. 108; Bill of 1867, s. 224; Bill of 1882, s. 133.] Cf. 1894, s. 239 (6).

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS.

CHAPTER XXI.

LIFE-SAVING APPLIANCES.

169. Nothing in this Chapter shall apply

Exemption of certain ships.

(a) any ship which is duly provided with *life-saving* appliances in accordance with rules made by the Board of Trade under the Merchant Shipping Act, 1894, and for the time being in force, or

(b) any ship which is duly provided with boats and other appliances for saving life in accordance with rules made by the Governor General in Council under section 317 and for the time being in force.

170. It shall be the duty of the owner and master of every British ship to see that his ship is provided, in accordance with rules made under this chapter, with such *life-saving* appliances as, having regard to the nature of the service on which the ship is employed and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

171. The Local Government with reference to native coasting-ships and the Governor General in Council with reference to all other British ships may make rules with respect to all or any of the following matters, namely:—

(a) the arranging of ships into classes, having regard to the build, rig and tonnage of the ships, the services in which they are employed, the nature and duration of the voyage, and the number of persons carried;

(b) the number and description of the boats, life-boats, life-rafts, life-jackets and life-buoys to be carried by ships, according to the class in which they are arranged, and the mode of their construction; also the equipments to be carried by the boats and rafts, and the methods (which may include oil for use in stormy weather) to be provided to get the boats and other *life-saving* appliances into the water;

(c) the quantity, quality and description of buoyant apparatus to be carried on board ships carrying passengers, either in addition to or in substitution for boats, life-boats, life-rafts, life-jackets and life-buoys;

(d) the places in which the *life-jackets, life-buoys* or other buoyant apparatus are to be kept so as to ensure their being immediately available for use when required.

172. If any ship required by rules made under section 171 to be provided with *life-saving* appliances proceeds on any voyage or excursion without being so provided, in accordance with the rules applicable to the ship; or if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage through the fault or negligence of the owner or master; or if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured; or if such appliances are not kept so as to be at all times fit and ready for use; then the owner (if in fault) shall be liable to fine which may extend to one thousand rupees, and the master (if in fault) shall for each offence be liable to fine which may extend to five hundred rupees.

173. (1) The Local Government may appoint persons to be surveyors of ships in any port.

(2) Every person so appointed shall, in the port for which he is appointed, have the following powers (that is to say)—

(a) he may go on board any ship and may inspect the same or any part thereof, or any of the boats, equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make; and

(c) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

174. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

175. Every notice so given shall be communicated, in such manner as the Local Government may direct, to the Customs-collector at any port from which such ship may seek to clear; and no officer authorised to grant a port-clearance from such port shall grant the same without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with *life-saving* appliances in pursuance of the said rules.

57 & 58  
Vict., c. 60.

Cf. 1894,  
s. 428.

Cf. 1894,  
s. 427.

Cf. 1894,  
s. 431 (2).

Cf. 1894,  
s. 431 (2).

Cf. 1894,  
s. 431 (2).

CHAPTER XXII.

INSPECTION OF SHIPS WITH REGARD TO LIGHTS AND FOG-SIGNALS.

[Act VII of 1880, ss. 11, 81.]  
 Cf. 1894, ss. 420 (1), (3), 727, 729.  
 57 & 58 Vict., c. 60.

176. (r) The Local Government may appoint persons to be surveyors in any port of ships, whether lights and fog-signals. British or foreign, to which the regulations for the prevention of collisions at sea, made under the Merchant Shipping Act, 1894, section 418, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

(2) Every person so appointed shall, in the port for which he is appointed, have the following powers (that is to say)—

(a) he may go on board any ship and may inspect the same or any part thereof, or any of the equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make; and

(c) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

[Act VII of 1880, s. 82.]  
 Cf. 1894, s. 420 (1).

177. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency and also what is, in his opinion, requisite in order to remedy the same.

[Act VII of 1880, s. 83.]  
 Cf. 1894, s. 420 (2).

178. Every notice so given shall be communicated, in such manner as the Local Government may direct, to the Customs-collector at any port from which such ship may seek to clear; and no officer authorised to grant a port-clearance from such port shall grant the same without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

Cf. 1894, s. 420 (8).

179. Such fees as the Local Government, with the previous sanction of the Governor General in Council, may determine shall be paid in respect of an inspection of lights and fog-signals under this Chapter, not exceeding those specified in Schedule IV.

CHAPTER XXIII.

SURVEY OF STEAM-SHIPS.

180. (r) A British or foreign steam-ship shall not carry more than twelve passengers between ports in British India, and

[Bill of 1867, ss. 235 to 250.]  
 [Act VII of 1884, s. 4.]  
 Cf. 1894, s. 271 (f).

a British steam-ship shall not carry more than twelve passengers to or from any port in British India from or to any place out of British India,

unless she has a certificate of survey under this Chapter in force and applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

(2) Nothing in sub-section (r) shall apply to—

[Act VII of 1884, s. 5 (a), (i), (r)]  
 Cf. 1894, ss. 278 (2), 284.

(a) any steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(b) any steam-ship having a certificate of survey granted under the *Inland Steam-vessels Act, 1884*, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or

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(c) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Chapter expires and the time at which it is first practicable to have the certificate renewed.

181. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that all or any of the provisions of this Chapter shall not apply in the case of any specified class of steam-ships or shall apply to them with such modifications as the Local Government may prescribe.

[Act VII of 1884, s. 25.]

182. (r) The owner or master of a passenger steam-ship shall not receive on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number

[Act VII of 1884, s. 6.]  
 Cf. 1894, s. 283.

allowed by her certificate of survey; and, if he does so, he shall for each offence be liable to fine which may extend to two hundred rupees, and also to an additional fine which may extend to three rupees for every passenger above the number so allowed, or, if the fare of any passenger on board exceeds three rupees, to double the amount of the fares of all the passengers above the number so allowed, reckoned at the highest rate of fare payable by any passenger on board.

(2) If the master or any other officer of any steam-ship on board of which passengers are received in contravention of sub-section (1) is a licensed pilot, he shall be liable to have his license as a pilot suspended for any period, or cancelled, by the Local Government, as the Local Government may see fit to order.

183. No port-clearance shall be granted, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by section 180, until after the production by the owner or master thereof of a certificate under this Chapter in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

184. If any steam-ship for which a certificate of survey is required by section 180 leaves or attempts to leave any port of survey without a certificate, the ship may be detained until she obtains a certificate.

185. The Local Government may appoint so many persons as it may think fit to be surveyors for the purposes of this Chapter at such ports within the territories under its administration as it may appoint to be ports of survey.

186. (1) For the purposes of a survey under this Chapter, any surveyor appointed under this Chapter may, at any reasonable time, go on board any steam-ship, and may inspect the same or any part thereof, or the machinery, equipments or articles on board thereof.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship, and her machinery and equipments, or any part thereof, respectively, as he may reasonably require.

187. Before a survey under this Chapter of hull and equipments or of machinery is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

(a) a fee calculated on the tonnage of the steam-ship according to the rates in

Schedule V, or according to any other prescribed rates; and

(b) when the survey is to be made in any port of survey at which a surveyor has not been appointed under section 185, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Local Government may, by notification in the official Gazette, direct.

188. (1) When a survey of hull and equipments under this Chapter is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely:—

(a) that the hull of the steam-ship is sufficient for the service intended and in good condition;

(b) that the boats, life-buoys, lights, signals, compasses and shelter for deck-passengers are such, and in such condition, as are required by this Act;

(c) the time (if less than one year) for which the hull and equipments will be sufficient;

(d) the limits (if any) beyond which, as regards the hull and equipments, the steam-ship is in the surveyor's judgment not fit to ply;

(e) the number of passengers which the steam-ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; those numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances as the case requires;

(f) that the certificates of the master and mate or mates of the steam-ship are such as are required by this Act; and

(g) any other prescribed particulars.

(2) When a survey of machinery under this Chapter is completed the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master a declaration in the prescribed form containing the following particulars, namely:—

(a) that the machinery of the steam-ship is sufficient for the service intended and in good condition;

(b) the time (if less than one year) for which the machinery will be sufficient;

(c) that the safety-valves and fire-hose are such and in such condition as are required by this Act;

(d) the limit of the weight to be placed on the safety-valves;

[Act VII of 1884, s. 7.]  
Cf. 1894, s. 271 (6).

[Act VII of 1884, s. 8.]  
Cf. 1894, s. 271 (2).

[Act VII of 1884, s. 9 (1).]  
Cf. 1894, s. 274 (1).

[Act VII of 1884, s. 10.]  
Cf. 1894, s. 275.

[Act VII of 1884, s. 10A (inserted by Act III of 1890, s. 15).]  
Cf. 1894, s. 277.

[Act VII of 1884, s. 11.]  
Cf. 1894, s. 272 (2), (3), (4).

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- (e) the limits (if any) beyond which, as regards the machinery, the steam-ship is in the surveyor's judgment not fit to ply;
- (f) that the certificates of the engineers and engine-drivers of the steam-ship are such as are required by this Act; and
- (g) any other prescribed particulars.

189. (1) The owner or master to whom a declaration is given under section 188 shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

(2) If he fails to do so without reasonable excuse, he shall be liable to forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey.

190. (1) Upon receipt of a declaration by the officer appointed in that behalf under section 189, the Local Government shall, if satisfied that the provisions of this Chapter have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sum (if any) mentioned in section 189, sub-section (3), as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Chapter with respect to the survey of the steam-ship as to hull and equipments or as to machinery, as the case may be, and the transmission of the declaration in respect thereof, have been complied with; and shall set forth—

- (a) in case of a survey of hull and equipments, the particulars which clauses (c), (d) and (e) of section 188, sub-section (1), require the declaration by the surveyor to contain;
- (b) in the case of a survey of machinery, the particulars which clauses (b) and (e) of section 188, sub-section (2), require the declaration by the surveyor to contain; and
- (c) any other prescribed particulars.

(3) A certificate granted under this section in respect of hull and equipments shall remain in force only so long as the master or owner is in possession also of a valid certificate as to machinery, and a certificate granted as to machinery shall remain in force only so long as the master or owner is in possession also of a valid certificate as to hull and equipments.

(4) Unless sooner suspended or cancelled under section 193, a certificate granted under this section shall be valid for one year from the date of the declaration on which it is

founded or for the time mentioned in such declaration for which the hull and equipments or the machinery, as the case may be, will be sufficient, whichever is less.

(5) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(6) The Local Government may delegate,—

- (a) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;
- (b) of its own authority, to any person, by name or as holding an office; the function, assigned to the Local Government by sub-section (5), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by a surveyor who gave a declaration of survey under section 188.

191. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Chapter shall forthwith, on the receipt of the certificate, cause one of the duplicates to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) The duplicates of the two certificates required by section 190 to be in force at the same time shall be so affixed under sub-section (1) as to be adjacent to one another.

(3) If the owner or master fails without reasonable cause to comply with sub-section (1) or sub-section (2), he shall for each offence be liable to fine which may extend to one hundred rupees.

(4) If a passenger steam-ship plies or goes to sea with passengers on board and sub-section (1) or sub-section (2) is not complied with, then for each offence the owner thereof shall be liable to fine which may extend to one thousand rupees and the master shall also be liable to fine which may extend to two hundred rupees.

192. (1) No certificate of survey granted under this Chapter shall remain in force after notice of survey has been given by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has suspended or cancelled it.

(2) If a passenger steam-ship is absent from British India at the time when her certificate ceases to be in force, no fine shall be incurred for want of a certificate until she first begins to ply with passengers after her next return to British India.

[Act VII of 1884, s. 12 (rep. in part by Act III of 1890, s. 16). Cf. 1894, s. 273.]

[Act VII of 1884, s. 13 (am. by Act III of 1890, s. 17). Cf. 1894, ss. 274, 276.]

[Act VII of 1884, s. 15]. Cf. 1894, s. 281.

[Act VII of 1884, s. 16]. Cf. 1894, ss. 271 (a), 278 (1).

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[Act VII of 1884, s. 17.]  
Cf. 1894, s. 279 (1).

193. Any certificate of survey granted under this Chapter may be suspended or cancelled by a Local Government if it has reason to believe—

- (a) that any declaration of survey on which the certificate was founded has been in any particular fraudulently or erroneously made; or
- (b) that the certificate has been granted upon false or erroneous information; or
- (c) that, since the making of the declaration, the hull or equipments of the steamship or the machinery thereof, as the case may be, have or has sustained any injury, or have or has otherwise become insufficient.

[Act VII of 1884, s. 18.]  
Cf. 1894, s. 280.

194. (1) The Local Government may require any certificate of survey granted under this Chapter which has expired or has been suspended or cancelled to be delivered up to such person as it may direct.

(2) If the owner or master of any steamship, without reasonable cause, neglects or refuses to deliver up a certificate when required under subsection (1) so to do, he shall be liable to fine which may extend to one hundred rupees.

[Act VII of 1884, s. 19 (am. by Act III of 1890, s. 19).]

195. If the Local Government which suspends or cancels a certificate of survey granted under this Chapter is not the Local Government which or whose delegate granted the certificate, the Local Government suspending or cancelling the certificate shall report the fact of suspension or cancellation, together with the reasons therefor, to the Local Government which or whose delegate granted the certificate.

[Act VII of 1884, s. 20.]  
Cf. 1894, s. 272 (1).

196. A survey under this Chapter shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, shall so direct, either generally in the case of all steamships at any port of survey, or specially in the case of any particular steamship or class of steamships at any such port.

[Act VII of 1884, s. 21 (am. by Act III of 1890, s. 20).]  
Cf. 1894, s. 275.

197. (1) If the surveyor or surveyors making a survey under this Chapter refuses or refuse to give a declaration under section 188 with regard to any steamship, or gives or give a declaration with which the owner or master of the steamship surveyed is dissatisfied, the Local Government may, on the application of the owner or master and the payment by him of such fee, not exceeding twice the amount of the fee for the previous

survey, as the Local Government may require, direct two other surveyors appointed under this Chapter to survey the steamship.

(2) The surveyors so directed shall forthwith survey the steamship, and may, after the survey, either refuse to give a declaration or give such declaration as may under the circumstances seem to them proper; and their decision shall be final.

(3) If the surveyors mentioned in subsection (2) consider that the refusal by the surveyor or surveyors mentioned in subsection (1) to give a declaration under section 188 was unreasonable or capricious, they may recommend the repayment to the owner or master of the fee paid in respect of the previous survey.

[Act VII of 1884, s. 23.]  
Cf. 1894, s. 363.

198. When a foreign steamship requires to be furnished with a certificate of survey under this Chapter, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Chapter are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Chapter: Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894, shall not apply.

57 & 58  
Vict., c. 60.

199. (1) The Local Government may make rules to regulate the making of surveys under this Chapter.

[Act VII of 1884, s. 24 (am. by Act III of 1890, s. 21).]  
Cf. 1894, s. 277, etc.

(2) Rules under this section may, among other matters,—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of surveyors;
- (c) declare the form in which the declarations of surveyors and certificates of survey under this Chapter are to be framed, and the nature of the particulars which are to be stated therein, respectively; and
- (d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.



CHAPTER XXIV.

UNSAFE SHIPS.

Preliminary.

[Act VII of 1880, ss. 3, 43 (am. by Act XVII of 1891, ss. 2, 4.) Cf. 1894, ss. 438(1), 444.

57 & 58 Vict., c. 60.

[Act VII of 1880, s. 2, s. 4 (am. by Act XVII of 1891, s. 3.) Cf. 1894, ss. 437(4), 439, 459(1), 742.

57 & 58 Vict., c. 60.

Exception of certain ships. 200. (1) Nothing in this Chapter shall apply to—

- (a) any home-trade sailing ship of less than one hundred and fifty tons registered tonnage, or
- (b) any home-trade steam-ship of less than eighty tons registered tonnage, or
- (c) any ship employed solely in fishing, or
- (d) any pleasure-yacht.

(2) Sections 232 to 241 (both inclusive) shall not apply to—

- (a) ships registered in the United Kingdom and having deck and load-lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or
- (b) ships registered in a British Possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that Possession, with respect to which enactment such a declaration as is mentioned in section 444 of the Merchant Shipping Act, 1894, has been made by an Order of Her Majesty in Council and is for the time being in force.

(3) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, exclude from, or bring again within, the operation of any of the provisions of sections 232 to 241 (both inclusive), subject to such modifications thereof (if any) as may be specified in the notification, any native coasting-ships.

201. (1) In any provision of this Chapter, "port" includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, by notification in the official Gazette, declare to be included in such port.

(2) A ship is "unsafe" within the meaning of this Chapter—

- (a) when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, or
- (b) when so loaded as to submerge in smooth salt water the centre of the disc placed thereon in pursuance of this Chapter or the Merchant Shipping Act, 1894, or any enactment repealed thereby, and the rules and regulations made thereunder :

Provided that, when a maximum load-line has been fixed by any rule under section 238 for any particular circumstances or any specified season, such line shall, for the purpose of determining whether or not the ship is unsafe within the meaning of this sub-section, be substituted for the centre of the disc under such circumstances or for such season.

(3) For the purpose of determining whether any ship is so loaded as to submerge the centre of the disc in smooth salt water, the ship may, if the owner or master so desires, be taken into a wet basin or dock.

(4) If a ship is so loaded as to be unsafe within the meaning of sub-section (2), it shall be deemed that there is reasonable and probable cause for the detention of the ship.

(5) In this Chapter, "amidships" means the middle of the length of the load water-line as measured from the fore-side of the stem to the aft-side of the stern-post.

Detention of Unsafe Ships.

202. (1) The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship in any port to which it may specially extend this section is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed.

(2) A written statement of the grounds of such detention shall be forthwith served on the master of the ship.

203. When the Local Government provisionally orders the detention of a British ship, it shall forthwith appoint some competent person to survey the ship and report thereon; and, on receiving his report, may, subject to the provisions of section 205, either order the ship to be released or, if in its opinion the ship is unsafe, order her to be finally detained:

Power of Local Government to release or finally detain ship, or refer the matter to Court of Survey.

Provided that the Local Government may, at any time after a ship has been provisionally detained, refer the matter to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

204. An order under section 203 for the final detention of a British ship may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo as the Local Government may think necessary for the protection of human life; and the Local Government may vary or add to any such order :

Provided that, before an order for final detention is so made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against the report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

[Act VII of 1880, s. 7.] Cf. 1894, s. 459(a), (b).

[Act VII of 1880, ss. 8, 10.] Cf. 1894, s. 459 (b), (c), (f).

[Act VII of 1880, s. 8.] Cf. 1894, s. 459(c), (d).

*The Indian Merchant Shipping Bill, 1896.*

*(Part IV.—Safety and Prevention of Accidents.—Chapter XXIV.—Unsafe Ships.—Sections 205-210.)*

205. Where a British ship has been provisionally detained and a person has been appointed under section 203 to survey the ship, the owner or master of the ship, at any time before such person makes the survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors prepared under section 211, sub-section (4), or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

but, if the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is provided in section 204.

206. If the Local Government is of opinion that an appeal under section 204 or section 205 involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

207. The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

208. The referee or referees to whom an appeal is referred under section 206 or section 207 shall have the same powers as a Judge of the Court of Survey.

209. (1) The Local Government may appoint a sufficient number of fit persons as its officers for the purposes of this Chapter.

(2) Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this Chapter, the following powers (that is to say):—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying the ship from discharging, unloading or proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(3) Every detaining-officer shall, in addition to the powers conferred by sub-section (2), have the same power as the Local Government has under sections 202 and 203, respectively, of provisionally ordering the detention of a British ship for the purpose of being surveyed and of appointing a person to survey her; and, if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(4) Every detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

210. For the purposes of the survey of a British ship under this Chapter, any person authorised to survey a ship, or any person authorised to make the same, may go on board the ship and may inspect the same or any part thereof, or the machinery, equipments or cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle.

[Act VII of 1880, s. 9.]  
Cf. 1894, s. 459 (c).

Option to owner or master of appointing assessor to accompany surveyor, and appeal to Court of Survey.

[Act VII of 1880, ss. 11, 12.]  
Cf. 1894, s. 459 (2), (3), (6).

Detaining-officers.

[Act VII of 1880, s. 24.]  
Cf. 1894, s. 490 (1).

Power to appoint referee to hear appeal.

[Act VII of 1880, s. 25.]  
Cf. 1894, s. 490 (2).

Option to appellant to require referee to be appointed.

[Act VII of 1880, s. 26.]  
Cf. 1894, s. 490 (3).

Referee to have powers of Court of Survey.

Powers of person authorised to survey ship.

[Act VII of 1880, s. 49.]  
Cf. 1894, s. 488 (4).

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Sections 211-223,

[Act VII of 1880, ss. 13, 14, 15.]  
Cf. 1894, s. 487 (1), (2), (3).

211. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(3) The assessors shall be persons of nautical, engineering or other special skill and experience.

(4) One of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

[Act VII of 1880, s. 16.]  
Cf. 1894, s. 487 (4).

212. The Judge shall, on receiving notice of an appeal under section 204 or section 205 or a reference under section 208, immediately summon the assessors, in the manner prescribed, to meet forthwith.

213. Every such appeal and reference shall be heard in open Court.

214. The Judge and each assessor shall, for the purposes of this Chapter, have the same powers as are by section 209, subsection (2), conferred on a detaining-officer.

215. The Judge may appoint any competent person to survey the ship and report thereon to the Court.

216. The owner and master of the ship and any person appointed by the owner or master, may attend at inspection or survey. also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section 214 or section 215.

217. The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

[Act VII of 1880, s. 17.]  
Cf. 1894, s. 488 (1).  
[Act VII of 1880, s. 18.]  
Cf. 1894, s. 488 (2).

[Act VII of 1880, s. 19.]  
Cf. 1894, s. 488 (3).

[Act VII of 1880, s. 20.]  
Cf. 1894, s. 488 (6).

[Act VII of 1880, s. 21.]  
Cf. 1894, s. 488 (5).

218. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

219. The Local Government may make rules to carry into effect the provisions of this Chapter with respect to a Court of Survey, and in particular with respect to—

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs under this Chapter.

220. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

221. If a British ship is finally detained under this Chapter, or if it appears that a British ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

222. For the purposes of this Chapter, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.

223. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such

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Government or officer for the costs and compensation which such complainant may become liable to pay under the provisions of section 224 :

Provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Chapter.

224. Where a British ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

225. When under this Chapter a British ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or lieutenant of any of Her Majesty's Indian Government ships, or any port-officer, harbour-master, conservator of a port or officer of customs may detain the ship.

226. If any British ship, after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to fine which may extend to one thousand rupees.

227. (1) If a British ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Chapter to detain or survey the ship, the owner and master of the ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to fine which may extend to one thousand rupees.

(2) When any owner or master is convicted of an offence against this section, the convicting Magistrate may enquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided by law for the recovery of fines.

228. When a British ship has been detained under this Chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

229. The Local Government may at any time, if satisfied that a British ship detained under this Chapter is not unsafe, order her to be released either upon or without any conditions.

230. (1) Where any order, notice, statement or document is required for the purpose of any provision of this Chapter to be served on the master of a British ship, the same shall be served, where there is no master, on the owner of the ship, if he resides in the port where the ship is detained, or if there is no owner residing there, on some agent of the owner residing there; or, where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

(2) Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

231. Where a foreign ship has taken on board all or any part of her cargo at a port in British India, and is while at that port unsafe by reason of overloading or improper loading, all the foregoing provisions of this Chapter with respect to the detention of British ships shall apply to that foreign ship as if she were a British ship, unless such foreign ship if in a port of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

Deck and Load-lines.

232. (1) Every British ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The line shall be white or yellow on a dark ground, or black on a light ground.

233. (1) The master of every British ship shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that is not practicable, as soon after as may be, mark

[Act VII of 1880, s. 31.]  
Cf. 1894, s. 401 (3).

[Act VII of 1880, s. 45.]  
Cf. 1894, s. 492 (1).

[Act VII of 1880, s. 46.]  
Cf. 1894, s. 692 (1).

[Act VII of 1880, s. 47.]  
Cf. 1894, s. 692 2).

[Act VII of 1880, s. 48.]  
Cf. 1894, s. 459 (5).

[Act VII of 1880, s. 44.]  
Cf. 1894, s. 459 (6).

[Act VII of 1880, ss. 51, 52.]  
Cf. 1894, s. 693 (1).

[Act VII of 1880, s. 85 (added by Act XVII of 1891, s. 5).]  
Cf. 1894, ss. 445, 462.

57 & 58  
Vict., c. 60.

[Act VII of 1880, s. 33 (am. by Act XVII of 1891, s. 4).]  
Cf. 1894, s. 437.

[Act VII of 1880, ss. 34, 36 (am. by Act XVII of 1891, s. 4).]  
Cf. 1894, ss. 438 (1), (2), 440 (5), 441 (4).

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outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground or in black on a light ground. a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this chapter or of the Merchant Shipping Act 1894, as may be approved by the Local Government, and shall indicate the maximum load-line in smooth salt-water to which it shall be lawful to load the ship.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

234. (1) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering such statement, the Customs-collector may refuse to enter the ship outwards.

(2) A copy of such statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no Superintendent of a Mercantile Marine Office shall proceed with the engagement of a crew for any such ship until such entry has been made.

(3) The master shall enter, or cause to be entered, a copy of the said statement in the official log (if any).

235. (1) When a ship is employed in the coasting trade she shall be marked as aforesaid before the ship proceeds to sea from any port, and the master shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3) If the master fails without reasonable excuse to send or deliver any notice or statement required by this section to be sent or delivered, he shall be liable to fine which may extend to one thousand rupees.

(4) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

236. (1) The Governor General in Council may, by notification in the Gazette of India, authorise the marking of any ships intended to be employed as home-trade ships or to ply between any ports in British India and any ports or places east of the Cape of Good Hope with maximum load-lines other than the disc mentioned in section 233.

(2) Subject to any rules under this Act for the time being in force in respect thereof, such maximum load-lines when duly marked upon any ship shall for the purposes of this Chapter be respectively substituted for the centre of the disc under the circumstances and for the seasons respectively specified in this behalf by such rules.

237. (1) The positions of the disc mentioned in section 233 and of the maximum load-lines mentioned in section 236 shall respectively be fixed in accordance with the tables used by the Board of Trade at the time of the passing of the Merchant Shipping Act, 1894, subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this chapter or of the Merchant Shipping Act, 1894, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may be sanctioned by the Governor General in Council.

(2) The Local Government shall appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of

57 & 58  
Vict., c. 60.

[Act VII of 1880, s. 35 (am. by Act XVII of 1891, s. 4). Cf. 1894, s. 410 (2), (3), (4).]

[Act VII of 1880, s. 37 (am. by Act XVII of 1891, s. 4). Cf. 1894, s. 441 (1), (2),

[Act VII of 1880, s. 39 (am. by Act XVII of 1891, s. 4). Cf. 1894, ss. 438 (3), 441 (1), 57 & 58 Vict., c. 60.

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(Part IV.—Safety and Prevention of Accidents.—Chapter XXIV.—Unsafe Ships.—Sections 238-241. Chapter XXV.—Ship Surveyors.—Sections 242-243)

shipping approved by the Board of Trade under section 443 of the Merchant Shipping Act 1894, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

(b) an officer specially selected by the Local Government for the purpose, to approve and certify on its behalf from time to time the position of the disc or any maximum load-line and any alteration thereof, and, with the previous sanction of the Governor General in Council, may fix the fees to be taken in respect of any such approval or certificate.

238. (1) The Governor General in Council may make rules—

- (a) determining the lines or marks to be used to indicate the maximum load-line under different circumstances and at different seasons,
- (b) directing the mode in which the disc and the maximum load-lines or marks are to be marked or affixed on the ship, whether by painting, cutting or otherwise;
- (c) prescribing the mode of application for, and form of, certificates under section 237, sub-section (2); and
- (d) requiring the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and the delivery of copies of such entries to any prescribed officer or officers.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

- (a) declare what shall be deemed with reference to any specified locality to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules,
- (b) modify the tables referred to in section 237, sub-section (1), or the application thereof, and
- (c) distinguish between the cases of passenger ships and ships not carrying passengers, and make different requisitions in such cases respectively.

Penalty for neglecting to mark, or submerging, load-lines.

239. If—  
(a) the owner or master of a British ship fails without reasonable cause to cause his ship to be marked as by this Chapter required, or to keep her so marked, or allows the ship to be so loaded that when in smooth salt-water the centre of the disc or other maximum load-line appropriate to the case is submerged, or

(b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

he shall be liable for each offence to fine which may extend to one thousand rupees.

240. (1) If any line or mark required by this Chapter is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall for each offence be liable to fine which may extend to one thousand rupees.

(2) If the master of any British ship on which any such mark or line is inaccurately placed so as to be likely to mislead does not so soon as reasonably may be after such inaccuracy has been discovered cause the same to be corrected, he shall be liable to fine which may extend to one thousand rupees.

241. If any person fails without reasonable cause to comply with any rule made under section 238, sub-section (1), clause (d), he shall be liable to fine which may extend to one thousand rupees.

Penalty for neglecting to comply with rules as to entry or publication of certificates or other particulars or as to delivery of copies of entries.

CHAPTER XXV.  
SHIP SURVEYORS.

242. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and may make rules—

- (a) for the conduct of such examinations and the qualifications to be required,
- (b) for the grant of certificates to qualified persons,
- (c) for the fees to be paid for such examinations and certificates,
- (d) for holding enquiries into charges of incompetency and misconduct on the part of holders of such certificates, and
- (e) for the suspension and cancellation of such certificates.

243. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 242, exercise such profession unless he holds a certificate granted under that section:

No person to practise as ship surveyor unless qualified.

57 & 58  
Vict., c. 60.

[Act VII of 1880, s. 40 (am. by Act XVII of 1891, s. 4).]  
Cf. 1894, s. 443 (2).

[Act VII of 1880, s. 42 (am. by Act XVII of 1891, s. 4).]  
Cf. 1894, s. 442 (2).

[Act VII of 1880, s. 68 (am. by Act XII of 1891).]

[Act VII of 1880, s. 69.]

[Act VII of 1880, s. 41 (am. by Act XVII of 1891, s. 4).]  
Cf. 1894, s. 442 (1).

(Part IV.—Safety and Prevention of Accidents.—Chapter XXV.—Ship Surveyors.—Section 244. Part V.—Wrecks, Casualties and Investigations.—Chapter XXVI.—Receivers of Wreck.—Sections 245-249.)

Provided that nothing in this section shall—

- (a) prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas or the British Corporation for the Survey and Registry of Shipping from discharging any of the duties of such employment, or
- (b) apply to any person specially exempted by the Local Government from the operation of this section.

[Act VII of 1880, s. 70.]

244. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 243 shall be liable to fine which may extend to one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.

Penalty for practising as ship surveyor without certificate.

## PART V.

### WRECKS, CASUALTIES AND INVESTIGATIONS.

#### CHAPTER XXVI.

##### RECEIVERS OF WRECK.

245. Nothing in this Chapter shall—

- (a) affect the declaration of the twenty-third day of October, 1889, in Schedule VI, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or
- (b) affect section 29 of the Indian Ports Act, 1889, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

[Act VII of 1880, s. 72 (am. by Act VI of 1891, s. 6, and Act XII of 1891.) Cf. 1894, s. 521 (2).]

X of 1889.

[Act VII of 1880, s. 71.] Cf. 1894, s. 510.

246. In this Chapter, "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say:—

*articles* which have been cast into the sea and then sink and remain under water;

*articles* which have been cast or fall into the sea and remain floating on the surface;

*articles* which are sunk in the sea, but are attached to a floating object in order that they may be found again;

*articles* which are thrown away or abandoned; and

a ship abandoned without hope or intention of recovery.

247. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, appoint such person as it may think fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may direct.

(2) Persons so appointed shall be called Receivers of Wreck.

248. (1) Any person finding and taking possession of any wreck within any local limits for which a Receiver of Wreck has been appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

(a) if he be the owner of such wreck, give the Receiver of Wreck notice in writing stating that he has found or taken possession of the same and describing the marks by which the same may be recognized;

(b) if he be not the owner of such wreck, deliver the same to the Receiver of Wreck.

(2) If any person fails, without reasonable cause, to comply with sub-section (1), he shall be liable to fine which may extend to one thousand rupees, and shall, in addition, if he be not the owner of the wreck, forfeit any claim to salvage, and be liable to pay to the owner of the wreck, if it is claimed, or, if it is unclaimed, to the Government, a penalty not exceeding twice the value of such wreck.

249. (1) Whenever any wreck is found by the Receiver of Wreck or has been delivered to him in accordance with the provisions of section 248 by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section may be determined by a Magistrate of the first class, or a Sub-divisional Magistrate, upon application to him for that purpose by either of the disputing parties.

[Act VII of 1880, s. 73.] Cf. 1894, s. 566.

[Act VII of 1880, s. 74 (am. by Act VI of 1891, s. 7), s. 79.] Cf. 1894, s. 518.

[Act VII of 1880, s. 75.] Cf. 1894, s. 546.

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(Part V.—Wrecks, Casualties and Investigations.—Chapter XXVI.—Receivers of Wreck.—Sections 250-254. Chapter XXVII.—Investigations into Casualties and Charges against Masters, Mates, Engineers and Engine-drivers.—Sections 252-253.)

(3) In any case in which the amount claimed exceeds one thousand rupees, either party may appeal from the decision of the Magistrate to the Colonial Court of Admiralty.

250. The Receiver of Wreck shall, on taking possession of any wreck, publish a notice in such manner and at such place as the Local Government may direct in this behalf, containing a description of the same and a statement of the time at which and the place where the same was found.

251. (1). If after the publication of such notice the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the Receiver of Wreck in respect thereof, the Receiver of Wreck may sell such wreck by public auction, if not of a perishable nature, at any period not less than six months after such notice as aforesaid.

(2) On the realisation of the proceeds of any sale under sub-section (1), the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appears and claims the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes his claim within one year from the date of the sale.

(3) The Receiver of Wreck may at any time sell any wreck in his custody if in his opinion—

- (a) it is under the value of fifty rupees,
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or
- (c) it is not of sufficient value to pay for warehousing,

and the proceeds of such sale shall, after defraying the expenses thereof, be held by the Receiver for the six months next following such sale for the same purposes and subject to the same claims, rights and liabilities as if the wreck had not been sold.

(4) If such proceeds of sale shall not be claimed or otherwise duly disposed of within such period of six months, they shall be dealt with as though they had been proceeds of a sale duly made under sub-section (1).

CHAPTER XXVII.

INVESTIGATIONS INTO CASUALTIES AND CHARGES AGAINST MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS.

252. Nothing in this Chapter shall affect the powers conferred by section 472 of the Merchant Shipping Act, 1894, or by section 122 of this Act on Courts mentioned in those sections, respectively.

253. (1) Whenever any Magistrate of the first class or Sub-divisional Magistrate, or any officer appointed by the Local Government in this behalf by name or by virtue of his office, receives credible information that—

- (a) any British or foreign ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or
- (b) by reason of any casualty happening to, or on board of, any British or foreign ship on or near those coasts, loss of life has ensued; or
- (c) any British or foreign ship has caused loss or material damage to any other ship on or near those coasts; or
- (d) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or
- (e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(2) The word "coasts" in sub-section (1) includes the banks of creeks and tidal rivers.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and in cases under clause (d) of sub-section (1), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(4) In cases under clause (e) of sub-section (1), the managing owner of the ship, or, where there is no managing owner, the ship's husband or agent, shall, as soon as conveniently may be, send to some officer appointed by the Local Government as aforesaid notice in writing of the loss.

(5) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to fine which may extend to five hundred rupees.

(6) The Magistrate or other officer whose duty it is under sub-section (1) to report to the Local Government such information as is refer-

[Act VII of 1880, s. 76.]  
Cf. 1894, s. 520.

[Act VII of 1880, ss. 77, 78.]  
Cf. 1894, ss. 521, 522, 525.

[Act V of 1883, s. 6 (am. by Act VI of 1891, s. 9, and Act XII of 1891) Bill of 1867, s. 255; Bill of 1882, s. 137.]  
1894, ss. 45, 426, 464, 465(2), 729.



(Part V.—Wrecks, Casualties and Investigations.—Chapter XXVII.—Investigations into Casualties and Charges against Masters, Mates, Engineers and Engine-drivers.—Sections 254-258.)

red to in that sub-section shall have, for the purposes of such report, the following powers (that is to say)—

- (a) he may go on board any ship to which the provisions of this Chapter apply and may inspect the same or any part thereof or any of the machinery, boats, equipments or articles on board thereof, not unnecessarily detaining or delaying the ship from proceeding on any voyage;
- (b) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite;
- (c) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries which he may think fit to make;
- (d) he may require and enforce the production of all books, papers or documents which he considers important; and
- (e) he may administer oaths, or may, instead of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

254. (1) If the Local Government to which the report required by section 253 has been made or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clause (a), (b), (c) or (d) of sub-section (1) of the same section have arrived or are to be found, or any evidence of such supposed loss as is described in clause (e) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts referred to in any of the said clauses is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate of the first class or Sub-divisional Magistrate acting in or near the place where the investigation is made; another shall be some person of nautical skill and knowledge, and the other or others (if any) shall be persons of nautical, engineering or other special skill or knowledge.

255. Any Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty, may, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, make the investigation referred to in section 254.

256. (1) Any Court making an investigation referred to in section 254 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, mate, engineer or engine-driver, as well as into any charge of a wrongful act or default on his part causing any loss, abandonment, stranding, damage or casualty referred to in section 253.

(2) Every formal investigation into a shipping casualty shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence.

(3) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, mate, engineer or engine-driver in the course of an investigation, the Court shall, at least twenty-four hours before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

257. If the Local Government has reason to believe that there are grounds for charging any master, mate, engineer or engine-driver holding a Board of Trade, Colonial or local certificate with incompetency or misconduct, otherwise than in the course of an investigation referred to in section 254, it may send a statement of the case to—

(a) any Court mentioned in section 255, or  
(b) the Court of any Presidency Magistrate or Magistrate of the first class, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge, and shall at the same time cause the master, mate, engineer or engine-driver so charged to be furnished with a copy of such statement.

258. For the purpose of an investigation under the foregoing provisions of this Chapter into any charge against a master, mate, engineer or engine-driver, the Court may summon him to appear and shall give him full opportunity of making a defence, either in person or otherwise.

[Act V of 1883, s. 7 (am. by Act VI of 1891, s. 10); Bill of 1867, s. 255; Bill of 1882, s. 138. Cf. 1894, s. 466 (1), (3).]

[Act V of 1883, s. 8 (am. by Act VI of 1891, s. 11); Act XVI of 1891; Bill of 1867, s. 195; Bill of 1882, s. 139.]

[Act V of 1883, s. 9; Bill of 1882, s. 140. Cf. 1894, s. 471.]

[Act V of 1883, s. 10; Bill of 1867, s. 197; Bill of 1882, s. 141. Cf. 1894, s. 471.]

[Act V of 1888, s. 11; Bill of 1867, s. 198; Bill of 1882, s. 142. Cf. 1894, s. 466 (1), (2), (3).]

*The Indian Merchant Shipping Bill, 1896.*

*(Part V.—Wrecks, Casualties and Investigations.—Chapter XXVII.—Investigations into Casualties and Charges against Masters, Mates, Engineers and Engine-drivers.—Sections 259-264.)*

[Act V of 1883, s. 13; Bill of 1882, s. 143.]  
 Cf. 1894, s. 466 (4), (7).

259. (1) When any investigation under the foregoing provisions of this Chapter involves, or appears likely to involve, any question as to the suspension or cancellation of the certificate of a master, mate, engineer or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service: and in every other investigation under the said provisions the Court making it may, if it thinks fit, constitute as an assessor, for the purposes of the investigation, any person conversant with maritime affairs and willing to act as assessor.

(2) Every assessor shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

[Act V of 1883, s. 12; Act XVI of 1891; Bill of 1867, ss. 198, 257; Bill of 1882, s. 143.]  
 Cf. 1894, s. 466 (10).

260. For the purposes of any investigation under the foregoing provisions of this Chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(b) if the Court is a Colonial Court of Admiralty, or a principal Court of ordinary criminal jurisdiction, or a Court of a Presidency Magistrate or a Magistrate of the first class—the same powers as are exercisable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

[Act V of 1883, s. 14; Bill of 1882, s. 144.]

261. (1) If any Court making an investigation under the foregoing provisions of this Chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any ship.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officer of Police or sea-customs, or any other

person, and may seize and detain the ship for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

262. (1) Whenever, in the course of any investigation under the foregoing provisions of this Chapter, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, make) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

[Act V of 1883, s. 15; Bill of 1882, s. 145.]

(2) For the purposes of this section the Recorder of Rangoon shall, throughout Lower Burma, be deemed to be the High Court.

263. (1) The Court shall, in the case of every investigation under the foregoing provisions of this Chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

[Act V of 1883, s. 17; Bill of 1867, s. 258; Bill of 1882, s. 146.]  
 Cf. 1894, ss. 466 (6), 470 (3).

(2) In cases in which, under the Merchant Shipping Act, 1894, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

57 & 58 Vict., c. 60.

264. (1) The Local Government may, in any case where an investigation into a shipping casualty, or into the conduct of a master, mate, engineer or engine-driver has been held under this Chapter, order the case to be re-heard, either generally or as to any part thereof, and shall do so—

Cf. 1894, s. 475.

(a) if new and important evidence, which could not be produced at the investigation, has been discovered, or

(b) if for any other reason there is, in its opinion, ground for suspecting that a miscarriage of justice has occurred.

(2) Where a re-hearing is ordered on the ground that new and important evidence as aforesaid has been discovered, the case shall, if practicable, be re-heard by the Court by which

(Part V.—Wrecks, Casualties and Investigations.—Chapter XXVII.—Investigations into Casualties and Charges against Masters, Mates, Engineers and Engine-drivers.—Section 265.—Part VI.—Chapter XXVIII.—Assistance to Passengers abroad.—Sections 265-268.)

it was heard in the first instance; and in every other event the case shall be re-heard by the Colonial Court of Admiralty.

(3) The provisions of sections 256 to 263 (both inclusive) shall apply in the case of every re-hearing ordered under this section.

*Investigations into Explosions on Steam-ships.*

[Act VII of 1884, s. 37 (1), (2).]

265. (1) Whenever an explosion causing serious damage occurs on board any steam-ship, whether British or foreign, on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such surveyor or surveyors of ships as it may think fit.

(2) The surveyor or surveyors so directed may enter into and upon the steam-ship, with all necessary workmen and labourers, and may, if and so far as may be necessary, remove any portion of the steam-ship or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

PART VI.

CHAPTER XXVIII.

ASSISTANCE TO PASSENGERS ABROAD.

57 & 58 Vict., c. 60.

Whereas, by section 368 of the Merchant Shipping Act, 1894, it is enacted that "The Governor General of India in Council may, by any Act passed for the purpose, declare that all or any provisions of this Part of this Act shall apply to the carriage of steerage passengers upon any voyage from any specified port in British India to any other specified port whatsoever," and that "the provisions of any such Act while in force shall have effect without as well as within British India as if enacted by this Act: Provided that any such Act shall be of no effect under this section, unless it be reserved for the signification of Her Majesty's pleasure thereon, or contain a suspending clause providing that the Act shall not come into operation until Her Majesty's pleasure thereon

has been publicly signified in British India;"

And whereas it is expedient that the provisions hereinafter appearing should be enacted under the authority aforesaid;

It is hereby enacted as follows:—

266. This Chapter shall not come into operation until Her Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.

267. (1) On and from the commencement of this Chapter, the Indian Sea Passengers Act, 1885, shall be repealed.

XII of 1886.

(2) Any enactment or document referring to the said Act shall be construed to refer to this Chapter.

268. The provisions in sections 269, 270 and 271 and Schedule VII of this Act are declared applicable to specified voyages from British India, upon any of the following voyages, namely:—

[Act XII of 1885, s. 3; Bill of 1867, s. 285.] Cf. 1894, s. 368.

- (a) voyages from the port of Calcutta, Madras or Bombay to—
  - (i) any of the British colonies of Jamaica, St. Kitts, Nevis, St. Lucia, St. Vincent, Grenada, Trinidad, British Guiana, Natal, Mauritius, British North Borneo, Labuan or Fiji,
  - (ii) any of the French colonies of Gadeloupe or its dependencies, Martinique, French Guiana or Réunion,
  - (iii) any of the Dutch Colonies of Netherlands India or Dutch Guiana, or
  - (iv) the Danish colony of St. Croix;
- (b) voyages under Part VII from Calcutta, Madras, Bombay, Karachi, Rangoon or any other port in British India to any of the Straits Settlements, to any of the protected

57 & 58 Vict., c. 60

Native States adjoining the Straits Settlements, to Australia, to any port in the Red Sea, the Gulf of Aden or the Persian Gulf or to any port on the East Coast of Africa.

[Act XII of 1885, s. 4; Bill of 1867, s. 286.]  
Cf. 1894, s. 332.

269. If any *steerage* passenger is either taken off any ship which is conveying wrecked carrying passengers on any such voyage as is specified in section 268 and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is picked up at sea from any boat, raft or otherwise, it shall be lawful—

(a) if the port to which such passenger (in this Act referred to as a "wrecked passenger") is conveyed is in a British Possession, for the Governor of that Possession, or any person authorised by him for the purpose; and

(b) if the port is in a foreign country, for the British Consular Officer there,

to defray all or any part of the expenses thereby incurred.

[Act XII of 1885, s. 5; Bill of 1867, s. 287.]  
Cf. 1894, s. 333.

270. (1) If any *steerage* passenger from any ship which is carrying passengers on any such voyage as is specified in section 268 finds himself, without any neglect or default of his own, at any port outside the British Islands other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

(a) if the place is in a British Possession, for the Governor of that Possession, or any person authorised by the Governor for the purpose, and

(b) if the place is elsewhere, for the British Consular Officer there,

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period.

(2) A passenger so forwarded by or by the authority of a Governor or a British Consular Officer shall not be entitled to the return of his passage-money, or to any compensation for loss of passage.

271. (1) All expenses incurred under section 269 or section 270, by or by the authority of a Governor of a British Possession or Consular Officer, in respect of a wrecked passenger, or forwarding a passenger to his destination, including the cost of maintaining the passenger until forwarded to his destination, and of all necessary bedding, provisions and stores, shall be a joint and several debt to the Crown from the owner, charterer and master of the ship on board of which the passenger had embarked.

(2) In any proceeding for the recovery of that debt a certificate in the form set out in Schedule VII to this Act, or as near thereto as circumstances admit, purporting to be under the hand of a Governor or Consular Officer, and stating the circumstances of the case and the total amount of the expenses, shall be admissible in evidence in the manner provided by the Merchant Shipping Act, 1894, and shall be sufficient evidence of the amount of the expenses and of the fact that the same were duly incurred; unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Chapter:

(3) The sum recovered on account of the expenses shall not exceed twice the total amount of passage-money which the owner, charterer or master of the ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage, who embarked in the ship.

272. A policy of assurance effected in respect of any *steerage* passage, or of any *steerage* passage or compensation money, by any person by this Chapter made liable, in the events aforesaid, to provide such passage or to pay such money, or in respect of any other risk under this Chapter, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

[Act XII of 1885, s. 6; Bill of 1867, s. 288.]  
Cf. 1894, s. 334, 360 (1).

57 & 58  
Vict., c.  
60.

[Act XII of 1885, s. 7.]  
Cf. 1894, s. 335.

PART VII.

NATIVE PASSENGER-SHIPS.

CHAPTER XXIX.

PRELIMINARY.

Application. 273. (1) *This Part extends—*

- (a) to all subjects of Her Majesty within the dominions of Princes and States in India under the suzerainty of Her Majesty ;
- (b) to all native Indian subjects of Her Majesty without and beyond British India ; and,
- (c) subject to the exceptions mentioned in section 5 and in sub-section (2) of this section, to all ships, whether British or foreign, carrying as passengers more than thirty natives of Asia or Africa.

(2) But it does not apply—

- (a) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa,
- (b) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India, or
- (c) to any ship to which the provisions of the *Inland Steam-vessels Act, 1884*, or the *Pilgrim Ships Act, 1895*, are applicable.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare all or any of the provisions of this Part to apply—

- (a) to sailing-ships, or any class of sailing-ships, whether British or foreign, carrying as passengers more than fifteen natives of Asia or Africa, or
- (b) to steam-ships or any class of steam-ships, whether British or foreign, carrying as passengers more than thirty natives of Asia or Africa.

274. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it may think fit, exempt any ship or class of ships from all or any of the provisions of this Part.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

275. In this Part, unless there is something repugnant in the subject or context,—

(1) "native passenger" means a passenger [Bill of 1867, by a ship who is a native of Asia or Africa of the s. 267 (2).] age of twelve years or upwards and is not on the articles of agreement of the ship as one of the crew ;

but does not include a first or second class passenger, a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age ;

and, in the computation of native passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger ;

(2) "long voyage" means,—

- (a) any voyage to or from Aden from or to any other port in British India, whether the ship performing it proceeds to or from Aden direct or calls at one or more intermediate ports, or
- (b) any voyage from or to a port in British India to or from a port in the Red Sea, whether the ship performing it proceeds to such port direct or calls at one or more intermediate ports, or
- (c) any voyage (not being a voyage referred to in clause (a) or clause (b) of this sub-section) during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port, or
- (d) any voyage (not being a voyage referred to in clause (a) or clause (b) of this sub-section) during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port, but during which the ship calls at one or more intermediate ports and has any native passenger on board continuously for two hundred and forty hours or upwards ;

(3) "short voyage" means any voyage (not being a voyage referred to in sub-section (2), clause (a) or clause (b), or a shelter-port voyage or an excursion voyage) during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port, and

(i) does not call at any intermediate port, or

(ii) calls at one or more intermediate ports but has no native passenger on board continuously for two hundred and forty hours ;

(4) "shelter-port voyage" means,—

- (a) in the case of a steam-ship having a certificate of survey, granted under Chapter XXIII or by the Board of Trade or by a British Colonial Government, in force and applicable to the voyage or which the ship is about to proceed or the service on which she is about to be employed—any voyage (not being an excursion voyage) during which the ship is at no time more than eight hours distant from a port of shelter, and

[Act X of 1887, s. 2 ; Bill of 1867, s. 262.]

VI of 1894. XIV of 1895.

[Act X of 1887, s. 57.]

[Act X of 1887, s. 5.]

(b) in the case of any other ship—any voyage (not being an excursion voyage) during which the ship performing it is at no time more than six hours distant from a port of shelter;

(5) "excursion voyage" means any voyage beginning and ending in a season of fair weather, during which the ship performing it is not out of port before sunrise or after sunset, and during which native passengers are not embarked before sunrise or kept on board after sunset;

(6) "voyage", when used without the prefix "long", "short", "shelter-port" or "excursion", means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(7) "port" includes any place appointed in that behalf by the Local Government; and

(8) "Chief Customs-officer" means the chief executive officer of sea-customs in any port to which this Part applies.

276. (1) The Governor General in Council may, by notification in the Gazette of India, declare what shall be deemed to be "seasons of fair weather," "seasons of foul weather" and "ports of shelter." Part, "seasons of fair weather" and "seasons of foul weather."

(2) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare what ports shall, for the purposes of this Part, be deemed to be "ports of shelter."

CHAPTER XXX.

GENERAL PROVISIONS AS TO VOYAGES.

277. (1) A ship carrying native passengers shall not depart or proceed on a voyage from, or discharge such passengers at, any port or place in British India other than a port appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port so appointed, a person shall not be received on board as a native passenger except at some other port so appointed.

278. (1) The master, owner or agent of any ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry native passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time in the case of a long voyage and not less than six hours, exclusive of the time between sunset and sunrise, in any other case.

279. After receiving the notice, the officer aforesaid or any person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

280. (1) A ship intended to carry native passengers shall not commence a voyage from a port appointed under section 277 unless the master holds a certificate (hereinafter called Certificate A) to the effect mentioned in sub-section (2); and, in the case of a ship proceeding on a long voyage or a short voyage, a certificate (hereinafter called Certificate B) to the effect mentioned in sub-section (3).

(2) "Certificate A" shall state—

(a) that the ship is seaworthy and properly equipped, fitted and ventilated; and

(b) in the case of a ship proceeding on a long voyage, the number of native passengers which she is capable of carrying; or

(c) in the case of a ship proceeding on a short voyage, a shelter-port voyage or an excursion voyage,—

(i) the full number of native passengers which the ship is capable of carrying during a season of fair weather and a season of foul weather, respectively, and on a short voyage, a shelter-port voyage and an excursion voyage, respectively, when fully equipped and fitted in accordance with this Part and the rules thereunder,

(ii) the number of native passengers which the ship is capable of carrying on each division of a deck during a season of fair weather and a season of foul weather, respectively, and on a short voyage, a shelter-port voyage and an excursion voyage, respectively, a plan of each such division being given on the certificate and the number of native passengers being stated on the plan, and

(iii) if the ship is to carry upper-deck passengers during a season of fair weather, that she is furnished with a double awning or other sufficient protection against the weather and also with substantial bulwarks or with rails and netting protected by curtains; and

(d) in the case of a ship referred to in section 288, that she has on board a medical officer licensed in accordance with the rules under this Part.

(3) "Certificate B" shall state—

(a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that food, fuel, pure water and medical stores and appliances, over and above what is necessary for the crew

[Act X of 1887, s. 55; Bill of 1867, s. 276.]

[Act X of 1887, s. 6; Bill of 1867, s. 263.]

[Act X of 1887, s. 7; Bill of 1867, s. 268.]

[Act X of 1887, s. 8; Bill of 1867, s. 269.]

[Act X of 1887, ss 9(1), 10, 11; Bill of 1867, ss. 264, 267 (1), (4).]

and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed;

(d) that the master holds Certificate A;

(e) if the ship is to carry native passengers to any port in the Red Sea, that she is propelled principally by steam; and

(f) such other particulars, if any, as may be prescribed.

[Act X of 1887, s. 17.]

281. (1) If the officer appointed under section 278 is satisfied that a native passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed, the requirements of this Part respecting the supply of food for native passengers shall not apply so far as regards the supply of food for that passenger.

(2) The Local Government may, by notification in the official Gazette, exempt any specified short voyage from such of the provisions of section 280 as have reference to food.

282. No officer authorised to grant a port-clearance shall grant the same for a ship carrying native passengers unless the master holds a certificate or certificates granted in accordance with section 280.

283. The person by whom Certificate A and Certificate B are to be granted shall be the officer appointed under section 278.

284. Where the master of a ship produces to that officer a certificate of survey granted under Chapter XXIII or by the Board of Trade or by a British Colonial Government, in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, and any of the particulars required by section 280, sub-section (2), are certified thereby, the officer may take the certificate as evidence of those particulars, and the same may thereupon be inserted in Certificate A.

285. (1) After receiving the notice required by section 278, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed, at the expense of the master or owner,

by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted, ventilated and lighted for the voyage which she is to make:

Provided that he shall not cause a ship having a certificate of survey mentioned in section 284 to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted, ventilated or lighted for the voyage.

(2) If the officer causes a survey to be made of a ship holding a certificate of survey mentioned in section 284, and the surveyors report that the ship is seaworthy and properly equipped, fitted, ventilated and lighted for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted, ventilated or lighted for the voyage, the expense of the survey shall be paid by the Local Government.

(3) If at the time of making a survey under this section all the prescribed equipments are not on board the ship, the officer granting Certificate A shall note thereon the deficiency and the number of native passengers proportionate to such deficiency; and the maximum number of passengers to be carried shall be reduced by such number, until the deficiency has been supplied and the fact endorsed on the certificate by the said officer.

286. (1) The officer authorised to grant a certificate under this Part in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government may appoint in this behalf.

287. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of the certificate or each of the certificates granted under this Part in respect of the ship, and shall keep the copy or copies so posted up throughout the voyage.

[Act X of 1887, s. 9 (2); Bill of 1887, s. 264.]

[Act X of 1887, s. 12; Bill of 1887, s. 265.]

[Act X of 1887, s. 13.]

[Act X of 1887, s. 14; Bill of 1887, ss. 264, 270.]

The Indian Merchant Shipping Bill, 1896.

(Part VII.—Native Passenger-ships.—Chapter XXX.—General Provisions as to Voyages.—Sections 288-290. Chapter XXXI.—Special Provisions as to Long Voyages.—Sections 291-293.)

[Act X of 1887, s. 26; Bill of 1867, s. 207 (5).]

[Act X of 1887, ss. 20, 23.]

[Act X of 1887, s. 21; Bill of 1867, s. 207 (2).]

Certain ships to carry medical officer. 288. Every ship carrying more than four hundred native passengers

from or to any port on the Coromandel Coast to or from Rangoon, or

from or to Calcutta to or from Rangoon, or from or to any port in the territories administered by the Governor of Bombay in Council to or from any port not in those territories, *except ports on the western coast of India, or*

from or to Aden or Perim to or from any other port in the territories administered by the Governor of Bombay in Council, and every ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea, shall have on board a medical officer licensed in accordance with the rules under this Part.

289. (1) The master of every ship carrying native passengers shall Report of deaths. notify the date and supposed cause of death of every native passenger dying on the voyage.

(2) Such notification shall be made at the first port at which the ship calls after the occurrence of any such death, and shall be made,—

(a) in the case of a long voyage, to a British Consular Officer at such port, or to the Chief Customs-officer thereat, or to the officer (if any) appointed there under section 278, and

(b) in the case of a short voyage, a shelter-port voyage or an excursion voyage, to such officer as the Governor General in Council may appoint in this behalf.

290. The master of every ship carrying native passengers and Reports to animals carried. calling at any intermediate port in British India between the first port of departure and the final port of arrival shall at each such intermediate port report to the officer appointed under section 278 the number of cattle and other live animals on board which may be occupying space measured for native passengers.

CHAPTER XXXI.

SPECIAL PROVISIONS AS TO LONG VOYAGES.

291. (1) Every ship carrying native passengers and performing a long voyage shall, subject to the provisions of section 318, Space to be available for native passengers. contain in the between-decks the spaces hereinafter respectively mentioned for each such passenger :

in the case of a ship propelled by sails only, twelve superficial and seventy-two cubic feet :

in the case of a steam-ship, nine superficial and fifty-four cubic feet.

(2) Every ship referred to in sub-section (1) shall have reserved for the use of the native passengers the upper-deck (excluding the portion set apart for the first and second class passengers and the airing space for the crew and any space which may be reserved as a hospital for the use of the passengers) : Provided that, if any such ship has less than the full number of native passengers which she is authorised to carry, only so much of such upper deck need be reserved for such passengers as is proportionate to the actual number of such passengers carried.

Illustration.

If a ship can carry twelve hundred native passengers and there are only six hundred on board, half only of the upper deck need be reserved for the use of such passengers.

(3) In every ship referred to in sub section (1) the height between decks and the height of any permanently covered upper deck shall not be less than six feet.

292. The master of a ship departing or proceeding on a long voyage from any port in British India shall sign two Statements concerning passengers. statements, specifying the total number and the number of each sex of the native passengers, and shall deliver them to the officer appointed under section 278, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Ship taking additional passengers at intermediate places. 293. (1) In either of the following cases, namely,— [Act X of 1887, s. 24.]

(a) if after the ship has departed or proceeded on a long voyage, any additional native passengers are taken on board at a port in British India appointed under section 277 for the embarkation of such passengers, or,

(b) if the ship upon her voyage touches or arrives at any such port, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a new certificate to the effect of Certificate B from the officer appointed at that port under section 278, and shall make additional statements specifying the total number and number of each sex of the additional native passengers.

(2) All the foregoing provisions of this Part with respect to Certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.



The Indian Merchant Shipping Bill, 1896.

(Part VII.—Native Passenger-ships.—Chapter XXXI.—Special Provisions as to Long Voyages—Section 294. Chapter XXXII.—Special Provisions as to Short, Shelter-port and Excursion Voyages.—Sections 294-299.)

294. If after Certificate A has been granted to the master of any ship any alteration is made in the ship which has the effect of changing the number of native passengers which she is capable of carrying, as stated in such certificate in pursuance of clause (c), sub-clause (i) or sub-clause (ii), of section 280,

the master shall, before the ship proceeds on any voyage from a port appointed under section 277, report the circumstances to the officer appointed at that port under section 278, and such officer shall alter the certificate accordingly.

CHAPTER XXXII.

SPECIAL PROVISIONS AS TO SHORT, SHELTER-PORT AND EXCURSION VOYAGES.

295. Every ship carrying native passengers Space to be available and performing a short for passengers. voyage, a shelter-port voyage or an excursion voyage shall, subject to the provisions of section 318, have for each native passenger the spaces hereinafter respectively mentioned:—

- (1) upon any deck, when performing an excursion voyage, six superficial feet,
- (2) upon any deck, during a season of fair weather, when performing—
  - (a) a shelter-port voyage, seven superficial feet,
  - (b) a short voyage, nine superficial feet,
- (3) during a season of foul weather, in the between-decks or upon an upper deck sheltered by a permanent wooden or iron deck covering and by solid bulwarks—
  - (a) in the case of a steam-ship performing a short voyage or a shelter-port voyage, seven superficial and forty-two cubic feet,
  - (b) in the case of a ship propelled by sails only and performing—
    - (i) a shelter-port voyage, nine superficial and fifty-four cubic feet,
    - (ii) a short voyage, twelve superficial and seventy-two cubic feet.

Space for passengers in case of short or shelter-port voyage during season of foul weather.

296. In the case of a ship performing a short voyage or a shelter-port voyage during a season of foul weather—

- (a) if native passengers are carried on more than one deck below the main or tonnage deck, the ship shall have on each such additional deck fourteen superficial and eighty-four cubic feet of space for each such passenger; and
- (b) there shall be reserved for the use of the native passengers the uppermost deck or decks (excluding the portion set apart for the first and second class passengers and the airing space for the crew, and any space which may be required for permanent structures):

Provided that the upper deck space available for passengers of the lowest class carried in the ship shall in no case be less than four superficial feet for each passenger carried.

297. In every ship carrying native passengers in the between Height of decks. decks or on any permanently covered upper deck the height of any deck on which passengers are carried shall in no case be less than six feet.

298. A ship performing a short voyage, a shelter-port voyage or an excursion voyage during a season of fair weather shall not carry upper-deck passengers unless she is furnished with a double awning or other sufficient protection against the weather and also with substantial bulwarks or with rails and netting protected by curtains.

299. (1) The master of every ship proceeding on a short voyage, a shelter-port voyage or an excursion voyage shall be bound—

- (a) to keep awnings spread over all exposed decks at sea at all times when the weather permits; and
- (b) to furnish to the officer appointed under section 278 at every port in British India at which the ship touches a statement in a form sanctioned by the Local Government, showing the number of

[Act X of 1887, s. 18 (1), (2), (3); Bill of 1867, s. 207 (2).]

[Act X of 1887, s. 18 (4).]

Awnings to be spread, and statement and certificates as to passengers to be furnished.

[Act X of 1887, s. 11 (c), s. 19; Bill of 1867, s. 273.]

native passengers taken on board at the last port at which the ship touched, the number to be landed at the port at which the statement is furnished and the number to be conveyed to the next port.

(2) If a ship performing a short voyage takes additional passengers on board at any intermediate port, the master shall certify to the officer appointed at that port under section 278—

- (a) the number of passengers so taken on board, and
- (b) that food, fuel, pure water and medical stores and appliances, over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed :

Provided that if the Certificate B held by the master shows that the several articles mentioned in section 280, sub-section (3), clause (c), and sufficient to supply the full number of passengers which she is capable of carrying, have been placed on board in accordance with that clause, the master shall not be bound to make any certificate under clause (b) of this sub-section.

## CHAPTER XXXIII.

### PENALTIES.

300. If any ship departs or proceeds on a voyage from, or discharges native passengers at, any port or place in British India in contravention of section 277, sub-section (1), or section 280, or

if any person is received as a native passenger on board a ship in contravention of section 277, sub-section (2), or

if any native passenger is carried on board a ship in contravention of section 285, sub-section (3),

the master or owner shall, for every native passenger carried in the ship, or for every native passenger so discharged, received or carried on board, be liable to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both, and

the ship, if found within two years in any port or place in British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master

or owner have been adjudicated, and the payment of the fine imposed on him under this Part, with all costs, has been enforced, under the provisions of this Part :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

301. If any person impedes or refuses to allow any entry or inspection of ship, authorised by or under this Part, he shall be liable to fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both. [Act X of 1887, s. 32; Bill of 1867, s. 278.]

302. If any master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 287, with respect to the posting of copies of certificates, he shall be liable to fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both. [Act X of 1887, s. 33.]

303. If any ship referred to in section 288 has not on board a medical officer as required by that section, the master shall be liable to fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both. [Act X of 1887, s. 42.]

304. If any master without reasonable excuse, the burden of proving which shall lie upon him, fails to notify any death, as required by section 289, he shall be liable to fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both. [Act X of 1887, s. 34.]

305. If any master fails to make a report, as required by section 290, as to animals carried on board his ship and occupying space measured for native passengers, or wilfully makes any false statement in any such report, he shall be liable to fine which may extend to twenty rupees for every animal occupying such space and not duly reported.

306. If any master fails to comply with any of the requirements of section 292, as to statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or

without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such new certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 293,

he shall be liable to fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

307. (1) If any master fails to comply with the requirement of section 299, sub-section (1), clause (a), as to the spreading of awnings, he shall be liable to fine which may extend to one hundred rupees.

(2) If any master fails to comply with any of the requirements of section 299, sub-section (1), clause (b), as to furnishing a statement concerning native passengers, or willfully makes any false entry in any such statement, he shall be liable to fine which may extend to two hundred rupees, and no officer authorised to grant a port-clearance for the ship shall grant the same unless and until the master has furnished a statement, or an amended statement, as the case may be, of the nature required by the said clause.

(3) If any master fails to give the certificate required by section 299, sub-section (2), or willfully makes any false entry or note in or on any such certificate, he shall be liable to fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

(4) If any master fails to comply with any of the requirements of section 299, sub-section (2), clause (b), as to the carrying of food, fuel, water, medical stores and appliances and other prescribed things, he shall be liable to fine which may extend to two hundred rupees.

308. If any master, after having obtained any of the certificates mentioned in section 280 or section 293, or after having given a certificate under section 299, sub-section (2), fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be liable to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

309. If any master fails without reasonable cause to make a report as required by section 294 he shall be liable to fine which may extend to five hundred rupees.

310. If any master, without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any native passenger the pre-

scribed allowance of food, fuel and water, he shall be liable to fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

311. (1) If any ship holding a certificate under this Part and carrying native passengers to or from any port in British India has on board a number of native passengers which is greater than the number allowed in such certificate, the owner and master shall, for every native passenger over and above that number, be each liable to fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorised in this behalf by the Local Government may cause all native passengers over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part; and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

312. If any ship carrying native passengers from any port or place beyond British India to any port in British India and not holding a certificate under this Part has on board a number of native passengers greater than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, or, if there be no such license or certificate, greater than the number allowed for the ship by or under this Part, the master and owner shall, for every native passenger in excess of that number, be each liable to fine which may extend to twenty rupees.

313. If any master lands any native passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable cause or accident, the master shall for every native passenger so landed be liable to fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

[Act X of 1887, s. 37; Bill of 1867, ss. 279, 280.]

[Act X of 1887, s. 38.]

[Act X of 1887, s. 39; Bill of 1867, s. 283.]

[Act X of 1887, s. 35; Bill of 1867, s. 281.]

Penalty for fraudulent alteration in ship after certificate obtained or given.

Penalty for not reporting alterations of passenger accommodation.

[Act X of 1887, s. 36; Bill of 1867, s. 282.]

Penalty for failing to supply native passengers with prescribed provisions.

Part VII.—Native Passenger-ships.—Chapter XXXIII—Penalties.—Section 314.  
Chapter XXXIV.—Supplemental Provisions.—Sections 314-317.

[Act X of 1887, s. 40.]

314. If any ship, otherwise than by reason of perils of the sea or unavoidable cause or accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Penalty for making voyage in contravention of contract with passengers.

CHAPTER XXXIV.

SUPPLEMENTAL PROVISIONS.

315. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port in British India at which a ship carrying native passengers touches or arrives, shall, with adherence to the provisions of this Part, send any particulars which he may deem important respecting the ship, and the native passengers carried therein, to the officer appointed under section 278 at the port from which the ship commenced her voyage, and to the officer appointed under the said section at any other port in British India where the passengers or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Part as to the number of native passengers and other matters have been complied with.

316. In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in section 315, sub-section (1), or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any foreign port, shall be admissible in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Certain documents to be admissible in evidence.

[Act X of 1887, s. 52; Bill of 1867, s. 275.]

317. (1) The Governor General in Council may make rules to regulate, in the case of any ship or class of ships, all or any of the following matters:—

[Act X of 1887, s. 53 (1), (2), (3); Bill of 1867, s. 265.]

- (a) the scale on which food, fuel and water are to be supplied to native passengers or to any class or classes of native passengers, and the quality of the food, fuel and water;
  - (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
  - (c) the licensing and appointment of medical officers in cases where they are required by section 288 to be carried;
  - (d) the anchors and cables to be provided on board;
  - (e) the instruments for purposes of navigation to be supplied;
  - (f) the apparatus for ventilation and lighting and for the purpose of extinguishing fires on board, and the precautions to be taken to prevent such fires;
  - (g) the provision of boats and other appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;
  - (h) the area to be deducted from the space measured for native passengers when live animals are carried in such space;
  - (i) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;
  - (j) the access of between-decks passengers to the upper deck; and
  - (k) generally, to carry out the purposes of this Part.
- (2) The Local Government may make rules to regulate, in the case of any ship or class of ships,—
- (a) the local limits within which, and the time and mode at and in which, native passengers are to be embarked or discharged at any port appointed under section 277 in that behalf; and
  - (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take native passengers on board.

(Part VII.—Native Passenger-ships.—Chapter XXXIV.—Supplemental Provisions.—Sections 318-320.—Part VIII.—Chapter XXXV.—Coast-light Dues.—Sections 321-325.)

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

[Act X of 1887, s. 56.]

318. The Governor General in Council may, by notification in the Gazette of India, declare in the case of any ship or class of ships and for all or any voyages the number of superficial and cubic feet of space to be available for native passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 291 and 295 so far as they apply to that ship or class of ships.

[Act X of 1887, s. 54; Bill of 1867, s. 265.]

319. The Local Government shall appoint such persons as it may think fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

[Act X of 1887, s. 48; Bill of 1867, s. 293.]

320. The penalties to which masters and owners of ships are made liable by this Part shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Part, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

## PART VIII.

### CHAPTER XXXV.

#### COAST-LIGHT DUES.

##### *Preliminary.*

[Act IX of 1879, s. 3.]

321. In this Chapter, unless there is something repugnant in the subject or context, "voyage" means the whole distance between a ship's place of departure and her final place of arrival; but the return of a ship from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

##### *Levy and Recovery of Dues.*

322. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every ship, whether British or foreign, of fifty tons or upwards registered tonnage making any voyage mentioned in Schedule VIII, at the rate of one anna and six pies per ton :

Provided that such ship sails from, or enters during the course of, or at the termination of, such voyage, a port in British India, or takes in, or discharges, cargo off the coast of British India :

Provided further that the Governor General in Council may, by notification in the Gazette of India,—

- (a) reduce, and again raise to an amount not exceeding one anna and six pies per ton, the rate of coast-light dues payable in respect of all ships or any particular class of ships, or
- (b) abolish the coast-light dues payable in respect of all ships or any particular class of ships.

323. Coast-light dues chargeable under section 322 shall become due and payable—

- (a) in the case of a ship clearing out of a port in British India upon any such voyage as aforesaid—previous to the grant of any port-clearance ;
- (b) in the case of a ship entering a port in British India in the course, or at the termination, of any such voyage as aforesaid—immediately upon her entering such port :

Provided that the said dues shall not be levied more than once on any ship in the course of the same voyage.

324. The Customs-collector shall collect the coast-light dues,

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the ship in respect of which such payment is made, and the voyage on which she is or has been bound.

325. Within twenty-four hours after the arrival within a port of any ship chargeable with coast-light dues, the master of the ship shall give notice of such arrival to the Customs-collector.

[Act IX of 1879, ss. 4, 6, Cf. 1894, s. 670.]

[Act IX of 1879, s. 5.]

[Act IX of 1879, s. 7.] Cf. 1894, s. 671 (2).

[Act IX of 1879, s. 8.]

326. In order to ascertain the tonnage of any ship chargeable with coast-light dues, the following rules shall be observed:—

(1) (a) If the ship is registered in the United Kingdom or in British India or any other British Possession, the Customs-collector may require the owner or master of the ship or any person having possession of her certificate of registry to produce such certificate for inspection.

(b) If the owner or master or such person as aforesaid neglects or refuses to produce such certificate, or otherwise to satisfy the Customs-collector as to what is the true tonnage of the ship in respect of which the coast-light dues are payable, he shall be liable to fine which may extend to one hundred rupees, and the Customs-collector may cause the ship to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement for the time being prescribed by or under the Merchant Shipping Act, 1894, for ascertaining the tonnage of British ships; and in such case the owner or master of the ship shall also be liable to pay the expenses of the measurement.

(2) If the ship is not registered in the United Kingdom or in British India or some other British Possession, and the owner or master thereof fails to satisfy the Customs-collector as to what is her true tonnage according to the mode of measurement for the time being prescribed by or under the Merchant Shipping Act, 1894, for ascertaining the tonnage of British ships, the Customs-collector shall cause the ship to be measured, and the tonnage thereof to be ascertained, according to the mode aforesaid; and in such case the owner or master of the ship shall be liable to pay the expenses of the measurement.

(3) If the ship is a ship of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the ship shall be determined by the Customs-collector on such an estimate as may seem to him to be just.

327. If the master of any ship refuses or neglects to pay to the Customs-collector on demand by him the amount of any dues or expenses payable in respect of the ship under this Chapter, the Customs-collector may distrain or arrest the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest is so made, the Customs-collector may cause the ship or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of the ship upon demand.

328. No officer authorised to grant a port-clearance shall grant the same for a ship to which this Chapter applies until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which the ship is chargeable under this Chapter, and of any fine to which any person is liable for anything done by him in contravention of this Chapter.

329. The master of any ship departing from or entering any port in British India upon, or in the course of, or at the termination of any voyage, shall, upon the demand of the Customs-collector, specify upon what voyage she is or has been bound.

330. If the master of any ship evades, or attempts to evade, the payment of dues, etc. of any coast-light dues, expenses or costs payable in respect of the ship under this Chapter, he shall be liable to fine which may extend to two hundred rupees.

331. (1) If any dispute arises as to whether any ship is chargeable with any coast-light dues, expenses or costs under this Chapter, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any *Sub-divisional Magistrate or Magistrate of the first class*.

(2) All decisions under this section shall be final.

#### Statement of Receipts and Expenditure.

332. The Governor General in Council shall publish annually in the Gazette of India, as soon after the first day of April as may be, a statement showing the amount received on account of coast-light dues during

[Act IX of 1879, s. 9.]

Ascertainment of tonnage of ship chargeable with dues.

57 & 58 Vict., c. 60.

57 & 58 Vict., c. 60.

[Act IX of 1879, s. 10.] Cf. 1894, 971 (2).

On refusal to pay dues or expenses, the Collector may distrain and sell.

[Act IX of 1879, s. 11.] Cf. 1894, s. 871 (2).

[Act IX of 1879, s. 12.]

[Act IX of 1879, s. 13.]

[Act IX of 1879, s. 14.]

[Act IX of 1879, s. 16.] Cf. 1894, s. 675.

the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

PART IX.

CHAPTER XXXVI.

MISCELLANEOUS.

[Act VII of 1880, s. 59; Act V of 1883, s. 6 (4) (added by Act VI of 1891, s. 9), s. 14 (3); Act VII of 1884, ss. 9 (3), 37 (3). Cf. 1894, s. 696 (2). XLV of 1860.]

[Act I of 1859, s. 3; Act VII of 1880, s. 11, s. 39 (am. by Act XVII of 1891, s. 4), s. 54, s. 81. Act VII of 1884, s. 9 (2).]

[Act VII of 1880, s. 23, s. 40 (am. by Act XVII of 1891, s. 4), s. 67, s. 68; Act VII of 1884, s. 42; Act X of 1887, s. 53 (2), (4), and see Act I of 1887, s. 6.] Cf. 1894, s. 427 (2).]

333. The following persons shall be deemed Certain persons to be to be public servants within the meaning of the Indian Penal Code, namely :—

- (a) every surveyor appointed under section 173, 176 or 185,
- (b) every judge, assessor, officer or surveyor acting under Chapter XXIV,
- (c) every person appointed under section 253, sub-section (1), to report information as to casualties,
- (d) every officer authorised under section 261, sub-section (1), to enter a ship, and all persons whom he calls to his aid, and
- (e) every person making an investigation under section 255.

334. Any officer or surveyor appointed under this Act may be suspended or removed by the authority which appointed him.

335. (1) The power to make rules under this Act is subject (except in the case of rules made under section 31 or section 262) to the condition of the rules being made after previous publication in such manner as the Governor General in Council may direct; and in the case of rules made under section 171 or section 199 the draft shall not be taken into consideration until after the expiration of six months nor in the case of rules made under section 105 until after the expiration of three months from such publication.

(2) A rule made by a Local Government under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the official Gazette.

(3) A rule made by the Governor General in Council under this Act shall not take effect until it has been published in the Gazette of India.

(4) The publication in the Gazette of a rule purporting to be made under this Act shall be

conclusive proof that the rule has been duly made and sanctioned.

(5) Any rule under this Act may be cancelled or varied by the authority by whom it was made.

336. (1) No Magistrate shall try any offence against this Act or any rule thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

(2) Any offence against this Act which is triable in a summary way may be so tried by a Magistrate of the first class although he has not been specially empowered by the Local Government under section 260 of the Code of Criminal Procedure, 1882.

337. Any person committing an offence against this Act or any rule thereunder may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

338. (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter,

and the defendant or the person accused, as the case may be, after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court or Magistrate,

any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in Her Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British Consular officer elsewhere, shall be admissible in evidence—

(a) if the deposition is authenticated by the signature of the presiding officer of the Court, or of the Justice, Magistrate or Consular officer before whom it was made, and

(b) if the defendant or the person accused had an opportunity, by himself or his agent, of cross-examining the witness, and

[Act I of 1859, s. 112, 1st paragraph; Act VII of 1884, s. 38; Act X of 1887, ss. 5 (7), 6 (1).]

X of 1882.

[Act VII of 1880, s. 84; Act VII of 1884, s. 39; Act X of 1887, s. 47; Bill of 1867, s. 292; Bill of 1882, s. 98.] Cf. 1894, s. 684.

[Act I of 1859, s. 111; Act V of 1883, s. 16; Act X of 1887, s. 50; Bill of 1867, s. 289; Bill of 1882, ss. 145, 154.] Cf. 1894, s. 691.

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(Part IX.—Chapter XXXVI.—Miscellaneous.—Sections 339-341.)

(c) if the proceeding be criminal, on proof that the deposition was made in the presence of the person accused:

Provided that, when such cross-examination has taken place, it shall be recorded as part of the deposition.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary be proved, be sufficient evidence that he had that opportunity and that it was so made.

Act I of 1859, ss. 44, 46; Bill of 1867, ss. 155, 168; Bill of 1882, ss. 55, 68.]

339. When an order for the payment of any wages or other money is made by a Superintendent of a Mercantile Marine Office under section 88 or by a Magistrate under section 90, and the money is not paid at the time or in the manner directed, the sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable

property of the person directed to pay the same, under a warrant to be issued for that purpose by a Magistrate.

340. Where any Court or Magistrate has power to make an order under this Act directing payment to be made of any seaman's wages, fine, or other sum of money, then, if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order,

the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment, by warrant direct the amount remaining unpaid to be levied by distress and sale of ship, and the tackle, apparel and furniture thereof.

341. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.



The Indian Merchant Shipping Bill, 1896.

(Schedule 1.—Enactments repealed.)

SCHEDULE I.

ENACTMENTS REPEALED.

1	2	3
Number and year.	Subject or title,	Extent of repeal.

PART A.

(See section 2.)

Acts of the Governor General in Council.

XIII of 1856	Bombay Town Police	Section 54.
I of 1859	Merchant Seamen	The whole, so far as it has not been repealed.
IX of 1874	European Vagrancy Act, 1874.	In section 31, the words "and whenever a sailor of European extraction not being a British subject is discharged from his ship in any British Indian port," the words "or discharge from his ship," and the words "or, in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged."
XV of 1874	Laws Local Extent Act, 1874.	The first schedule, so far as it relates to Act I of 1859.
XIII of 1876	Indian Merchant Seamen's Act, 1876.	The whole.
IX of 1879	Burma Coast-lights Act, 1879.	The whole, so far as it has not been repealed.
VII of 1880	Indian Merchant Shipping Act, 1880.	The whole, so far as it has not been repealed.
V of 1883	Indian Merchant Shipping Act, 1883.	The whole, except section 38.
VII of 1884	Indian Steam-ships Act, 1884.	The whole, so far as it has not been repealed.
X of 1887	Native Passenger Ships Act, 1887.	The whole.
III of 1890	An Act to amend Acts VI and VII of 1884.	Sections 15 to 22 (both inclusive), so far as they have not been repealed.
VI of 1891	An Act to amend certain Acts respecting Indian Merchant Shipping.	The whole, so far as it has not been repealed.
XII of 1891	Repealing and Amending Act, 1891.	The second schedule, so far as it relates to Acts I of 1859, XIII of 1876, VII of 1880 and V of 1883, and Act III of 1890, section 17.
XVII of 1891	Deck and Load Lines Act, 1891.	The whole.

Acts of the Governor of Fort St. George in Council.

III of 1888	Madras City Police Act, 1888.	Section 70.
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The Indian Merchant Shipping Bill, 1896.

(Schedule I.—Enactments repealed.)

SCHEDULE I—continued.

ENACTMENTS REPEALED—continued.

1	2	3
Number and year.	Subject or title.	Extent of repeal.

*Act of the Governor of Bombay in Council.*

II of 1864	An Act to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay.	Section 15.
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*Act of the Lieutenant-Governor of Bengal in Council.*

IV of 1866	Calcutta Police Act, 1886.	Section 42.
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PART B.

(See section 7.)

*Acts of the Governor General in Council.*

X of 1841	Registration of Ships	<p>In the title, the words "belonging to ports within the territories under the Government of the East India Company or" and the words "under a proclamation of the Governor General of India in Council made."</p> <p>In the preamble, the words from "that it shall be lawful" to "the same Statute" (both inclusive), the words "be deemed British ships, or," the words "under such proclamation as aforesaid" and the words and figures from "no ship or vessel shall be deemed a British ship under such proclamation as aforesaid" to the end.</p> <p>Sections 2 to 12 (both inclusive) and 14 to 23 (both inclusive), so far as they have not been repealed.</p> <p>In section 25, the words "certificate or" and the words "registering or."</p> <p>Section 26.</p> <p>In section 27 (inserted by Act VII of 1891, section 9), the words "Local Governments of India" and "Government of the Presidency."</p> <p>The proclamation appended to the Act.</p> <p>The schedule.</p>
XI of 1850	An Act to amend Act X of 1841.	<p>In section 3, the words and figures "owned by British subjects entitled to registry under Act X of 1841, or," the words "be registered and," and the words "and the tonnage may be marked."</p> <p>Section 4.</p>
V of 1883	Indian Merchant Shipping Act, 1883.	Section 38.
VII of 1891	An Act to amend Act X of 1841.	Sections 2 to 7 (both inclusive), so far as they have not been repealed.
XII of 1891	Repealing and Amending Act, 1891.	The second schedule, so far as it relates to Act VII of 1891.

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(Schedule II.—Maximum Fees for Purposes connected with the Registry of British Ships. Schedule III.—Table A.—Maximum Fees payable upon Engagements and Discharges of Seamen effected before a Superintendent of a Mercantile Marine Office.—Table B.—Maximum Sums which may be deducted from Wages of Seamen by way of partial Repayment of the foregoing Fees. Schedule IV.—Maximum Fees for Inspection of Lights and Fog Signals.)

SCHEDULE II.

MAXIMUM FEES FOR PURPOSES CONNECTED WITH THE REGISTRY OF BRITISH SHIPS.

(See section 13, sub-section (2).)

1. For measurement of tonnage of British ships.

	Rs.
For a ship under 50 tons register tonnage	15
" " from 50 to 100 tons register tonnage	22
" " " 100 to 200 "	30
" " " 200 to 500 "	45
" " " 500 to 800 "	60
" " " 800 to 1,200 "	75
" " " 1,200 to 2,000 "	90
" " " 2,000 to 3,000 "	105
" " " 3,000 to 4,000 "	0
" " " 4,000 to 5,000 "	35
" " " 5,000 tons and upwards register tonnage.	150

2. For altering the name of the ship in the register book in pursuance of section 47, sub-section (4) or sub-section (5), of the Merchant Shipping Act, 1894, as amended by section 12 of this Act—

Half the fee which would be payable under clause 1 of this Schedule.

3. For inspection of places in British ships which are occupied by seamen or apprentices engaged under this Act, and appropriated to their use—

For each visit to the ship . . . Rs. 5

Provided as follows:—

- (a) the aggregate amount of the fees for any such inspection shall not exceed ten rupees, whatever be the number of separate visits;
- (b) when the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

4. For inspection of a register-book . . . Rs. A. 0 8  
 5. For re-measurement of a British ship in pursuance of section 77, sub-section (2), of the Merchant Shipping Act, 1894—

For each transverse section . . . 5 0

SCHEDULE III.

(See section 21.)

TABLE A.

MAXIMUM FEES PAYABLE UPON ENGAGEMENTS AND DISCHARGES OF SEAMEN EFFECTED BEFORE A SUPERINTENDENT OF A MERCANTILE MARINE OFFICE.

(1) Engagement or discharge of crews—

	Rs. A.
For ships under 100 tons register tonnage	3 0
" " from 100 to 200 tons register tonnage	7 0
" " " 200 to 300 "	10 0
" " " 300 to 400 "	12 8
" " " 400 to 500 "	15 0
" " " 500 to 600 "	17 8
" " " 600 to 700 "	20 0
" " " 700 to 800 "	22 8
" " " 800 to 900 "	25 0
" " " 900 to 1,000 "	27 8
" " " 1,000 tons and upwards register tonnage . . .	30 0

and so on for ships of larger tonnage, adding, for every one hundred tons above one thousand, two rupees and eight annas.

(2) Engagement or discharge of seamen separately—

One rupee for each seaman.

TABLE B.

MAXIMUM SUMS WHICH MAY BE DEDUCTED FROM WAGES OF SEAMEN BY WAY OF PARTIAL REPAYMENT OF THE FOREGOING FEES.

(1) In respect of engagements and discharges of crews—

Upon each engagement and each discharge—

	Rs. A.
From wages of any mate, purser, engineer, surgeon, carpenter or steward	0 12
From wages of any other seaman	0 8

(2) In respect of engagements and discharges of seamen separately—

Upon each engagement and each discharge 0 8

SCHEDULE IV.

MAXIMUM FEES FOR INSPECTION OF LIGHTS AND FOG SIGNALS.

(See section 179.)

For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective . . . Rs. 5:

Provided that the aggregate amount of fees for any such inspection shall not exceed ten rupees, whatever may be the number of separate visits.

[Act XI of 1850, s. 4.]  
 Cf. 1804, ss. 64 (1), 77 (2), 210 (3), Sch. III, Sch. VI, cls. (9), (17) (8).

57 & 58 Vict., c. 60.

57 & 58 Vict., s. 60.

[Act I of 1859, Table A; Bill of 1867, Sch. II, Table A; Bill of 1882, Sch. II, Table A.]

[Act I of 1859, Table B; Bill of 1867, Sch. II, Table B; Bill of 1882, Sch. II, Table B.]

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*(Schedule V.—Rates of Fees payable in respect of Survey of Steam-ships. Schedule VI.—Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of Wrecks on their respective Coasts.)*

SCHEDULE V.

*(See section 187.)*

RATES OF FEES PAYABLE IN RESPECT OF SURVEY OF STEAM-SHIPS. [Act VII of 1884, Sch. (am. by Act III of 1890, s. 22.) Cf. 1894, Sch. 9.]

	Registered tonnage.	For a survey of hull and equipments only, or of machinery only.	For a survey of both.
		Tons.	Rs.
Steam-ships not exceeding	25	20	40
"    exceeding 25 and not exceeding	50	25	50
"    "    50    "    "	75	30	60
"    "    75    "    "	100	35	70
"    "    100    "    "	300	40	80
"    "    300    "    "	600	45	90
"    "    600    "    "	900	50	100
"    "    900    "    "	1,200	60	120
"    "    1,200    "    "	1,500	72½	145
"    exceeding 1,500 tons, for every additional 300 tons or fraction thereof.		12½	25

SCHEDULE VI.

DECLARATION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC, WITH REFERENCE TO THE DISPOSAL OF THE PROCEEDS OF WRECKS ON THEIR RESPECTIVE COASTS. [Act VII of 1880, Sch. (added by Act VI of 1891, s. 8).]

*(See section 245.)*

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally

*The Indian Merchant Shipping Bill, 1896.*

*(Schedule VI.—Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.)*

the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	New South Wales.
The Dominion of	Victoria.
Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.

New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either party may give notice of its intention to terminate it.

In witness whereof, the undersigned plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(LS.) LYTTON.  
(LS.) E. SPULLER.

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(Schedule VII.—Form of Governor's or Consul or Officer's Certificate of Expenditure in the case of Steerage Passengers wrecked, or forwarded. Schedule VIII.— Voyages in respect of which Coast-light Dues are payable.)

SCHEDULE VII.

[Act XII of 1885, Sch.]  
Cf. 1894,  
Sch. 14,  
Form III.

FORM OF GOVERNOR'S OR CONSULAR OFFICER'S CERTIFICATE OF EXPENDITURE IN THE CASE OF STEERAGE PASSENGERS WRECKED OR FORWARDED.

(See section 271.)

I hereby certify that, acting under and in conformity with the provisions of Part VI of the Indian Merchant Shipping Act, 189 , I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (1), and in forwarding to their destination *steerage* passengers who were proceeding from

(1) If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

in the ship

(2) State generally the nature of the disaster and where it occurred. But if the passengers were only left behind, without any default of their own, state the fact accordingly.

which was wrecked at sea, &c. (2)

And I further certify, for the purposes of Part VI of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under Part VI of the said Act.

Given under my hand this day of 189 .

{ Governor of, &c. (or as the case may be)  
British Consul or Officer at

SCHEDULE VIII.

VOYAGES IN RESPECT OF WHICH COAST-LIGHT DUES ARE PAYABLE.

(See section 322.)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—

[Act IX of 1879, Sch.]

(a) from or to any port in Burma ; or

(b) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of Burma.

2. A voyage to or from any port in Burma--  
from or to any other port in Burma,

except voyages between Maulmain and Tavoy, between Maulmain and Mergui, or between Tavoy and Mergui.

3. A voyage to or from Rangoon or any port in Burma west of the longitude of Rangoon--

from or to any place east of the longitude of Mergui.

4. A voyage to or from any port in Burma, other than Tavoy and Mergui,—

from or to any port in the Andaman and Nicobar Islands.

S. HARVEY JAMES,  
Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February 1896:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Foreign Jurisdiction and Ex-

- tradition Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.
- From Officiating Resident, Hyderabad, No. 232, dated 31st July 1895 [Paper No. 1].  
 From High Court, Calcutta, No. 1614, dated 8th August 1895 [Paper No. 2].  
 From Agent to Governor General in Baluchistan, No. 4995, dated 18th August 1895 [Paper No. 3].  
 From Commissioner, Ajmere-Merwara, No. 967—690-VI., dated 19th August 1895 [Paper No. 4].  
 From Chief Commissioner, Coorg, No. 1465, dated 28th August 1895 [Paper No. 5].  
 From Chief Commissioner, Burma, No. 627—L-16, dated 26th August 1895 [Paper No. 6].  
 From Chief Commissioner, Central Provinces, No. 6697, dated 4th September 1895 [Paper No. 7].  
 From Government, Bombay, No. 552-P., dated 13th September 1895, and enclosure [Papers No. 8].  
 From Government, Punjab, No. 515, dated 13th September 1895, and enclosures [Papers No. 9].  
 From Chief Commissioner, Assam, No. 137-L. & L.—4357-J., dated 7th September 1895 [Paper No. 10].  
 From Government, Bengal, No. 262-J. D., dated 12th September, 1895 [Paper No. 11].  
 From Government, Madras, No. 1953, dated 17th September 1895, and enclosures [Papers No. 12].  
 From Government, North-Western Provinces and Oudh, No. 2668, dated 25th September 1895, and enclosures [Papers No. 13].

to exercise all or some of the powers referred to in that clause.

3. We have provided in section 13 of the Act for the giving over of deserters from Imperial Service Troops for trial by duly constituted military tribunals in the States to which they belong, instead of by the ordinary Courts of those States.

4. The other alterations are verbal and do not call for remark.

5. The publication ordered by the Council has been made as follows:—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India...	13th July 1895.
Fort Saint George Gazette ...	23rd July 1895.
Bombay Government Gazette ...	18th July 1895.
Calcutta Gazette ...	24th July 1895.
North-Western Provinces and Oudh Government Gazette ...	20th July 1895.
Punjab Government Gazette ...	18th July 1895.
Central Provinces Gazette ...	20th July 1895.
Burma Gazette ...	3rd August 1895.
Assam Gazette ...	3rd August 1895.
Coorg District Gazette ...	1st August 1895.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Marathi ...	1st August 1895.
	Gujarathi ...	1st August 1895.
	Kanarese ...	1st August 1895.
Bengal ...	Bengali ...	13th August 1895.
	Hindi ...	13th August 1895.
	Uriya ...	18th August 1895.
North-Western Provinces and Oudh	Urdu ...	27th July 1895.
Punjab ...	Urdu ...	8th August 1895.
Burmah ...	Burmese ...	10th August 1895.
Assam ...	Bengali ...	24th August 1895.
Sindh ...	Sindhi ...	15th August 1895.

6. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

(Signed) ALEX. EDW. MILLER.  
 ( " ) H. BRACKENBURY.  
 ( " ) JAHAN KADER MEEBZA MD. WAHED ALI.  
 ( " ) A. S. LETHBRIDGE.  
 ( " ) G. H. P. EVANS.  
 ( " ) J. D. REES.  
 ( " ) AMIRUDEEN.

The 19th February 1896.

No. II.

A Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.

Whereas it is expedient to amend the Foreign Jurisdiction and Extradition Act, 1879; It is hereby enacted as follows:—

1. In section 3 of the said Act, for the words "officer in British India" the words "officer of the Government of India or of any Local Government," and for the words "the Governor in Council of the Presidency of Fort St. George or Bombay" the words "the Local Government," shall be substituted.

2. To section 11 of the said Act the following Addition to section 11, shall be added, namely:—

"The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which such troops belong may issue a warrant under this section."

3. In section 12 of the said Act, after the words "and the accused person, when arrested, shall," the words "unless released on bail in accordance with the provisions of the next following section" shall be inserted.

4. After section 12 of the said Act the following sections shall be inserted; namely:—

"12A. A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that; if such person executes a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody.

"The endorsement shall state (a) the number of sureties (if any), (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the time and

place at which he is to attend before the officer mentioned in the warrant.

"Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

"12B. If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

"12C. In the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions, the powers conferred by sections 513 and 514 of the Code of Criminal Procedure, 1882, on the Court which has required the execution of or has taken a bond may be exercised by the Magistrate."

5. At the end of section 13 of the said Act Addition to section 13, the following shall be added, namely:—

"or, in the case of a deserter, by a duly constituted Military Court."

6. After section 17 of the said Act the following section shall be added, namely:—

"17A. Notwithstanding anything in the Code of Criminal Procedure, 1882, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 15 of this Act."

S. HARVEY JAMES, Secretary to the Government of India.



## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Indian Penal Code was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February, 1896 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Penal

- Code was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.
2. We have altered the first half of the Bill so as to get rid of an objection taken by several of the authorities consulted. It has been argued that, under the Bill as originally drawn, there would be an apparent contradiction in the terms of the definition of "Queen's coin" inasmuch as the second, read with the first, paragraph of section 230 of the Indian Penal Code requires "Queen's coin" to be "metal for the time being used as money," while the additional paragraph proposed would declare that a piece of metal might be "Queen's coin" although no longer used as money. By amending the whole definition as in the Bill now submitted we think that the inconsistency noticed will be removed.
3. The publication ordered by the Council has been made as follows :—

<i>In English.</i>			
<i>Gazette.</i>		<i>Date.</i>	
Gazette of India	... ..	13th July 1895.	
Fort Saint George Gazette	... ..	23rd July 1895.	
Bombay Government Gazette	... ..	18th July 1895.	
Calcutta Gazette	... ..	24th July 1895.	
North-Western Provinces and Oudh Government Gazette	... ..	20th July 1895.	
Punjab Government Gazette	... ..	18th July 1895.	
Central Provinces Gazette	... ..	20th July 1895.	
Burma Gazette	... ..	3rd August 1895.	
Assam Gazette	... ..	3rd August 1895.	
Coorg District Gazette...	... ..	1st August 1895.	
Sind Official Gazette	... ..	8th August 1895.	

*In the Vernaculars.*

<i>Province.</i>		<i>Language.</i>		<i>Date.</i>
Madras	... ..	Telugu	... ..	6th August 1895.
		Hindustani	... ..	6th August 1895.
		Kanarese...	... ..	6th August 1895.
		Malayalam	... ..	6th August 1895.
Bombay	... ..	Tamil	... ..	13th August 1895.
		Marathi	... ..	29th August 1895.
		Gujarathi	... ..	29th August 1895.
Bengal	... ..	Kanarese...	... ..	29th August 1895.
		Bengali	... ..	6th August 1895.
		Hindi	... ..	6th August 1895.
North-Western Provinces and Oudh	... ..	Uriya	... ..	8th August 1895.
		Urdu	... ..	27th July 1895.
		Urdu	... ..	18th August 1895.
Punjab	... ..	Burmese	... ..	10th August 1895.
Burma	... ..	Bengali	... ..	17th August 1895.
Assam	... ..	Kanarese	... ..	1st September 1895.
Coorg	... ..	Sindhi	... ..	22nd August 1895.
Sindh	... ..			

4. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

(Signed) J. WESTLAND.  
 ( " ) ALEX. EDW. MILLER.  
 ( " ) J. WOODBURN.  
 ( " ) MOHINY MOHUN ROY.  
 ( " ) P. ANANDA CHARLU.

## No. II.

*A Bill to amend the Indian Penal Code.*

WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows :

1. (1) For the second paragraph of section 230 of the said Code the following shall be substituted, namely :—

*“ Queen’s coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen’s dominions, in order to be used as money ;*

*and metal which has been so stamped and issued, shall continue to be the Queen’s coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.”*

(2) To the illustrations appended to the said section the following shall be added, namely :

“(c) The ‘Farukhabad rupee,’ which was formerly used as money under the authority of the Government of India, is Queen’s coin, although it is no longer so used.”

S. HARVEY JAMES,  
Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th February 1896:—

## No. 11 of 1896.

*A Bill to amend the Indian Contract Act, 1872.*IX of  
1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872; It is hereby enacted as follows:—

1. After section 69 of the said Act the following sections shall be added, namely:—

Addition of new sections after section 69, Act IX, 1872.

“69A. If any such payment as is mentioned in the last foregoing section is made by a person possessing an interest in any immovable property and is, by reason of the default of the person bound by law to make it, necessary for the purpose of preserving such property from alienation and has the effect of so preserving it, the person making the payment shall be entitled to a charge upon the property so preserved for reimbursement of the sum so paid, with interest at such rate as the Court may direct.

“Such charge shall have priority over all charges on, and rights in, such property, which would have been defeated if such alienation had taken effect, and shall be subject to all such charges and rights as would have remained unaffected notwithstanding such alienation.

“69B. When two or more persons are jointly interested in any immovable property, and one of such persons, in order to its preservation, makes any payment in respect thereof to which they are

Charge on immovable property preserved by payment made by one of two or more persons jointly interested.

jointly and severally liable, or to which they ought by law or in equity to contribute either equally or in any definite proportions, the person making such payment shall be entitled to a charge upon the interest or respective interests of the other or others of them for reimbursement to him of the proportion or respective proportions of the sum so paid to the payment of which he or they respectively was or were so liable as aforesaid, together with interest thereon at such rate as the Court may direct.

“69C. If any person, at the request, made in writing and signed by a person having an interest in any immovable property, and in order to preserve such property from alienation, pays any charge or demand affecting such property which such last-mentioned person was bound by law to pay, the person making such payment shall be entitled to a charge on the property so preserved for reimbursement to him of the sum so paid, with interest thereon at such rate as the Court may direct.

“The person entitled to such charge shall have the same priority in respect thereof as between himself and the other persons interested in such property, as the person whose charge or demand was so paid as aforesaid was entitled to at the time of such payment.

“69D. Any person claiming to be entitled to a charge on any property under any of the three last foregoing sections may maintain a suit against the owner of the property for a declaration of the existence and extent of such charge.

“69E. Nothing in sections 69A, 69B and 69C shall affect the right of the Government to sell an estate free from all encumbrances and charges

Saving of right of Government to sell free of encumbrances.

under the law for the time being in force for the recovery of arrears of land-revenue and other public demands, and, notwithstanding anything contained in the sections aforesaid, no charge of the nature therein described shall enure as against a *bonâ fide* transferee for value of immovable property unless prior to the transfer to such transferee there has been registered in British India, under the law for the time being in force for the registration of documents, either an agreement by the predecessors in title of such transferee acknowledging, or a certified copy of the decree of a Court of competent jurisdiction declaring, the existence and extent of such charge:

“Provided that, notwithstanding such registration, no such charge shall be valid as against a *bonâ fide* transferee for value of the property who shall prove to the satisfaction of the Court that at the time when he parted with his purchase-money he was in fact ignorant of the existence of the charge and could not by reasonable diligence have discovered its existence.

“Explanation.—In the construction of this section ‘purchase-money’ shall include any valuable consideration given for the transfer of the property in question.”

## STATEMENT OF OBJECTS AND REASONS.

THIS Bill aims at the incorporation into the law of British India of provisions, founded upon the old rule of equity adopted by the English and Irish Courts, which will enable persons making payments with the object and effect of preserving immovable property from alienation to acquire in certain circumstances a lien or charge on such property in respect of the payments so made.

2. Section 69 of the Indian Contract Act, 1872, provides that a person interested in the payment of money which another is bound by law to pay, and making payment in the default of such other, is entitled to be reimbursed by him. Thus the person making the payment is given, under the circumstances indicated by the section, a right of recovery against the person on whose behalf the payment has been made, but no right as against the property preserved by the payment is here conferred. The question of the expediency of undertaking legislation in order to give such a right of recovery has come before the Government of India in connection with the divergent rulings of the several High Courts in cases in which the nature and extent of liens created by payments of this kind came under consideration. Full Benches of the Calcutta and Allahabad Courts have held that there is no general rule of equity to the effect that, whoever, having an interest in an estate, makes a payment in order to save it, obtains a charge thereon, and that, therefore, in the absence of a statutory declaration to the contrary, a co-sharer who has paid the whole revenue and thus saved the estate from sale, does not by reason of such payment acquire a charge on the shares of his defaulting co-sharers. Neither of these rulings was, however, unanimous, and the opposite view taken by the dissentient minorities in Calcutta and Allahabad have commended themselves to Divisional Benches of the Bombay and Madras High Courts. In these circumstances it has been decided to propose legislation on the subject. The provisions of the Bill appear to need no further explanation beyond this that it has been deemed necessary to save the right of Government to sell estates free of all encumbrances to recover arrears of the land-revenue or of any other public demand.

*The 20th February 1896.*

(Signed) ALEX. EDW. MILLER.

S. HARVEY JAMES,  
Secretary to the Government of India.