

ACT No. XIII OF 1878.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 28th March 1878).

An Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875.

Preamble.

WHEREAS by the Merchant Shipping Act, 1854, section 213, and by the Merchant Shipping Act Amendment Act, 1855, section 16, it is enacted that the Board of Trade may, in manner therein mentioned, and in the name of Her Majesty, sue for and recover the wages due to, and expenses incurred in respect of, the distressed seamen and apprentices in the said sections mentioned; And whereas it is expedient to empower such persons as the Governor General in Council may think fit to sue for and recover in British India, in the name of the Secretary of State for India in Council, such wages and expenses, when the same are charged upon any ship, or recoverable from any master, owner or other person, found in British India;

And whereas it is also expedient to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875, in manner hereinafter appearing;

It is hereby enacted as follows:—

Power to
appoint per-
sons to sue.

1. The Governor General in Council may from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, any wages or expenses recoverable under the said sections

sections of the said Acts in cases where such wages and expenses are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India.

Every person so authorized 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.

2. All suits and proceedings under section one shall be instituted and carried on in the name of the Secretary of State for India in Council.

Suits, &c., to be instituted in name of Secretary of State for India in Council.

3. In sections 6, 7, 9 and 17 of the said Indian Merchant Shipping Act, 1875, the word "misconduct" shall be deemed to include, besides drunkenness, tyranny and other similar misconduct, any wrongful act or default causing the loss or abandonment of, or serious damage to, any ship, or loss of life.

Amendment of sections 6, 7, 9 and 17 of Act IV of 1875.

4. Notwithstanding anything contained in section one hundred and fourteen of Act No. I of 1859 (*for the amendment of the law relating to Merchant Seamen*), or in section twenty-eight of the said Indian Merchant Shipping Act, 1875, the word "ship" in section three, and the word "ships" in section five, of the latter Act, shall be deemed to include all ships except ships belonging to, or in the service of, Her Majesty or belonging to any foreign Prince or State.

Act IV of 1875, sections 3 and 5, amended.

Nothing herein contained shall be deemed to give power to cancel or suspend any certificate granted by the Board of Trade and held by the master, mate or engineer of any ship belonging to the subject of any foreign Prince or State.

5. For chapter V of the Indian Ports Act, 1875, the following shall be substituted (namely)—

Amendment of chapter V of Act XII of 1875.

"CHAPTER V.—*Of Salvage in Ports.*

"43. If any anchors, wreck, stores or other property be recovered by any officer employed by the

Recovery of property by Government

Local

officer, and salvage payable therefor.

Local Government for that purpose, from the surface, bed or shore of any port subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery.

Private person recovering property to deliver up same and receive salvage.

“If any such property is so recovered by any other person not entitled thereto nor authorized by the person so entitled to recover the same, he shall, without unnecessary delay, deliver the same to the Conservator, or to such other officer as the Local Government may appoint in this behalf, and shall be entitled to receive a reasonable sum as aforesaid in respect of the same.

Register to be kept of property recovered.

“A register shall be kept of all property so recovered, in such manner and at such place as the Local Government may direct.

“It shall contain a description of such property, and of the times and places where the same has been recovered ;

“and it shall be open to public inspection at reasonable office-hours, except on Sundays and such holidays as the Local Government may direct.

Provisions of section 40 saved.

“Nothing in this section shall authorize any person to creep or sweep for any property in contravention of section forty, or entitle any person to salvage in respect of any property recovered by so creeping or sweeping.

Penalty for omitting to deliver up property.

“Any person omitting to deliver any property as required by this section shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Property recovered may, in certain cases, be sold.

“44. If the property recovered under the last preceding section, or by a Conservator acting under section fifteen, is unclaimed,

“or if the person claiming the same fails to pay the amount due to the Local Government, or to the finder of such property, in respect thereof,

such

“such property may be sold by public auction, if of a perishable nature, forthwith; and if not of a perishable nature, at any period not less than six months after the recovery thereof,

“and on the realization of the proceeds, the amount due to the Local Government, or to the finder of such property, for salvage, or for the expenses incurred under section fifteen, shall be deducted therefrom, and credited to the Local Government, or paid to such finder, as the case may be, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Proceeds how applied.

“Provided that he makes his claim within one year from the date of the sale.”