MO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

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C A P. XCVI.

An Act to amend the Mercantile Marine Act, 1850. [7th *August* 1851.]

WHEREAS it is expedient to amend The Mercantile Marine Act, 1850: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

I. This Act may be cited as the "Mercantile Marine Act Amendment Act, 1851," and shall come into operation immediately on the passing thereof.

To be taken as Part of the Mercantile Marine Act, 13 & 14 Vict. c. 93.

II. This Act shall, so far as is consistent with the Contents and Subject Matter thereof, be taken as Part of and construed with the said Mercantile Marine Act, 1850.

If any Local Marine Board fail to discharge its Duties, the Board of Trade may assume its Duties, or direct a new Election.

III. If any Local Marine Board, by reason of any Election not taking place, or of the simultaneous Resignation or constant Non-attendance of all or the greater Part of the Members, or from any other Cause, fails to meet or to discharge its Duties, the Board of Trade may in its Discretion either take into its own Hands the Performance of the Duties of such Local Marine Board until the next triennial Appointment and Election thereof, or direct that a new Appointment and Election of such Local Marine Board shall take place immediately.

Increased Powers of cancelling or suspending Certificates.

IV. If any Master or Mate is convicted of Felony, or is convicted and sentenced to Imprisonment either summarily or otherwise under any of the Provisions of the Act of the Eighth Year of the Reign of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, or of the Mercantile Marine Act, 1850, the Board of Trade may cancel or suspend his Certificate, whether of Competency or Service; and if upon any Investigation held under the Twenty-eighth Section of the said Mercantile Marine Act the Report of the Board or Persons making the same is to the Effect that such Master or Mate has been guilty of any gross and repeated Acts of Dishonesty, or of Drunkenness, or of Tyranny, the Board of Trade may cancel or suspend his Certificate, whether of Competency or Service, and any such Cancellation or Suspension shall have the same Effect as any Cancellation or Suspension made under the said Twenty-eighth Section of the Mercantile Marine Act, 1850; provided that the Powers hereby given shall not affect or diminish the Powers given by the said Twenty-eighth Section of the Mercantile Marine Act, 1850.

Certificates of Masters &c. may be appropriate to Station of Holder or of a superior Grade.

V. In any Case in which Masters or Mates of Merchant Ships are required to possess or produce Certificates of Competency or Service, such Certificates may be either of a Grade appropriate to the Stations held by them for the Time being, or of any superior Grade.

Certificates of Masters and Mates to be produced to Shipping Masters, who are to certify the same, and the proper Execution of the Agreement, for the Satisfaction of the Officers of Customs.

VI. After the First Day of *September* One thousand eight hundred and fifty-one, the Master of every Foreign-going Ship shall, on signing the Agreement with his Crew as required by the Mercantile Marine Act, 1850, produce to the Shipping Master before whom the same is signed the Certificate of Competency or Service which the said Master and his First and Second Mate or only Mate, as the Case may be, are by the said Act required to possess; and upon such Production being duly made, and the Agreement being duly executed, as by the said Act is required, the Shipping Master shall sign and give to the Master a Certificate to that Effect; and in the Case of running Agreements herein-after provided for, the Shipping Master shall before the Second and every subsequent Voyage made after the First Commencement of the Agreement sign and give to the Master, on his complying with the Provisions herein-after contained with respect to such Agreements, and producing to the Shipping Master the Certificate of Competency or Service of any First, Second, or only Mate then first engaged by him, a Certificate to that Effect; and the Master of every Foreign-going Ship shall before proceeding to Sea produce the Certificate so to be given to him by the Shipping Master as aforesaid to the Collector or Comptroller of Customs, and the Collector or Comptroller may thereupon, notwithstanding any Provision to the contrary in the said Mercantile Marine Act, 1850, contained,

tained, allow such Ship to proceed to Sea without requiring the Production of the Certificates of Competency or Service or the Agreement with the Crew; and no Officer of Customs shall clear any Foreign-going Ship Outwards or permit her to proceed to Sea without the Production of such Certificate from the Shipping Master as aforesaid.

As to Engagements and Discharges for Colonial Ships made before Shipping Masters.

VII. Such Provisions of the Mercantile Marine Act, 1850, as relate to the Engagement and Discharge of Seamen in the Presence of a Shipping Master, shall extend to all Engagements and Discharges of Seamen made within the Limits of the United Kingdom in and from Foreign-going *British* Ships, in whatever Part of Her Majesty's Dominions such Ships may be registered or licensed, and in whatever Trade or Occupation (other than the Trade or Occupation of Home Trade Ships) they may be employed, and whether the same have or have not previously been within the Limits of the United Kingdom; and such Provisions of the said Act of the Eighth Year of Her Majesty Queen *Victoria* as relate to the Transmission or Delivery of the Account or List referred to in the said Act as Schedule C. shall apply to all Ships as aforesaid when discharging their Crews in the United Kingdom; provided that if the Master of any Ship not belonging to the United Kingdom who engages Seamen in the United Kingdom is furnished with an Agreement made in due Form according to the Law of the Territory or Colony to which such Ship belongs, the Seamen so engaged in the United Kingdom may sign such Agreement in the Presence of the Shipping Master, and the Master shall not be compelled to enter into an Agreement with them in the Form required by the Mercantile Marine Act, 1850.

Provisions of 7 & 8 Vict. c. 112. as relate to the Transmission of Accounts, &c. referred to in Schedule C. to apply to all Ships, &c.

Colonial Ships merely touching in the United Kingdom not to be deemed on that Account to fall within the 13 & 14 Vict. c. 93. s. 4.

VIII. If the Crew of any Ship registered in any Territory or Colony being Part of Her Majesty's Dominions abroad is engaged within the Limits of such Territory or Colony according to the Laws for the Time being in force there for a Voyage which is to terminate in such Territory or Colony, and is so expressed in the Agreement, such Ship shall not, by reason of her touching in the course of such Voyage at any Place or Places in the United Kingdom, and likewise at other Places not situate in such Territory or Colony as aforesaid, be construed to be a Ship to which the said Mercantile Marine Act, 1850, or this Act, applies, except so far as relates to the Engagement or Discharge of any Seaman engaged in or discharged from such Ship within the Limits of the United Kingdom.

Foreign-going Ships making short Voyages may have running Agreements.

Manner of commencing and terminating such Agreements.

IX. In the Case of Foreign-going Ships making Voyages averaging less than Six Months in Duration, Agreements with the Crew may be made to extend over Two or more Voyages in the Manner and subject to the Conditions herein-after mentioned; (that is to say,) no such Agreement shall extend beyond the next following Thirtieth of *June* or Thirty-first of *December*, or the First Arrival of the Ship at her Port of Destination

Destination in the United Kingdom after such Date; and every Person entering into such Agreement, whether engaged upon the First Commencement thereof or otherwise, (except Seamen engaged out of the United Kingdom and such Substitutes as herein-after mentioned,) shall enter into and sign the same in the Manner required by the said Mercantile Marine Act, 1850, in the Case of Foreign-going Ships; and every Person engaged thereunder, if discharged in the United Kingdom, shall be discharged in the Manner required by the said Act for the Discharge of Seamen belonging to Foreign-going Ships; and Seamen engaged out of the United Kingdom, and Substitutes engaged in the Place of Seamen who have duly signed this Agreement, and whose Services are lost within Twenty-four Hours before the Ship puts to Sea, by Death, Desertion, or other unforeseen Cause, may be engaged in the Manner provided for such Cases by the Forty-seventh Section of the said Mercantile Marine Act, 1850.

Engagement and Discharge of Seamen in the meantime.

X. The Master of every Foreign-going Ship for which such a running Agreement as aforesaid is made shall, upon every Return to any Port in the United Kingdom before the final Termination of the Agreement, discharge or engage before the Shipping Master there any Seaman whom he is required by Law so to discharge and engage, and shall indorse 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 herein-before required; and any Master who wilfully makes a false Statement in such Indorsement shall be liable to a Penalty not exceeding Twenty Pounds; and the Shipping Master shall also sign an Indorsement 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 indorsed to the Master, when signed and attested.

Duplicates of Agreements may be either kept by the Shipping Master, or returned.

XI. In Cases in which such running Agreements are made, the Duplicate Agreement retained by the Shipping Master upon the First Engagement of the Crew shall either be returned to the Registrar of Seamen immediately, or be kept by the Shipping Master until the Expiration of the Agreement, as the Board of Trade may direct.

Fees to be paid on such running Agreements.

XII. For the Purpose of determining the Fees to be paid upon the Engagement and Discharge of Seamen belonging to such Ships as aforesaid, the Crews shall be considered to be engaged when the Agreement is first signed, and to be discharged when the Agreement finally terminates, and all intermediate Engagements and Discharges shall be considered to be Engagements and Discharges of single Seamen: Provided that nothing herein contained shall affect the Power of

of reducing Fees which the Board of Trade possesses under the said Mercantile Marine Act, 1850.

Enactments concerning Agreements, &c. to apply to certain Cases.

XIII. Except as herein-before provided, all Enactments relating to Agreements or to Discharges which are contained in the said Act shall apply to Agreements and Discharges effected in the Manner herein-before mentioned.

Shipping Masters are to assist in binding Apprentices, and may receive Fees.

XIV. All Shipping Masters appointed under the said Mercantile Marine Act, 1850, shall, if applied to for the Purpose, give to any Boards of Guardians or other Persons desirous of apprenticing Boys to the Sea Service, and to Masters and Owners of Ships requiring Apprentices, such Assistance as is in their Power, and is consistent with their other Duties, for facilitating the making of such Apprenticeships, and shall, notwithstanding anything in the Act of the Ninth Year of Her Majesty Queen *Victoria*, Chapter One hundred and sixteen or in the Mercantile Marine Act, 1850, contained, be entitled to demand and receive from Persons availing themselves of such Assistance such Fees as may be determined in that Behalf by the Board of Trade, with the Concurrence, so far as relates to Parish Apprentices, of the Poor Law Board; and such Fees shall be accounted for and applied in the same Manner as Fees received under the Mercantile Marine Act, 1850.

Coasters to be relieved from carrying Official Logs, and if of less than Eighty Tons Burden, from carrying Agreements.

XV. Such Provisions of the Mercantile Marine Act, 1850, as require the Masters or Owners of Ships of less than Eighty Tons Burden, employed exclusively in trading between different Places on the Coast of the United Kingdom, to keep, use, produce, or deliver Agreements with their Crews, and such Provisions of the same Act as require the Masters or Owners of any such Ships as last aforesaid, of whatever Burden, to keep, use, produce, or deliver Official Log Books, shall be repealed.

Advance Notes may be given at the Time of signing Agreement.

XVI. So much of the Fifty-ninth Section of the said Mercantile Marine Act, 1850, as provides that Advance Notes shall not be given to Seamen who sign the Agreement before a Shipping Master until Four Hours after the Agreement has been so signed, shall be repealed; and so much of the Sixtieth Section of the same Act as relates to the Breach of such Provision shall also be repealed.

Repeal of Section 61. of 13 & 14 Vict. c. 93., and other Provisions substituted.

XVII. The Sixty-first Section of the Mercantile Marine Act, 1850, shall be repealed; and in lieu thereof, be it enacted, That whenever any Advance Note is discounted for any Seaman, such Seaman shall sign or set his Mark to a Receipt indorsed on the Note, stating the Sum actually paid or accounted for to him by the Person discounting the same;

Advance Notes to be receipted when discounted.

same; and if the Seaman sails in the Ship from the Port of Departure mentioned in the Note, and is then duly earning his Wages, or is previously discharged with the Consent of the Master, but not otherwise, the Person discounting the Note may, Ten Days after the final Departure of the Ship from the said Port of Departure mentioned in the Note, sue for and recover the Amount promised by the Note, with Costs, either from the Owner or from any Agent who has drawn or authorized the drawing of the Note, either in the County Court or in the summary Manner in which Seamen are by the General Merchant Seamen's Act enabled to sue for and recover Wages not exceeding Twenty Pounds; and in any such Proceeding it shall be sufficient for such Person to prove that the Note was given by the Owner or Master or some other authorized Agent, and that the same was discounted to and receipted by the Seaman, and the Seaman shall be presumed to have sailed in the Ship from such Port as aforesaid, and to be duly earning his Wages, unless the contrary is proved, either by the Production of his Register Ticket, or by the official Statement of the Change in the Crew caused by his Absence, made and signed by the Master, as by the Mercantile Marine Act, 1850, required, or in some other Manner.

Certain Evidence to be sufficient.

Power of dispensing with Lime Juice, &c. extended.

XVIII. The Power of dispensing with so much of the Act of the Eighth Year of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, as relates to Lime or Lemon Juice, Sugar and Vinegar, which is by the Sixty-fifth Section of the said Mercantile Marine Act, 1850, given to the Board of Trade, shall extend to Ships bound to any Port on the Eastern Coast of *North America* North of the Thirty-fifth Degree of North Latitude, and to any Islands or Places in the *Atlantic Ocean* North of the same Limits.

Power to substitute other Articles for Lime Juice.

XIX. The Board of Trade may direct that Citric Acid, or any other Article of a similar Nature, may, at the Discretion of Masters or Owners of Ships, be substituted for the Lime or Lemon Juice required by the Eighteenth Section of the Act of the Eighth Year of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, and may impose any Conditions it thinks fit upon any such Substitution, and may revoke any such Directions; and no Master or Owner who complies with such Directions shall be compelled to carry or serve out Lime or Lemon Juice, or be liable to any Penalty for not carrying or serving out the same.

Penalty for harbouring Deserters to extend to harbouring Men who refuse to join.

XX. Such Provisions of the Tenth Section of the Act of the Eighth Year of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, as relate to the harbouring or secreting of Deserters, shall extend to the harbouring or secreting of any Seaman who after duly signing

signing the Agreement wilfully neglects or refuses to join his Ship, or of any Apprentice who so neglects or refuses.

Misconduct in Pilots endangering Ship, Life, or Limb to be a Misdemeanor.

XXI. Any Pilot in charge of any Ship who by wilful Breach of Duty or by Neglect of Duty, or by reason of Drunkenness, does any Act tending to the immediate Loss, Destruction, or serious Damage of such Ship, or tending immediately to endanger the Life or Limb of any Person on board of such Ship, or who by wilful Breach of Duty or Neglect of Duty, or by reason of Drunkenness, refuses or omits to do any lawful Act proper and requisite to be done by him for preserving such Ship from Loss, Destruction, or serious Damage, or for preserving any Person belonging to or on board of such Ship from Danger to Life or Limb, shall for each such Offence be deemed guilty of a Misdemeanor.

Costs of procuring Imprisonment may to the Extent of 3*l.* be deducted from Wages.

XXII. Whenever in any Proceeding relating to Seamen's Wages it is shown that any Seaman or Apprentice has in the course of the Voyage been convicted of any Offence by any competent Tribunal, and rightfully punished therefor by Imprisonment or otherwise, the Court or Justice hearing the Case may, if they or he think fit, direct a Part of the Wages due to such Seaman, not exceeding Three Pounds, to be applied in reimbursing any Costs properly incurred by the Master in procuring such Conviction and Punishment.

Naval Courts, constituted under 13 & 14 Vict. c. 93. s. 82., to have Power to make certain Decisions as to Wages.

XXIII. Any Court duly constituted according to the Eighty-second Section of the Mercantile Marine Act, 1850, shall, in addition to the Powers given to it by that Act, have the Power of ordering that the Wages of any Seaman whom it discharges from his Ship or any Part of such Wages shall be forfeited, and may direct either that such forfeited Wages be retained by way of Compensation to the Owner, or that they be paid to the Board of Trade, in the same Manner as Fines payable under the said Mercantile Marine Act, 1850, and shall also have the Power of deciding any Questions as to Wages, or Fines or Forfeitures, either of Wages or Effects, arising between any of the Parties to the Proceedings before it; and all such Decisions and Directions as aforesaid shall in any subsequent legal Proceedings be deemed to be conclusive as to the Rights of the Parties.

Such Courts to have the Powers given to Consuls by 7 & 8 Vict. c. 112. ss. 59, 60.

XXIV. Every such Court as aforesaid shall have and may exercise the same Powers with respect to Persons charged with the Commission of Offences at Sea or abroad as are by the Fifty-ninth and Sixtieth Sections of the Act of the Eighth Year of the Reign of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, or any of them, given to Her Majesty's Consuls and Vice-Consuls; provided that nothing herein contained shall diminish or affect the said Powers

Powers so given to Consuls and Vice-Consuls in any Case in which no such Court as aforesaid is constituted.

Orders of such Courts to be entered in Official Log.

XXV. All Orders made by any such Court as last aforesaid shall be entered in the Official Log Book of the Ship to which the Parties to the Proceeding before it belong, and shall be signed by the President of the Court or by One of its Members.

In case of Wreck or Abandonment a Naval Court may be summoned, as under Sect. 82. of 13 & 14 Vict. c. 93., to investigate the Case, and report to the Board of Trade.

XXVI. Whenever any Merchant Ship is wrecked or abandoned abroad, any Naval Officer in command of any of Her Majesty's Ships, or any Consular Officer who may be at or near the Place of such Wreck or Abandonment, or at any Place at which the Crew of the Ship so wrecked or abandoned arrives, may, if he thinks the Case requires Investigation, summon a Court, which shall be constituted in the same Manner as Courts constituted under the Eighty-second Section of the Mercantile Marine Act, 1850; and such Court shall investigate the Cause of the Wreck or Abandonment, and may for that Purpose summon and compel the Attendance of Parties and Witnesses, and administer Oaths and Affirmations, and order the Production of Documents, and shall make a Report containing the Statement of the Proceedings and of the Evidence, and shall send it to the Board of Trade; and if such Report is to the Effect that the Wreck or Abandonment has been caused by the Misconduct or Incompetency of the Master or any certificated Mate, the Board of Trade may cancel or suspend his Certificate, whether of Competency or Service; and any such Report, if purporting to be signed by the Senior Naval Officer or to be sealed with the Consular Seal, and if produced out of the Custody of the Board of Trade or its Officers, shall be admitted in Evidence in any legal Proceeding.

If the Loss is reported to have been caused by Misconduct, &c. in Master or Mates, their Certificates may be cancelled or suspended.

Entry of Offences in Log to be read over to Offenders.

XXVII. Except in the Case of Desertion and in other Cases in which it is impossible so to do, every Entry of any Offence made in the Official Log Book of any Ship which leaves the United Kingdom after the First Day of *September* One thousand eight hundred and fifty-one shall at the Time when the same is made, or as soon afterwards as possible, be read over distinctly and audibly to the Offender or upon the Quarter Deck of the Ship, and a Statement to the Effect that the same has been so read shall be added to such Entry, and signed as required for the Signature of such Entry; and, except in the Cases aforesaid, no such Entry shall be admissible in Evidence on the Part of the Master or Owner, or otherwise available for the Purposes of such Master or Owner, if not so stated to have been read over as herein-before required.

Schedule annexed substituted for s. 39. and Sched. C. of 13 & 14 Vict. c. 93.

XXVIII. The Schedule hereunto annexed shall be substituted for Schedule C. annexed to the Mercantile Marine Act, 1850, and the Thirty-ninth Section of the Mercantile Marine Act shall be construed accordingly.

XXIX. The

Accountant to the Naval Department of the Board of Trade.

XXIX. The Person acting for the Time being as Accountant to the Naval Department of the Board of Trade shall be the Person who is to render the Accounts of that Department to the Commissioners of Audit or other Persons undertaking the Audit thereof.

Delivery of Lists, &c. to be made to Shipping Masters.

XXX. In all Cases in which Masters or Owners of Ships are required by the Act of the Ninth Year of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, or by the Mercantile Marine Act, 1850, to deliver or transmit any Agreements, Lists, or Schedules to any Officer of Customs, such Masters and Owners shall henceforth in lieu thereof deliver or transmit the same to the Shipping Masters appointed under the Mercantile Marine Act, 1850, and all Provisions of the said Acts heretofore applicable to such Delivery and Transmission thereof as therein required shall henceforth apply to such Delivery or Transmission thereof as herein required.

Clerks to Justices, &c. to account to Board of Trade for Penalties received by them.

XXXI. All Clerks to Justices or other Officers receiving any Penalties inflicted under the said Act of the Eighth Year of Her Majesty Queen *Victoria*, Chapter One hundred and twelve, the said Act of the Ninth Year of Her Majesty Queen *Victoria*, Chapter One hundred and sixteen, the said Mercantile Marine Act, 1850, or this Act, shall give Accounts thereof to the Board of Trade in such Form as the said Board may direct.

SCHEDULE.

Sums to be deducted from Wages by way of partial Repayment of Fees in Schedule B. annexed to the Mercantile Marine Act.

1. In respect of Engagements and Discharges of Crews, upon each Engagement and each Discharge,

	s.	*d.*
From Wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward - - -	1	6
„ all others, except Apprentices - -	1	0

2. In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge,

One Shilling.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1851.