# CHAPTER 80.

An Act to amend the Merchant Shipping Acts. [15th August 1876.]

BE it 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:

*Preliminary.*

Short title.

**1.** This Act may be cited as the Merchant Shipping Act, 1876.

Construction of Act.

**2.** This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same; and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1876.

Commencement of Act.

**3.** This Act shall come into operation on the first day of October 1876 (which day is in this Act referred to as the commencement of this Act); nevertheless any Orders in Council and general rules under this Act may be made at any time after the passing of this Act, but shall not come into operation before the commencement of this Act.

*Unseaworthy Ships.*

Sending unseaworthy ship to sea a misdemeanor.

**4.** Every person who sends or attempts to send, or is party to sending or attempting to send a British ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

Every master of a British ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanor, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

A prosecution under this section shall not be instituted except by or with the consent of the Board of Trade, or of the governor of the British possession in which such prosecution takes place.

A misdemeanor under this section shall not be punishable upon summary conviction.

Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.

**5.** In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided, that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending thereof to sea is reasonable and justifiable.

Power to detain unsafe ships, and procedure for such detention.

**6.** Where a British ship, being in any port of the United Kingdom, is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (herein-after referred to as "unsafe") may be provisionally detained for the purpose of being surveyed, and either finally detained or released, as follows:

(1.) The Board of Trade, if they have reason to believe on complaint, or otherwise, that a British ship is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed.

(2.) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Board of Trade may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board.

(3.) The Board of Trade on receiving the report may either order the ship to be released or, if in their opinion the ship is unsafe, may order her to be finally detained, either absolutely, 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 Board think necessary for the protection of human life, and may from time to time vary or add to any such order.

(4.) Before the order for final detention is 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 of the ship may appeal in the prescribed manner to the court of survey (herein-after mentioned) for the port or district where the ship is detained.

(5.) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes such survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey (nominated as herein-after mentioned), and in such case if the surveyor and assessor agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section.

(6.) Where a ship has been provisionally detained, the Board of Trade may at any time, if they think it expedient, refer the matter to the court of survey for the port or district where the ship is detained.

(7.) The Board of Trade may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions.

(8.) For the better execution of this section, the Board of Trade, with the consent of the Treasury, may from time to time appoint a sufficient number of fit officers, and may remove any of them.

(9.) Any officer so appointed (in this Act referred to as a detaining officer) shall have the same power as the Board of Trade have under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(10.) A detaining officer shall forthwith report to the Board of Trade any order made by him for the detention or release of a ship.

Constitution of court of survey for appeals.

**7.** A court of survey for a port or district shall consist of a judge sitting with two assessors.

The judge shall be such person as may be summoned for the case in accordance with the rules made under this Act out of a list (from time to time approved for the port or district by one of Her Majesty's Principal Secretaries of State, in this Act referred to as a Secretary of State,) of wreck commissioners appointed under this Act, stipendiary or metropolitan police magistrates, judges of county courts, and other fit persons; but in any special case in which the Board of Trade think it expedient to appoint a wreck commissioner, the judge shall be such wreck commissioner.

The assessors shall be persons of nautical engineering or other special skill and experience; one of them shall be appointed by the Board of Trade, either generally or in each case, and the other shall be summoned in accordance with the rules under this Act by the registrar of the court, out of a list of persons periodically nominated for the purpose by the local marine board of the port, or, if there is no such board, by a body of local shipowners or merchants approved for the purpose by a Secretary of State, or, if there is no such list, shall be appointed by the judge; if a Secretary of State thinks fit at any

time, on the recommendation of the government of any British possession or any foreign state, to add any person or persons to any such list, such person or persons shall, until otherwise directed by the Secretary of State, be added to such list, and if there is no such list shall form such list.

The county court registrar or such other fit person as a Secretary of State may from time to time appoint shall be the registrar of the court, and shall, on receiving notice of an appeal or a reference from the Board of Trade, immediately summon the court in the prescribed manner to meet forthwith.

The name of the registrar and his office, together with the rules made under this Act relating to the court of survey, shall be published in the prescribed manner.

Power and procedure of court of survey.

**8.** With respect to the court of survey the following provisions shall have effect:

(1.) The case shall be heard in open court;

(2.) The judge and each assessor may survey the ship, and shall have for the purposes of this Act all the powers of an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854;

(3.) The judge may appoint any competent person or persons to survey the ship and report thereon to the court;

(4.) The judge shall have the same power as the Board of Trade have 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;

(5.) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Board of Trade, may attend at any inspection or survey made in pursuance of this section;

(6.) The judge shall send to the Board of Trade the prescribed report, and each assessor shall either sign the report or report to the Board of Trade the reasons for his dissent.

Rules for procedure of court of survey, &c.

**9.** The Lord Chancellor of Great Britain may from time to time (with the consent of the Treasury so far as relates to fees) make, and when made revoke, alter, and add to general rules to carry into effect the provisions of this Act with respect to a court of survey, and in particular with respect to the summoning of and procedure before the court, the requiring on an appeal security for costs and damages, the amount and application of fees, and the publication of the rules.

All such rules while in force shall have effect as if enacted in this Act, and the expression "prescribed" in the provisions of this Act relating to the detention of ships or court of survey means prescribed by such rules.

Liability of Board of Trade and shipowner for costs and damages.

**10.** If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship, the Board of Trade 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.

If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of such detention, unsafe within the meaning of this Act, the owner of the ship shall be liable to pay to the Board of Trade their costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

For the purposes of this Act 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 Board of Trade, shall be deemed to be part of the costs of the detention and survey of the ship, and any dispute as to the amount of costs under this Act may be referred to one of the masters or registrars of the Supreme Court of Judicature, who, on request made to him for that purpose by the Board of Trade, shall ascertain and certify the proper amount of such costs.

An action for any costs or compensation payable by the Board of Trade under this section may be brought againt the secretary thereof by his official title as if he were a corporation sole; and if the cause of action arises in Ireland, it shall be lawful for any of

the superior courts of common law in Ireland in which such action may be commenced to order that the summons or writ may be served on the Crown and Treasury Solicitor for Ireland, in such manner and on such terms as to extension of time and otherwise as to the court shall seem fit, and that such service shall be deemed good and sufficient service of such summons or writ upon the Secretary of the Board of Trade.

Power to require from complainant security for costs.

**11.** Where a complaint is made to the Board of Trade or a detaining officer that a British ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as herein-after mentioned.

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 the Board or officer frivolous or vexatious, such security shall not be required, and the Board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Act.

Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board of Trade are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

Supplemental provisions as to detention of ship.

**12.** (1.) A detaining officer shall have for the purpose of his duties under this Act the same powers as an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

(2.) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

(3.) When a ship has been detained under this Act she shall not be released by reason of her British register being subsequently closed.

(4.) For the purposes of a survey of a ship under this Act any person authorised to make the same may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle.

(5.) The provisions of the Merchant Shipping Act, 1854, with respect to persons who wilfully impede an inspector, or disobey a requisition or order of an inspector, shall apply as if those provisions were herein enacted, with the substitution for the inspector of any judge, assessor, officer, or surveyor who under this Act has the same powers as an inspector or has authority to survey a ship.

*Foreign Ships, Overloading.*

Application to foreign ships of provisions as to detention.

**13.** Where a foreign ship has taken on board all or any part of her cargo at a port in the United Kingdom, and is whilst at that port unsafe by reason of overloading or improper loading, the provisions of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications:

(1.) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the State to which the ship belongs at or nearest to the place where the ship is detained;

(2.) Where a ship has been provisionally detained, the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Board of Trade to survey the ship shall be accompanied by such person as the consular officer may select, and in such case, if the surveyor and such person agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the appeal to the court of survey touching the report of the surveyor which is before provided by this Act; and

(3.) Where the owner or master of the ship appeals to the court of survey, the consular officer, on the request of such owner or master, may appoint any competent

person who shall be assessor in such case in lieu of the assessor, who, if the ship were a British ship, would be appointed otherwise than by the Board of Trade.

In this section the expression "consular officer" means any consul-general, vice-consul, consular agent, or other officer recognised by a Secretary of State as a consular officer of a foreign State.

*Appeal on Refusal of certain Certificates to Ships.*

Appeal on refusal of certain certificates under Merchant Shipping and Passengers Acts.

**14.** Whereas by section three hundred and nine of the Merchant Shipping Act, 1854, and enactments amending the same, the owner of a passenger steamer as defined in that Act is required to cause the same to be surveyed by a shipwright surveyor and an engineer surveyor, and those surveyors are required to give declarations of certain particulars with respect to the sufficiency or conformity with the Act of the ship and equipments, and to the limits beyond which the ship is not fit to ply, and to the number of passengers which the ship is fit to carry, and of other particulars in the said section mentioned, and the Board of Trade, under section three hundred and twelve of the same Act, issue a certificate upon such declarations, and the passenger steamer cannot lawfully proceed to sea without obtaining such certificate;

And whereas under sections eleven and fifty of the Passengers Act, 1855, and the enactments amending the same, a passenger ship within the meaning of those sections (in this Act referred to as an emigrant ship) cannot lawfully proceed to sea without a certificate of clearance from an emigration officer, or other officer in those sections mentioned, showing that all the requirements of the said sections and enactments have been complied with, and that the ship is in the officer's opinion seaworthy, and that the passengers and crew are in a fit state to proceed to sea, and otherwise as therein mentioned;

And whereas by section thirty of the Merchant Shipping Act Amendment Act, 1862, provision is made for preventing a ship from proceeding to sea in certain cases without a certificate from a surveyor or person appointed by the Board of Trade to the effect that the ship is properly provided with lights, and with the means of making fog signals;

And whereas it is expedient to give in the said cases such appeal as herein-after mentioned: Be it therefore enacted that—

If a shipowner feels aggrieved,

(1.) by a declaration of a shipwright surveyor or an engineer surveyor respecting a passenger steamer under the above-recited enactments, or by the refusal of a surveyor to give the said declaration; or

(2.) by the refusal of a certificate of clearance for an emigrant ship under the above-recited enactments; or

(3.) by the refusal of a certificate as to lights or fog signals under the above-recited enactment,

the owner may appeal in the prescribed manner to the court of survey for the port or district where the ship for the time being is.

On such appeal the judge of the court of survey shall report to the Board of Trade on the question raised by the appeal, and the Board of Trade, when satisfied that the requirements of the report and the other provisions of the said enactments have been complied with, may,—

(1.) In the case of a passenger steamer give their certificate under section three hundred and twelve of the Merchant Shipping Act, 1854, and

(2.) In the case of an emigrant ship give, or direct the emigration or other officer to give, a certificate of clearance under the above-mentioned enactments, and

(3.) In the case of a refusal of a certificate as to lights or fog signals, give or direct a surveyor or other person appointed by them to give a certificate under section thirty of the Merchant Shipping Act Amendment Act, 1862.

Subject to any order made by the judge of the court of survey, the costs of and incidental to an appeal under this section shall follow the event.

Subject as aforesaid, the provisions of this Act with respect to the court of survey and appeals thereto, so far as consistent with the tenour thereof, shall apply to the court of survey when acting under this section, and to appeals under this section.

Where the survey of a ship is made for the purpose of a declaration or certificate under the above-recited enactments, the person appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some person appointed by the owner, and in such case, if the said two persons agree, there shall be no appeal to the court of survey in pursuance of this section.

*Scientific Referees.*

Reference in difficult cases to scientific persons.

**15.** If the Board of Trade are of opinion that an appeal under this Act involves a question of construction or design or of scientific difficulty or important principle, they may refer the matter to such one or more out of a list of scientific referees from time to time approved by a Secretary of State, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Board of Trade and the appellant, or in default of any such agreement by a Secretary of State, and thereupon the appeal shall be determined by the referee or referees, instead of by the court of survey.

The Board of Trade, if the appellant in any appeal so require and give security to the satisfaction of the Board to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.

The referee or referees shall have the same powers as a judge of the court of survey.

*Passenger Steamers and Emigrant Ships.*

Exemption of certain steamers from passenger certificates.

**16.** Any steamship may carry passengers not exceeding twelve in number although she has not been surveyed by the Board of Trade as a passenger steamer, and does not carry a Board of Trade certificate as provided by the Merchant Shipping Act, 1854, with respect to passenger steamers.

Colonial certificates for passenger steamers.

**17.** Where the legislature of any British possession provides for the survey of and grant of certificates for passenger steamers, and the Board of Trade report to Her Majesty that they are satisfied that the certificates are to the like effect, and are granted after a like survey, and in such manner as to be equally efficient with the certificates granted for the same purpose in the United Kingdom under the Acts relating to Merchant Shipping, it shall be lawful for Her Majesty by Order in Council—

1. To declare that the said certificates shall be of the same force as if they had been granted under the said Acts; and
2. To declare that all or any of the provisions of the said Acts which relate to certificates granted for passenger steamers under those Acts shall, either without modification or with such modifications as to Her Majesty may seem necessary, apply to the certificates referred to in the Order; and
3. To impose such conditions and to make such regulations with respect to the said certificates, and to the use, delivery, and cancellation thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Provision against double survey in case of passenger steamers and emigrant ships.

**18.** In every case where a passenger certificate has been granted to any steamer by the Board of Trade under the provisions of the Merchant Shipping Act, 1854, and remains still in force, it shall not be requisite for the purposes of the employment of such steamer under the Passengers Acts that she shall be again surveyed in her hull and machinery in order to qualify her for service under the Passengers Act, 1855, and the Acts amending the same; but for the purposes of employment under those Acts such Board of Trade certificate shall be deemed to satisfy the requirements of the Passengers Acts with respect to such survey, and any further survey of the hull and machinery shall be dispensed with, and so long as a steamship is an emigrant ship that is a passenger ship within the meaning of the Passengers Act, 1855, and the Acts amending the same, and the provisions contained in the said Passengers Acts as to the survey of her hull, machinery, and equipments have been complied with, she shall not be subject to the provisions of the Merchant Shipping Act, 1854, with respect to the survey of and certificate for passenger steamers, or to the enactments amending the same.

Provision as to survey of foreign passenger steamer or emigrant ship.

**19.** Where a foreign ship is a passenger steamer subject to the Merchant Shipping Act, 1854, and the Acts amending the same, or an emigrant ship subject to the Passengers Act, 1855, and the Acts amending the same, and the Board of Trade are satisfied, by the production of a foreign certificate of survey attested by a British consular officer at the port of survey, that such ship has been officially surveyed at a foreign port, and are satisfied that the requirements of the said Acts, or any of them, are proved by such survey to have been substantially complied with, the Board may, if they think fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give or direct one of their officers to give a certificate, which shall have the same effect as if given upon survey under the said Acts or any of them: Provided that Her Majesty may by Order in Council direct that this section shall not apply in the case of an official survey at any foreign port at which it appears to Her Majesty that corresponding provisions are not extended to British ships.

Power to modify Passengers Acts as to food, space, and accommodation in emigrant ships.

**20.** It shall be lawful for the Board of Trade, if satisfied that the food, space, accommodation, or any other particular or thing provided in an emigrant ship for any class of passengers is superior to the food, space, accommodation, or other particular or thing required by the Passengers Act, 1855, and the Acts amending the same, to exempt such ship from any of the requirements of those Acts with respect to food, space, or accommodation, or other particular or thing, in such manner and upon such conditions as the Board of Trade may think fit.

Provision of signals of distress, inextinguishable lights, and life buoys in passenger steamers and emigrant ships.

**21.** Every sea-going passenger steamer and every emigrant ship shall be provided to the satisfaction of the Board of Trade—

(1.) With means for making the signals of distress at night specified in the First Schedule to "The Merchant Shipping Act, 1873," or in any rules substituted therefor, including means of making flames on the ship which are inextinguishable in water, or such other means of making signals of distress as the Board of Trade may previously approve; and

(2.) With a proper supply of lights inextinguishable in water and fitted for attachment to life buoys.

If any such steamer or ship goes to sea from any port of the United Kingdom without being so provided as required by this section, for each default in any of the above requisites the owner shall, if he appears to be in fault, incur a penalty not exceeding one hundred pounds, and the master shall, if he appears to be in fault, incur a penalty not exceeding fifty pounds.

*Grain Cargoes.*

Stowage of cargo of grain, &c.

**22.** No cargo of which more than one third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts, or nut kernels, herein-after referred to as "grain cargo," shall be carried on board any British ship, unless such grain cargo be contained in bags, sacks, or barrels, or secured from shifting by boards, bulkheads, or otherwise.

If the managing owner or master of any British ship, or any agent of such owner who is charged with the loading of the ship or the sending her to sea, knowingly allows any grain cargo or part of a grain cargo to be shipped therein for carriage contrary to the provisions of this section, he shall for every such offence incur a penalty not exceeding three hundred pounds, to be recovered upon summary conviction.

*Deck Cargoes.*

Space occupied by deck cargo to be liable to dues.

**23.** If any ship, British or foreign, other than home trade ships as defined by the Merchant Shipping Act, 1854, carries as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, timber, stores, or other goods, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by such goods at the time at which such dues become payable.

The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines inclosing a rectangular space sufficient to include the goods.

The tonnage of such space shall be ascertained by an officer of the Board of Trade or of Customs, in manner directed by sub-section four of section twenty-one of the Merchant Shipping Act, 1854, and when so ascertained shall be entered by him in the ship's official log book, and also in a memorandum which he shall deliver to the master, and the master shall, when the said dues are demanded, produce such memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.

Penalty for carrying deck-loads of timber in winter.

**24.** After the first day of November one thousand eight hundred and seventy-six, if a ship, British or foreign, arrives between the last day of October and the sixteenth day of April in any year at any port in the United Kingdom from any port out of the United Kingdom, carrying as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, any wood goods coming within the following descriptions; that is to say,

(*a.*) Any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or

(*b.*) Any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use; or

(*c.*) Any deals, battens, or other light wood goods of any description to a height exceeding three feet above the deck;

the master of the ship, and also the owner, if he is privy to the offence, shall be liable to a penalty not exceeding five pounds for every hundred cubic feet of wood goods carried in contravention of this section, and such penalty may be recovered by action or on indictment or to an amount not exceeding one hundred pounds (whatever may be the maximum penalty recoverable) on summary conviction.

Provided that a master or owner shall not be liable to any penalty under this section—

(1.) In respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or

(2.) If he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or

(3.) If he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the United Kingdom, and by reason of an exceptionally favourable voyage arrived before that day.

Provided further, that nothing in this section shall affect any ship not bound to any port in the United Kingdom which comes into any port of the United Kingdom under stress of weather, or for repairs, or for any other purpose than the delivery of her cargo.

*Deck and Load Lines.*

Marking of deck-lines.

**25.** Every British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall be permanently and conspicuously marked 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 is practicable, and indicating the position of each deck which is above water.

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.

The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of load-line on foreign-going British ships.

**26.** With respect to the marking of a load-line on British ships the following provisions shall have effect:

(1.) The owner of every British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall, before entering his ship outwards from any port in the United Kingdom upon any voyage for which he is required so to enter her, or, if that is not practicable, as soon after as may be, mark upon each of her sides amidships, or as near thereto as is 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 this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship for that voyage:

(3.) He shall also, upon so entering her, insert in the form of entry delivered to the collector or other principal officer of Customs a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre:

(4.) If default is made in delivering this statement in the case of any ship, any officer of Customs may refuse to enter the ship outwards:

(5.) The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no superintendent of any mercantile marine office shall proceed with the engagement of the crew until this entry is made:

(6.) The master of the ship shall also enter a copy of this statement in the official log book:

(7.) When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.

Marking of load-line in case of coasting vessels.

**27.** With respect to the marking of a load-line on British ships employed in the coasting trade, the following provisions shall have effect:

(1.) The owner of every British ship employed in the coasting trade on the coasts of the United Kingdom (except ships under eighty tons register employed solely in that trade) shall, before proceeding to sea from any port, mark upon each of her sides amidships, or as near thereto as is 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 this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship, until notice is given of an alteration:

(3.) He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the collector or other principal officer of Customs of the port of registry of the ship 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:

(4.) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs of the port of registry of the ship 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:

(5.) If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the owner shall be liable to a penalty not exceeding one hundred pounds:

(6.) When a ship has been marked as by this section required, she shall be kept so marked until notice is given of an alteration.

**28.** Any owner or master of a British ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, or who allows the ship to be so loaded as to submerge in salt water the centre of the disc, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds.

If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

Penalty for offences in relation to marks on ships.

*Investigations into Shipping Casualties.*

**29.** For the purpose of rendering investigations into shipping casualties more speedy and effectual it shall be lawful for the Lord High Chancellor of Great Britain to appoint from time to time some fit person or persons to be a wreck commissioner or wreck commissioners for the United Kingdom, so that there shall not be more than three such commissioners at any one time, and to remove any such wreck commissioner; and in case it shall become necessary to appoint a wreck commissioner in Ireland the Lord Chancellor of Ireland shall have the appointment and the power of removal of such wreck commissioner.

Appointment, duties, and powers of wreck commissioners for investigating shipping casualties.

It shall be the duty of a wreck commissioner, at the request of the Board of Trade, to hold any formal investigation into a loss, abandonment, damage, or casualty (in this Act called a shipping casualty) under the eighth part of the Merchant Shipping Act, 1854, and for that purpose he shall have the same jurisdiction and powers as are thereby conferred on two justices, and all the provisions of the Merchant Shipping Acts, 1854 to 1876, with respect to investigations conducted under the eighth part of the Merchant Shipping Act, 1854, shall apply to investigations held by a wreck commissioner.

**30.** The wreck commissioner, justices, or other authority holding a formal investigation into a shipping casualty shall hold the same with the assistance of an assessor or assessors of nautical engineering or other special skill or knowledge, to be appointed by the commissioner, justices, or authority out of a list of persons for the time being approved for the purpose by a Secretary of State.

Assessors and rules of procedure on formal investigations into shipping casualties.

The commissioner, justices, or authority, when of opinion that the investigation is likely to involve the cancellation or suspension of the certificate of a master or mate, shall, where practicable, appoint a person having experience in the merchant service to be one of the assessors.

Each assessor shall either sign the report made on the investigation, or report to the Board of Trade his reasons for his dissent therefrom.

The Lord High Chancellor of Great Britain may from time to time, with the consent of the Treasury so far as relates to fees, make, and when made, revoke, alter, and add to general rules for carrying into effect the enactments relating to formal investigations into shipping casualties, and in particular with respect to the summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to such parties and persons or to persons affected, and the amount and application of fees.

All such rules, while in force, shall have effect as if enacted in this Act.

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.

**31.** A wreck commissioner may, at the request of the Board of Trade, by himself, or by some deputy approved by the Board of Trade, institute the same examination as a receiver of wreck under section four hundred and forty-eight of the Merchant Shipping Act, 1854, and shall for that purpose have the powers by that section conferred on a receiver of wreck.

Power for wreck commissioner to institute examination with respect to ships in distress under 17 & 18 Vict. c. 104. s. 448.

**32.** In the following cases—

(1.) Whenever any ship on or near the coasts of the United Kingdom or any British ship elsewhere has been stranded or damaged, and any witness is found at any place in the United Kingdom, or

Power to hold inquiries or formal inves-

tigations as to stranded and missing ships.

(2.) Whenever a British ship has been lost or is supposed to have been lost, and any evidence can be obtained in the United Kingdom as to the circumstances under which she proceeded to sea or was last heard of,

the Board of Trade (without prejudice to any other powers) may, if they think fit, cause an inquiry to be made or formal investigation to be held, and all the provisions of the Merchant Shipping Acts, 1854 to 1876, shall apply to any such inquiry or investigation as if it had been made or held under the eighth part of the Merchant Shipping Act, 1854.

Place of investigation.

**33.** A formal investigation into a shipping casualty may be held at any place appointed in that behalf by the Board of Trade, and all enactments relating to the authority holding the investigation shall, for the purpose of the investigation, have effect as if the place so appointed were a place appointed for the exercise of the ordinary jurisdiction of that authority.

*Miscellaneous.*

Enforcing detention of ship.

**34.** Where under the Merchant Shipping Acts, 1854 to 1876, or any of them, a ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Board of Trade or Customs, or any British consular officer may detain the ship, and if the ship after such detention or after service on the master of any notice of or order for such detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall forfeit and pay to Her Majesty a penalty not exceeding one hundred pounds.

Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, or any surveyor or officer of the Board of Trade or Customs, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also a penalty not exceeding one hundred pounds, or, if the offence is not prosecuted in a summary manner, not exceeding ten pounds for every day until the officer or surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.

Service of order on master, &c.

**35.** Where any order, notice, statement, or document requires, for the purpose of any provision of this Act, to be served on the master of a ship, the same shall be served, where there is no master, and the ship is in the United Kingdom, on the managing owner of the ship, or if there is no managing owner, on some agent of the owner residing in the United Kingdom, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

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 such ship.

Any person who obstructs the service of any order, notice, statement, or document on the master of a ship shall incur a penalty not exceeding ten pounds, and if the owner or master of the ship is party or privy to such obstruction he shall be guilty of a misdemeanor.

Ship's managing owner or manager to be registered.

**36.** The name and address of the managing owner for the time being of every British ship registered at any port or place in the United Kingdom shall be registered at the custom house of the ship's port of registry.

Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of the Merchant Shipping Acts, 1854 to 1876, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

If default is made in complying with this section the owner shall be liable, or if there be more owners than one each owner shall be liable in proportion to his interest in the

ship, to a penalty not exceeding in the whole one hundred pounds each time the ship leaves any port in the United Kingdom.

Power for Her Majesty by Order in Council to apply certain provisions of Merchant Shipping Acts to foreign ships.

**37.** Whenever it has been made to appear to Her Majesty that the Government of any Foreign State is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1876, or of any Act hereafter to be passed amending the same, shall apply to the ships of such State, Her Majesty may by Order in Council declare that such of the said provisions as are in such Order specified shall (subject to the limitations, if any, contained in the Order) apply, and thereupon, so long as the Order remains in force, such provisions shall apply (subject to the said limitations) to the ships of such State, and to the owners, masters, seamen, and apprentices of such ships, when not locally within the jurisdiction of such State, in the same manner in all respects as if such ships were British ships.

Provision as to Order in Council.

**38.** Where Her Majesty has power under the Merchant Shipping Act, 1854, or any Act passed or hereafter to be passed amending the same, to make an Order in Council, it shall be lawful for Her Majesty from time to time to make such Order in Council, and by Order in Council to revoke, alter, or add to any Order so made.

Every such Order in Council shall be published in the London Gazette, and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

Upon the publication of any such Order in the London Gazette, the Order shall, after the date of such publication, or any later date mentioned in the Order, take effect as if it were enacted by Parliament.

Fees, salaries, and costs.

**39.** On and after the first day of January one thousand eight hundred and seventy-seven all fees payable in respect of the survey or measurement of ships under the Merchant Shipping Acts, 1854 to 1876, or in respect of any services performed by any person employed under the authority of the Passengers Act, 1855, shall continue to be paid to the superintendent of a mercantile marine office at such times and in such manner as the Board of Trade from time to time direct, but shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

On and after the same day the salaries of all surveyors appointed under the Merchant Shipping Acts, 1854 to 1876, and so much of the expenses connected with the survey and measurement of ships under those Acts, and of the salaries and expenses of persons employed under the Passengers Act, 1855, as has heretofore been paid out of the Mercantile Marine Fund, shall be paid out of moneys provided by Parliament, and the Treasury shall have the like control over such salaries and expenses as has heretofore been vested in the Board of Trade.

There may be paid out of moneys provided by Parliament, to any wreck commissioner, judge of a court of survey, assessor, registrar of a court of survey, detaining officer, scientific referee, and other officer or person appointed under this Act, such salary or remuneration (if any) as the Treasury from time to time direct.

There may be paid out of moneys provided by Parliament all costs and compensation payable by the Board of Trade in pursuance of this Act.

Legal proceedings in case of offences.

**40.** For the purpose of punishment, jurisdiction, and legal proceedings an offence under this Act shall be deemed to be an offence under the Merchant Shipping Act, 1854.

Application of Act to Scotland.

**41.** In the application of this Act to Scotland,—

The provision with respect to a prosecution not being instituted except by or with the consent of the Board of Trade shall not apply.

"Judge of a county court" shall be deemed to include a sheriff and sheriff substitute, and

"Registrar of a county court" shall be deemed to include sheriff clerk, and

"A master of the Supreme Court of Judicature" shall mean the Queen's and Lord Treasurer's Remembrancer.

Application of Act to Ireland.

**42.** In the application of this Act to Ireland,—

"Judge of a county court" shall be deemed to include "chairman of a county" and "the recorder of any borough";

"Registrar of a county court" shall be deemed to include the clerk of the peace or registrar or other person discharging the duties of registrar of the court, of the chairman of a county, or the recorder of a borough;

"Stipendiary magistrate" shall be deemed to include any of the justices of the peace in Dublin metropolis and any resident magistrate; and

"A master of the Supreme Court of Judicature" shall mean one of the masters of the Superior Courts of Common Law in Ireland.

Application of Act to Isle of Man.

**43.** In the application of this Act to the Isle of Man,—

"Judge of a county court" shall mean the water bailiff;

"Stipendiary magistrate" shall mean a high bailiff;

"Registrar of a county court" shall mean a clerk to a deemster or a clerk to justices of the peace;

"A master of the Supreme Court of Judicature" shall mean the clerk of the rolls.

Saving for colonial inland waters.

**44.** Nothing in this Act shall apply to any vessel employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession, and the provisions of this Act relating to deck cargo shall not apply to deck cargo carried by a ship while engaged in the coasting trade of any British possession.

*Repeal.*

Repeal of Acts.

**45.** On and from the commencement of this Act the Acts specified in the first part of the schedule hereto, and on and from the first day of January one thousand eight hundred and seventy-seven the Acts specified in the second part of the schedule hereto, shall be repealed to the extent in the third column of that schedule mentioned: Provided that any officer appointed in pursuance of any such enactment shall be deemed to have been appointed under this Act, and any Order in Council made in pursuance of any such enactment shall be deemed to have been made under this Act, and this repeal shall not affect—

(1.) Anything done or suffered under any enactment hereby repealed; nor

(2.) Any right, power, duty, obligation, or liability acquired, imposed, accrued, or incurred under any enactment hereby repealed; nor

(3.) Any penalty or punishment incurred in respect of any offence against any enactment hereby repealed; nor

(4.) Any legal proceeding in respect of any such right, power, duty, obligation, liability, penalty, or punishment, and any such legal proceeding may be carried on as if this Act had not passed.

## SCHEDULE.

### PART I.

ENACTMENTS REPEALED FROM COMMENCEMENT OF ACT.

| Session and Chapter. | Title. | Extent of repeal. |
|---|---|---|
| 17 & 18 Vict. c. 104 - | The Merchant Shipping Act, 1854 - | Sub-section (4) of section three hundred and one; so much of section three hundred and eighteen as requires the owner of a ship to transmit the declarations therein mentioned; section four hundred and thirty-four; and section four hundred and thirty-seven from "and in case he so requires" inclusive to the end of section; and section four hundred and forty-nine. |
| 34 & 35 Vict. c. 110 - | The Merchant Shipping Act, 1871 - | Section eleven. |
| 36 & 37 Vict. c. 85 - | The Merchant Shipping Act, 1873 - | Sections eleven, twelve, thirteen, and fourteen. |
| 38 & 39 Vict. c. 88 - | The Merchant Shipping Act, 1875 - | The whole Act. |

PART II.

ENACTMENTS REPEALED FROM 1ST JANUARY 1877.

| Session and Chapter. | Title. | Extent of repeal. |
|---|---|---|
| 17 & 18 Vict. c. 104 - | The Merchant Shipping Act, 1854 - | Sub-section (2) of section four hundred and eighteen. |
| 35 & 36 Vict. c. 73 - | The Merchant Shipping Act, 1872 - | Section fourteen. |

## CHAPTER 81.

An Act for amending the Law relating to Crossed Cheques.

[15th August 1876.]

BE it 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:

**1.** This Act may be cited as The Crossed Cheques Act, 1876. Short title.

**2.** The Acts described in the schedule to this Act are hereby repealed, but this repeal shall not affect any right, interest, or liability acquired or accrued before the passing of this Act. Repeal of Acts in schedule.

**3.** In this Act— Interpretation.

"Cheque" means a draft or order on a banker payable to bearer or to order on demand, and includes a warrant for payment of dividend on stock sent by post by the Governor and Company of the Bank of England or of Ireland, under the authority of any Act of Parliament for the time being in force:

"Banker" includes persons or a corporation or company acting as bankers.

**4.** Where a cheque bears across its face an addition of the words "and company," or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, and either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally. General and special crossings.

Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

**5.** Where a cheque is uncrossed, a lawful holder may cross it generally or specially. Crossing after issue.

Where a cheque is crossed generally, a lawful holder may cross it specially.

Where a cheque is crossed generally or specially, a lawful holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

**6.** A crossing authorised by this Act shall be deemed a material part of the cheque, and it shall not be lawful for any person to obliterate or, except as authorised by this Act, to add to or alter the crossing. Crossing material part of cheque.

**7.** Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker. Payment to banker only.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or to his agent for collection.