

ACT No. XXVIII OF 1861.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 7th September 1861.)

*An Act to extend the provisions of Act I of 1859 (for the amendment of the Law relating to Merchant Seamen.)*

WHEREAS it is enacted by Section CCXLII of the Merchant Shipping Act of 1854, that the Board of Trade may suspend or cancel the certificate of competency or service granted by the said Board to any Master or Mate, if, upon investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships or as to shipwrecks or other casualties affecting ships, a report is made by such Court or Tribunal to the effect that he 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, and such report is confirmed by the Governor or person administering the Government of such possession :

And whereas it is enacted by Section LXXXII of Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) that the local Government may suspend or cancel the certificate, whether of competency or service, granted under that Act to any Master or Mate, if, upon any investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships or

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as to shipwreck or other casualties affecting ships, it is reported 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, or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny : Provided always that, in the case of any report by any such last mentioned Court or Tribunal, the report shall have been confirmed by the Governör or person administering the Government of such possession :

And whereas it is expedient to authorize Courts or Tribunals in India to make such enquiry and report, and also to empower the Courts of ordinary Criminal jurisdiction in some cases to exercise the powers vested by the said Act I of 1859 in Courts having Admiralty jurisdiction in India : It is enacted as follows :—

I. Every Court having Admiralty jurisdiction in India, and the Principal Court of ordinary Criminal jurisdiction at every Port in India where there is no Court having Admiralty jurisdiction, is hereby authorized to make enquiry into charges of incompetency or misconduct on the part of any Master or Mate of any ship, whether such Master or Mate shall have obtained his certificate from the Board of Trade or from any local Government, or as to shipwreck or other casualties affecting ships ; and if on such enquiry it shall appear to any such Court as aforesaid that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master or Mate, or that any such Master or Mate has been guilty of any gross act of misconduct, drunkenness, or tyranny, the Court shall report the same to the local Government.

Courts authorized to make enquiry into charges against Masters or Mates, and to report to local Government.

II. For the purpose of such enquiry the Court may summon the Master or Mate to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses, and may make such order with respect to the costs of such investigation as the Court may deem just.

Powers of Court in making enquiry.

III. Nothing in this Act shall be held to affect the powers vested by Section LXXX of the said Act I of 1859 in Courts having Admiralty jurisdiction in India. The said powers may be exercised

Saving of powers vested in certain Admiralty Courts.

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The same powers may be exercised by Chief Criminal Court in any Indian Port where there is no Admiralty Court.

exercised by the Principal Court of ordinary Criminal jurisdiction at any Port in India where there is no Court having Admiralty jurisdiction.

Construction.

IV. This Act shall be taken and read as part of the said Act I of 1859.

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