No. 4 of 1844.

An Ordinance to restrain masters of merchant vessels belonging to Her Majesty's subjects from leaving seamen and others in a destitute state in the Colony of Hongkong, and from refusing to convey distressed seamen from thence to England, and also to provide for the good conduct of seamen within the same. Title.

[28th February, 1844.]

WHEREAS by reason of the distance of Hongkong from Great Britain, great delay and expense are incurred in recovering such sums of money as are expended on Her Majesty's behalf, in conveying home destitute seamen unlawfully left behind in Hongkong by masters of British merchant vessels. Preamble.

And whereas it is expedient to effectually provide against masters of merchant vessels belonging to Her Majesty's subjects leaving behind seamen or other persons in a destitute state in Hongkong, and against masters of merchant vessels refusing to convey distressed seamen thence to England, and also to provide means of affording satisfaction to persons who may have suffered injury from the crew of any vessel belonging to Her Majesty's subjects.

1. Be it therefore enacted and ordained by His Excellency the Governor of Hongkong, with the advice of the Legislative Council thereof, that the master of every merchant vessel belonging to any of Her Majesty's subjects, as such master and in that character, on his arrival at Hongkong, shall together with sufficient sureties subject to the jurisdiction of the Courts of Justice at Hongkong enter into a bond, conditioned as and in the form in the schedule to this Ordinance annexed. Provided always that only one such bond shall be required within the space of one year, unless the same shall become forfeited, and that any bond of a similar nature, taken at any port in the dominions of the Emperor of China, and conditioned to extend to Hongkong, shall be of the same force and effect as if entered into at Hongkong aforesaid. Provided also that the Superintendent of the Trade of Her Majesty's subjects in China may demand and take such other security as he may deem necessary or sufficient from the owners master consignees or other persons interested in any vessel, for the due performance of the conditions in such bond as aforesaid, conditioned to extend both to Hongkong and the dominions of the Emperor of China, and that thereupon no master of any vessel, in respect of which such other security shall be taken, shall be required to enter into such bond as hereinbefore mentioned. Masters of merchant vessels to enter into bond with sureties, as in form annexed.

2. And be it enacted that the Harbour Master at Hongkong or such other officer as may be duly authorized in that behalf, shall be entitled to demand and take possession of such bond, and shall deliver a certificate of the taking thereof to such master as aforesaid, and that the sureties therein shall be to the satisfaction of and approved by the said Harbour Master or other officer. Harbour Master to take bond and give certificate thereof and approve of sureties.

Penalty for not entering into bond or not giving other security.

3. And be it enacted if any master of such vessel as aforesaid shall neglect for the space of ten days after his arrival at Hongkong, or after the forfeiture of, or after the expiration of the space of one year from the previous taking of any such similar bond, or shall at any time upon lawful demand made by the said Superintendent of Trade for such other security, or by such officers as aforesaid for such bond, neglect or refuse to enter into the same, or to provide such sureties or other security as aforesaid, that it shall be lawful for the said Superintendent of Trade, or for such officers as aforesaid, to arrest and detain such master and the vessel commanded by him, until such time as the said demand shall be complied with, and also summarily to impose on the said master a fine not exceeding the sum of one hundred dollars, to be paid to Her Majesty Her Heirs and Successors for the public purposes of the Colony of Hongkong, and in case of nonpayment thereof, to forthwith cause the same to be levied of the apparel boats tackle or furniture of the vessel commanded by the said master.

Master and ship detained to be liable as if bond entered into.

4. And be it enacted that the said master and the said ship whilst so detained or arrested shall be subject in every respect to the same liabilities as if such bond or other security had been duly entered into.

Proceedings against the crew of any ship not in port, damages to be paid by sureties in bond or other security.

5. And be it enacted, upon any complaint made of any injury, either in person or property, sustained from the act of any of the crew of any vessel belonging to Her Majesty's subjects done or committed within Hongkong or the dominions of the Emperor of China, or within 100 miles from the coast of China which said vessel shall not then be in Hongkong or in any port in China at which a British Consular establishment may exist, and in respect whereof such bond or other security as aforesaid shall have been entered into, that it shall be lawful for any competent tribunals to summon the sureties in such bond or other security as aforesaid to appear and answer such complaint, and thereupon to proceed to enquire of hear and determine the same in the absence of the party alleged to have committed the injury complained of, and to award such damages, (to be paid and borne by the sureties in the bond or other security aforesaid) to such injured party, as may be just and reasonable. Provided always that such adjudication shall not be pleadable in bar of any criminal proceeding, instituted in respect of the subject matter thereof, and that no such complaint shall be inquired of or heard unless it shall clearly appear that the party preferring the same has used all possible diligence in so doing whilst such vessel was in port, and that no such adjudication of damages or compensation shall be made, if the said sureties show special cause for delaying the same, or shall undertake to produce the party alleged to have committed the injury complained of, within a reasonable time to be then fixed by such tribunal as aforesaid.

Bond or other security to be put in suit and whole penalty levied. Superintendent at his discretion to return part thereof.

6. And be it enacted, that upon any such bond or other security as herein mentioned becoming forfeited, the same shall be put in suit by such person as may hereafter be duly authorized in that behalf by the said Superintendent of Trade, and the whole penalty thereof recovered and levied, but that it shall be lawful for the Superintendent of Trade aforesaid, upon petition being made to him to that effect, to order that

such part thereof as shall not be actually expended, in consequence of the breach of the conditions of the said bond or other security, or as may not be required to liquidate any legal penalty which may have been incurred by the master or other person bound thereby, to be returned to the party or parties from whom the same may have been levied, at such time and on such conditions as the said Superintendent of Trade may think fit and reasonable.

The schedule to which this Ordinance refers.

KNOW all men by these presents that
master of the vessel the
of
and we
British merchants resident at
are held and firmly bound unto Her Most Gracious Majesty Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, in the full sum of one thousand lawful current dollars of the currency of the Colony of Hongkong, to be paid to Her said Majesty, Her Heirs and Successors, for which payment to be well and truly made we bind ourselves and each of us for himself in the whole our and every of our heirs executors and administrators firmly by these presents sealed with our seals, dated this day of 184 .

WHEREAS the within bound
have agreed to execute this obligation as sureties for the within bound
now the condition of this obligation is such, that if the within named master of the vessel the aforesaid do not within one year from the date hereof unlawfully discharge or leave behind any of the crew of the said vessel the in Hongkong, and also within the space of one year aforesaid within the limits aforesaid do not refuse to receive on board the said vessel the such distressed seamen as may be sent on board thereof for conveyance to Great Britain, according to the provisions of the statute made and passed in the first year of the reign of His late Majesty William the Fourth, intituled "An Act to amend and consolidate the Laws relating to the pay of the Royal Navy," and if no person formerly a seaman of the said vessel, or no subject of Her Majesty conveyed in the said vessel the to Hongkong, shall within three calendar months from having been such seamen, or from having been so conveyed, be found destitute or requiring public relief in Hongkong aforesaid, and also if the within named obligors shall forthwith discharge all or any sums of money which shall be awarded by way of satisfaction, (in the manner provided by the ordinance in pursuance of which this bond is entered into) to any person or persons by any competent tribunal, for any injury sustained within one year from the date hereof from the crew of the said vessel the or any one or more of them. Then this obligation shall be void and of no effect, but otherwise shall remain in full force and virtue.

Signed sealed and delivered at in the presence of } L. S.

[*Disallowed in C. O. D., No. 41, 29th April, 1846.*]