

C H A P.
LXXIX.

forfeiture, done, occasioned or incurred, by the master or mariners, or any of them, without the knowledge of such owner or owners, further than the value of the ship or vessel, with all her appurtenances, and the full amount of the freight due, or to become due during the voyage wherein such embezzlement, secreting or making away with, or other malversation of the said master or mariners, shall be made, committed or done, any law, usage or custom, to the contrary in anywise notwithstanding.

Freighters to
receive satis-
faction in
average, &c.

XXV. And be it enacted, That if several freighters or proprietors of any goods, wares or merchandise, shall suffer any loss or damage by any of the means aforesaid, in the same voyage, and the value of the ship or vessel, with all her appurtenances, and the amount of the freight due or to become due as aforesaid, shall not be sufficient to make full compensation to all and every of them, then such freighters or proprietors shall receive satisfaction therefrom in average, proportionably to their respective losses or damage; and in every such case it shall and may be lawful to and for such freighters and proprietors, or to and for the owner or owners of such ship or vessel, or any of them, on behalf of himself and all the other part owners of such ship or vessel, to exhibit a bill in the court of chancery for discovering the total amount of such losses or damages, and also of the value of such ship or vessel, with the appurtenances, and the freight due or to become due, and for an equivalent distribution and payment thereof among such freighters and proprietors, in proportion to their respective losses and damage, according to the rules of equity; provided always, that if any such bill shall be exhibited by or on behalf of the part owners of such ship or vessel, the plaintiff or plaintiffs shall annex an affidavit to such bill, that he or they do not collude with any of the defendants thereto, and shall thereby offer to pay the value of such ship or vessel, appurtenances and freight, as such court shall direct, and such court shall thereupon take such method for ascertaining such value, as to them shall seem just, and shall direct the payment thereof in like manner as is now used and practised in cases of interpleader.

Proviso.

XXVI. Provided also, and it is hereby declared and enacted, That nothing in this act contained shall extend, or be construed to extend, to impeach, lessen or discharge, any remedy which any person or persons now hath or have, or shall or may hereafter have, against all, any, and every the master and mariners of such ship or vessel, for and in respect to any embezzlement, secreting, or making away with, any goods, wares or merchandise, shipped on board such ship or vessel, or on account of any fraud, abuse, or malversation, of and in such master or mariners, but that it shall and may be lawful to and for every person and persons so injured or damaged, to pursue and take such remedy for the same, against such master and mariners, or any of them, as he or they might have done before the making of this law.

Naval officer
to enter into
bond, &c.

XXVII. And be it enacted, That every naval officer, as soon as may be after his appointment, and before he shall enter upon the exercise of his office, shall (under the penalty of one thousand pounds current money) enter into bond, with two good and sufficient securities, in the penalty of five thousand pounds current money, which bond shall be executed before a judge of the general court, or two justices of the peace, by whom the said security shall be approved, and the said bond shall be conditioned as follows, to wit: "That if the above bound A. B. shall well and faithfully execute and perform the several duties required of him by law, and shall faithfully collect and receive all rates, duties, or imposts, laid or imposed by any act of the general assembly of this state, and shall well and truly pay to the treasury of the ———— shore the several rates, duties,