

Where a statute of this kind merely imposes a penalty for its violation, the question whether a servant who has been injured by such violation can maintain an action for damages against the delinquent employer is determined with reference to the considerations discussed in § 800, of the writer's treatise on *Master and Servant*.<sup>3</sup>

*Montana.* The provisions of the Political Code, (1895) § 3392, are essentially the same as those in the second Georgia statute.

*Ohio.* The same description is applicable to the statute in this State, (Ohio Laws, Vol. 87, § 1).

By § 128 (1) of the English Merchant Shipping Act, 1894, (57 & 58 Vict. ch. 60) it is provided, under penalty, that the master shall sign and give to a seaman discharged from his ship either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Board of Trade, specifying the period of his service and the time and place of his discharge.

The same section (cl. 2) also prescribes that the master shall, upon the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him return the certificate to the officer.

§ 129(1) provides that where a seaman is discharged before a superintendent the master shall make and sign, in a form approved by the Board of Trade, a report of the conduct, character, and qualifications of the seaman discharged, or may state in the said form that he declines to give any opinion upon such particulars or upon any of them, and the superintendent before whom the discharge is made shall, if the seamen desires, give to him or indorse on his certificate of discharge a copy of such report (in this Act referred to as the report of character).

The first of the above paragraphs is substantially the same as § 172 of the Merchant Shipping Act, 1854, (17 & 18 Vict. c. 104).

By U.S. Rep. Stat. it is provided: § 4551. That, upon the discharge of any seaman, the master of the ship shall sign and give him a certificate of discharge, specifying the period of his service and the time and place of his discharge, in a prescribed form.

§ 4453. That, upon every discharge effected before a shipping commissioner, the master shall make and sign, in a prescribed form, a report of the conduct, character and qualifications of the person discharged.

<sup>3</sup> In *Handley v. Moffatt*, (1873) Ir. R. 7 C.L. 104, 21 W.R. 231, where an action was brought for improperly dismissing a servant without giving him a certificate of character, as prescribed by the statute referred to in note 1, supra, it was shewn that the statute also provided that, if the master or mistress refused to give a discharge, the servant might procure a certificate from a justice of the peace or chief magistrate of the town, "to all intents and purposes as good as if the same had been given by the master or mistress." For this reason, it was held that the Act which created the duty also gave the remedy for its violation, and that the party aggrieved had no other.

In *Vallance v. Falle*, (1884) L.R. 13 Q.B. Div. 109, 53 L.J.Q.B.N.S. 459, 51 L.T.N.S. 158, 32 Week. Rep. 769, 5 Asp. Mar. L. Cas. 280, 48 J.P. 519, it was held that the only remedy for a breach of the duty imposed by