

No. XVII.

An Act for the further and better Regulation and Government of Seamen within the Colony of New South Wales and its Dependencies and for establishing a Water Police. [6th October, 1840.]

SEAMEN AND WATER
POLICE.

WHEREAS great delay and inconvenience have been occasioned to the owners and masters of vessels trading to and arriving at Port Jackson and other ports or harbours in the Colony of New South Wales by the desertion and other improper conduct of seamen belonging to such vessels and whereas the laws heretofore passed in the said Colony for the regulation and management of seamen therein are insufficient for the purposes intended and it is necessary to make further provision for the regulation and good government of seamen and to establish a Water Police for the better and more efficiently enforcing the law and whereas it is just and proper that the expenses of forming and maintaining such police force should be borne by the owners of such vessels Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the passing of this Act it shall be lawful for the Governor for the time being of the said Colony from time to time by warrant under his hand to appoint one or more fit and proper person or persons as a Justice or Justices of the Peace to execute the duties of Superintendent or Superintendents of Water Police and such other duties as are hereinafter specified within the Harbour of Port Jackson and within such other ports or harbours within the said Colony or its Dependencies as the provisions of this Act shall as hereinafter mentioned be extended to by the Governor of the said Colony and such

Preamble.

Governor may ap-
point Water Police
Magistrates.

Seamen and Water Police.

4 Wm IV. No. 7.

Oath to be taken by
the Magistrates so
appointed.

such person or persons so to be appointed shall in addition to the powers and authorities vested in him or them by this Act have the like powers and authorities and be enabled to execute all the duties created and imposed by a certain Act of the said Governor and Council passed in the fourth year of the reign of His late Majesty King William the Fourth intituled "*An Act for regulating the Police in the Town and Port of Sydney and for removing and preventing Nuisances and Obstructions therein*" and the said Governor shall and may from time to time remove and displace such Superintendent or Superintendents of Water Police and appoint another or others in his or their place or stead as the said Governor may think fit.

2. And be it enacted That every person appointed a Superintendent of Water Police as aforesaid shall before he shall begin to execute the duties of his office take the following oath before one of the Judges of the Supreme Court of the said Colony (or before the Judge or Chief Magistrate of the port or harbour for which he shall be appointed to act) that is to say—

I A. B. do swear that I will faithfully impartially and honestly to the best of my skill and knowledge execute all the powers and duties of a Justice of the Peace and Superintendent of Water Police imposed by and under an Act of the Governor and Legislative Council of the said Colony passed in the fourth year of the reign of Her Majesty Queen Victoria intituled "*An Act for the further and better regulation and government of Seamen within the Colony of New South Wales and its Dependencies and for establishing a Water Police*"

And in addition thereto the Justice or Justices of the Peace appointed under this Act Superintendent or Superintendents of Water Police for the Port of Sydney shall before he or they shall begin to execute the duties of his or their office take the following oath before one of the Judges of the Supreme Court of the said Colony (that is to say)—

"I A. B. do swear that I will faithfully impartially and honestly according to the best of my skill and knowledge execute all the powers and duties of a Justice of the Peace imposed by and under an Act of the Governor and Legislative Council of the said Colony passed in the fourth year of the reign of His late Majesty King William the Fourth intituled '*An Act for regulating the Police in the Town and Port of Sydney and for removing and preventing Nuisances and Obstructions therein.*'"

4 Wm. IV. No. 7.

Water Policemen to
be appointed.

3. And be it enacted That it shall be lawful for the said Governor to authorize such Superintendent or Superintendents of Water Police as aforesaid to nominate and appoint a sufficient number of fit and able men as a Water Police Force who shall be sworn in like manner and shall be subject to the like rules and regulations and shall in addition to the powers vested in them by this Act have all and the like powers which are vested in the police force authorized to be appointed under and by virtue of the said last recited Act.

Vessels may be
boarded and
searched.

4. And be it enacted That it shall be lawful for any Superintendent of Water Police or any other Justice of the Peace or Constable of the said Water Police with such assistants as they respectively may require to enter on board and search any ship or vessel entering or being within the said Harbour of Port Jackson or any other port or harbour within the said Colony or its Dependencies to which the provisions of this Act shall have been extended as aforesaid when and so often as he or they shall have reasonable ground for believing such search to be necessary in the execution of the duties imposed by this or the said last recited Act.

Seamen and Water Police.

5. And be it enacted That the master of every ship or vessel (steamers or other vessels trading coastwise excepted) shall within twenty-four hours after the arrival of such ship or vessel in any port or harbour where this Act shall be or shall have been declared to be in operation deliver to the Superintendent of Water Police of such port or harbour a true list in writing containing the names of the crew and passengers of and in such ship or vessel and in case such master shall neglect or refuse so to deliver such list within the time aforesaid or in case he shall omit to insert in such list the name of any of the crew or passengers he shall forfeit and pay a penalty of not less than ten pounds nor more than fifty pounds.

Masters of vessels to deliver lists of their crews and passengers on arrival.

6. And be it enacted That the master of every ship or vessel about to leave any of the ports or harbours within the said Colony or its Dependencies where the provisions of this Act shall be or shall have been declared to be in operation as aforesaid shall before clearing out at the Custom House deliver to the Superintendent of Water Police of such port or harbour a true and correct list in writing containing the names of the crew and passengers and all other persons intending to proceed to sea in such ship or vessel and such list shall also shew the disposal of such of the crew who arrived in such ship or vessel as may not then be proceeding to sea in such ship or vessel and in case such master shall refuse or neglect so to furnish such list within the time aforesaid or in case such list shall not contain a full and true statement of the particulars aforesaid he shall be liable to forfeit and pay a penalty of not less than ten pounds nor more than fifty pounds.

Masters of vessels to deliver lists of their crews and passengers on departure from the Colony—and to account for persons who may have quitted their vessels.

7. And be it enacted That if after the clearance of any such ship or vessel at the Customs any person shall be found on board such ship or vessel whose name shall not be contained in such last-mentioned list and who shall not be able satisfactorily to shew that he does not intend to proceed to sea in such ship or vessel it shall be lawful for any Superintendent of Water Police Justice of the Peace Officer of Customs or Constable with such assistants as they respectively may require to detain any such person and lodge him in safe custody until he shall be dealt with according to law.

Persons found on board vessels after clearance unable to shew that they do not intend to proceed to sea in such vessels may be detained.

8. And be it enacted That on complaint of a master of any ship or vessel or any merchant merchant's clerk or other person on behalf of such master that any other ship or vessel proceeding to sea hath on board any seaman or mariner who hath deserted from or is in any way indebted to the said master or to the owner of such first-mentioned ship or vessel it shall be lawful for any Superintendent of Water Police Justice of the Peace Officer of Customs or Constable to detain such seaman or mariner and lodge him in safe custody until he shall be dealt with as by law is in such case made and provided notwithstanding that the name of such seaman or mariner may be inserted in any such last-mentioned list.

Seamen deserting from or indebted to one ship found on board another proceeding to sea may be detained.

9. And be it enacted That if a master of any ship or vessel proceeding to sea shall suffer any person to embark on board such ship or vessel whose name shall not be contained in such last-mentioned list or shall refuse or neglect to deliver any such lists as aforesaid within the respective times hereinbefore provided for delivery thereof after the arrival and before the departure of such ship or vessel or shall wilfully insert in any such list any false statement he shall forfeit and pay for every such offence a sum not less than ten pounds nor more than fifty pounds.

Penalty on masters suffering persons to embark whose names are not contained in the list required on clearance or not delivering any list by this Act required or falsifying the same.

10. Provided always and be it enacted That in order to prevent injury to passengers seamen mariners or others whose names may happen to be omitted in such last-mentioned list it shall be lawful for the Superintendent of Water Police or for any Police Magistrate to grant

Superintendent of Water Police or Police Magistrate may grant certificates of departure to persons whose names

grant

Seamen and Water Police.

have been improperly omitted in lists required on clearance and shall publish the same under penalty.

grant to any passenger seaman mariner or other person whose name shall not be contained in such list a special license to depart from the said Colony if it shall be shewn to the reasonable satisfaction of such Superintendent of Water Police or Police Magistrate that the name of such passenger seaman mariner or other person ought to have been inserted in such list and for every license so granted there shall be paid by the person applying for the same the sum of ten shillings and the Superintendent of Water Police or Police Magistrate granting such license shall cause a true copy thereof to be published in one or more of the newspaper or newspapers next to be published at or nearest to the port or harbour where such license shall be granted and also in the *New South Wales Government Gazette* as soon as practicable under a penalty of ten pounds to be recovered in any Court of competent jurisdiction by any person who shall sue for the same. Provided however that nothing herein contained shall be held or construed to release the master of any ship or vessel from furnishing to the Officers of Customs such lists of their crews and passengers as are particularly specified in and required under the fifth section of an Act passed in the present Session of the Legislative Council intituled "*An Act to amend an Act intituled 'An Act for the better preservation of the Ports Harbours Havens Roadsteads Channels Navigable Creeks and Rivers in New South Wales and the better regulation of Shipping in the same.'*"

4 Vic. No. 4 s. 5.

Vessels not to put to sea until searched nor after search to cast anchor or delay their departure except in case of urgent necessity.

11. And be it enacted That no master of a ship or vessel about to proceed to sea from any port or harbour within the said Colony or its Dependencies shall weigh anchor until such ship or vessel shall have been duly examined and searched and having weighed anchor after such search and examination such master shall not suffer such ship or vessel to be brought up or laid to nor to deviate from her course within the limits of any such port or harbour unless compelled by stress of weather or other unavoidable cause nor to be boarded by any boat or vessel whatever excepting Pilot boats or Water Police or Customs boats or any boat or boats belonging to such ship or vessel unless in cases of unavoidable necessity the proof whereof shall lie on such master and every master who shall offend against any of the provisions of this clause shall for every such offence forfeit and pay a penalty or sum of not less than ten pounds nor more than fifty pounds.

Penalty on the master of a vessel for concealing a person on board.

12. And be it enacted That if a master of any ship or vessel within any such port or harbour as aforesaid shall know or receive information that any person is concealed on board such ship or vessel and shall not immediately deliver such person into the charge of the Superintendent of Water Police or of some Justice of the Peace Officer of Customs Water Policeman or Constable such master so offending shall be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay a penalty or sum not exceeding one hundred pounds.

Penalty for wilfully obstructing or resisting persons in the execution of this Act.

13. And be it enacted That if a master of any ship or vessel or any other person shall resist or wilfully obstruct any Superintendent of Water Police Justice of the Peace Officer of Customs Water Policeman Constable or any of their respective assistants whilst searching for or endeavouring to secure any person on board or reasonably suspected to be on board such ship or vessel or in any house or place on shore at any town or place to which the provisions of this Act shall have been extended or shall rescue or attempt to rescue or assist any such person such person so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall suffer such punishment by fine and imprisonment with or without hard labor or by fine or by imprisonment with or without hard labor for any term not exceeding two years as the Court before which such conviction shall be had shall determine.

Seamen and Water Police.

14. And be it enacted That if a master of any ship or vessel within any such port or harbour as aforesaid shall discharge any person belonging to the crew of such ship or vessel without giving to such person a certificate signed by such master specifying the period of service and the time and place of discharge of such person in the manner required by an Act of the Imperial Parliament passed in the fifth and sixth years of the reign of His late Majesty King William the Fourth intituled "*An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom and for forming and maintaining a Register of all the Men engaged in that Service*" the master of such ship or vessel shall on conviction thereof before any two or more Justices of the Peace forfeit and pay for every such offence a sum not less than ten pounds nor more than fifty pounds.

Masters to give
seamen certificates
on their discharge.

15. And be it enacted That every certificate so given shall by the master giving it be brought to the office of the Superintendent of Water Police for such port or harbour as aforesaid and be countersigned by such Superintendent before it be delivered to the person entitled to receive it and a registry of all certificates of discharge so given shall be kept by the respective Superintendents of Water Police in the form set forth in the Schedule to this Act annexed marked A and every Superintendent of Water Police is hereby authorized to give to any person so discharged as aforesaid a certificate of the registry of his discharge in the event of its being proved to the satisfaction of such Superintendent that the original certificate of discharge has been accidentally lost or destroyed which certificate of registry shall be in the words or to the effect following that is to say—

Such certificates to
be brought to and
countersigned by the
Superintendent of
Water Police and to
be registered before
delivery thereof.

I certify that A. B. (*naming the party*) was discharged from the ship (*naming the ship or brig &c.*) C. D. master on the day of 184 and that the certificate of such discharge was duly registered at this Office.

Form of certificate.

Water Police Office

E. F.

184

Supt. Water Police.

16. And be it enacted That no master of any ship or vessel within any such port or harbour as aforesaid shall hire or engage any seaman who shall not produce and deliver to him a certificate of discharge from his former service signed and countersigned as hereinbefore directed or a certificate of the registry of the same signed by the Superintendent of Water Police as also hereinbefore directed which certificate either of discharge or registry the said master shall within two days after having hired or engaged such seaman deliver to the said Superintendent and if any such master shall hire or engage any seaman who shall not have produced and delivered to him such certificate either of discharge or registry as aforesaid or if any such master having received any such certificate shall not give up the same to the said Superintendent within the time aforesaid such master shall for every such offence forfeit and pay a sum not less than ten pounds nor more than fifty pounds. Provided always that nothing herein contained shall be construed to render it unlawful for a master of any ship or vessel to hire or engage any seaman or mariner or any person to perform the duties of a seaman or mariner with the consent in writing of the Superintendent of Water Police of the port or harbour at which any such person shall be so hired or engaged whether such person shall or shall not be able to produce any such certificate as aforesaid.

Masters of vessels
not to hire any
seamen who shall
not be able to pro-
duce certificates of
discharge or of the
registry of such
certificates

except with the con-
sent in writing of the
Superintendent of
Water Police.

17. And be it enacted That if any seaman mariner or other person shall produce make use of or have in his possession or custody any false document purporting to be a discharge of such seaman mariner or other person from any ship or vessel or to be a certificate of the registry of such discharge as aforesaid every seaman mariner or other person so offending shall be deemed to be a rogue and vagabond

Seamen having in
their possession or
making use of false
certificates to be
punished as rogues
and vagabonds.

Seamen and Water Police.

vagabond within the meaning of an Act of the said Governor and Legislative Council passed in the sixth year of the reign of His late Majesty King William the Fourth intituled "*An Act for the prevention of Vagrancy and for the punishment of idle and disorderly Persons Rogues and Vagabonds and incorrigible Rogues in the Colony of New South Wales*" and be liable to be dealt with in the manner in the said Act provided for the punishment of rogues and vagabonds.

Penalty on persons going alongside or on board of vessels after sun-set and before sun-rise.

18. And be it enacted That if any person or persons not being in the service of the Water Police or Customs or being otherwise duly authorized shall go on board or be and remain alongside any ship or vessel in any such port or harbour as aforesaid at any time after sun-set and before sun-rise without the permission of the master or other person then having or being in charge of such ship or vessel it shall be lawful for any Superintendent of Water Police Justice of the Peace Officer of Customs Water Policeman or Constable or the master or the person having or being in charge of such ship or vessel as aforesaid to lodge or keep or cause to be lodged and kept in safe custody any person so offending until he shall be brought before the Superintendent of Water Police for such port or harbour or some Justice or Justices of the Peace on the following morning and such Superintendent or Justice or Justices shall have power to remand and detain in custody such person for such reasonable time as may be necessary to prepare an information and procure the attendance of the witnesses necessary to support such information and such Superintendent or Justice or Justices is and are hereby authorized and required to hear and examine into the matter of such information and on conviction such person shall forfeit and pay for every such offence of which he shall be so convicted a sum not less than five pounds nor more than fifty pounds unless it shall be made to appear to the satisfaction of the Superintendent of Water Police or Justice or Justices of the Peace before whom such conviction shall be had that such person or persons was or were so on board or alongside such ship or vessel by unavoidable accident or for some lawful purpose.

Seamen guilty of insubordination may be brought before a Magistrate and imprisoned for three months.

19. And be it enacted That upon complaint on oath made by the master or other person having or being in charge of any ship or vessel within any such port or harbour as aforesaid against any seaman or seamen mariner or mariners or any other person or persons employed or being in or about or upon such ship or vessel for insubordination or refusal to work or inciting or attempting to incite any other person or persons engaged on board such ship or vessel as aforesaid to the commission of such offences or any of them it shall be lawful for the Superintendent of Water Police of such port or harbour or any Justice or Justices of the Peace to order and direct one or more Water Policeman or Water Policemen or Constable or Constables to apprehend the party or parties in any way so offending and bring such party or parties before such Superintendent of Water Police Justice or Justices or before any other Justice or Justices of the Peace who shall inquire into the matter of such complaint and upon due proof thereof either by such evidence as such Superintendent of Water Police or Justice or Justices shall deem sufficient or on confession of the party or parties complained of it shall be lawful for such Superintendent of Water Police Justice or Justices to commit such party or parties to any common gaol house of correction or other prison at any town or place to which the provisions of this Act shall have been extended there to remain for any term not exceeding three calendar months with or without hard labor as such Superintendent of Water Police or Justice or Justices shall determine.

Master to answer when challenged by any Magistrate or

20. And be it enacted That the master or other person having or being in charge of any ship or vessel within any such port or harbour

Seamen and Water Police.

harbour as aforesaid shall at all times as well by day as by night have at least one seaman or mariner in charge of the deck of such ship or vessel and if such master or other person or the seaman or mariner so in charge of the deck as aforesaid or if any person having the charge of or being on board any boat belonging to such ship or vessel or having the charge of or being on board any shore or other boat shall not answer to the challenge of the Superintendent of Water Police for such port or harbour or any Justice of the Peace Officer of Customs Water Policeman or Constable such master or other person having or being in charge of such ship or vessel shall whether such offence shall have been committed by him or by such seaman or mariner in charge of the deck of such ship or vessel as aforesaid or by any person having the charge or being on board such ship's boat as aforesaid on conviction thereof forfeit and pay for every such offence a penalty or sum of not less than ten shillings nor more than five pounds and every person having the charge or being on board any shore or other boat so offending as aforesaid shall for every such offence forfeit and pay a penalty or sum of not less than ten shillings nor more than five pounds.

Officer of Customs or Constable.

21. And be it enacted That if any person whomsoever shall wilfully destroy or damage or attempt or endeavour to destroy or damage or shall be in any way concerned in destroying or damaging or in any attempt or endeavour to destroy or damage any vessel or boat belonging to or hired or employed by the Superintendent of Water Police for any such port or harbour as aforesaid or by any Justice or Justices of the Peace or Officer of Customs Water Policeman or Constable or by any one acting for or under or by authority of him them or any of them or the sails oars tackle or other gear or furniture or the stores goods or other articles or things contained in or belonging to such vessel or boat or any part thereof such person so offending shall on conviction thereof before any two or more Justices of the Peace forfeit and pay for every such offence a penalty or sum of not less than two pounds nor more than ten pounds and shall also make good the damage so done together with the reasonable costs and charges attending the recovery of the same or shall suffer imprisonment for any time not exceeding three calendar months.

Penalty on persons damaging or attempting to damage vessels or boats employed under this Act.

22. And be it enacted That when any person shall die on board any ship or other vessel or boat lying within any such port or harbour as aforesaid the master or other person in charge of such ship or other vessel or boat shall as soon thereafter as conveniently may be cause the body of such person so having died to be brought on shore and interred and such master or other person neglecting or failing so to do shall for every such offence forfeit and pay a penalty or sum of not less than five pounds nor more than twenty pounds.

Persons dying on board ship to be buried on shore.

23. And be it enacted That any seaman who shall be found in any street or place in any town or place on shore within the said Colony where this Act shall be in operation at any time after the hour of nine o'clock at night or before sun-rise in the morning shall unless he produce a written or printed pass from the master or other person in charge of the ship or vessel to which such seaman shall belong or a certificate of discharge countersigned as aforesaid or a certificate of the registry thereof as aforesaid be taken into custody by any Water Policeman or Constable and lodged in any watch-house and shall at the next usual hour of business be taken before the Superintendent of Water Police at such town or place or any Justice or Justices of the Peace and on conviction of such offence such seaman shall forfeit and pay a penalty or sum of not less than five shillings nor more than ten shillings or in default thereof shall be committed to any house of correction or gaol for any term not exceeding three days unless such

Seamen on shore after nine o'clock at night without a pass may be fined 10s.

Seamen and Water Police.

penalty shall be sooner paid and it shall be lawful for such Superintendent or Justice or Justices after the payment of such fine or penalty or in case of non-payment thereof after such seaman shall have been discharged from such house of correction or gaol to forward him in custody to the ship or vessel of which he shall be a seaman or mariner as aforesaid.

Penalties on persons harbouring seamen who are on shore without certificates of discharge or passes.

24. And be it enacted That if during the continuance of any period of service contracted for in or by any agreement signed by any seaman or mariner to serve on board any ship or vessel which shall come or be within any such port or harbour as aforesaid any person whomsoever shall harbour conceal employ or retain or assist in harbouring concealing employing or retaining such seaman or mariner or shall cause induce or persuade or endeavour to cause induce or persuade such seaman or mariner in any manner whatsoever to violate or to attempt or endeavour to violate such agreement or shall knowingly connive at or conceal the violation of or any attempt at the violation of such agreement by any seaman or mariner such person so offending and knowing of or having reason to believe the existence of such agreement and of the violation thereof by such seaman or mariner shall for every such offence upon conviction thereof forfeit and pay a penalty or sum of not less than five pounds nor more than fifty pounds or in case of non-payment thereof it shall be lawful for the Superintendent of such port or harbour or any Justice or Justices to commit the person so offending to any house of correction or gaol for any term not less than seven days nor more than three calendar months to be kept to hard labor or otherwise as such Superintendent or Justice or Justices shall order and direct Provided always that every person offending against this present provision shall be deemed to have known of or had reason to believe the existence of such agreement and the violation thereof by such seaman or mariner unless it shall be made to appear to the satisfaction of the Superintendent of Water Police or Justice or Justices before whom the matter of complaint shall be heard that notwithstanding ordinary precaution in that behalf the person charged with such offence shall have been imposed upon by falsehood or fraud and have thereby unknowingly and unwillingly offended against the present provision whereupon it shall be lawful for such Superintendent or Justice or Justices to mitigate the penalty to any sum which he or they may think fit or wholly to acquit the person charged with such offence.

Persons offending presumed to have a knowledge that the men harboured by them were on shore in violation of their agreement and must prove their own innocence or that they had exercised reasonable precaution.

Ships or houses may be searched for runaway seamen—penalties on seamen found secreted therein and on parties harbouring them.

25. And be it enacted That it shall be lawful for the Superintendent of Water Police for any such port or harbour as aforesaid or any Justice or Justices of the Peace upon complaint on oath that any runaway seaman or seamen is or are harboured secreted or concealed or suspected to be harboured secreted or concealed on board any ship boat or other vessel or in any house or place whatsoever to issue a warrant directing some Water Policeman or Water Policemen or Constable or Constables to search such ship boat or other vessel or such house or place and such seaman or seamen or any other seaman or seamen as shall be there found harboured secreted or concealed together with the master or other person having or being in charge of the ship boat or other vessel or the occupier of the house or place wherein such seaman or seamen or any of them shall be so found to lodge in any or the nearest watch-house there to be detained until brought before such Superintendent Justice or Justices or any other Justice or Justices who is and are hereby authorized and required to inquire into and determine the matter of such complaint and on conviction thereof such seaman or seamen so found harboured secreted or concealed as aforesaid unless he produce a written or printed pass as aforesaid or a certificate of discharge countersigned as aforesaid or

Seamen and Water Police.

a certificate of the registry thereof as aforesaid whether he or they be the party or parties complained of or not shall forfeit and pay a penalty or sum of not less than ten shillings nor more than twenty shillings or in case of non-payment thereof shall be committed to any house of correction or gaol for any term not exceeding seven days there to be kept to hard labor or otherwise as such Superintendent or Justice or Justices shall determine and if such master or other person having or being in charge of the ship boat or other vessel or such occupier of the house or place wherein such seaman or seamen or any of them were so found harboured secreted or concealed shall not shew to the satisfaction of such Superintendent or Justice or Justices that he or they had not nor could have any knowledge or reasonable ground for suspicion that such seaman or seamen had run away or absconded from his or their lawful service or were so harboured secreted or concealed such master or other person having or being in charge of such ship boat or other vessel or such occupier of such house or place wherein such seaman or seamen or any of them shall have been so found shall on conviction thereof forfeit and pay for every such offence a penalty or sum of not less than five pounds nor more than fifty pounds or in case of non-payment thereof shall be committed to any house of correction or gaol for any term not less than seven days nor more than three calendar months there to be kept to hard labor or otherwise as such Superintendent or Justice or Justices shall determine.

26. And be it enacted That in prosecuting any offence or suing for any penalty under this Act it shall not be necessary for the purpose of proving the execution of any agreement to call any subscribing or attesting witness or witnesses thereto or to account for the absence or to prove the hand-writing of any such subscribing or attesting witness or witnesses but that every such agreement may be proved in like manner as if there were no subscribing or attesting witness thereto.

How agreements entered into by seamen may be proved.

27. And whereas it is expedient for the better regulation of persons plying boats for hire on the waters of the ports or harbours within the said Colony of New South Wales and its Dependencies that so much of an Act of the Governor and Legislative Council of the said Colony passed in the fourth year of the reign of His late Majesty King William the Fourth intituled "*An Act for regulating the Police in the Town and Port of Sydney and for removing and preventing Nuisances and Obstructions therein*" as requires the names of boatmen plying for hire in Sydney Cove or Darling Harbour to be registered in the Police Office in the Town of Sydney should be repealed and other provision made in lieu thereof Be it enacted That the same shall be and is hereby declared to be repealed accordingly and that from and after the passing and publication of this Act every person who shall be desirous of plying any boat for hire within any port or harbour to which the provisions of this Act shall be or shall have been extended as aforesaid shall for such purpose make application to the Superintendent of Water Police for such port or harbour and on being approved shall register his name and place of abode in the office of the said Superintendent and thereupon such person shall receive a badge on which shall be inscribed his name and the number of his license which badge he shall wear firmly sewed to his coat or jacket on the left breast and for such registration and badge he shall pay a fee of five shillings and any person who shall ply a boat for hire within any such port or harbour as aforesaid without such license and registration or being licensed without a badge sewed as aforesaid shall on conviction forfeit and pay for every such offence a penalty or sum of ten shillings

Boatmen to be licensed by Superintendent of Water Police and to wear badges.

Provided

Seamen and Water Police.

Provided however that such fee of five shillings shall not be payable by any person who at the time of the passing and publication of this Act shall be registered as a boatman plying for hire in Sydney Cove or Darling Harbour under the provisions of the said last recited Act.

Penalty for offences not specially provided for.

28. And be it enacted That every person who shall violate any provision of this Act shall for every such offence for which a penalty or punishment is not otherwise herein specially provided forfeit and pay a sum of not less than five shillings nor more than ten pounds.

This Act not to abrogate any rights or remedies contained in any Acts now in force.

29. And be it enacted That nothing in this Act contained shall be taken or construed to alter or affect or as intended to alter or affect any other Law Act or Statute or any provisions therein contained or to abrogate any rights or remedies which exist or may be had independently of this Act but that all such Laws Statutes Acts provisions rights and remedies shall exist and may be enforced in like manner as if this present Act had no existence and had not been passed Provided however that no person prosecuted under this Act shall be prosecuted for the same offence under any other Act.

As to construction of Act.

30. And to avoid all doubts in the construction of this Act Be it enacted That every port harbour haven roadstead channel creek and navigable river within the said Colony and its Dependencies shall be deemed taken and understood to be a port or harbour within the meaning and for the purposes of this Act and that every person having the command or charge of or chief authority in any ship or other vessel shall within the meaning and for the purposes of this Act be deemed taken and understood to be the master of such ship or vessel and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall in like manner be deemed taken and understood to be a seaman or mariner within the meaning and for the purposes of this Act and that the word "ship or vessel" as used in this Act shall be deemed taken and understood within the meaning and for the purposes of this Act to comprehend every description of vessel whatsoever of greater burthen than ten tons.

Tonnage duties to be levied.

31. And in order to provide a fund to meet the expenses of carrying the provisions of this Act into effect Be it enacted That from and after the passing and publication of this Act every registered ship or vessel entering any port or harbour within the said Colony of New South Wales or its Dependencies to which this Act shall be or shall have been extended as hereinafter provided shall be liable to pay and the master thereof shall pay upon demand to the Collector of Customs of the said Colony or to such other person as shall be duly appointed to demand and receive the same the sum of sixpence for every ton of the registered tonnage of such ship or vessel Provided however that no ship or vessel whatsoever shall be required to pay such tonnage duty at any port or harbour as aforesaid if the same shall have been paid at that or any other port or harbour within the said Colony or its Dependencies at any time within the four months next preceding the day on which such ship or vessel shall enter such first mentioned port or harbour Provided also that no ship or vessel engaged in the coasting trade or in the trade between New South Wales and any of the Australian Colonies shall be subject to the payment of such tonnage duty at any port or harbour as aforesaid if the same shall have been paid at that or any other port or harbour within the said Colony or its Dependencies within the twelve months next preceding the day on which such ship or vessel shall enter such first mentioned port or harbour.

Every vessel plying on the waters of any port or harbour in New South Wales where this Act shall be in operation shall

32. And be it enacted That every vessel plying on the waters of any such port or harbour as aforesaid within the said Colony or its Dependencies

Seamen and Water Police.

Dependencies shall be subject to the payment of the said tonnage duty once in every twelve months.

be subject to the payment of such tonnage duty once in twelve months.

33. And be it enacted That all sums of money which shall be received in payment of the said tonnage duties shall be paid over to the Treasurer for the time being of the said Colony by the party or parties receiving the same Provided that in case of non-payment of any such tonnage duties by the master of any such ship or vessel or other person liable to pay the same such duties shall be recovered before any one or more Justice or Justices of the Peace and such Justice or Justices is and are hereby authorized and required to inquire into and determine the matter in a summary way and in every such case the like proceedings may be had and the like measures taken as are directed in and by an Act of the Governor and Legislative Council of the said Colony passed in the fifth year of the reign of His late Majesty King William the Fourth intituled "*An Act to regulate summary proceedings before Justices of the Peace.*"

As to whom such tonnage duty shall be paid and means of recovery thereof in case of non-payment.

34. And be it enacted That all fines penalties or forfeitures incurred or recoverable under the provisions of this Act shall and may be recovered in a summary way before any one or more Justice or Justices of the Peace in manner directed by and under the provisions of the Act hereinbefore last recited unless otherwise specially provided for by and under the provisions of this Act.

Recovery of penalties.

35. Provided always and be it enacted That in case of the non-payment of any penalty imposed by and under the provisions of this Act it shall be lawful for any Superintendent of Water Police or Justice or Justices of the Peace before whom the conviction shall be had to cause the same together with the costs and charges attending such conviction to be levied by distress and sale of the offender's goods and chattels the overplus (if any) after deducting the charges of such distress and sale to be rendered to such offender Provided further that in case no such distress shall be found or no sufficient distress such Superintendent or Justice or Justices may by warrant under his or their hand or hands commit such offender to any of Her Majesty's gaols or houses of correction for any time not less than one calendar month nor more than six calendar months to be computed from the day on which such offender shall be actually arrested and not from the date of such warrant and for the purpose of ascertaining the same the constable or other person who shall make the arrest is hereby required to indorse on the back of such warrant the date of such arrest under a penalty or sum of five pounds which shall and may be recovered in manner hereinbefore provided for the recovery of other penalties Provided also that in case of any neglect to indorse the said warrant as aforesaid the same shall not vitiate any such arrest but in such case the time of imprisonment shall run from the date of the warrant.

Imprisonment where penalties are not paid.

36. And be it enacted That if any person shall be summoned as a witness to give evidence before any Superintendent of Water Police Justice or Justices of the Peace touching any of the matters aforesaid either on the part of the prosecution or of the person or persons accused and shall neglect or refuse to appear at the time and place for that purpose appointed without a reasonable excuse for such neglect or refusal to be allowed by such Superintendent Justice or Justices or appearing shall refuse to be examined on oath and give evidence before the Superintendent or Justice or Justices before whom such prosecution shall be depending every such person so offending shall forfeit for every such offence a penalty or sum not less than two pounds nor more than thirty pounds to be recovered in manner hereinbefore provided for the recovery of other penalties.

Penalties on witnesses not appearing.

Seamen and Water Police.

Appeal to Quarter Sessions.

37. And be it enacted That any person who shall think himself or herself aggrieved by the imposition of any fine or penalty above the sum of ten pounds or by any act done by any Superintendent of Water Police Justice or Justices under or concerning the execution of this Law or Ordinance may appeal against such penalty or act to any Court of Quarter Sessions to be holden for the district or nearest to the district in which such cause of appeal shall have happened within six months thereafter first having given notice of such appeal according to the provisions of the law which shall be in force for the time being for the general regulation of appeals of such or the like nature.

Costs.

38. And be it enacted That in every case where notice of appeal against the judgment of any Superintendent of Water Police or Justice or Justices of the Peace in or concerning the execution of this Act shall have been given and such appeal shall have been dismissed or the judgment so appealed against shall have been affirmed or such appeal shall have been abandoned it shall be lawful for the Court of Quarter Sessions to which such appeal shall have been made or shall have been intended to be made and such Court is hereby required to adjudge and order that the party so having appealed or having given notice of intention to appeal shall pay to the Superintendent of Water Police or Justice or Justices to whom any such notice shall have been given such sum by way of costs as shall to such Court seem reasonable and if such party shall refuse or neglect forthwith to pay such sum it shall be lawful for the said Court thereupon to adjudge and order that such party shall be committed to any gaol or house of correction there to remain until such sum be paid and that in every case in which the judgment so appealed against shall be reversed it shall be lawful for such Court if they shall see fit to order that the Superintendent or Justice or Justices whose judgment shall have been so reversed shall be indemnified from all costs and charges to which he or they shall have been put by such appeal and to recommend to the Governor or Acting Governor for the time being of the said Colony who is hereby authorized upon such recommendation to cause a sufficient sum for that purpose to be paid from the Colonial Treasury.

No *certiorari*.

39. And be it enacted That no conviction under this Act nor any adjudication made on appeal therefrom shall be quashed for want of form or removed by writ of *certiorari* or otherwise into the Supreme Court of the said Colony and no writ of commitment or distress shall be held void by reason of any defect therein provided it be therein alleged that there be a good and valid conviction to sustain the same.

Officers protected in the execution of this Act.

40. And be it enacted That no action shall lie against any Superintendent of Water Police Justice of the Peace Officer of Customs Water Policeman Constable or other Peace Officer or any person acting for or under them or any of them or on account of any act matter or thing whatsoever done or to be done or commanded by him them or any of them in carrying the provisions of this Act into effect against any party or parties offending or suspected to be offending against the same unless there be direct proof of corruption or malice and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen and if any person shall be sued for any act matter or thing which he shall have so done or shall so do in carrying the provisions of this Act into effect he may plead the general issue and give the special matter in evidence and in case of judgment after verdict or on demurrer being given for the defendant or of the plaintiff discontinuing or becoming nonsuit in any such action the defendant shall be entitled to and have treble costs.

Appropriation of fines and penalties.

41. And be it enacted That one moiety of all fines and penalties paid and received by virtue of this Act shall go to the use of the party or parties informing and suing for the same respectively

as

Seamen and Water Police.

as the case may be and the other moiety thereof and all other the sum or sums of money collected levied or received under and by virtue of the provisions of this Act shall be paid over to the Colonial Treasurer of the said Colony or any other person duly authorized to receive the same and be appropriated to the purposes of carrying the provisions of this Act into effect Provided always that any informer or other person suing for any penalty imposed by or under the provisions of this Act shall in all cases be deemed and taken to be a competent witness.

42. And be it enacted That this Act shall extend to and be in force in such ports or harbours or towns or places within the said Colony and its Dependencies and at such times as the Governor or the Acting Governor of the said Colony for the time being shall by notice to be published in the *New South Wales Government Gazette* declare to be and to come under the operation thereof.

Act may be extended to any harbours at the discretion of the Governor.

SCHEDULE REFERRED TO.

A.

Book of Registry of the Discharge and Re-employment of Seamen arriving at or departing from the Port of New South Wales (or a Dependency of New South Wales as the case may be.)

DISCHARGE.				RE-EMPLOYMENT.				Remarks.
SEAMEN'S NAMES.	Certificates of Discharge.	Vessel from which discharged.	MASTERS' NAMES.	Certificates.	Vessel in which re-employed.	MASTERS' NAMES.	Receipt.	
	Date of Certificate of Discharge.			Date of Certificates given in cases of lost Certificates of Discharge.	Name.	Description.	I acknowledge to have engaged the Seaman whose name stands opposite to mine in the column for Seamen's names and to have received the Certificate of the discharge of such Seaman from his former service.	MASTER'S SIGNATURE.
Johnson James	1840. Sept. 1		Williams John	1840.	Susan	Barque		
Edwards Joseph	Sept. 7	Eliza	Smith Henry	Sept. 19	Elizabeth	Ship	Stephenson Thomas	
Templeton Richard	Sept. 9	Mary	Peterson Samuel	Sept. 21	Martha	Brig	Reynolds Alexander	
		Frances		Sept. 28			Throsely William	