

No. XXI.

REGULATION OF
SEAMEN.

An Act to amend an Act 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 further to amend the Law relating to the government of Seamen in the Merchant Service. [22nd December, 1843.]

Preamble.

4 Victoria No. 17.

2 William IV. No. 10.

Repeals in part 4
Victoria No. 17 s. 8.

Limits the power of
originating detainer
to certain persons.

Power of detention
not to extend to sea-
men indebted to pre-
vious owner.

WHEREAS an Act was passed by the Governor of New South Wales with the advice of the Legislative Council in the fourth year of the reign of Her present Majesty 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 whereas it is expedient to repeal certain parts of the said recited Act and to amend the said Act in several particulars and further to amend an Act intituled "*An Act for the better regulation and government of Seamen in the Merchant Service in the Colony of New South Wales and for the protection of Masters and Ships from vexatious suits in the said Colony*" Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That from and after the passing of this Act so much of the said first recited Act as provides that on the complaint of 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 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in safe custody until he shall be dealt with by law as in such case made and provided shall be and the same is hereby repealed except as hereinafter provided and that from and after the passing of this Act no seaman shall be thus apprehended and detained upon complaint of any indifferent person on behalf of a master of a vessel but that the power of originating such detainer shall be confined to the master or mate of the vessel or the owner part owner or his agent Provided however that no seaman shall be so detained beyond such reasonable time as may be necessary to bring him before a Justice of the Peace to be dealt with according to law.

2. And be it enacted That the power of detaining any seaman or mariner and lodging him in safe custody as aforesaid shall not extend to the cases of such seamen and mariners who may or shall be indebted to the master owner or agent of such ship to which the seaman or mariner previously belonged.

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3. And be it enacted That from and after the passing of this Act so much of the first recited Act as imposes a punishment not exceeding three months' imprisonment with or without hard labor upon seamen for insubordination or refusal to work or inciting or attempting to incite any other person or persons engaged on board any ship or vessel to the commission of such offences whilst any such ship shall be in any port or harbour of this Colony and that so much of the last recited Act as provides that in case any seaman or mariner whilst in any port or harbour within this Colony shall unlawfully refuse or neglect to work on board his ship or vessel for which he contracted himself shall upon being duly convicted thereof be committed to the common gaol or house of correction there to be kept to hard labor for any number of days not exceeding seven as to such Justice or Justices shall seem meet shall be and the same is and are hereby repealed so far as regards any seaman or mariner belonging to any ship or vessel registered in any part of the United Kingdom of Great Britain and Ireland or to any ship or vessel entitled to the privileges of a British registered ship except such as may be registered in the Colony of New South Wales but that in respect to vessels registered in the said Colony the last mentioned provision shall remain in full force and effect.

Repeals in part 4
Victoria No. 17 s. 19
and 2 William IV.
No. 10 s. 6.

4. And be it enacted That so much of the first recited Act as authorizes the Superintendent of Water Police or any parties on complaint on oath that any runaway seaman is harboured or concealed in any ship or place to issue a warrant directing such ship or place to be searched and that such seaman or any other seaman who shall be found concealed there and also the master or person in charge of the vessel or the occupier of the house to be lodged in the watch-house and detained there until brought before the Justice shall be and is hereby repealed and that from and after the passing of this Act the power of search under any warrant of a Justice of the Peace for New South Wales shall be restricted and limited to such seaman as is mentioned in the complaint upon oath made by the master owner or agent of the ship from which in such complaint it shall be alleged the seaman named in the information or complaint has deserted and in which complaint or information also the house or vessel as the case may be it shall be specified that such seaman is harboured or concealed.

Repeals in part 4
Victoria No. 17 s. 25.

Apprehending warrant of Justice to be restricted to seamen mentioned therein and to the house or vessel therein also specified.

5. And be it enacted That so much of the said first recited Act as relates to the office powers and duties of Superintendent of Water Police shall be and the same is hereby repealed and that from and after the passing of this Act all the powers and duties vested by the said first recited Act in any Superintendent of Water Police shall be and the same are hereby vested in any Police Magistrate or any of Her Majesty's Justice of the Peace for the City of Sydney or for any town where such office of Superintendent of Water Police shall be now extant.

Office of Superintendent of Water Police abolished.

6. And be it enacted That so much of the said first recited Act as relates to the minimum amount of all penalties therein or thereby provided shall be and the same is hereby repealed and that the maximum of the penalty provided in and by the eighteenth section of the said Act shall be and the same is hereby reduced to a sum not exceeding twenty-five pounds.

Penalties reduced.

7. And be it enacted That so much of the said first recited Act as provides that if a master of any ship or vessel within any such port or harbour as is therein mentioned 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

Concealing persons on board.

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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 shall be and the same is hereby repealed and that from and after the passing of this Act the said penalty or sum shall be recoverable from such masters only as knowingly and wilfully conceal or allow to be concealed any person or persons on board of the ship or vessel under their respective control or command.

Term of imprisonment reduced.

8. And be it enacted That the term of imprisonment mentioned in the thirteenth section of the said first recited Act shall be reduced and limited to a period not in any case exceeding six calendar months and that the punishment of hard labor authorized by the same section shall be and is hereby abolished.

Answering challenge.

9. And be it enacted That so much of the said first recited Act as provides that the master or other person having or being in charge of any ship or vessel within any such port or harbour as is therein mentioned 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 shall be and the same is hereby repealed.

Power to detain seamen found on shore at night abolished.

10. And be it enacted That so much of the said first recited Act as authorizes the detention of and imposition of a fine upon any seaman or mariner of any ship or vessel when found in any street or place in any town or place on shore either after the hour of nine o'clock at night or before sunrise without a written or printed pass from the master or other person in charge of the ship or vessel to which he shall belong shall be and the same is hereby repealed.

Agreement.

11. And be it enacted That so much of the said first recited Act as provides that every person offending against the enactment contained in the twenty-fourth section thereof shall be deemed to have known of or had reason to believe the existence of such agreement as is therein specified and the violation thereof by any seaman or mariner unless it shall be made to appear to the satisfaction of the Superintendent of Water Police or party or parties before whom the matter complained of 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 this provision shall be and the same is hereby repealed.

Tonnage duty.

12. And be it enacted That from and after the passing of this Act the duty of sixpence per ton which under the said recited Act the Collector of Customs or such other person as shall be duly appointed to demand or recover the same is thereby authorized to demand from the master of every registered ship or vessel entering any port or
harbour

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harbour within the Colony of New South Wales or its Dependencies to which the said recited Act shall be or shall have been extended shall be reduced to the sum of three-pence for every ton of the registered tonnage of such ship or vessel provided that in addition to the exemption and regulations as to the payment of the said duty now contained in the said recited Act no ship or vessel engaged in the coasting trade or in the trade between New South Wales and Van Diemen's Land or between New South Wales and any port or place in New Zealand shall be subject to the payment of such duty oftener than once a year and that vessels of all nations outfitting for or refitting from the fisheries shall be and the same are hereby wholly exempted from payment thereof.

13. And be it enacted That so much of the said first recited Act as authorizes imprisonment where penalties awarded under the same Act are not paid in pursuance of such award for any time not more than six calendar months shall be and the same is hereby repealed and that from and after the passing of this Act the term of imprisonment in all cases of non-payment of any penalty or penalties so awarded shall not exceed four calendar months.

Limited imprisonment where fines not paid.

14. And be it enacted That in case a seaman should at any time after having signed an agreement as prescribed by the Schedule A of the Act of Parliament passed in the fifth and sixth year 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*" neglect or refuse to join the ship on board of which he shall have engaged to serve or shall refuse to proceed to sea in her or shall absent himself therefrom without leave it shall be lawful for any Justice of the Peace residing near to the place where such ship shall happen to be upon complaint of the fact made on oath by the master mate or owner thereof and such Justice is hereby required by his warrant to cause such seaman to be apprehended and brought before him and in case such seaman shall not give a reason to such Justice for his neglect refusal or absence (as the case may be) upon due proof of such neglect refusal or absence it shall be lawful for any such Justice to commit such seaman to the house of correction there to be kept to hard labor for a period not exceeding thirty days Provided always that in case such seaman on being apprehended and brought before the said Justice shall consent to join the ship and proceed on the voyage for which he shall have agreed it shall be lawful for such Justice at the request of the master instead of committing such seaman to cause him to be conveyed on board the said ship or to be delivered to the master for the purpose of proceeding on the voyage and also to award to such master such cost incurred in the apprehension of the seaman as to such Justice shall seem reasonable not in any case exceeding the sum of forty shillings which shall be chargeable against and may be deducted from the wages due or becoming due to such seaman.

Seamen refusing to go to sea after signing agreement.

15. And be it enacted That so much of the said recited Act as enacts that it shall be lawful for the Superintendent of Water Police or for any Police Magistrate to grant to any passenger seaman mariner or other person whose name shall not be contained in the list therein mentioned a special license to depart from the Colony shall be and the same is hereby repealed.

Power to grant certificates of departure abolished.

16. And be it enacted That the term seaman and mariner in the said first recited Act contained shall not be deemed to apply to any person who shall be employed or engaged to serve in any capacity on board any ship or vessel for any period less than one month.

Term "seaman."

Hard Labor for Male Offenders.

Act of Parliament
5 and 6 Wm. IV.
cap. 19 declared to
be in force.

17. And whereas it is expedient to remove doubts as to whether an Act of the Imperial Parliament be now in force in the Colony of New South Wales 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*” and passed in the fifth and sixth year of the reign of King William the Fourth Be it declared and enacted That the said recited Act of Parliament is and shall be in full force and operation in the said Colony.

Persons about to de-
part not to be de-
tained if names are
inserted in the Cus-
toms' clearance
although not in
Water Police list.

18. And be it enacted That no person found on board any ship or vessel after clearance of such ship or vessel at the Customs whose name shall not be inserted in the Water Police list of passengers and crew shall be liable to be detained or placed in custody if the name of such person shall be in the Custom House clearance and notice thereof have been given to the principal executive officer of the Water Police for the time being.

Masters declared not
to be liable to penalty
if passengers' names
be in Customs'
clearance though
not in Water Police
list.

19. And be it enacted That no master or commander of any ship or vessel shall be liable to the penalty contained in the ninth section of the said first recited Act for suffering any person to embark on board such ship or vessel whose name is not inserted in the Water Police list of passengers and crew provided the name of such person shall be in the Custom House clearance and notice thereof have been given to such principal executive officer as last aforesaid.
