

No. XXIII.

MERCHANT SEAMEN. An Act for the protection of Seamen entering on board Merchant Ships. [1st October, 1847.]

Preamble.

Governor and Executive Council may license persons to procure seamen for merchant ships.

Manner of granting and revoking license.

No person not duly licensed or interested in the ship to be concerned in procuring seamen to be entered.

WHEREAS seamen are sometimes subjected to impositions and injustice by persons who undertake to procure seamen to enter on board merchant ships who have no interest in the said ships And whereas it is expedient to afford protection to seamen entering on board merchant vessels in the Colony of New South Wales 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 it shall be lawful for the Governor with the advice of the Executive Council and he is hereby empowered to license such persons as he may deem to be requisite and fit and who may desire to take out such license to hire engage supply or provide seamen to be entered on board merchant ships and every such license shall be granted for such period upon such terms and upon such security being given and shall be revocable upon such conditions as the Governor with the advice of the Executive Council may at any time or times appoint.

2. And be it enacted That every such license shall be granted and every revocation thereof shall be made by minute or resolution of the Executive Council and a copy of any such minute or resolution certified and signed by the Clerk of the Executive Council shall be received as evidence of such license and revocation without further proof thereof.

3. And be it enacted That no person not licensed as aforesaid or not being the owner part owner master or person in charge of a merchant ship or the ship's husband or agent shall hire engage supply or provide a seaman to be entered on board any merchant ship and no person

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person whether licensed or not other than the owner part owner master or person in charge of a merchant ship or the ship's husband or agent shall demand or obtain the certificate of discharge of any seaman for the purpose or under the pretence of engaging him on board of any merchant ship.

4. And be it enacted That no owner part owner master or person in charge of any merchant ship or ship's husband or agent shall knowingly receive or accept to be entered on board the said ship any seaman who has been hired engaged supplied or provided to be entered on board thereof contrary to the provisions of this Act.

5. And be it enacted That every person guilty of any of the offences above described shall upon conviction thereof forfeit and pay for each and every seaman hired engaged supplied or provided to be entered on board and for every certificate of discharge demanded or obtained contrary to the provisions of this Act or for every seaman knowingly received or accepted to be entered on board contrary to the provisions of this Act a sum not exceeding twenty pounds for each offence although several seamen may be included in the same contract or several certificates of discharge may be obtained or several seamen may be received or permitted to remain at the same time.

6. And be it enacted That it shall be unlawful for any person to employ any unlicensed person or persons for the purpose of engaging or providing seamen to be entered on board merchant ships and that any licensed person knowingly employing any unlicensed person for the purposes aforesaid shall forfeit and pay a sum not exceeding twenty pounds and in addition thereto shall forfeit and lose his license.

7. And be it enacted That the owner part owner master or person in charge of any merchant ship or ship's husband or agent shall not pay or advance nor give any note in writing or otherwise in the nature of and purporting to be an advance note for any part of the wages of any seaman hired engaged supplied or provided to be entered on board the said ship until six hours after the ship's articles have been duly signed by the said seaman and by the master or owner of the said ship and then only to the said seaman himself unless such wages or advance of wages be paid in money in which case the payment thereof may be made to the said seaman himself at any period most convenient after the signing of the said ship's articles as aforesaid and all payments of wages contrary to the provisions of this Act shall be and are hereby declared to be null and void and the amount thereof shall be recoverable by the said seaman as if they had not been paid or advanced.

8. And be it enacted That if any person shall demand or receive from any seaman or from any person other than the owner part owner master or person in charge of a merchant ship or the ship's husband or agent requiring seamen any remuneration whatever either directly or indirectly for and on account of the hiring supplying or providing any such seaman he shall forfeit for every such offence a sum not exceeding five pounds.

9. And be it enacted That it shall not be lawful for any person (other than any officer or person in Her Majesty's service or employment) to go and be on board any merchant vessel arriving or about to arrive at the place of her destination before or previous to her actual arrival at the wharf or quay or other place of her discharge without the permission and consent of the master or person in charge of the said vessel and if any person (other than as aforesaid) shall go and be on board any such vessel before or previous to her actual arrival as aforesaid without the permission and consent of the said master or person

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person in charge of the said vessel he shall for every such offence forfeit and pay a sum of money not exceeding twenty pounds and for the better securing the person of such offender the master or person in charge of the said vessel is hereby authorized and empowered to take any person so offending as aforesaid into custody and to deliver him up forthwith to any constable or peace officer to be by him taken before a Justice or Justices to be dealt with according to the provisions of this Act.

Penalty for soliciting sailors to become lodgers in houses of unlicensed persons or removing sailors' effects from on board.

10. And be it enacted That if any person shall on board any merchant ship within twenty-four hours of her arrival at any port as aforesaid solicit any seaman to become a lodger at the house of any person not so licensed as aforesaid and letting lodgings for hire or shall take from and out of such ship any chest bedding or other effects of any seaman except under the personal direction of such seaman and without having the permission of the master or person in charge of such ship he shall be liable to forfeit and pay for every such offence the sum of five pounds.

Penalty for receiving remuneration for board of sailors for longer period than is due or for neglecting to return moneys or effects belonging to seamen.

11. And be it enacted That if any person shall demand and receive of and from any seaman payment in respect of his board or lodging in the house of such person for a longer period than such seaman shall have actually resided and boarded therein or shall receive or take into his possession or under his control any moneys documents or effects of any seaman and shall not return the same or pay the value thereof when required so to do by such seaman after deducting therefrom what shall be justly due and owing in respect of the board and lodging of such seaman he shall forfeit and pay a sum not exceeding ten pounds over and above the amount of value of such moneys documents or effects after such deductions as aforesaid which shall be adjudged to be forthwith paid to such seaman under the conviction by the Justices before whom such offence shall be heard and determined.

Recovery and application of penalties.

12. And be it enacted That all penalties and forfeitures imposed by this Act shall and may be recovered with costs by summary proceedings before any two Justices of the Peace residing in or near to the place where the offence shall be committed or where the offender shall be and if the sum imposed as a penalty or adjudged to be paid as aforesaid by any such Justices shall not be paid either immediately after the conviction or within such reasonable time as such Justices shall at the time of the conviction appoint it shall be lawful for the Justices to commit the offender or offenders to the common gaol or house of correction there to be imprisoned only or to be imprisoned and kept to hard labor according to the discretion of such Justices for any term not exceeding six calendar months the commitment to be determinable upon payment of the amount and costs and all such penalties and forfeitures shall be paid and applied in manner following that is to say one moiety of such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered and the residue thereof shall be paid to Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and shall be applied thereto in such manner as shall be directed by any Act to be passed by the Governor and Legislative Council Provided always that in all cases of complaint made by or on the behalf of any seaman under this Act the evidence of such seaman shall be received and taken notwithstanding he may be interested in the matter Provided also that such seaman shall not in any such case where he shall have been so examined receive any part of any penalty to be imposed but only such sum as the Magistrates before whom the case shall be heard shall adjudge him to receive for any moneys or effects which shall appear to have been deposited by him with any such person as aforesaid.

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13. And be it enacted That the Justices before whom any Form of conviction, person shall be summarily convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words or in any other form of words to the same effect as the case shall require that is to say—

“ Be it remembered That on the day of in the
 “ year of our Lord at in the Colony
 “ of New South Wales [*as the case may be*] *A. O.* is con-
 “ victed before us [*naming the Justices*] two of Her
 “ Majesty’s Justices of the Peace duly authorized in that
 “ behalf for that he the said *A. O.* did [*specify the offence*
 “ *and the time and place when and where the same was com-*
 “ *mitted as the case may be*] and we the said Justices adjudge
 “ the said *A. O.* for his said offence to forfeit and pay the
 “ sum of [*here state the amount of the fine imposed and when*
 “ *necessary add the words* ‘over and above the sum of
 “ £ which we the said Justices do hereby
 “ adjudge to be forthwith paid to the said *E. F.* [*the*
 “ *seaman*] the same being the value of moneys documents
 “ or effects of the said *E. F.* received by or taken into the
 “ possession or under the control of the said *A. O.*] and
 “ we the said Justices do also adjudge the said *A. O.* to
 “ pay the sum of for costs and in default of
 “ immediate payment of the said sums of to
 “ be imprisoned in the for the space of
 “ unless the said sums shall be sooner paid [*or* and we
 “ order that the said sums of shall be paid by the
 “ said *A. O.* on or before the day of]
 “ and we direct that the sum of part of the
 “ said penalty together with the said sum of
 “ for costs shall be paid to *C. D.* [*the party informing*] and
 “ the residue of the said penalty shall be paid to Her
 “ Majesty Her Heirs and Successors for the public uses of
 “ the said Colony and in support of the Government
 “ thereof as by law directed. Given under our hands the
 “ day and year first above mentioned.”

14. And be it enacted That no such conviction shall be quashed no certiorari &c. for want of form or be removed by *certiorari* or otherwise into any of Her Majesty’s Superior Courts of Record and no warrant of commitment shall be held void by reason of any defect therein provided it be therein alleged that the party has been convicted and there be a good and valid conviction to sustain the same.

15. And be it enacted That the words “merchant ship” inserted Explanatory clause. in this Act shall be understood to include every description of sea-going trading or passage vessel lying and being within the limits of the Colony of New South Wales and the term “Governor” shall be deemed and taken to mean the Governor for the time being or the Officer administering the Government of the Colony and the term “Executive Council” shall be deemed and taken to mean the Officers acting in that behalf by authority of Her Majesty.