

No. XXVIII.

An Act to amend and consolidate the Laws MERCHANT SEAMEN.
relating to Seamen in the Merchant Service of
the Colony of New South Wales and for keep-
ing a Register of Seamen belonging to Ships
registered in the said Colony. [2nd October,
1849.]

WHEREAS the provisions of an Act of Parliament passed in the Preamble.
seventh and eighth year of the reign of Her present Majesty
Queen Victoria intituled "*An Act to amend and consolidate the Laws* 7 and 8 Vic. c. 112.
relating to Merchant Seamen and for keeping a Register of Seamen"
do not apply to ships belonging to the Colony of New South Wales
or to the crews of such ships while such ships shall be within the
precincts of the said Colony And whereas the provisions of the said
Act do not extend to such ships or crews even when such ships are
without the precincts of the said Colony so far as the same relate to
agreements register tickets and apprentices And whereas it is
expedient to amend and consolidate the laws relating to crews of
vessels registered 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 an Act of the said Governor and Council passed in
the second year of the reign of His late Majesty King William the
Fourth

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2 Wil. IV. No. 10
and 17 sec. of 7 Vic.
No. 21
repealed.

Fourth 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*" and also so much of an Act of the said Governor and Council passed in the seventh year of the reign of Her said Majesty intituled "*An Act to amend an Act for the further and better regulation and government of Seamen within the Colony of New South Wales and its Dependencies and for the establishment of a Water Police*" as is contained in the seventeenth section thereof shall be and the same are hereby repealed. Provided always that all offences which shall have been committed and all penalties and forfeitures which shall have been incurred previously to the commencement of this Act shall and may be punishable and recoverable under the said recited Acts respectively in the same manner as if this Act had not been passed.

No seaman to be
taken to sea without
a written agreement
or without a certifi-
cate of discharge
being obtained from
such seaman.

2. And be it enacted That it shall not be lawful for any master of any ship or vessel of whatever tonnage or description belonging to any subject of Her Majesty and registered in the Colony of New South Wales proceeding to parts beyond the seas or of any ship registered in New South Wales of the burden of eighty tons or upwards employed in the coasting trade of the said Colony to carry to sea any seaman or other person to act in the capacity of seaman as one of his crew or complement (apprentices excepted) unless the master of such ship or vessel shall have first made and entered into an agreement in writing with such seaman specifying what wages such seaman is to be paid the quantity of provisions he is to receive the capacity in which he is to act or serve and the nature of the voyage in which the ship is to be employed so that such seaman may have some means of judging of the period for which he is likely to be engaged and such agreement shall be properly dated and shall be signed by such master in the first instance and by the seamen respectively at the port or place where they shall be shipped and such agreement shall be in the manner and form of the Schedule to this Act annexed marked A provided the vessel is intended to be engaged as a trader or on coasting voyages but should the vessel be intended to be employed in a whaling sealing or other voyage in which the crew are to participate in the profits of the voyage and are to receive a proportion or *lay* in the room of monthly wages such agreement shall be in the form of the Schedule to this Act annexed marked B and the master shall cause the said agreement to be read over and distinctly explained to every such seaman in the presence of a witness before such seaman shall execute the same and such witness shall duly attest the same and it shall not be lawful for the master of any ship to carry to sea any seaman until he shall have first obtained from such seaman a certificate of his discharge from his former vessel countersigned by the principal executive officer of the Water Police or a permission in writing from such officer to employ himself which certificate or permission the said master is hereby required to return to the Water Police Office and at the termination of the service for which such seaman shall have agreed the said master is hereby required to grant him a fresh discharge.

Penalty for not
entering into
required agreement

or if agreement
shall not have been
read to seaman

3. And be it enacted That if any master or owner of any such ship shall carry out to sea any seaman (apprentices excepted) without having first entered into the required agreement with such seaman or if any such master shall not obtain from any seaman his certificate of discharge according to the provisions of this Act such master shall in every such case forfeit and pay a sum not exceeding ten pounds for or in respect of every such seaman and if any master or owner shall neglect to cause such agreement to be read over and explained to such seaman

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seaman before the signing or execution thereof by such seaman the said master or owner shall for each neglect forfeit and pay a sum not exceeding five pounds for every such seaman and if any master or owner shall refuse to give such seaman when entitled to receive the same a certificate of discharge from his service when such period of service shall have terminated such master shall forfeit and pay for every such offence a sum not exceeding five pounds.

4. And be it enacted That no seaman of any such ship by reason of any agreement shall forfeit his lien upon the ship nor be deprived of any remedy for the recovery of his wages to which he would otherwise be entitled against any person or persons whatever and no agreement contrary to or inconsistent with this Act nor any clause contract or engagement whereby any such seaman shall consent or promise to forego or give up any right or claim to wages in the case of freight earned by a ship subsequently lost or any right or claim to salvage or reward for salvage services or such proportion of salvage or reward for salvage services as shall or may be due to him by decree or award or otherwise shall be valid or binding on such seaman and every copy of an agreement so certified and delivered as aforesaid shall in all cases be received and taken as evidence of the contents of the agreement for and on behalf of the seaman and no seaman shall in any case be required to produce such agreement or such copy as aforesaid or to give notice for the production thereof but in case the agreement shall not be produced and proved he shall be at liberty to prove the contents or purport thereof or to establish his claim by other evidence according to the nature of the case.

5. 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 handwriting of any such subscribing or attesting witness or witnesses but that every such agreement may be proved in the like manner as if there were no subscribing or attesting witness or witnesses thereto.

6. And be it enacted That in case any seaman of or belonging to any such ship whether before the commencement or during the progress of any voyage shall at any time 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 such ship or shall refuse to perform the necessary duty for which he shall have engaged or shall refuse to obey any lawful command of any master or officer of the vessel in which he shall have engaged or shall be insubordinate or shall absent himself without leave or shall desert it shall be lawful for any Justice of the Peace where or near to the place where such ship shall happen to be or where such seaman shall be found and such Justice is hereby required upon complaint being made on oath by the master mate or owner or the agent of the owner to issue his warrant and cause such seaman to be apprehended and brought before him and in case such seaman shall not give a reason to the satisfaction of such Justice for his neglect refusal insubordination or absence as the case may be or in case of desertion it shall be lawful for any Justice upon due proof of such neglect refusal insubordination absence disobedience of orders or desertion to commit such seaman to the nearest gaol or house of correction there to be imprisoned with or without hard labor at the discretion of such Justice for a period not exceeding thirty days or it shall be lawful for such Justice if he shall so think fit at the request of the master mate or owner or the agent of the owner instead of committing such seaman to the gaol or house of correction as aforesaid to cause him to be conveyed on board the said ship or to be delivered

or for refusing to grant discharge.

Seamen not to be deprived of legal remedies.

No agreement contrary to this Act or to forego salvage to be valid and certified copy to be evidence.

Seamen not bound to produce agreement.

How agreement entered into by seamen may be proved.

Seamen refusing to join or to proceed in the ship or being insubordinate or absconding themselves may be committed to gaol or sent on board.

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to the said master mate or owner or the agent of the owner for the purpose of proceeding on the voyage and also to award to the master or owner such costs as may be incurred in the apprehension of such seaman as to such Justice shall seem reasonable not exceeding in any case the sum of forty shillings and which sum shall be chargeable against and may be deducted from the wages of such seaman.

Forfeiture for temporary absence from or refusal to perform his duty.

7. And be it enacted That if any seaman of and belonging to any such ship during the time or period specified for his service shall wilfully and without leave absent himself from the ship or otherwise from his duty he shall (in all cases not of desertion or not treated as such by the master) forfeit out of his wages the amount of two days' pay and for every twenty-four hours of such absence the amount of six days' pay or at the option of the master the amount of such expenses as shall have been necessarily incurred in hiring a substitute and in case any seaman while he shall belong to the ship shall without sufficient cause neglect or refuse to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship he shall be subject to a like forfeiture in respect of every such offence and of every twenty-four hours' continuance thereof and in case any such seaman after the ship's arrival at her port of delivery and before her cargo shall be discharged shall quit the ship without a previous discharge or leave from the master he shall forfeit one month's pay out of his wages Provided always that no such forfeiture shall be incurred unless the fact of the seaman's absence neglect or refusal shall be duly entered in the ship's log book the truth of which entry it shall be incumbent on the owner or master in all cases of disputes to substantiate by the evidence of the mate or some other credible witness.

Proviso.

How amount of forfeitures is to be ascertained when seamen contract for the voyage.

8. And be it enacted That in all cases where any such seaman shall have contracted for wages by the voyage or by the run or by the share and not by the month or other stated period of time the amount of forfeitures to be incurred by such seaman under this Act shall be ascertained in manner following that is to say if the whole time spent in the voyage agreed upon shall exceed one calendar month the forfeiture of one month's pay expressed in this Act shall be accounted and taken to be a forfeiture of a sum of money bearing the same proportion to the whole wages or share as a calendar month shall bear to the whole time spent in the voyage and in like manner a forfeiture of six days' pay or less shall be accounted and taken to be a forfeiture of a sum bearing the same proportion to the whole wages or share as the six days or other period shall bear to the whole time spent in the voyage and if the whole time spent in the voyage shall not exceed the period for which the pay is to be forfeited the forfeiture shall be accounted and taken to be a forfeiture of the whole wages or share and the master or owner is hereby authorized to deduct the amount of all such forfeitures out of the wages or share of any seaman incurring the same.

Forfeiture for desertion.

9. And be it enacted That any such seaman who shall desert the ship to which he shall belong shall forfeit to the owner thereof all his clothes and effects which he may leave on board and he shall also forfeit all wages and emoluments to which he might otherwise be entitled and in case of any such seaman deserting abroad he shall likewise forfeit all wages and emoluments whatever which shall be or become due or be agreed to be paid to him from or by the owner or master of any other ship in the service whereof such seaman may have engaged for the voyage back to New South Wales and that all wages and portions of wages and emoluments which shall in any case whatever become forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned

by

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by such desertion to the owner or master of the ship from which the seaman shall have deserted and the remainder shall be paid to the Colonial Treasurer to be by him applied for the relief of seamen disabled or otherwise injured while serving in Colonial vessels. Provided always that every desertion be entered in the log book at the time and certified by the signatures of the master or the mate and one other credible witness and that the absence of any such seaman from his ship for any time within twenty-four hours immediately preceding the sailing of such ship from any port whether before the commencement or during the progress of any voyage wilfully and knowingly without permission or the wilful absence of any such seaman from his ship at or for any time without permission and under circumstances shewing an intention to abandon the same and not to return thereto shall be deemed a desertion of and from the same ship and in case any such seaman shall desert in parts beyond the seas and the master of the ship shall engage a substitute at a higher rate of wages than that stipulated in the agreement to be paid to the seaman so deserting the owner or master of the said ship shall be entitled to recover from the deserter by summary proceeding within the said Colony in the same manner as penalties are by this Act made recoverable (so far as the same can be applied) any excess of wages or portion thereof which such owner or master shall pay to such substitute beyond the amount which would have been payable to the deserter in case he had duly performed his service pursuant to his agreement. Provided always that no seaman shall be imprisoned longer than three calendar months for non-payment of any such excess of wages.

10. And be it enacted That if any person shall wilfully harbour or secrete any such seaman or apprentice who shall have deserted from any such ship knowing or having reason to believe such seaman or apprentice to be a deserter every person so offending shall for every such seaman or apprentice so harboured or secreted forfeit and pay the sum of twenty pounds and no debt exceeding in amount five shillings incurred by any seaman after he shall have engaged to serve shall be recoverable until the service agreed for shall have been concluded nor shall it be lawful for any keeper of a public-house or of a lodging-house for seamen to detain any chest tools or other property of any seaman for any debt alleged to have been contracted by him and in case of such detention of the chest tools or other property of a seaman it shall be lawful for any Justice of the Peace at or near the place upon complaint upon oath to be made by such seaman or on his behalf to inquire into the matter upon oath in a summary way and if it shall appear to such Justice that the alleged claim is fraudulent or that the debt was not fairly incurred to the full amount of the claim by warrant under his hand and seal to cause such effects to be seized and delivered over to such seaman and the person so detaining the same shall forfeit and pay any sum not exceeding twenty pounds at the discretion of such Justice.

Penalty for harbouring deserters.

No debt exceeding 5s. recoverable until voyage is ended.

Seamen's effects not to be detained under pretence of debt.

Penalty for detaining such effects.

11. And be it enacted That the master or owner of every such ship shall and is hereby required to pay to every such seaman his wages within the respective periods following that is to say—if the ship shall be employed in coasting the wages shall be paid within two days after the termination of the agreement or at the time when any such seaman shall be discharged whichever shall first happen and if the ship shall be employed otherwise than coasting then the wages shall be paid at the latest within three days after the cargo shall have been delivered or within seven days after the seaman's discharge whichever shall first happen and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him and in case the master or owner shall neglect or refuse

The period within which wages are to be paid.

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refuse to make payment in manner aforesaid he shall for every such neglect or refusal forfeit and pay to the seaman the amount of two days' pay (to be recovered as wages) for each day not exceeding ten days during which payment shall without sufficient cause be delayed beyond the respective periods aforesaid. Provided always that nothing in this clause contained shall extend to the cases of ships employed in the southern whale fishery or on voyages for which seamen by the terms of their agreement are only compensated by shares in the profits of the adventure.

Payment of wages or salvage to be deemed valid notwithstanding bill of sale.

12. And be it enacted and declared That every such payment of wages to any such seaman shall be valid and effectual in law notwithstanding any bill of sale or assignment which may have been made of such wages or of any attachment or incumbrance thereon and that no assignment or sale of wages or salvage made prior to the accruing thereof nor any power of attorney expressed to be irrevocable for the receipt of any such wages or salvage shall be valid or binding upon the party making the same and any attachment to be issued from any Court whatever shall not prevent the payment of wages to any such seaman and if during the voyage the allowance of provisions which a seaman agreed to receive shall be reduced one-third of the quantity or less he shall receive four-pence per day and if the reduction be more than one-third he shall receive eight-pence per day during the periods such respective deductions may be made and such pecuniary allowance shall be paid to him in addition to and be recoverable as wages.

Allowance for short provisions.

Masters to give seamen certificate of discharge.

13. And be it enacted That upon the discharge of a seaman from any such ship or upon payment of the wages to him he shall receive from the master and the master is hereby required to give to him not only his register ticket if he shall have any but also a certificate of such seaman's discharge in the form set forth in Schedule E to this Act annexed specifying that such seaman is discharged which certificate shall be signed by the master and shall be brought by him to the principal executive officer of the Water Police or to such other person as shall be from time to time appointed by the Governor to perform such duty to be countersigned and registered in accordance with the Act of the said Governor and Council passed in the fourth year of the reign of Her said 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 if the master shall not give such certificate to such seaman in the manner hereinbefore provided he shall forfeit and pay to him any sum not exceeding five pounds.

4 Vic. No. 17.

Penalty for default.

For obtaining immediate payment of wages in certain cases.

14. And be it enacted That if three days after the termination of the stipulated service or if three days after any such seaman shall have been discharged he shall be desirous of proceeding on another voyage and in order thereto or for any other sufficient reason shall require immediate payment of any amount of wages not exceeding twenty pounds due to him it shall be lawful for any Justice of the Peace in the said Colony where or near to the port or place where such service shall have terminated or such seaman shall have been discharged or the party or parties liable shall be or reside on application from such seaman and on satisfactory proof that he would be prevented from employment or incur serious loss or inconvenience by delay to summon such party or parties before him and if it shall appear to the satisfaction of such Justice that there is no reasonable cause for delay to order payment to be made forthwith and in default of immediate compliance with such order such party or parties shall forfeit and pay to such seaman in addition to his wages any sum not exceeding five pounds to be recoverable as wages.

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15. And be it enacted That in all cases of wages not exceeding twenty pounds which shall be due and payable to any seaman of any such ship it shall be lawful for any Justice of the Peace in the said Colony where or near to the place where the ship shall have ended her voyage cleared at the Custom House or discharged her cargo or where or near to the place where the party or either of the parties upon whom the claim is made shall be or reside upon complaint on oath made to such Justice by such seaman or on his behalf to summon such party or parties to appear before him or any other such Justice to answer such complaint and upon the appearance of such party or parties or in default thereof on due proof of such party or parties having been so summoned any such Justice is hereby empowered to examine the parties and their respective witnesses (if there be any) upon oath touching the complaint and the amount of wages due and to inspect any agreement or copy thereof if produced and make such order for payment of the said wages not exceeding twenty pounds with the costs incurred by the seaman in prosecuting such claim as shall to such Justice appear reasonable and just and in case such order shall not be obeyed within two days next after the making thereof it shall be lawful for such Justice to issue his warrant to levy the amount of the wages awarded to be due by distress and sale of the goods and chattels of the party on whom such order for payment shall be made rendering to such party the overplus (if any shall remain of the produce of the sale) after deducting thereout all the costs charges and expenses incurred by the seaman in the making and prosecuting of the complaint as well as the costs and charges of the distress and levy or to cause the amount of the said wages costs charges and expenses to be levied on the ship in respect of the service on board which the wages are claimed or on the tackle and apparel thereof and if such ship shall not be within the jurisdiction of such Justice or such levy cannot be made or shall prove insufficient then he is hereby empowered to cause the party upon whom the order shall be made to be apprehended and committed to the common gaol of the district or county there to remain without bail until payment shall be made of the amount of the wages so awarded and of all costs and expenses attending the recovery thereof and the award and decision of such Justice as aforesaid shall be final and conclusive.

Summary mode of recovering wages.

16. And be it enacted That in all cases of wages not exceeding thirty pounds it shall be lawful for any two or more of such Justices of the Peace as are hereinbefore mentioned to exercise all and singular the like power jurisdiction and authority vested by the next preceding clause in any one Justice.

Extending jurisdiction to £30.

17. And be it enacted That in all cases of wreck or loss of the ship every surviving seaman shall be entitled to his wages up to the period of the wreck or loss of the ship whether such ship shall or shall not have previously carried freight provided the seaman shall produce a certificate from the master or chief surviving officer of the ship to the effect that he had exerted himself to the utmost to save the ship cargo and stores.

Wages to be paid in cases of wreck &c.

18. And be it enacted That if at any time after any such seaman shall have signed any agreement in accordance with the provisions of this Act or during the continuance of any voyage for which he shall have agreed it shall appear to the master or owner of the ship in which such seamen has agreed to serve that he has wilfully neglected his duty or obstructed others in the execution of their duty or wilfully destroyed or damaged any part of the ship's apparel tackle boats or gear so that such ship may have been obliged to return to port with certain loss to her owners it shall be lawful for such owner or master to summon such seaman before any two or more Justices of the Peace

Owners or masters to have the same remedy against seamen as seamen have against them to the extent of £30.

for

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for the amount of damage so sustained not exceeding in each case the sum of thirty pounds and such owner or master may in any claim for wages lay or share that may be made by any seaman who has so misconducted himself as aforesaid plead as a set-off or in abatement such neglect or wilful destruction on the part of such seaman. Provided such neglect obstruction or wilful destruction or damage shall have been duly entered in the ship's log book at the time and shall be certified by the signatures of the master and the mate or the master and one other credible witness and the owner or master shall have the same summary or other means of obtaining redress as the seaman by this Act has for the enforcement of his claim for wages and any two or more Justices of the Peace as aforesaid are hereby authorized to hear and determine the same and to enforce any such award or decision which they may have made against any seaman as aforesaid in a summary way in the manner provided by this Act.

Master to have same remedies for wages as a seaman.

19. And be it enacted That all the rights liens privileges and remedies (save such remedies as are against a master himself) which by this Act or by any law statute custom or usage belong to any seaman or mariner not being a master mariner in respect to the recovery of his wages shall in the case of the bankruptcy or insolvency of the owner of the ship also belong and be extended to masters of such ships or master mariners in respect of the recovery of wages due to them from the owner of any such ship belonging to any of Her Majesty's subjects and that no suit or proceeding for the recovery of wages shall unless they exceed twenty pounds be instituted against such ship or the master or owner thereof either in any Vice Admiralty Court or any Court of Record in the said Colony unless the owner of the ship shall be bankrupt or insolvent or the ship shall be under arrest or be sold by the authority of any Admiralty or Vice Admiralty Court or unless any Magistrate acting under the authority of law shall by writing under his hand refer the case to be adjudged by any such Court or Courts or unless neither the owner nor master shall be or reside at or near the port or place where the service shall have terminated or where any seaman shall have been discharged or put on shore.

As to suits for recovery of wages.

A supply of medicines lime juice molasses and vinegar to be kept on board and seamen hurt in the service of the ship to be provided with advice gratis.

20. And be it enacted That every ship registered in New South Wales navigating between the said Colony and any place out of the same (coasting vessels excepted) shall have and keep constantly on board a sufficient supply of medicine and medicaments suitable to the accidents and diseases arising on sea voyages in accordance with the scale which shall from time to time or at any time be issued by the Governor of the said Colony for the time being and shall be published in the *New South Wales Government Gazette* and every vessel (coasting vessels excepted) shall have on board a sufficient quantity of lime or lemon juice sugar molasses and vinegar the lime or lemon juice sugar molasses and vinegar to be served out to the crew when they shall have been consuming salt provisions for ten days the lime or lemon juice sugar or molasses daily at the rate of half an ounce each per day and the vinegar weekly at the rate of half a pint per week to each person so long as the consumption of salt provisions shall be continued and in case any default shall be made in providing and keeping such medicine medicaments and lime or lemon juice sugar or molasses or vinegar as aforesaid the master or owner of such ship shall incur a penalty of not more than twenty pounds for each and every default and in case the master or any seaman shall receive any hurt or injury in the service of the ship the expense of providing the necessary surgical and medical advice with attendance and medicines and provisions for his subsistence until he shall have been cured or brought back to New South Wales shall be defrayed by the owner of such ship without any deduction whatever on that account from the wages of such

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such master or seaman and if paid by any officer of Her Majesty the amount with full costs of suit shall be recovered as a debt due to Her Majesty and every ship having one hundred persons or upwards on board for a voyage which will probably exceed eight weeks shall have on board some person duly authorized by law to practise as a physician surgeon or apothecary and in case of default thereof the owner shall incur a penalty not exceeding one hundred pounds to be recovered by action of debt in the Supreme Court of New South Wales.

What ships to carry surgeon.

21. And be it enacted That the master of every ship registered in the Colony of New South Wales and bound to parts beyond the seas (except in cases hereinafter mentioned) shall on his departure from the port of clearance deliver a list of his crew as provided by the sixth section of the said last recited Act passed in the fourth year of the reign of Her said Majesty and the master or owner of every such ship shall on his return to New South Wales within twenty-four hours after her arrival at her final port of destination in the said Colony deliver or cause to be delivered or transmitted to such officer as shall be duly appointed by the Governor for that purpose in addition to the list provided by the sixth section of the said recited Act an account or list signed by such master of all seamen and others including apprentices who shall have belonged to such ship at any time during her absence from New South Wales which account or list shall contain a full true and correct return under their respective heads of the several particulars expressed in the form set forth in the Schedule to this Act annexed marked C and no vessel shall be entitled to enter inwards at the Custom House until the master or owner thereof shall produce a certificate from the proper officer that such respective lists have been delivered and every master or owner who shall neglect or refuse to deliver such lists as aforesaid or either of them shall forfeit and pay a penalty not exceeding fifty pounds.

Masters of ships to deliver lists of their crews on their departures and return.

4 Vic. No. 17.

22. And be it enacted That within twenty-one days after the thirtieth day of June and the thirty-first day of December in each year the master or owner of every vessel registered in New South Wales and employed in the coasting trade and not being of less burden than ten tons shall deliver or transmit or cause to be delivered or transmitted to such officer as may be appointed by the Governor for that purpose an account signed by such master or owner of any voyage or voyages in which such vessel shall have been engaged during the preceding half-year ending on the respective days above mentioned and setting forth the names of the several persons including the master and apprentices who shall have belonged to the vessel at any such periods respectively which account shall be in the form and shall contain a true and correct return under their respective heads of the several particulars expressed in the Schedule marked D to this Act annexed and any master or owner who shall refuse or neglect to deliver such list as aforesaid shall forfeit and pay for every such offence a penalty of not more than ten pounds.

Masters or owners of coasting vessels to deliver lists half-yearly.

23. And be it enacted That should any seaman belonging to any vessel registered in the Colony of New South Wales die during the continuance or progress of any voyage in which such vessel may be employed the master of such vessel shall and he is hereby required to cause any effects which such seaman shall have on board at the time of his death to be realized by public sale on board the said vessel and the proceeds thereof together with such wages as shall be due to such seaman at the time of his death he shall pay or shall cause to be paid into the Colonial Treasury or to such officer as His Excellency the Governor may appoint for such purpose to be appropriated as hereinafter directed and such master shall at the same time render or cause to be rendered to the Colonial Treasurer or to such officer as aforesaid

As to the disposal of wages and effects of seamen dying on board vessels.

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a just and true account of such wages and effects which shall be certified by such master as correct and any master who shall neglect to pay or cause to be paid such wages as aforesaid or shall render or cause to be rendered any false account of any property due to such seaman as aforesaid at the time of his death shall for every such offence forfeit and pay a penalty of not more than fifty pounds.

Every ship to have apprentices according to her tonnage.

24. And be it enacted That the master or owner of every ship belonging to any subject of Her Majesty and registered in the Colony of New South Wales and of the burden of eighty tons or upwards shall have on board at the time of her proceeding from any port in the said Colony and at all times when absent therefrom or navigating the seas one apprentice or more in the following proportions to the number of tons of his ship's admeasurement according to the certificate of registry (that is to say) for every ship of eighty tons and under two hundred tons one apprentice at the least for every ship of two hundred tons and under four hundred tons two apprentices at the least for every ship of four hundred tons and under five hundred tons three apprentices at the least for every ship of five hundred tons and under seven hundred tons four apprentices at the least and for every ship of seven hundred tons and upwards five apprentices at the least all of whom at the time of their being bound respectively shall be subjects of Her Majesty and shall be above twelve years and under seventeen years old and shall be duly bound for a term not less than three years and not exceeding seven years and if any master or owner shall neglect to have on board his ship the number of apprentices hereby required he shall in every such case forfeit and pay a penalty of ten pounds in respect of each apprentice so wanting.

Where intending apprentices have neither parent nor guardian Magistrate may execute indenture and where receiving eleemosynary support the person having control of the establishment where such support is afforded may execute indenture.

25. And be it enacted That whenever any young person is about to be bound apprentice to the sea service who shall have no parent or guardian it shall and may be lawful for any two Justices of the Peace acting in any district in which the said person so to be bound shall reside to execute the indenture in the room and stead of such parent or guardian and in case of such young person receiving eleemosynary support in any public establishment in the said Colony it shall and may be lawful for the person or persons or any one or more of them who may have the control or inspection of the same to execute the indenture of apprenticeship in the room and stead of the parent or parents of such person and the same shall be attested by two Justices of the Peace who shall in all cases be satisfied that such boy hath consented so to be bound and that he hath attained the age mentioned in such indenture and is of sufficient health and strength and the age of every such boy shall be truly inserted in such indenture and the age of such boy so inserted therein shall (in relation to the continuance of his service) be taken to be his true age without any further proof thereof and any certificate of baptism of such boy which may be required shall be given and attested by the officiating minister without fee or reward Provided always that no apprenticeship to the sea service shall be binding after the apprentice shall have attained the age of twenty-one years and that every indenture shall be given up to such apprentice on his attaining such age or at the expiration of his apprenticeship whichever shall first happen by the person to whom he shall be bound under a penalty not exceeding twenty pounds to be paid by such person on default but should any apprenticeship expire during a voyage and before the ship's arrival at her final port of destination such apprenticeship shall notwithstanding continue until the return of the ship to her final port of destination but after one calendar month from the expiration of such apprenticeship the apprentice shall be paid the same wages as an able-bodied seaman or ordinary seaman of the said ship according to his qualification.

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26. And be it enacted That in every case of a person being bound apprentice to the sea service the indentures to be executed on such an occasion shall be in duplicate in the form or to the tenor or effect as the case may be set forth in the Schedule to this Act annexed marked F and a counterpart shall be delivered to the Collector of Customs at Sydney or to such other officer as His Excellency the Governor shall appoint for that purpose and the indentures shall be registered in a book to be kept for that purpose by the said Collector or other officer in which book shall be expressed the dates of the several indentures the names and ages of the apprentices the names and residence of the masters and if known the names and burden of the several ships in which they are respectively to serve and such Collector or other officer shall require the personal attendance of every such apprentice at the time of registering his indentures or the assignment thereof and shall indorse and subscribe on each indenture a certificate purporting that the same had been duly registered pursuant to this Act and it shall be lawful for the master of such apprentice or in case of his death his executors or administrators with the consent of the apprentice if above the age of seventeen years and if under that age with the consent of his parent or guardian or such Justices or such person or persons as may have the control or inspection of any such eleemosynary establishments as aforesaid such consent to be in writing to assign or transfer the indentures of such apprentice to any other master or owner of any other vessel registered in the said Colony and all such apprentices may during the time for which they shall be bound be employed in any vessel of which the master for the time being of any such apprentice may be the master or owner Provided always that such assignment shall be registered and indorsed by the said Collector or such other officer and any such apprentice or his guardian as the case may be shall be present at the time.

Indentures and assignments of apprentices to be registered.

27. And be it enacted That no cancelling of any indenture of apprenticeship of any description (except as hereinafter mentioned) shall be valid or effectual without the mutual consent of the parties or without the consent of the Collector of Customs of the port in which such cancellation shall take place or in the case of bindings by two Justices of the Peace without the additional consent of two other Justices of the Peace to be testified by their indorsement on the indenture of apprenticeship or by a certificate under their hands in case the indenture should be lost or mislaid.

Consents necessary in cancelling indentures.

28. And be it enacted That no apprentice bound or assigned pursuant to this Act nor any master or owner of any ship registered as aforesaid in respect of such apprentice shall be liable to any payment or contribution to or towards any hospital or institution.

Apprentices exempted from contributions.

29. And be it enacted That if any such master or owner to whom any apprentice to the sea service shall be bound or assigned shall neglect to deliver a counterpart and cause the indenture or the assignment (as the case may be) to be registered as required by this Act so far as depends on such master or owner within ten days after the binding or assignment every such master or owner shall for every such neglect forfeit and pay the sum of ten pounds and if any such master or the masters of any vessel shall after the vessel shall have proceeded on the voyage upon which such vessel may be bound permit any apprentice to quit his service or the service of the said vessel except for the purpose of entering into Her Majesty's Naval Service every such master shall for every such offence forfeit and pay any sum not exceeding twenty pounds.

Penalty on masters neglecting to register &c. indentures

and for suffering apprentices to quit their service.

30. And be it enacted That any Justice of the Peace residing at or near to any port in the Colony of New South Wales to which any vessel registered as aforesaid having on board thereof any

Justices to determine complaints.

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apprentice shall at any time arrive shall have full power and authority to inquire into and examine hear and determine in a summary way all complaints of misbehaviour on the part of any such apprentices and to punish any such apprentice by commitment to the common gaol to solitary confinement for a period not exceeding seven days.

Penalty on masters
for ill using or
neglecting appren-
tices

31. And be it enacted That if any master of any ship shall misuse or illtreat his apprentice or neglect to instruct properly his apprentice or otherwise to discharge his duty or covenant towards such apprentice upon complaint made on oath to any Justice of the Peace it shall and may be lawful for such Justice to summon the party complained against to appear before any two Justices of the Peace who shall hear and determine the matter of the said complaint in a summary way and to impose upon conviction any reasonable fine or fines not exceeding ten pounds upon such master as a punishment for such misuse illtreatment or neglect of duty or breach of covenant as aforesaid and if not paid the same shall be levied by distress and sale of the goods and chattels of the person so offending rendering the surplus (if any) after deducting the amount of such fine and the charges of such distress and sale to such offender and such fine shall be applied and disposed of either towards any charitable institution in the district or place where such offender shall be or to and for the use and benefit of such apprentice for or towards a recompense or compensation for the injury which may have been by him sustained by reason of such misuse illtreatment neglect or breach of covenant as aforesaid at the discretion of the Justices imposing the same and if the master of any vessel shall not send on shore in the charge of the mate or other trustworthy person any apprentice desirous of complaining to a Justice of the Peace so soon as the service of the vessel will permit he shall for every such default forfeit and pay any sum not exceeding ten pounds.

or for refusing oppor-
tunity to complain.

Indentures to be
cancelled by Justices
in certain cases.

32. And be it enacted That if it shall appear just and reasonable to any two or more Justices before whom any such complaint as aforesaid shall be heard and determined to cancel the indentures of apprenticeship it shall and may be lawful for such Justices to cancel such indentures accordingly and to discharge such apprentice from all obligation to serve thereunder by certificate under their hands and seals which certificate shall be a full and sufficient bar to any action which may be brought for a breach of such indentures or any other matter thing or cause of action arising out of the same or for the harbouring or enticing away of any such apprentice or otherwise.

The following sec-
tions of the Act of
Parliament 7 & 8
Victoria cap 112 to
be in force so far as
the same can be
applied viz.

33. And be it declared and enacted That so much of the said recited Act of Parliament as is hereinafter specially set forth shall be and is hereby declared to be in force within the Colony of New South Wales and shall be applied so far as the same can be applied to all vessels registered in the said Colony and to the owners masters and seamen thereof respectively that is to say so much of the said recited Act as enacts—“ That in the case of any assault or battery committed
“ on board any ship belonging to any subject of Her Majesty in any
“ part of the world it shall be lawful for any two Justices of the
“ Peace in any part of Her Majesty’s Dominions or the Territories
“ under the Government of the East India Company residing at or
“ near any port or place at which the said ship may arrive or touch
“ upon complaint of the party aggrieved to hear and determine any
“ such complaint and to proceed and make such adjudication thereon
“ as by the said Act any two Justices are empowered to do in the
“ cases of assaults and batteries in England and the fine or forfeiture
“ to be imposed in any such case shall be payable to the Seamen’s
“ Hospital Society Provided always that such complaint shall be
“ made and prosecuted within three months after such alleged
assault

Sec. 44. Common
assaults may be sum-
marily punished by
two Justices.

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“assault or battery or within three months after the arrival of
 “the ship at her final port of destination in the United Kingdom
 “or within three months after the respective parties shall be
 “within the jurisdiction of such Justices as aforesaid”—And so
 much of the said recited Act as enacts “That no apprentice to the
 “sea service shall be at liberty to enter into the Naval Service of
 “Her Majesty during the period of his apprenticeship without the
 “consent of his master but if nevertheless he shall voluntarily enter
 “into such Naval Service of Her Majesty and shall be allowed by his
 “master to continue therein such master in case he shall give notice
 “to the Secretary of the Admiralty of his consent to his apprentice
 “remaining in Her Majesty’s said service during the residue of the
 “term of his apprenticeship shall upon the production of the inden-
 “ture and assignment (if any) if duly registered and having the
 “register ticket attached be entitled to receive to his own use any
 “balance of wages and prize money that may become due and payable
 “to any such apprentice until the expiration of his apprenticeship”—

Sec. 45. Masters
 entitled to receive
 wages &c. of appren-
 tices entering into
 the Navy.

And so much of the said recited Act as enacts “That if any master of
 “a ship belonging to any subject of Her Majesty shall discharge any
 “person belonging to his ship or crew at any of Her Majesty’s Colo-
 “nies or Plantations without the previous sanction in writing (to be
 “indorsed on the agreement) of the Governor or other officer holding
 “the chief authority there or of the Secretary or other officer duly
 “appointed by the Government there in that behalf or in the absence
 “of such functionaries then of the Chief Officer of Customs resident
 “at or near such port or place or shall discharge any such person at
 “any other place abroad without the like previous sanction to be so
 “indorsed on the agreement by Her Majesty’s Minister Consul or
 “Vice-Consul there or in the absence of any such functionary then of
 “two respectable merchants resident there such master shall be guilty
 “of a misdemeanor or if any master of any such ship shall abandon
 “or leave behind at any such Colony or Plantation any person
 “belonging to his ship or crew on the plea or pretence of unfitness or
 “inability to proceed upon the voyage or of desertion or disappear-
 “ance from the ship without a previous certificate in writing (to be
 “indorsed on the agreement) of the Governor Secretary or other
 “officer as aforesaid or in the absence of such functionary then of
 “the Chief Officer of Customs resident at or near such port or place
 “certifying such unfitness inability desertion or disappearance or shall
 “abandon or leave behind any person belonging to his ship or crew at
 “any other place abroad on shore or at sea upon such plea or pretence
 “without the like previous certificate of Her Majesty’s Minister
 “Consul or Vice Consul there or in the absence of any such functionary
 “then of two respectable merchants if there be any such at or within
 “a reasonable distance from the place where the ship shall then be
 “such master shall be guilty of a misdemeanor or if any master of
 “any such ship in case any person belonging to his ship or crew shall
 “desert from the said ship at any place abroad shall neglect to notify
 “the same in writing to one of such functionaries as aforesaid if there
 “be any such resident at or near the place and in their absence if it
 “be out of Her Majesty’s Dominions then to two respectable merchants
 “if there be such at or near the place within twenty-four hours of
 “such desertion such master shall be guilty of a misdemeanor and
 “the said functionaries are hereby authorized and required and the
 “said merchants are authorized to examine into the grounds of such
 “proposed discharge or into the plea or pretence of such unfitness
 “inability desertion or disappearance as aforesaid in a summary
 “way upon oath (which oath they are hereby respectively authorized
 “to administer) and to grant or refuse such sanction or certificate
 according

Sec. 46. No seaman
 to be discharged
 abroad nor to be
 abandoned or left
 behind without sanc-
 tion of Consul &c.

Merchant Seamen.

Sec. 47. Forcing
seamen on shore &c.
a misdemeanor.

Where misdemeanors
may be prosecuted.

Sec. 48. If any crew
are left behind the
proof of sanction or
authority to be upon
the master.

Sec. 49. Seamen
when allowed to be
left behind to be paid
their wages.

Sec. 50. Act not to
extend to prevent
seamen from enter-
ing into the Navy.

“ according to the circumstances and as it shall appear to them to be
“ just”—And so much of the said recited Act as enacts “ That if
“ the master of any ship belonging to any of Her Majesty’s subjects
“ or the mate or other officer of such ship shall wrongfully force
“ on shore and leave behind or shall otherwise wilfully and
“ wrongfully leave behind on shore or at sea in or out of Her
“ Majesty’s Dominions any person belonging to his ship or crew
“ before the completion of the voyage for which such person was
“ engaged or the return of the ship to the United Kingdom such
“ master mate or other officer shall be guilty of a misdemeanor and
“ every misdemeanor mentioned or created by this Act shall and may
“ be prosecuted by information at the suit of Her Majesty’s Attorney
“ General or by indictment or other legal proceeding in any Court
“ having criminal jurisdiction in Her Majesty’s Dominions at Home or
“ abroad and the offence may be laid and charged in the said information
“ indictment or other legal proceeding to have been committed in the
“ country or place where the offender shall happen to be who being
“ convicted thereof shall be liable to fine or imprisonment or both as
“ to the Court before whom he is tried shall seem meet and every
“ Court is hereby authorized to issue a commission or commissions
“ for the examination of any witness or witnesses who may be absent
“ or out of the jurisdiction of the Court and at the trial the depositions
“ taken under such commission or commissions if such witness or
“ witnesses shall be then absent shall be received in evidence”—And
so much of the said Act as enacts “ That if any master shall contrary
“ to the provisions of this Act discharge abandon or leave behind any
“ seaman or other person belonging to the ship or crew with or
“ without his consent it shall be incumbent on such master in any
“ information indictment or other proceeding against him to produce
“ or prove such sanction or respective certificate as aforesaid or prove
“ the impracticability of obtaining such certificate”—And so much
of the said recited Act as enacts “ That every such master who shall
“ leave any seaman or other person as aforesaid on shore at any
“ such Colony or Plantation or place abroad under a certificate of his
“ not being in a condition to proceed on the voyage shall deliver to
“ one of the said functionaries or if there be none such to any two
“ respectable merchants there or if there be but one then to such one
“ merchant a just and true account of the wages due to such person
“ and pay the same either in money or by a bill drawn upon the owner
“ and if by bill then such functionaries or merchants are respectively
“ authorized and required by indorsement on such bill to certify that
“ the same is drawn for money due on account of seamen’s wages or
“ to that effect And any master who shall refuse or neglect to deliver
“ a just and true account of such wages or to pay the amount thereof
“ in money or by bill as aforesaid shall for every such offence or
“ default forfeit and pay the sum of ten pounds and every master
“ who shall deliver a false account of such wages shall for every such
“ offence forfeit and pay the sum of twenty pounds”—And so much
of the said recited Act as enacts “ That nothing in this Act or in any
“ agreement contained shall prevent any seaman or person belonging
“ to any ship or vessel whatever from entering or being received into
“ the Naval Service of Her Majesty nor shall any such entry be deemed
“ a desertion from the ship or vessel nor shall such seaman or other
“ person thereby incur any penalty or forfeiture whatever either of
“ wages clothes or effects or other matter or thing And no master or
“ owner shall insert or introduce or permit to be inserted or introduced
“ into any articles or agreement any clause engagement or stipulation
“ whereby any seaman or other person shall or may incur any forfeiture
“ or be exposed to loss in case he shall enter into Her Majesty’s Naval
“ Service

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“Service and if inserted the clause engagement or stipulation shall
 “be void and the offender shall thereby incur a penalty of twenty
 “pounds”—And so much of the said recited Act as enacts “That
 “when any seaman shall quit any such ship or vessel as aforesaid in
 “order to enter into Her Majesty’s Naval Service and shall thereupon
 “be actually received into such service not having previously com-
 “mitted any act amounting to and treated by the master as desertion
 “he shall be entitled immediately upon such entry to have his
 “register ticket and all his clothes and effects on board such ship
 “or vessel delivered to him and to receive from the master the pro-
 “portionate amount of his wages up to the period of such entry to be
 “paid either in money or by a bill on the owner all which register
 “ticket clothes effects money or bill such master is hereby required
 “to deliver and pay to him accordingly under a penalty of twenty
 “pounds for any refusal or neglect to be recovered with full costs
 “of suit by such seaman but in case the master shall have no means
 “of ascertaining the balance he shall make out and deliver to such
 “seaman a certificate of the period of his service and the rate of wages
 “he is entitled to producing at the same time to the commanding or
 “other officer of Her Majesty’s vessel the agreement with the seaman
 “and every such master upon the delivery of such register ticket
 “clothes and effects and the settlement of such wages in manner
 “herein mentioned shall receive from the officer in command of the
 “vessel into which the seaman shall have entered a certificate of such
 “entry indorsed on the agreement and signed by the said officer which
 “such officer is hereby required to give”—And so much of the said
 “recited Act as enacts “That if any person shall be discharged or wilfully
 “and wrongfully left behind or abandoned at any place beyond seas in or
 “out of Her Majesty’s Dominions by any master mate or other officer
 “contrary to the provisions of this Act and shall become distressed and
 “be relieved under the provisions of an Act passed in the eleventh year
 “of the reign of His late Majesty King George the Fourth for amend-
 “ing and consolidating the laws relating to the pay of the Royal
 “Navy or any Act hereafter to be passed for that purpose or if any
 “person shall as principal or agent engage any subject of Her Majesty
 “to serve in any vessel belonging to any foreign power or to the subject
 “of any foreign state and such last mentioned person shall become
 “distressed and be relieved as aforesaid then in addition to the
 “wages due from such master or owner or person making such engage-
 “ment and the penalties to which such master may be liable Her
 “Majesty shall be entitled to sue such master or the owner of the ship
 “or any person who shall have made such engagement as aforesaid
 “at the discretion of the Commissioners for executing the office of
 “Lord High Admiral of the United Kingdom for all the charges and
 “expenses which shall have been incurred in or for the subsistence
 “necessary clothing and conveyance home or burial (should he die
 “abroad or before reaching home) of any such seaman or person
 “relieved as aforesaid as money paid to the use of such master or
 “owner or other person who shall have made such engagement as
 “aforesaid and recover the same together with full costs of the suit
 “in the same manner as other debts due to Her Majesty are recover-
 “able and in any proceeding for that purpose proof of the account
 “furnished to the said Commissioners by any such functionaries or
 “by such two merchants or one merchant according to the case as
 “provided by the said Act of the eleventh year of King George the
 “Fourth shall together with the proof of payment by the said
 “Commissioners or by the Paymaster General of the charges incurred
 “on account of any such person be sufficient evidence that such
 “person was relieved and conveyed home or buried at Her Majesty’s
 “expense

Sec. 51. Upon entry of seamen into the Navy from any ships they shall be entitled to the immediate delivery of their clothes register tickets and payment of any wages that may be due.

Sec. 52. Power for Her Majesty to sue for the amount advanced for the relief of seamen left abroad.

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Sec. 53. Ship's agreement indentures and assignments of apprenticeship and register tickets on arrival at a foreign port to be deposited with the Consul and at a Colony with the Officers of Customs.

Consuls to make indorsements on agreements.

Penalty on masters for neglect &c.

Sec. 54. No seaman to be shipped at a foreign port without the sanction of the Consul.

Sec. 55. Masters to produce agreements &c. to the officers of Queen's ships.

“expense and the Court in which any proceeding for the recovery of the said money shall be instituted is hereby authorized to issue a commission or commissions for the examination of witnesses and the depositions taken under such commission or commissions shall be used as evidence”—And so much of the said recited Act as enacts “That if any ship belonging to a subject of Her Majesty (except packets for passengers in the course of their voyage) shall arrive at any foreign port where there shall be a British Consul or Vice Consul at any port in a British Colony and remain thereat for forty-eight hours the master shall within forty-eight hours of the ship's arrival deliver or cause to be delivered to such Consul or Vice Consul at such foreign port or to the Collector or Comptroller of the Customs at such port of a British Colony the agreement or agreements before mentioned together with an account at the foot of such agreement of all apprentices on board setting forth their Christian and surnames at full length the dates of the registry of their indentures and assignments respectively and the ports at which and the time when they were registered and also all indentures and assignments of apprenticeships and the register tickets of all the crew who shall be subjects of Her Majesty the whole to be kept by such Consul or Vice Consul Collector or Comptroller as the case may be during the ship's stay in such port and (excepting the register tickets of deserters which are to be transmitted by such functionaries to the Registrar of Seamen) to be returned to the master a reasonable time before his departure with a certificate indorsed on such agreements respectively stating when the same were respectively delivered and returned without any fee or charge being made for the same and in case it shall appear that the required number of apprentices are not on board or that the required forms of existing laws have been in any respect neglected or transgressed such Consul or Vice Consul Collector or Comptroller shall make an indorsement to that effect on such agreement and forthwith transmit a copy of such indorsement with the fullest information he can collect regarding such neglect or transgression to the said Registrar and if any master shall neglect to deliver any agreement indenture assignment or register ticket or such account as aforesaid he shall for every such neglect or default forfeit and pay the sum of twenty pounds or if any master shall deliver any false or incorrect account he shall for every such offence forfeit and pay the sum of thirty pounds”—And so much of the said recited Act as enacts “That no seaman shall be shipped at any such foreign port by any such master except with the sanction of such Consul or Vice Consul to be indorsed or certified on the agreement under a penalty of twenty pounds to be forfeited by the master for every seaman so shipped”—And so much of the said recited Act as enacts “That the master of every ship belonging to any subject of Her Majesty shall and he is hereby required to produce and show the log book muster roll of the ship and the agreement or agreements with his crew their register tickets and the indentures of his apprentices and the assignments thereof and a list of all the passengers and persons on board to the Captain Commander or other Commissioned Officer of any of Her Majesty's ships or vessels requiring the production and sight thereof and that it shall be lawful for any such officer in Her Majesty's Naval Service to muster the crew (including apprentices) of any ship belonging to any such subject in order to be satisfied that the provisions of this Act and every other Act by which the crews of such ships as aforesaid are regulated and the laws relating to navigation have been duly kept and complied with and if any master shall upon being required so to

“do

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“ do by any such officer neglect or refuse to produce such log book
 “ muster roll or agreement register tickets indentures and assignments
 “ and lists of passengers and persons or any of them or shall obstruct
 “ any officer in the execution of his duty in mustering the said crew
 “ or shall produce any false log muster roll or list he shall for every Penalty.
 “ such offence forfeit and pay the sum of twenty pounds”—And so
 much of the said recited Act as enacts “ That for the better carrying
 “ into effect the purposes of this Act it shall be lawful for Her Majesty’s Sec. 56. Consuls
 “ Consuls and Vice Consuls in foreign ports and for the said Registrar Registrar and
 “ and his assistant and also for the respective Chief Officers of the Officers of Customs
 “ Customs at the several ports of the United Kingdom and of the British empowered to
 “ Possessions abroad to demand from the master of every ship belong- require production
 “ to a subject of Her Majesty the production of the log book muster of the agreement
 “ roll of the ship and such agreements register tickets indentures and muster roll &c.
 “ assignments as aforesaid and a list of passengers and persons on
 “ board and to muster the crew (including apprentices) of such ship
 “ and to summon the master to appear before them and give any
 “ explanation they may respectively require regarding the said crew
 “ ship or documents for the purpose of ascertaining whether the pro-
 “ visions of this Act and every other Act by which the crews of such
 “ ships as aforesaid are regulated and the laws relating to navigation have
 “ been kept and complied with and to take copies of all or any of such
 “ documents and if any such master on such demand being made Penalty on master
 “ shall refuse to produce such log book muster roll agreements register refusing to produce.
 “ tickets indentures and assignments and list of passengers and persons
 “ or refuse to allow copies to be taken or shall refuse to permit his
 “ crew to be so mustered or shall refuse to appear and give such
 “ explanation as aforesaid or shall wilfully deceive or mislead the person
 “ before whom he shall so appear he shall for every such neglect
 “ refusal or offence forfeit and pay the sum of twenty pounds”—And
 so much of the said recited Act as enacts “ That it shall and may be Sec. 57. Survey of
 “ lawful for any Consul or Vice Consul of Her Majesty and for any provisions &c.
 “ Collector or Comptroller of the Customs upon complaint made by
 “ any three or more of the crew to survey and examine or cause to be
 “ surveyed and examined the provisions water and medicines put or
 “ supplied on board any ship for the use and consumption of the crew
 “ and if on such survey and examination it shall be found that such If provisions are
 “ provisions water or medicines are of a bad quality or unfit for use or found insufficient &c.
 “ not appropriate or there shall not appear to be a sufficient quantity
 “ thereof the surveying officer shall signify the same in writing to the
 “ master of the ship and if such master shall not thereupon provide
 “ other fit and proper provisions water or medicines in lieu of any
 “ which may signified by the said surveying officer to be of a bad
 “ quality or unfit for use or not appropriate or if any such master shall
 “ not thereupon procure the requisite quantity of provisions water and
 “ medicines or shall use any provisions water or medicines which
 “ shall have been signified by the surveying officer to be of a bad
 “ quality or unfit for use or not appropriate he shall in each and
 “ every of such cases be guilty of a misdemeanor”—And so much
 of the said recited Act as enacts “ That all offences against the pro- Sec. 58. As to
 “ perty or person of any subject of Her Majesty or any foreigner offences committed
 “ which shall be committed in or at any port or place either ashore or at foreign ports.
 “ afloat out of the Dominions of Her Majesty by the master and crew
 “ (including apprentices) or any or either of them belonging to any
 “ ship subject to any of the provisions of this Act or who within three
 “ months before the committal of the offence shall have been the
 “ master thereof or shall have formed part of any such crew shall be
 “ and they are hereby declared to be offences of the same nature
 “ respectively and to be liable to the same punishments respectively as
 “ if

Merchant Seamen.

Sec. 59. For the
safe custody and con-
veyance of offenders
to England.

“ if they had been committed on the high seas and other places within
“ the jurisdiction of the Admiralty of England and shall be inquired
“ of heard tried and determined and adjudged in the same manner as
“ if such offence had been committed within such jurisdiction and
“ when any trial for such offences or for any misdemeanor against
“ the provisions of this Act shall take place before any Justices or
“ Judges of Oyer and Terminer and Gaol Delivery it shall be lawful for
“ the Court to order and direct the payment of the costs and expenses
“ of the prosecution as in the case of costs and expenses of prosecutions
“ for offences committed within the jurisdiction of the Admiralty of
“ England”—And so much of the said recited Act as enacts “That
“ whenever any complaint shall be made to any of Her Majesty’s Con-
“ suls or Vice Consuls of any such offence or of any offence having been
“ committed at sea by the master and crew (including apprentices) or
“ any or either of them belonging to any ship subject to any of the pro-
“ visions of this Act it shall be lawful for any such Consul or Vice
“ Consul to inquire into the case upon oath and at his discretion to cause
“ any offender to be placed under all necessary restraint so far as it
“ may be in his power so that he may be sent and conveyed in safe cus-
“ tody to England as soon as practicable in any vessel of Her Majesty
“ or of any of Her subjects to be there proceeded against according to
“ law and the costs and charges of imprisoning any such offender
“ and of conveying him and the witnesses to England if not conveyed
“ in the ship to which they respectively belong shall be considered and
“ deemed as part of the costs of the prosecution or be paid as costs
“ incurred on account of seafaring subjects of the United Kingdom
“ left in distress in foreign parts and all depositions taken before any
“ Consul or Vice Consul abroad and certified under his official seal to
“ be the depositions and that they were taken in the presence of the
“ party accused shall be admitted in evidence in all Courts having
“ criminal jurisdiction and otherwise in like manner as depositions
“ taken before any Justice of the Peace in England now are or may
“ be and the register ticket of every offender shall be delivered up to
“ Her Majesty’s Consul or Vice Consul as the case may be and be
“ transmitted by him to the Registrar of Seamen”—And so much of
“ the said recited Act as enacts “That it shall be lawful for any Consul
“ or Vice Consul to order a passage to England for any such offender or
“ offenders under necessary restraint and also for the witnesses and
“ the master or other person having the charge of any ship or vessel
“ belonging to any subject of Her Majesty bound to England shall
“ and he is hereby required to receive and afford a passage and
“ subsistence during the voyage to any such offender or offenders and
“ witnesses not exceeding the rate of one offender or two witnesses for
“ every one hundred tons of his ship’s burden and on his ship’s arrival
“ in England the master of any vessel belonging to a subject of Her
“ Majesty shall take or cause to be taken the offender or offenders
“ before a Justice of the Peace who shall deal with the matter as in cases
“ of offences committed upon the high seas and in case the master or
“ other person having the charge of any ship or vessel belonging to any
“ subject of Her Majesty when required by the Consul or Vice Consul
“ to receive and afford a passage to any offender or witness shall not
“ receive and afford such passage or shall not take or cause to be
“ taken the offender or offenders before a Justice of the Peace as afore-
“ said every such master shall be liable to a penalty of fifty pounds
“ and the seaman if acquitted shall receive his register ticket again
“ upon due application to the Registrar of Seamen.”

Sec. 60. As to the
conveyance of
offenders and wit-
nesses to England.

Recovery of penal-
ties.

34. And be it enacted That all penalties and forfeitures imposed
by this Act and for the recovery whereof no specific mode is herein-
before provided shall and may be recovered with costs either in Her
Majesty’s

Merchant Seamen.

Majesty's Supreme Court of the Colony of New South Wales at the suit of Her Majesty's Attorney General or at the suit of any person by information and summary proceeding before any Justice or Justices of the Peace where or near to the place where the offence shall be committed or the offender shall be and if proceedings for the recovery of any forfeiture or penalty imposed by this Act or for the recovery of any debt due to Her Majesty be commenced in any of Her Majesty's Courts the Court in which such proceedings shall be instituted is hereby authorized to issue a commission or commissions in or out of Her Majesty's Dominions for the examination of witnesses and the depositions taken thereunder shall be used and admitted in evidence and in case of a summary conviction under this Act and the sum imposed as a penalty by such Justice or Justices shall not be paid either immediately after the conviction or within such period as such Justice or Justices shall at the time of the conviction appoint it shall be lawful for the convicting Justice or Justices to commit the offender 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 the said Justice or Justices for any term not exceeding six calendar months the commitment to be determinable upon payment of the amount and costs and all penalties and forfeitures mentioned in this Act for which no specific application is hereinbefore provided shall when recovered be paid and applied in manner following (that is to say) so much thereof as the Court or the convicting Justice or Justices shall determine but not exceeding one moiety shall be paid to the informer or person upon whose discovery or information the same shall be recovered and the residue shall be paid to Her Majesty Her Heirs and Successors for the public uses of this Territory and in support of the Government thereof and shall be applied thereto in such manner as may from time to time be directed by any Act of the said Governor and Legislative Council Provided always that it shall be lawful for the Court before which or the Justice or Justices before whom any proceedings shall be instituted for the recovery of any pecuniary penalty imposed by this Act to mitigate or reduce such penalty as to such Court or Justices respectively shall appear just and reasonable but no such penalty shall be reduced to less than one-third of its original amount and it shall be lawful in the discretion of the said Court or of the said Justice or Justices hearing the complaint to order such costs against the informing or complaining party failing to prove the charge as the said Court or Justice or Justices may deem fit and such costs shall be recoverable in the same manner as penalties under this Act and be paid as such Court or Justice or Justices shall direct Provided also that all proceedings so to be instituted shall be commenced within two years next after the commission of the offence if the same shall have been committed at or beyond the Cape of Good Hope or Cape Horn or within one year if committed elsewhere or within two calendar months after the return of the offender and the complaining party to the Colony of New South Wales.

Application of
forfeitures.

Proviso.

35. And to avoid doubts in the constructions of this Act be it enacted That every person having the charge or command of any ship belonging to any subject of Her Majesty and registered in the Colony of New South Wales shall within the meaning and for the purposes of this Act be deemed and taken to be the master of such ship and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall be deemed and taken to be a seaman within the meaning and for the purposes of this Act and that the term "ship"

Definition of the
terms "Master"
"Seaman" "Ship"
"Owner" and
"Governor."

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“ship” shall be taken and understood to comprehend every description of vessel navigating on any sea or channel or waters outside the mouths of rivers and also every vessel passing beyond the precincts of a port and that the term “owner” shall be taken and understood to comprehend all the several persons if more than one to whom the ship shall belong and that wheresoever the term “Governor” is used for the purposes of this Act it shall be deemed and taken to be the Governor or Officer administering the Government for the time being of the said Colony.

36. And be it enacted That if any person being a Malay or a Lascar or a native of the territories under the government of the East India Company or if any Asiatic or African seaman or any seaman being a native of any island in the Pacific Ocean having been brought to the said Colony of New South Wales on board any ship shall be found or be in the said Colony in distress or in want of food clothing or other necessaries it shall and may be lawful for the Governor at his discretion to supply necessary and reasonable relief to every such person or seaman and to maintain him until he shall have been sent on board some ship for the purpose of being conveyed to or near to the port from which he was shipped and also to pay defray and advance the money necessary to procure every such seaman or other person a proper and sufficient passage to such port and all such sum or sums of money as shall be paid and advanced by or by order of the Governor for or on account of such maintenance relief and passage shall be and become a debt to Her Majesty and shall be recoverable as such with full costs of suit in the Supreme Court or any other Court of Record in the Colony from the owner or master or either of them of the ship on board whereof such person or seaman shall have been brought from Asia or Africa or other island or place as aforesaid.

Act may be amended
or repealed.

37. And be it enacted That this Act may be amended or repealed by any Act to be passed during the present Session of the Legislative Council of New South Wales.

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A.)

AN Agreement made pursuant to the directions of an Act of the Legislative Council of New South Wales passed in the _____ year of the reign of Her Majesty Queen Victoria between _____ the master of the ship _____ of the Port of _____ and of the burden of _____ tons and the several persons whose names are subscribed hereto.

It is agreed by and on the part of the said persons and they severally hereby engage to serve on board the said ship in the several capacities against their respective names expressed on a voyage from the Port of _____ to _____ [here the intended voyage is to be described as nearly as can be done and the places at which it is intended the ship shall touch or if that cannot be done the nature of the voyage in which she is to be employed] and the said crew further engage to conduct themselves in an orderly faithful honest careful and sober manner and to be at all times diligent in their respective duties and stations and to be obedient to the lawful commands of the master in everything relating to the said ship and the materials stores and cargo thereof whether on board such ship in boats or on shore [here may be inserted any other clauses which the parties may think proper to be introduced into the agreement provided that the same be not contrary to or inconsistent with the provisions and spirit of this Act] in consideration of which services to be duly honestly carefully and faithfully performed the said master doth hereby promise and agree to pay to the said crew by way of compensation or wages the amount against their names respectively expressed And it is hereby agreed that any embezzlement or wilful or negligent loss or destruction of any part of the ship's cargo or stores shall be made good to the owner out of the wages (so far as they

Merchant Seamen.

they will extend) of the seaman guilty of the same and if any seaman shall have entered himself as qualified for a duty to which he shall prove to be not competent he shall be subject to a reduction of the rate of wages hereby agreed for in proportion to his incompetency. In witness whereof the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

No and Date of Ship's Register.	Place and Time of Entry.		
	Day.	Month.	Year.
	Men's Names. Christian and Surnames set forth at full length.		
	Age.		
	Town or Country where born.		
	Quality.		
	Amount of Wages per Calendar Month Share or Voyage.		
	Amount of Wages advanced at the time of entry.		
	Amount of Monthly Allotment.		
	Quantity of Provisions per day.		
	Witness to Signature.		
	Name of Ship in which the Seaman last served.		
	Number of Register Ticket or Discharge.		

SCHEDULE (B.)

Ship's Articles.

AN Agreement made and entered into pursuant to the provisions of an Act of the Governor and Legislative Council of New South Wales passed in the thirteenth year of the reign of Her Majesty Queen Victoria intituled "*An Act to amend and consolidate the Laws relating to Seamen in the Merchant Service of the Colony of New South Wales and for keeping a Register of Seamen belonging to ships registered in the said Colony*" between the master of the ship registered in Sydney in the Colony of New South Wales of the burthen of tons and the several officers seamen and other persons whose names are subscribed hereto.

WHEREAS the ship _____ is now riding at anchor in the Harbour of _____ in the Colony aforesaid and is bound to proceed on a voyage to _____

and back to Sydney. And whereas the several persons parties hereto of the second part have agreed to enter on board the said vessel and to prosecute the said intended voyage upon the terms and conditions hereinafter expressed. Now these presents witness and it is hereby mutually engaged stipulated promised and agreed between and by the several parties hereto as follows—

That the officers seamen and others whose names are hereto subscribed shall severally serve on board the said ship in the several capacities against their respective names expressed and shall proceed in the said vessel on the said voyage for the purpose of obtaining sperm oil head matter black oil ambergris whalebone sandal wood beche-le-mer seals or such other animals or substances as the master of the said vessel shall in his discretion deem most advisable for the general good and in the prosecution of the said voyage shall at all times perform their duty as seamen and shall severally and collectively as they may be directed by the said master or by their superior officers exert themselves to the utmost of their power in procuring a full cargo with the greatest expedition and in bringing the ship back to the Port of Sydney.

That the said officers seamen and others shall at all times during the said voyage conduct themselves in an orderly faithful honest careful and sober manner and shall be at all times diligent in their respective duties and stations and shall obey abide by and execute all the lawful commands of the master or commanding officer of the said ship for the time being in everything relating to the said ship and the materials stores and cargo thereof as well for the effectual government of the said ship as for the suppression of vice and immorality on board and shall not refuse or neglect to do their duty by day or night nor go out of

Here insert the description of the voyage whether south whale fishery bay whale fishery sandal wood beche-mer &c. &c.

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of nor quit the said ship on any account or pretence whatever without the consent and permission of the said master or commanding officer in writing expressing the time for which such permission is granted until the said voyage shall be fully completed and ended but shall on all occasions and in all ports and places at which the said ship may call or touch and as well in the boats or on the shore as on board the said ship conduct themselves as good and faithful seamen and mariners and shall stand by the said ship in all perils and dangers using their best endeavours for the preservation of the ship her boats tackle apparel provisions stores and cargo until she shall have completed her said voyage and arrived at the Port of Sydney and her cargo there be wholly discharged.

That in consideration of such services to be duly honestly carefully and faithfully performed the said master for himself and the owner or owners of the said vessel doth by these presents promise and agree that the said officers seamen and others upon the arrival of the said ship in the Port of Sydney after the full completion of the said voyage and the due delivery of the said cargo shall respectively be entitled to and shall receive in full satisfaction of all claim for wages and other payments or allowances such proportional lays or shares of the said cargo as are or shall be against his or their names respectively expressed in this agreement.

That the owners of the said ship shall have the option and be entitled upon due delivery of the said cargo to purchase from the officers seamen or persons parties hereto of the second part all and singular their respective lays or shares of and in all the sperm oil head matter black oil whalebone sandal wood beche-le-mer and ambergris which the said ship during the continuance of the present voyage may take tranship for land or bring into the Port of Sydney or any other port or place as may be agreed on by these presents at and after the following rates that is to say—the sum of £ sterling per imperial tun for sperm oil and head matter the sum of £ sterling per imperial tun for black oil the sum of £ sterling per ton weight of two thousand two hundred and forty pounds for whalebone the sum of £ sterling per ton weight of two thousand two hundred and forty pounds for sandal wood the sum of £ sterling for two thousand two hundred and forty pounds or one ton weight of beche-le-mer and the sum of £ sterling per ounce for ambergris.

that inasmuch as no money is due to the officers or crew of the said ship until after their return and the actual receipt by the owners of their respective lays or shares of the said cargo interest at the rate of six per cent. shall be charged on all sums that may have been advanced to the said officers seamen and others respectively or paid in monthly money or otherwise on their account.

That no party to these presents shall be entitled to more than his professional share of such part of the cargo as may be obtained during the time he shall be personally acting and serving in his proper capacity.

That if any officer seaman or other person whose signature shall be affixed to this agreement shall hereby engage to perform a duty for which he shall prove to be unqualified or otherwise not competent a deduction from such person's lay or share of the said cargo shall be made of such amount as may be judged proper by the commander and one or more of his officers or otherwise the commander of the said ship for the time being shall have power to appoint some other individual in his stead and any additional share or remuneration that may be paid to such individual so appointed shall be deducted from the share of the party so found incompetent provided the circumstances attending such deduction or disrating be by them duly entered in the ship's log book at the time of the occurrence and signed by them.

That whatsoever stores or other articles the said officers seamen or other persons any or either of them may receive into their charge shall be accounted for from time to time and at the end of the voyage and in case any such stores or other articles or any part thereof be damaged or lost through their carelessness or neglect it shall be made good to the master and owners by such officer and seamen by whose fault or neglect such loss may happen and should any of the stores or cargo that may be received on board the said ship or boats belonging thereto be embezzled plundered damaged lost or destroyed the same shall be made good to the master and owners by the party by whose fault or neglect such loss may happen as provided in the (18th) eighteenth clause of the hereinbefore recited Act.

And it is hereby expressly stipulated and agreed that the master officers seamen and others parties to these presents shall not for their own individual use or emolument give sell barter exchange or secrete any part of the oil or other article or merchandise or other substance whatever which may be taken or found during the continuance of the present voyage.

In witness whereof the said parties have hereunto subscribed their names on the days and dates set opposite or against their respective signatures hereunder written.

*Merchant Seamen.***SCHEDULE (E.)***Certificate of Discharge.*

I HEREBY certify that
of the ship _____ of _____
discharged from my vessel with the consent of all parties.

seaman
is fully

Registered at this Office this _____ } Signed
day of _____ and executed in the presence of }

Ship

Master.

SCHEDULE (F.)*Form of Apprentice's Indenture.*

THIS Indenture made the _____ day of _____ in the
year of the reign of Her Majesty Queen Victoria by the Grace of God of the United
Kingdom of Great Britain and Ireland Queen Defender of the Faith and in the year of
our Lord one thousand eight hundred and _____ between _____ aged _____
years a native of _____ in the County of _____ of the one part and
_____ of _____ in the County of _____ of the other
part witnesseth That the said _____ hath of his free will and by and with the
consent of his parent or parents (A. B. as the case may be or C. D. or E. F. two of Her
Majesty's Justices of the Peace acting in and for the District of _____ in which the
said A. B. now resides) put and bound himself apprentice unto the said
_____ with him his executors administrators and assigns after the manner of an apprentice to
dwell remain and serve from the day of the date hereof for and during and until the full
end and term of _____ years from thence next ensuing fully to be completed and
ended during all which term the said apprentice his said master shall well and faithfully
serve his secrets keep his lawful commands everywhere do and execute hurt or damage to
his said master he shall not do consent or see to be done by others but to the utmost of his
power shall hinder the same and forthwith his master thereof warn taverns or alehouses he
shall not frequent (unless about his said master's business) at dice cards tables bowls or any
other unlawful games he shall not play the goods of his said master he shall not embezzle
or waste or lend or give to any person or persons without his said master's license nor from
the service of his said master without his consent at any time absent himself but as a true
and faithful apprentice shall demean and behave himself towards his said master his
executors administrators or assigns during the said term and true and just accounts of his
said master's goods chattels and money committed to his charge or which shall come to his
hands faithfully he shall give at all times when thereunto required by his said master his
executors administrators or assigns and shall also render an account of and well and truly
pay or cause to be paid unto his said master his executors administrators or assigns all such
wages prize money and other sum or sums of money as shall become due and payable unto
him from Her Majesty Her Heirs Successors or any other person in case he shall be
impressed enter or go into Her Majesty's Service during the said term In consideration
whereof the said _____ doth hereby covenant and agree to and with the said
_____ his executors administrators
or assigns during the said term of _____ years shall and will teach learn and inform
the said apprentice or cause him to be taught learned and informed in the art trade or
business of a mariner or seaman with the circumstances thereunto belonging and shall and
will find and provide for the said apprentice sufficient meat drink washing lodging medicine
and medical and surgical aid and advice _____ to pay unto the said apprentice the
sum of _____ pounds of lawful money of Great Britain in manner following
(that is to say) the said _____ finding and providing to and for himself all manner
of sea bedding wearing apparel and other necessaries (except meat drink lodging washing
medicine and medical and surgical aid and advice) And it is hereby agreed between the
said parties that the said _____ shall and may from time to time during the
said term deduct and retain in his hands out of the several yearly payments above-mentioned
all such sum or sums of money as he shall at any time during the said term disburse or
lay out in the buying of any apparel or sea bedding for the said apprentice as need shall
require And for the true performance of all and singular the covenants and agreements
aforesaid each of them the said _____ and _____ doth hereby bind
and oblige himself his heirs executors and administrators unto the other of them his executors
and administrators firmly by these presents in the penal sum of _____ pounds of lawful
money of Great Britain.

In witness whereof the said parties to these presents have hereunto set their
hands and seals the day and year above written.

Signed sealed and delivered in the presence of us _____