

Act No. 47, 1898.

FOREIGN SEAMEN.

An Act to consolidate the Laws relating to Foreign Seamen. [29th December, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Foreign Seamen Act, 1898."

Repeal.

2. The Act mentioned in the Schedule to this Act is hereby repealed.

Schedule.

Seamen deserting, &c., from foreign ships may be apprehended and placed at disposal of consul or on board their ship.

3. If any seaman belonging to any foreign ship deserts therefrom, or otherwise absconds or absents himself from his duty whilst such ship is anywhere within the territorial limits of New South Wales, any justice of the peace, upon the complaint on oath of the master, mate,

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mate, or other person having charge of such ship, of the fact of such desertion, absconding, or absence from duty, may issue his warrant for the apprenension of such seaman; and thereupon—

- (a) may deal with such seaman as hereinafter is provided; or
- (b) may place such seaman at the disposal of the consul, vice-consul, or other consular officer or agent of the Nation or State to which such ship belongs; or
- (c) at the request of such consul, vice-consul, or other consular officer or agent may order such seaman to be put forcibly on board the ship to which he belongs.

4. Every seaman of any foreign ship who, whilst such ship is within the territorial limits of New South Wales, commits any of the offences hereinafter mentioned shall, upon conviction thereof before a justice of the peace, be liable to be imprisoned with hard labour in any gaol in New South Wales for periods not exceeding the periods herein-after set against the said offences respectively, that is to say:—

- (a) for desertion from the ship to which he belongs, a period of ^{Such seaman may be} ~~For desertion.~~ twelve weeks for the first offence, and a period of six months for a second or subsequent desertion.
- (b) for assaulting any master or other officer of such ship, a period ^{Assaulting officers.} of twelve weeks.
- (c) for wilful disobedience to any lawful command of such master ^{Disobedience.} or other officer of such ship, a period of four weeks.
- (d) for continued wilful disobedience to such lawful commands, or ^{Continued dis-} ~~obedience or neglect~~ for continued wilful neglect of his duty as a seaman of such ^{of duty.} ship, a period of twelve weeks.
- (e) for combining with any other or others of the crew of the ship ^{Combining to} ~~disobey or neglect~~ to which he belongs to disobey the lawful commands of his ^{duty.} officers or to neglect his duty as a seaman, or to impede the discharge, loading, or departure of the ship, or the progress of the voyage, a period of twelve weeks.

Provided that nothing herein contained shall take away or abridge any powers which a master of any such ship has over his crew.

5. (1) Any justice of the peace, at the instance of the consul, vice-consul, or other consular officer or agent of the Nation or State to which the ship of any seaman convicted and sentenced under this Act belongs, may order any such seaman, at or after the expiration or earlier determination of his sentence of imprisonment, or at any time ^{Ibid. s. 3.} during the continuance thereof, to be put forcibly or otherwise on board such ship.

(2) In all such cases any justice of the peace may grant an order of discharge ^{Power to order} ~~may be made.~~ to any gaoler or keeper of any prison to discharge such seaman from prison into such custody as such justice directs, which shall be a sufficient warrant to such gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

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Ships or places may be searched for runaway seamen.

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6. Any justice of the peace, upon the complaint on oath of the master or other person having charge of any such ship as aforesaid, that he has good cause for suspecting that any runaway seaman of such ship is harboured, secreted, or concealed on board any ship, boat, or other vessel, or in any house or place whatsoever, may issue a warrant directing some constable to search such ship, boat, or other vessel, or such house or place, and to apprehend such seaman.

Such warrant shall be executed accordingly, and every such seaman shall upon his apprehension be brought with all convenient speed before some justice of the peace to be dealt with as is herein directed.

Penalties on persons harbouring deserters or inciting to desertion.

Ibid. s. 6.

7. Whosoever—

- (a) harbours, conceals, employs, or retains, or assists in harbouring, concealing, employing, or retaining any seaman belonging to any such ship as aforesaid, who has deserted therefrom, or otherwise absconded or absented himself from duty, knowing such seaman to have deserted or otherwise absconded or absented himself from duty, without having used reasonable diligence to ascertain whether such seaman has been duly discharged from his last employment; or
- (b) causes, induces, or persuades any such seamen by words or by any other means whatsoever, to violate, or to attempt or endeavour to violate any agreement which he may have entered into to serve on board any such ship as aforesaid; or
- (c) knowingly connives at the desertion, absconding, or absence from duty of any such seaman;

shall for every such offence, upon conviction thereof before any justice of the peace in a summary way, forfeit a penalty not exceeding twenty pounds for the first offence, and not less than ten or more than fifty pounds for a second or subsequent offence; and in case of non-payment thereof any justice of the peace may commit the person so offending to any gaol for any term not exceeding six months with or without hard labour, the said commitment to be determined on payment of the penalty and costs.

Prosecution not to be instituted except at the request or on consent of foreign Government.

Ibid. s. 5.

8. Provided that no such warrant as hereinbefore mentioned shall be issued, and that no offence hereby made punishable shall be prosecuted or punished, except—

- (a) at the instance, or with the express assent in writing of the consul, vice-consul, or other consular officer or agent of the Nation or State to which such ship as aforesaid belongs; or
- (b) it has been duly notified in the Gazette under the authority of the Governor that the Government of such Nation or State has, by its proper officer, signified its desire that this Act may be enforced in all cases against the crews of ships belonging to such Nation or State.

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9. (1) In prosecuting under this Act it shall not be necessary Attesting witness to for the purpose of proving the articles or agreement under or by which ship's articles need any such seaman has engaged to serve on board any such ship, to call not be called, and any subscribing or attesting witness thereto; but such articles or certified copy agreement may be proved as if there were no such subscribing or 16 Vic. No. 25, s. 7. attesting witness. admissible in evidence.

(2) A copy of any such articles or agreement as aforesaid, certified under the hand of the consul, vice-consul, or other consular officer or agent of the Nation or State to which such ship belongs, to be a true copy thereof, shall be received as evidence of the existence and contents of such articles or agreement. Copies to be evidence.

10. All expenses incidental to the apprehension, confinement, and removal of any seaman under and by virtue of this Act shall be paid by the consul, vice-consul, or other consular officer or agent at whose instance such seaman was apprehended, proceeded against, or removed. Expenses by whom payable. *Ibid.* s. 8.

11. (1) All proceedings under this Act, where not otherwise provided for, may be carried on in a summary way according to the law regulating summary proceedings before justices of the peace. Proceedings may be summary. *Ibid.* s. 9.

(2) The service of any summons or other matter in any legal proceeding under this Act shall be good service if made—

- (a) personally on the person to be served; or
- (b) by leaving such summons for him on board any ship to which he belongs with the person being, or appearing to be, in command or charge of such ship.

12. (1) No conviction under this Act shall be quashed for want of form, or be removed by certiorari or otherwise into the Supreme Court. No certiorari. *Ibid.* s. 10.

(2) No warrant of commitment or order for imprisonment shall be held void by reason of any defect therein, provided it is therein alleged that the person has been convicted or ordered to be imprisoned, and there is a good and valid conviction or an offence to sustain the same. Process not to be void.

SCHEDULE.

Section 2.

Reference to Act.	Title or short title.	Extent of repeal.
16 Vic. No. 25 ...	An Act for more effectually preventing desertion and other misconduct of Seamen belonging to Foreign Ships.	The whole.