

Foreign Seamen.

No. IV.

AN ACT for preventing Desertion and other Misconduct
of Seamen belonging to Foreign Ships.

FOREIGN SEAMEN.

[24th September, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Foreign Seamen's Act, 1860.*" Short Title.

2. "*The Foreign Seamen's Act, 1858,*" is hereby repealed.

Repeal of "*Foreign Seamen's Act, 1858.*"
Foreign seamen deserting &c. may be apprehended by warrant.

3. If any seaman belonging to any foreign ship shall, whilst such ship shall be in any port in the Colony of New Zealand or otherwise within the limits thereof, desert or absent himself without leave, or wilfully neglect or refuse to join after signing an agreement to do so, or shall refuse to proceed to sea in such ship, it shall be lawful for any Justice of the Peace, upon the complaint upon oath of the master of such ship, to issue his warrant for the apprehension of such seaman and thereupon deal with him as hereinafter provided, or, at the request of such master, to order such seaman to be put forcibly on board the ship to which he may belong, or to place such seaman at the disposal of the Consul of the nation or state to which such vessel shall belong.

4. The master of any such ship may require any constable, who is thereupon hereby authorized, without first procuring a warrant, to apprehend any such seaman so deserting absenting himself neglecting or refusing to join or refusing to proceed to sea as aforesaid, and such constable shall thereupon convey him before a Justice of the Peace, to be dealt with according to law: Provided that if such apprehension be made on improper or insufficient grounds, the master who caused the same to be made shall be liable to a penalty not exceeding fifty pounds.

Also without warrant.

5. Every seaman of any foreign ship who shall, whilst such ship shall be in any port of this Colony or otherwise within the limits thereof, commit any of the offences hereinafter mentioned, shall upon conviction thereof in a summary way before any Justice of the Peace be imprisoned, with or without hard labour, in any gaol or house of correction for periods not exceeding the periods hereinafter set against the said offences respectively, that is to say,—

Punishments.

(1.) For desertion or absenting himself without leave, or refusing to join after signing an agreement to do so, or refusing to proceed to sea in such ship, a period of twelve weeks for the first offence and a period of six months for a second or subsequent desertion or absence as aforesaid.

Desertion.

(2.) For assaulting any master or other officer of such ship, a period of six months.

Assaulting officers.

(3.) For wilful disobedience to any lawful command of such master or other officer of such ship, or for a wilful neglect of his duty as a seaman, or for attempting to leave any such ship without the consent of the officer in charge thereof, a period of four weeks.

Disobedience or neglect of duty.

(4.) For continued wilful disobedience to such lawful commands, or for continued wilful neglect of such duty, a period of twelve weeks.

Continued disobedience or neglect of duty.

(5.) For combining with any other of the crew to desert, or to disobey the lawful commands of his officers, or to neglect his

Combining to disobey or neglect duty &c.

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his duty as seaman, or 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 may have over his crew.

Power to order convicted seaman to be put on board.

6. It shall be lawful for any Justice of the Peace, at the instance of the master of any such ship, to order any such seaman, at or after the expiration or earlier determination of his sentence of imprisonment or at any time during the continuance thereof, to be put forcibly or otherwise on board the ship to which he may belong, and in all such cases it shall be lawful for any Justice of the Peace to grant an order to any gaoler or keeper of any prison to discharge such seaman from prison into such custody as such Justice shall direct, which shall be a sufficient warrant to such gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

Ships or places may be searched.

7. It shall be lawful for any Justice of the Peace, upon the complaint on oath of the master of any such ship that he has good cause for suspecting that any runaway seaman of such ship is harboured secreted or concealed on board any ship or boat or in any house or place whatsoever, to issue a warrant to search such ship or boat or such house or place and to apprehend such seaman and lodge him in some place for safe custody, and such warrant shall be executed accordingly, and every such seaman shall be brought with all convenient speed before some Justice of the Peace to be dealt with according to law.

Penalties for harbouring deserters &c.

8. If any person shall knowingly and wilfully harbour conceal employ or retain, or assist in harbouring concealing employing or retaining, any seaman belonging to any such ship as aforesaid who shall have deserted or absented himself or refused or neglected to join or refused to proceed to sea as aforesaid, or shall cause induce or persuade any such seaman, by words or by any other means whatsoever, to violate or attempt to violate any agreement which he may have entered into to serve on board any such ship as aforesaid, or shall knowingly connive at the desertion or absence or refusal or neglect to join or refusal to proceed to sea of any such seaman, such person so offending shall for every such offence forfeit and pay 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.

Officer having charge of police may put constables on board ships.

9. It shall be lawful for the officer having charge of the police at any port, upon the application of the master of any such ship, to place constables on board such ship to prevent desertion therefrom and to prohibit the approach of boats without the authority of such constables or of the officer in charge of such ship.

Penalty for approaching ship in boat after being duly warned.

10. The occupier of any boat approaching any such ship without such authority as aforesaid after being duly warned shall forfeit and pay any sum not exceeding ten pounds for every such offence, and any seaman attempting to leave any such ship without the consent of the officer in charge thereof may be apprehended by any constable, without warrant first obtained, and kept in safe custody, to be taken as soon as conveniently may be before some Justice of the Peace to be dealt with according to law : Provided always that if any seaman shall make any complaint to any constable placed as aforesaid on board any ship, a statement of such complaint shall be made by such constable as soon as conveniently may be to the officer having charge of the police, who shall forthwith inquire into the ground of such complaint.

Attesting witness of ship's articles need not be called.

11. In prosecuting under this Act it shall not be necessary, for the purpose of proving the articles or agreements under which any such seaman shall have engaged to serve on board any such ship, to call

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call any subscribing or attesting witness thereto, but such articles or agreement may be proved as if there was no such subscribing or attesting witness.

12. All penalties imposed by this Act may be recovered before one or more Justices of the Peace in a summary way, and the service of any summons or other document in any proceeding under this Act shall be good service if made as now required by law or if made by leaving a copy of such summons or other document for the person to be served on board any ship to which he may belong, with the person being or appearing to be at the time in command or charge of such ship, and explaining to such person the purport thereof.

Penalties how recoverable, and service of summons how to be made.

13. All expenses incidental to the prevention of desertion apprehension confinement or removal of any seaman by virtue of the powers and authority conferred by this Act shall be paid to the officer having charge of the police by the Consul, master, mate, or other person at whose instance the same shall have been incurred.

Expenses to be paid by master.

14. Provided always that none of the provisions of this Act shall be enforced in respect of the masters and seamen of any foreign ships, until it shall have been signified in writing to the Governor of New Zealand, by a Consul or some other proper officer of the Government of the nation or state to which any such ship shall belong, that it is the desire of such Government that this Act shall be enforced in respect of the master and seamen of the ships of such nation or state.

Provisions of this Act not to be enforced except by desire of Consul &c. of nations to which foreign ships may belong.

15. Whenever a notification shall have been published in the *New Zealand Gazette* to the effect that the provisions of this Act will be enforced in respect of the master and seamen of the ships of any foreign nation or state, the same shall be enforced accordingly from and after a day to be fixed in such notification; and any printed copy of the *New Zealand Gazette* purporting to have been printed and published by authority of the New Zealand Government, containing such notification, shall be deemed sufficient evidence that this Act may be enforced in respect of the master and seamen of any ship belonging to the nation or state to which such notification shall refer.

After notification in *New Zealand Gazette* this Act may be enforced.

16. The following Acts are hereby repealed, namely:—

- (1.) An Act passed by the Provincial Council of the Province of Auckland, Session I., No. 2, intituled "*An Act for preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships.*"
- (2.) An Act passed by the Provincial Council of the Province of Wellington, Session II., No. 7, intituled "*An Act to prevent the Desertion of Seamen from Foreign Ships or Vessels.*"

Acts of Provincial Councils on same subject repealed.

17. In the construction of this Act, unless there be something in the subject or context repugnant to such construction, the word "Port" shall include any roadstead harbour creek or river; and the word "Ship" every description of vessel employed on the high seas; and the term "Master" any person for the time being in command or charge of such ship; and the word "Seaman" every person except the master employed or engaged to serve in any capacity on board any such ship; and the words "Foreign Ship" all ships not entitled to be deemed British ships under an Act of the Imperial Parliament, intituled "*The Merchant Shipping Act, 1854;*" and the word "Consul" shall include Vice-Consul and any other consular officer or agent.

Interpretation.