

WESTERN AUSTRALIA

ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ

No. 19

An Act to confer jurisdiction in certain cases over Foreign
Merchant Seamen. [*Assented to 16th July, 1878.*]

WHEREAS it is expedient to provide a means of dealing with
offences committed by foreign merchant seamen : Be it enacted
by His Excellency the Governor of Western Australia and its Depen-
dencies, by and with the advice and consent of the Legislative
Council thereof, as follows :—

Preamble

1. This Act may be cited for all purposes as ' The Foreign Seamen's
Offences Act, 1878.'

Short title

2. In the construction of this Act the word ' vessel ' shall mean any
navigable ship or boat of whatever construction, and whether moved
by wind, steam, or any other power ; the word ' consul ' shall include

Interpretation
of terms

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consul, vice-consul, or other consular officer or agent ; the words ' foreign vessels ' shall include all vessels not belonging to any British possession ; and the word ' seaman ' shall include every person (except masters, pilots, and apprentices, and not being a slave) employed or engaged in any capacity on board any vessel.

Seamen deserting from foreign vessels may be apprehended

3. If any seaman belonging to any foreign vessel in any port, harbour, roadstead, or river of Western Australia, or otherwise within the limits thereof, shall desert from such vessel or otherwise abscond or absent himself from his duty, or shall be charged with having committed any of the offences hereafter in the next section enumerated, any Justice, upon information on oath of the master, mate, or other person having charge of such vessel, may issue his warrant for the apprehension of such seaman, and thereupon at the request of such master, mate, or other person informing as aforesaid, may order such seaman to be put forcibly on board the vessel to which he may belong, or may deal with such seaman as hereinafter is provided, or may place such seaman at the disposal of the consul of the nation or state to which such vessel shall belong.

Such seamen may be imprisoned with hard labour

4. Every seaman of any foreign vessel in any port, harbour, roadstead, or river of Western Australia, or otherwise within the limits thereof, who shall commit any of the offences hereinafter mentioned, shall upon conviction thereof before any two Justices be liable to be imprisoned with hard labour in any gaol in the Colony for periods not exceeding the periods hereinafter respectively assigned to the said offences (that is to say)—

For assaulting

(i.) For assaulting any master or other officer of such vessel, a period of twelve weeks.

Disobedience

(ii.) For wilful disobedience to any lawful command of the master or other officer of such vessel, a period of four weeks.

Continued disobedience or neglect of duty

(iii.) For continued wilful disobedience to such lawful commands, or for continued wilful neglect of his duty as a seaman of such vessel, a period of twelve weeks.

Combining to disobey or neglect

(iv.) For combining with any of the crew of the vessel to which he belongs to disobey the lawful commands of his officers, or to neglect his duty as a seaman, or to impede the discharge, loading, or departure of the vessel, or the progress of the voyage, a period of twelve weeks.

Desertion

(v.) For desertion from the vessel to which he belongs, a period of twelve weeks for the first offence, and a period of six months for any subsequent desertion.

Drunkenness or other misconduct

(vi.) For drunkenness or other misconduct, disabling any such seaman for the discharge of his duty, a period of four weeks for the first offence, and a period of eight weeks for any subsequent offence.

Provided that nothing herein contained shall take away or abridge any powers which a master of any such vessel has over his crew, or protect seamen guilty of any such offence as aforesaid from any penalty or liability to which, under any existing law, they might be subject.

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5. Any Justice, at the instance of the consul of the nation or state to which the vessel of any seaman convicted and sentenced under this Act shall belong, or at the instance of the master or other person having charge of such vessel, may 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 on board such vessel; and in all such cases any Justice may grant an order to any keeper of any gaol to discharge such seaman therefrom into such custody as such Justice shall direct, which shall be a sufficient warrant to such keeper to deliver such seaman into such custody and for such purpose as aforesaid.

Power to order convicted seamen to be put on board at, after, or during sentence

6. Any Justice, upon the complaint on oath of the master or other person having charge of any foreign vessel, that he has good cause for suspecting that any runaway seaman of such vessel is harboured, secreted, or concealed on board any vessel or in any house or place whatsoever, may issue a warrant to search such vessel or such house or place, and to apprehend such seaman, and every such seaman shall, upon his apprehension, be brought with all convenient speed before any two Justices to be dealt with as herein directed.

Vessels or places may be searched

7. No such warrant as hereinbefore mentioned shall be issued, and no offence by this Act made punishable shall be prosecuted or punished except at the instance or with the express assent in writing of the consul of the nation or state to which such vessel as aforesaid shall belong, unless it shall have been three several times notified in the 'Government Gazette,' under the authority of the Governor in Council, 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 vessels belonging to such nation or state. Provided that if any such nation or state shall signify its desire that only particular provisions of this Act shall be enforced against the crews of its vessels, such provisions and no other shall be so enforced, and the notification in the 'Government Gazette' shall be framed accordingly.

Prosecutions, when to be instituted

8. If any person shall knowingly harbour, conceal, employ or retain, or assist in harbouring, concealing, employing or retaining, any seaman belonging to any foreign vessel who shall have deserted therefrom or otherwise absconded or absented himself from duty, or shall knowingly cause, induce, or persuade any such seaman by words or by any other means whatsoever to violate any agreement which he may have entered into to serve on board any such vessel as aforesaid, or shall knowingly assist in the desertion, absconding, or absence from duty of any such seaman, every such person so offending shall, upon conviction before any two Justices, forfeit and pay for every such offence a penalty not exceeding twenty pounds for the first offence, and not less than ten nor more than fifty pounds for a second or subsequent offence; and in case of non-payment thereof, any two Justices may commit the person so offending to any gaol for any term not exceeding six months, with or without hard labour, unless such penalty and all costs shall be sooner paid.

Penalties on persons harbouring deserters

9. In any proceeding under this Act it shall not be necessary for the purpose of proving the list, roll, articles, or agreement under or by which any such seaman shall have shipped, joined, or engaged to serve

Attesting witness need not be called

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Copies to be
evidence

on board any such vessel, to call any subscribing or attesting witness thereto, but such list, roll, articles, or agreement as aforesaid may be proved as if there were no such subscribing or attesting witness, and a copy of any such list, roll, articles, or agreement as aforesaid, certified under the hand of the consul of the nation or state to which such vessel shall belong to be a true copy, shall be received as *prima facie* evidence of the existence and contents thereof, and the certificate of the consul of any nation or state in which such list, roll, articles, or agreement shall have been made as to the true spirit, effect, and meaning thereof, according to the law of such nation or state, shall be received as *prima facie* evidence of the effect of such list, roll, articles, or agreement in all matters not inconsistent with the language thereof respectively, and in any proceeding under this Act, such Justices may, in their discretion, receive proof of matters as evidence, although not admissible according to the strict rules of law.

Expenses, by
whom payable

10. All expenses incidental to the apprehension, confinement, and removal of any seaman, under and by the virtue of the power and authority conferred by this Act, shall be paid by the consul, master, mate, or other person at whose instance such seaman shall have been apprehended, proceeded against, or removed.

Service of pro-
ceedings

11. The service of any summons or other matter in any legal proceedings under this Act, shall be good service if made personally on the person to be served, or if made by leaving such summons for him on board any vessel to which he may belong, with the person being or appearing to be in command or charge of such vessel.

H. ST. GEORGE ORD,
GOVERNOR.
