

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1845. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1845.

8 Victoria – Chapter 87

An Act to make provision for the regulation of Seamen shipped on board of or belonging to all Ships or Vessels registered in or belonging to the Province of New Brunswick, while such Ships or Vessels shall be within the precincts thereof. Passed 14th April 1845.

Whereas by an Act of Parliament made and passed in the seventh and eight years of the Reign of Her Majesty Queen Victoria, intituled *An Act to amend and consolidate the Laws relating to Merchant Seamen, and for keeping a Register of Seamen*, it is in and by the sixty first section thereof, among other things, enacted, that the said Act shall not extend or apply to any Ship registered in or belonging to any British Colony having a Legislature, or to the Crew of any Ship while such Ship shall be within the precincts of such Colony; by reason whereof, the provisions of the said Act, so far as the same relate to Ships or Vessels registered in or belonging to this Province of New Brunswick, or to the Crew of any such Ship while such Ship shall be within this Province, do not extend to the same;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the third year of the Reign of Her present Majesty, intituled *An Act to make more effectual provision for the regulation of Seamen in this Province*, be and the same is hereby repealed.

II. And be it enacted, That immediately after the passing of this Act, if any person or persons in this Province shall trust or give credit to any Mariner or Seaman belonging to any Ship or Vessel registered in or belonging to this Province, while such Ship shall be within the precincts of this Province, without the knowledge or allowance of the Master or Commander thereof, no Capias or other process of arrest of the person of such Mariner or Seaman, for any debt so contracted, shall be issued against or secured upon the person of such Mariner or Seaman, until he shall have performed the voyage which he may be then entered upon, and be discharged of the same; and every such process so issued shall be deemed and adjudged utterly void in Law; and any one Justice of the Court from which such process shall issue, or Justice of the Peace, in case the debt demanded may not exceed five pounds, to whom it shall be made to appear that any Mariner or Seaman is committed or detained, upon process granted for any such debt, contracted while he was engaged and actually entered and on pay on any voyage, shall forthwith order his release.

III. And be it enacted, That if any Mariner or Seaman having shipped himself on board of any such Ship or Vessel so within this Province, or which hath been launched, or is actually preparing for Sea, to proceed on any voyage, and upon pay, shall neglect his attendance or refuse to do his duty on board, or shall absent himself without leave from his said service, upon complaint thereof made on oath or affirmation (in the case of persons allowed by Law to affirm), by the Owner, Consignee, or Master, or other Officer of said Ship or Vessel, to any Justice of the Peace within the said County, such Justice is hereby empowered to cause such Mariner or Seaman to be forthwith

brought before him by Warrant, and upon conviction of his neglecting his attendance, or refusing to do his duty on board, or absenting himself without leave as aforesaid, to commit such Mariner or Seaman to prison, that he may be secured and forthcoming to proceed on the voyage he has so agreed for, and to be delivered by order of the Justice who committed him, or some other Justice in the same County; and all necessary charges attending his being so secured, and which have been actually paid by the said Owner or Master, may be deducted from such Mariner's or Seaman's wages, as the same may become due; and it shall be the duty of the Owner or the Master, or the Officer, or the Consignee, of such Ship or Vessel, complaining as aforesaid, to supply for the use of the said Mariner or Seaman, all necessary bedding, provisions, and maintenance, during the time of his detention in prison as aforesaid, and pay to the Gaoler of said prison his lawful fees on receiving and discharging such Mariner or Seaman, and in default thereof the said Gaoler may make the supplies aforesaid, and maintain an action therefor, together with the fees aforesaid, against the Owner of the said Vessel, or the Master, or the Officer or Consignee complaining as aforesaid, in any Court of Record, or if the sum shall not exceed five pounds, before any Justice of the Peace, according to the provisions of the Act, intituled *An Act to regulate proceedings before Justices of the Peace in Civil Suits*.

IV. And be it enacted, That if any Master or Commander of any such Ship or Vessel, or any other person or persons, shall hire, or engage, harbour or conceal any Mariner or Seaman who shall have signed any former contract or articles, knowing him to have deserted from, or to belong to any other Ship or Vessel in the Province, registered in and belonging to this Province, every such Master, Commander, or other person or persons so offending, and being thereof convicted before any two of Her Majesty's Justices of the Peace for the County where the offence is committed, upon the oath or affirmation (in the case of persons allowed by Law to affirm), of one or more credible witness or witnesses, or confession of the party charged, shall forfeit and pay such sum as the said Justices shall adjudge, not exceeding ten pounds and not less than two pounds, to be levied by Warrant of distress and sale of the offender's goods, under the hands and seals of such Justices; and when recovered, one moiety to be paid to the person so prosecuting for the same, and the other moiety to the County Treasurer where the offence is committed, for the use of such County; and if there be no goods or chattels of such offender whereon the said penalty may be levied, it shall and may be lawful for such Justices, by Warrant under their hands and seals, to commit such offender to the Gaol of the County where such offence shall be committed, there to remain for a space of time not exceeding sixty days, and not less than ten days; and such Mariner or Seaman who shall desert at any time during the voyage on which he is engaged by written contract or articles, shall, over and above the penalties and forfeitures to which he is now by Law subject, forfeit all the wages he may be entitled to on board the Vessel entered by him after such desertion, to be detained by the Master or Owner of such Vessel, to and for the use of the Owner of the Vessel from which he deserted, or to be sued for and recovered from him by such last mentioned Owner by action of Debt, or on the case in any Court of Record, or before any Justice of the Peace, if the sum claimed do not exceed five pounds, agreeably to the above recited Act for regulating the proceedings in Civil Suits.

V. And be it enacted, That if proof be made upon oath, or affirmation (in the case of persons allowed by Law to affirm), by the Owner, Agent, or Master of any such Ship or Vessel, before any

of Her Majesty's Justices of the Peace in this Province, that any Seaman or Mariner belonging to such Ship or Vessel, and who may have deserted or absented himself from the same, be kept or concealed on board of any other Ship or Vessel within any of the Harbours of this Province, or in any Tavern, Pot House, or other house or place within the County, for which such Justice shall be appointed; or if oath, or affirmation (in the case of persons allowed by Law to affirm), be made, that such Owner, Agent, or Master, hath good reason to suspect, and doth verily believe, that such Seaman or Mariner is so concealed as aforesaid, it shall and may be lawful for such Justice to issue his Warrant to any of the Constables or Peace Officers within the said County, to make search on board such Ship or Vessel, or in such Tavern, Pot House, or other place; and if such Seaman shall be found in such suspected place, that such Justice shall cause such Seaman to be delivered over to the Owner or Master of the Ship or Vessel to which such Seaman shall belong, to be carried on board such Ship or Vessel, or to be committed to prison, as directed in the third section of this Act.

VI. And whereas the practice of enticing Seamen to desert their Ships is greatly promoted by the encouragement given to the Tavern Keepers and others, by giving large sums to them for procuring Seamen; Be it enacted, That from and after the passing of this Act, it shall not be lawful for any Owner, Master or Agent of any Ship or Vessel registered in or belonging to this Province, or other person, either directly or indirectly, to pay or give any money, hire, or reward, to any Inn Holder, Tavern Keeper, Shop Keeper, or other person or persons, for the procuring of any Seaman or Seamen for any Ship or Vessel; and that it shall not be lawful for any Inn Holder, Tavern Keeper, Shop Keeper, or other person or persons, to receive any money, hire, or reward, either directly or indirectly, for the procuring such Seaman or Seamen; and that any money so to be paid shall be considered as paid without consideration, and may be recovered back by action or suit in any Court having competent jurisdiction; and that all bonds, notes, bills, agreements, promises, or engagements, for paying or giving any money, hire, or reward, for the above mentioned purposes, shall be absolutely null and void to all intents and purposes whatsoever.

VII. Provided always, and be it enacted, That no Mariner or Seaman shall be bound by entering or shipping himself on board of any Ship or Vessel belonging to and registered in this Province, while such Ship or Vessel shall be within the precincts thereof, unless the agreement shall be in writing, and declare what wages such Mariner or Seaman is to have for so long a time as he shall ship himself for, and also shall express the voyage for which such Mariner or Seaman was shipped, any thing hereinbefore contained to the contrary notwithstanding.

VIII. And be it enacted, That if any person or persons shall aid, entice or assist any Seaman to desert from any such Ship or Vessel, or shall provide or procure, or cause to be provided or procured, for any Seaman, the means or assistance to desert from any such Ship or Vessel, or shall aid or assist any Seamen in the removal of their hammocks, clothing, or apparel, from on board of any such Ship or Vessel, or shall convey any Seaman from any such Ship or Vessel, without the sanction of the Master or Commander of such Ship or Vessel, such person or persons so offending for either of the said causes, shall, upon conviction thereof, be liable to the same penalties and forfeitures as contained in the second section of this Act, to be recovered and applied as hereinbefore provided.

IX. And be it enacted, That if any person shall detain any Seaman or Mariner's clothes, chest, hammock, or other property, it shall and may be lawful for any two of Her Majesty's Justices of the Peace, upon complaint made to them by any such Seaman or Mariner on oath, or affirmation (in the case of persons allowed by Law to affirm), to issue their Warrant directed to any Constable of the County in which such Justices shall have jurisdiction, requiring the said Constable to bring such clothes, chest, hammock, or other property before them, and to summon the person so detaining the same to appear before them to answer for such detainer; and upon a full hearing of the case, on the oath, or affirmation (in the case of persons allowed by Law to affirm), of the parties and their witnesses, taken *viva voce*, or on proof that the person required to be summoned could not be found, and that a copy of such Warrant was left at his last place of abode, the said Justices shall and may make such order touching the articles mentioned in the said Warrant, and so brought before them, and the delivery thereof to the party complaining, or the restoration thereof to the party charged with detaining the same, as may be reasonable and just; and in case the articles cannot be found, on proof thereof, and on the appearance of the party charged, and hearing all parties as aforesaid, or proof of the service of a copy of the said Warrant as aforesaid, then the said Justices shall and may order payment of the value thereof, together with the costs of prosecution, if the same shall to them appear reasonable and just, to be levied by Warrant of distress and sale of the goods and chattels of the party upon whom such order shall be made, to the use of the said Seaman or Mariner; and in default thereof, the said person so detaining the same to be committed to Gaol, there to remain until the payment of the sum so ordered, and costs aforesaid: Provided always, that no proceedings shall be had unless the value of the articles alleged to be detained shall not exceed ten pounds; and provided also, that no Inn Holder or Tavern Keeper, or other such person, shall be allowed to make any claim before the said Justices for any lien on the said articles mentioned in the said Warrant, or any debt due from the said Seaman or Mariner, if it shall appear that the said Seaman or Mariner was at the time of such application a deserter from or belonging to any Ship or Vessel.

X. And be it enacted, That all prosecutions instituted for the recovery of any of the penalties imposed for the breach or breaches of any of the provisions of this Act, may be brought in the name of the Owner or Owners, Master, Agent, or Consignee, of the Ship or Vessel to which such Mariner or Mariners at the time of such breach or breaches shall belong, on account of whom such penalty or penalties shall be incurred.

XI. Provided always, and be it enacted, 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, and if inserted, the clause, engagement, or stipulation, shall be void.

XII. And be it enacted, 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 committed any act amounting to and treated by the Master as desertion, he shall be entitled immediately upon such entry, to have all his clothes and effects on board such Ship or Vessel delivered to him, and to receive from the Master the balance of the proportionate amount of his wages, up to the period of such entry, after deducting therefrom all charges such Seaman may then be liable to, under the provisions of this Act, to be paid either in money or by a bill on the Owner; all which clothes, effects, money, or bill, such Master is hereby required to deliver and pay to him accordingly; 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 Seamen; and every such Master, upon the delivery of such 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, endorsed on the agreement, and signed by the said Officer, which such Officer is hereby required to give.

XIII. And be it enacted, That this Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty.