



1852.

No. 24.

An Act for the more convenient engagement and discharge of Seamen, at Port Adelaide.

[Assented to 2nd December, 1852.]

WHEREAS it is expedient to make provision for the more convenient engagement and discharge of seamen, at Port Adelaide:

Be it therefore Enacted, by the Lieutenant-Governor of South Australia, with the advice and consent of the Legislative Council thereof, That the Trinity Board for the time being established at Port Adelaide shall be a Local Marine Board for the purposes of this Act.

Trinity Board to be a Local Marine Board.

2. And be it Enacted, That the Local Marine Board shall establish a shipping office at Port Adelaide, and may procure the requisite premises, and appoint, and from time to time remove and re-appoint a superintendent of such office, to be called the shipping master, with any necessary deputies, clerks, and servants, and fix and pay, and from time to time alter their salaries and wages, which shall not exceed at any time in the aggregate the amount of fees received by the shipping office, and regulate the mode of conducting business at such office, and have complete control over the same; and every shipping master shall obey the directions of the Local Marine Board; and all shipping masters, deputies, clerks, and servants shall before entering upon their duties give such security, if any, for the due performance thereof, as the Local Marine Board shall require; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before the shipping master.

Local Marine Board to appoint shipping office and shipping masters, &c.

3. And be it Enacted, That it shall be the general business of the

Business of such offices generally.

the shipping master appointed as aforesaid to afford facilities for engaging seamen, by keeping registers of their names and characters, to superintend and facilitate their engagement and discharge, in manner hereinafter mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties in respect of seamen as are hereby or may hereafter be committed to them.

Fees payable on engagement and discharge of seamen.

4. And be it Enacted, That fees shall be payable upon engagement and discharges which, in pursuance of this Act, are to be effected before the shipping master, and upon the other matters in which the assistance of the shipping master shall be required as hereinafter mentioned; and the Local Marine Board shall fix, and may alter the amount of such fees, and shall cause scales thereof to be prepared and to be conspicuously placed in the shipping office; and the shipping master, his deputies, clerks, and servants may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

Masters may pay fees, and deduct part from wages.

5. And be it Enacted, That every owner or master of a ship engaging or discharging any crew or seaman in the shipping office or before the shipping master, shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, notwithstanding anything in any Act contained, for the purpose of re-imbursing himself, deduct in respect of each such engagement and discharge, from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums to be specified by the Local Marine Board.

Shipping master to account to Local Marine Board.

6. And be it Enacted, That the shipping master shall once in every week render to the Local Marine Board an account of the fees received by him in virtue of his office, and at the same time pay over the amount to the said Board.

Penalty for taking greater fees than allowed by Act, or for acting as shipping master, not being duly appointed.

7. And be it Enacted, That any shipping master, deputy shipping master, clerk, or servant, who demands or receives any remuneration whatever, either directly or indirectly, for hiring, supplying, or providing any seaman for any merchant ship, except the lawful fees payable under this Act, shall for every such offence be liable to a penalty not exceeding Twenty Pounds, and that any person acting as shipping master or agent, not having been appointed by the Local Marine Board, shall for every such offence be liable to a penalty not exceeding Fifty Pounds.

Agreement to be signed with seaman engaged at Port Adelaide.

8. And be it Enacted, That every master of a ship, shall, on carrying any seaman from Port Adelaide to sea as one of his crew, unless there shall be a legal agreement already subsisting between them, enter into any agreement with him in the manner hereinafter mentioned, and every such agreement shall be in the form, and contain the particulars now required by law, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

9. And

9. And be it Enacted, That every agreement shall be signed in duplicate by the master, and by each seaman, in the presence of a shipping master, and such shipping master shall cause the agreement to be read over and explained to such seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature, and one part of every such agreement shall be retained by the shipping master, and the other part shall be delivered to the master.

Agreement to be signed in presence of shipping master.

10. And be it Enacted, That all seamen discharged at Port Adelaide, shall be discharged and receive their wages in the presence of the shipping master appointed under the provisions of this Act.

Seamen to be discharged in presence of shipping master.

11. And be it Enacted, That upon the completion before the shipping master of any discharge and settlement, the master or owner, and each seaman, shall respectively in the presence of the shipping master, sign a mutual release of all claims in respect of the past voyage or engagement, in a form to be sanctioned by the Local Marine Board, and the shipping master shall also sign and attest it, and shall transmit it to the Local Marine Board, and such release so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement, and a copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any person who may be a party thereto, and may require the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy, and in cases in which discharge and settlement before a shipping master is required, no payment, receipt, settlement, or discharge otherwise made, shall operate or be admitted as evidence of the release or satisfaction of any claim; and upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

Upon discharge of seamen, mutual releases to be given.

12. And be it Enacted, That every master shall, upon any discharge being effected before the shipping master, make and sign, in duplicate, in a form sanctioned by the Local Marine Board, a report of the conduct, character, and qualifications of the persons discharged, or may state, in a column to be left for that purpose in the said form, that he declines to give any opinion thereupon, and the shipping master shall retain one copy, and shall transmit the other to the Local Marine Board, and shall, if desired so to do by any seaman, give to him, or endorse on his certificate of discharge, a copy of so much of such report as concerns him.

Master to sign report of conduct of seamen discharged.

13. And be it Enacted, That every master shall, not less than twenty-four hours before paying off, or discharging, any seaman, deliver

Master, before discharging seaman, to give statement of wages, &c., to shipping master.

deliver to the shipping master a full account, in a form sanctioned by the Local Marine Board, of his wages, and of all deductions to be made therefrom, or on any account whatever, and no such deduction, except in respect of any matter happening after such delivery, shall be allowed unless a statement thereof is so made and delivered.

Penalties.

14. And be it Enacted, That any master or owner who, in any case in which discharge and settlement for wages are hereby directed to be made before a shipping master, discharges any seaman, or settles with him for his wages otherwise than as hereinbefore directed, shall, for each offence, be liable to a penalty not exceeding Ten Pounds; and any master who fails to deliver such account as hereinbefore required, at the time, and in the manner hereinbefore directed, shall, for each offence, be liable to a penalty not exceeding Five Pounds; and every person who makes, or procures to be made, or assists in making any false certificate, or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who fraudulently forges or alters, or procures to be forged or altered, or assists in forging or altering any such certificate or report, or who fraudulently makes use of any certificate or report which is forged, or altered, or does not belong to him, for each offence shall either be deemed guilty of a misdemeanor, or shall be liable summarily to a penalty not exceeding Fifty Pounds, or to imprisonment not exceeding three months, with or without hard labor, as the court or a Justice hearing the case may think fit.

Seaman making false report to forfeit a sum not exceeding £5.

15. And be it Enacted, That if any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall forfeit, out of the wages he may earn by virtue of such engagement, a sum not exceeding Five Pounds, and such sum shall be paid to the Local Marine Board, to be by them disposed of as herein directed in respect of penalties.

No vessel to be cleared if crew engaged otherwise than through shipping office.

16. And be it Enacted, That it shall not be lawful for the Collector of Customs to clear any vessel until he shall have received from the shipping master, a certificate to the effect that the agreements of this Act have been duly complied with.

Provision for prosecution of misdemeanors.

17. And be it Enacted, That all misdemeanors mentioned or created by this Act, may be prosecuted by such legal proceeding as is applicable in the like cases in any court of appropriate criminal jurisdiction in the Province of South Australia, and shall be punishable with fine and imprisonment, with or without hard labor, or both fine and imprisonment, as such court may think fit, and the court may, if it shall think fit, order payment of the costs and expenses of the prosecution, and all penalties and other sums of money, hereby made payable or recoverable, may be recovered with costs,

costs, and all offences hereby made punishable otherwise than solely as misdemeanors, may be prosecuted and punished, and the costs of such prosecution recovered by some appropriate summary proceeding before one or more Justice or Justices in any part of the Province of South Australia.

18. And be it Enacted, That, for the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same arose, or in any place in which the offender or person complained against may be.

Offences, where to be deemed to have been committed.

19. And be it Enacted, That service of any summons or other matter, in any legal proceeding 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 of such vessel.

Service of summons.

20. And be it Enacted, That any Justice or Justices, or other court, imposing any penalty under this Act, may, if he or they think fit, direct that a part, not exceeding one moiety thereof, shall be applied to compensate any person or persons for any wrong or damage which he may have sustained by the Act, or default in respect of which such penalty is imposed, and subject to such directions or specific application as aforesaid, all penalties recovered shall be paid over to Her Majesty her heirs and successors, for the public uses of the said Province in aid of the General Revenue thereof.

Application of penalties.

21. And be it Enacted, That no conviction, order, or other proceeding under this Act, shall be quashed or vacated for want of form.

Proceedings not to be quashed for want of form.

22. And be it Enacted, That no distress levied on any proceeding under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect of form in the summons, order, conviction, warrant of distress, or other proceeding relating thereto, nor shall any party be deemed a trespasser *ab initio*, on account of any irregularity afterwards committed by him, but any person aggrieved by such defect or irregularity, may recover satisfaction for the special damage in an action.

No person to be deemed a trespasser *ab initio*.

23. And be it Enacted, That the word "ship" shall include every description of sea-going vessel, and that the word "seaman" shall include every person (except masters, and apprentices duly indentured and registered) employed or engaged to serve in any capacity on board any ship.

Interpretation clause.

Commencement.

24. And be it Enacted, That this Act shall commence and take effect from the first day of January next ensuing, and may be extended to any port in this Province, by notification to that effect, by His Excellency the Lieutenant-Governor, published in the *South Australian Government Gazette*.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this first day
of December, one thousand eight hundred
and fifty-two.*

F. C. SINGLETON,
Clerk of the Legislative Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
December 2, 1852.