



## BRITISH COLUMBIA.

ANNO TRICESIMO QUARTO

# VICTORIÆ REGINÆ.

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No. 22.

### An Act to prevent Desertion from Merchant Ships.

[28th March, 1871.

**WHEREAS** it is expedient to repeal the "Merchant Ship Desertion Ordinance, 1870," and to make the following provisions in lieu thereof;

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

I. In the construction of this Act, whenever in describing or referring to any person or party, matter or thing, any word importing the masculine gender or singular number is used, the same shall be understood to include and shall be applicable to several persons and parties as well as one person or party, and females as well as males, and several matters and things as well as one matter or thing, unless it otherwise be provided, or there be something in the subject or context repugnant to such construction. The word "Ship" shall mean any Ship or Vessel other than those belonging to Her Majesty's Navy.

II. The "Merchant Ship Desertion Ordinance, 1870," is hereby repealed; provided, however, that such repeal shall not affect any liabilities incurred or existing before such repeal, but such remedies and punishments thereunder shall, notwithstanding such repeal, be capable of enforcement and imposition as if this Act had not been passed, but not further or otherwise.

III. Every person who by any means whatever, persuades or attempts to persuade, or incites or attempts to incite, any Seaman or Apprentice to neglect or refuse to join, or to Desert from his Ship, or otherwise to absent himself from his duty, and every person who harbors or secretes any Seaman or Apprentice who has deserted from his Ship, shall for each such offence in respect of each such Seaman or Apprentice incur a penalty not exceeding Two Hundred and Fifty Dollars, unless such person is able to prove to the satisfaction of the Stipendiary Magistrate or Justices of the Peace before whom he is summoned for an infraction of this Act, as hereinafter mentioned, that he had no means of knowing, and did not know, that the person in respect of whom the offence is charged was a Seaman or Apprentice.

IV. Every infraction of this Act shall be punishable, upon summary conviction before any Stipendiary Magistrate or any two Justices of the Peace of British Columbia, by a penalty not exceeding Two Hundred and Fifty Dollars, or in default of payment, by imprisonment for any period not exceeding Six Calendar Months, with

Preamble.

Repeal of "Merchant Ship Desertion Ordinance, 1870."

Inciting Seamen to desert, or secreting same, an offence.

Penalty.

Burden of proof on accused.

Punishable by summary conviction;

Merchant Ship Desertion Act.

with or without hard labour, at the discretion of the Magistrate or Justices convicting.

Provided, that nothing herein contained shall be construed to prevent the Magistrate or Justices, before whom any offender against any of the provisions of this Act shall be brought, from committing such offender for trial before any Court of Assize, or Court of Oyer and Terminer which may be held in the said Colony of British Columbia; and every such Court and every Chief Justice and Judge thereof, or presiding thereat, shall be and is hereby fully authorized and empowered to enquire into, hear, and determine any and every such offence, and upon the conviction before any such Court of any such offender so committed for trial, the offender so convicted shall be deemed guilty of a misdemeanor, and shall be sentenced to and punished by any fine not exceeding Five Hundred Dollars, or to imprisonment in one of Her Majesty's Gaols for any term not exceeding Two Years, and with or without hard labour, as in the discretion of the Court or Judge so convicting the justice of the case shall seem to require.

Provided, that nothing herein contained shall be construed to prevent any person committing an offence under this Act, from being arrested, tried, and convicted, under any Law or Statute, Imperial or Local, before any Court having jurisdiction over such offences, but so only that the same person shall not be punished twice for the same offence.

V. No conviction under this Act shall be removable by *certiorari*, or otherwise, into a Superior Court; nor shall any Warrant of Commitment upon a conviction under this Act be held to be invalid by reason of any informality or defect, if it be therein alleged that the offender has been convicted, and there be a good and valid conviction to sustain the same.

VI. This Act may be cited for all purposes as the "Merchant Ship Desertion Act, 1871."

Passed the Legislative Council the 27th day of March, A. D. 1871.

CHARLES GOOD, PHILIP J. HANKIN,  
Clerk of the Council. Speaker.

Assented to, in Her Majesty's name, this 28th day of March, 1871.

A. MUSGRAVE,  
Governor.

VICTORIA, B. C.:  
PRINTED AT THE GOVERNMENT PRINTING OFFICE.  
1871.