

TITLE LIII.

MERCHANT SEAMEN.

CHAPTER ONE.

SHIPPING-COMMISSIONERS.

<p>Sec. 4501. Appointment of shipping-commissioners.</p> <p>4502. Bond and oath of commissioners.</p> <p>4503. When officers of the customs shall act as commissioners.</p>	<p>Sec. 4504. Penalty for unlawfully acting as commissioner.</p> <p>4505. Clerks of commissioner.</p> <p>4506. Seal of commissioner.</p> <p>4507. Office of commissioner.</p> <p>4508. Duties of commissioner.</p>
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Appointment of shipping-commissioners.

7 June, 1872, c. 322, s. 1, v. 17, p. 262.

9 June, 1874, c. 260, v. 18, p. 64.

In re Shipping Commissioners Port of New York, 13 Blatch., 339.

Bond and oath of commissioner.

7 June, 1872, c. 322, ss. 2, 3, v. 17, p. 262.

When officers of the customs shall act as commissioners.

Ibid., s. 8, p. 263.

Penalty for unlawfully acting as commissioner.

Ibid., ss. 8, 12, 15 Jan., 1873, c. 35, v. 17, p. 410.

SEC. 4501. The several circuit courts within the jurisdiction of which there is a port of entry which is also a port of ocean navigation, shall appoint a commissioner for each such port which in their judgment may require the same, such commissioners to be termed shipping-commissioners; and may, from time to time, remove from office any commissioner whom the court may have reason to believe does not properly perform his duties, and shall then provide for the proper performance of his duties until another person is duly appointed in his place. Such courts shall regulate the mode of conducting business in the shipping-offices to be established by the shipping-commissioners as hereinafter provided; and shall have full and complete control over the same, subject to the provisions herein contained.

SEC. 4502. Every shipping-commissioner so appointed shall give bond to the United States, conditioned for the faithful performance of the duties of his office, for a sum, in the discretion of the circuit judge, of not less than five thousand dollars, with two good and sufficient sureties therefor, to be approved by such judge; and shall take and subscribe the following oath before entering upon the duties of his office: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and that I will truly and faithfully discharge the duties of a shipping-commissioner to the best of my ability, and according to law." Such oath shall be indorsed on the commission or certificate of appointment, and signed by him, and certified by the officer before whom such oath shall have been taken.

SEC. 4503. In any port in which no shipping-commissioner shall have been appointed, the whole or any part of the business of a shipping-commissioner shall be conducted by the collector or deputy collector of customs of such port; and in respect of such business such custom-house shall be deemed a shipping-office, and the collector or deputy collector of customs to whom such business shall be committed, shall, for all purposes, be deemed a shipping-commissioner within the meaning of this Title.

SEC. 4504. Any person other than a commissioner under this Title, who shall perform or attempt to perform, either directly or indirectly, the duties which are by this Title set forth as pertaining to a shipping-commissioner, shall be liable to a penalty of not more than five hundred dollars. Nothing in this Title, however, shall prevent the owner, or consignee, or master of any vessel except vessels bound from a port in the United States to any foreign port, other than vessels engaged in trade between the United States and the British North American possessions, or the West India Islands, or the republic of Mexico, and vessels of the burden of seventy-five tons or upward bound from a port on

the Atlantic to a port on the Pacific, or vice versa, from performing, himself, so far as his vessel is concerned, the duties of shipping-commissioner under this Title. Whenever the master of any vessel shall engage his crew, or any part of the same, in any collection-district where no shipping-commissioner shall have been appointed, he may perform for himself the duties of such commissioner.

SEC. 4505. Any shipping-commissioner may engage clerks to assist him in the transaction of the business of the shipping-office, at his own proper cost, and may, in case of necessity, depute such clerks to act for him in his official capacity; but the shipping-commissioner shall be held responsible for the acts of every such clerk or deputy, and will be personally liable for any penalties such clerk or deputy may incur by the violation of any of the provisions of this Title; and all acts done by a clerk, as such deputy, shall be as valid and binding as if done by the shipping-commissioner.

Clerks of commissioner.

7 June, 1872, c. 322, s. 3, v. 17, p. 262.

SEC. 4506. Each shipping-commissioner shall provide a seal with which he shall authenticate all his official acts, on which seal shall be engraved the arms of the United States, and the name of the port or district for which he is commissioned. Any instrument, either printed or written, purporting to be the official act of a shipping-commissioner, and purporting to be under the seal and signature of such shipping-commissioner, shall be received as presumptive evidence of the official character of such instrument, and of the truth of the facts therein set forth.

Seal of commissioner.

Ibid.

SEC. 4507. Every shipping-commissioner shall lease, rent, or procure, at his own cost, suitable premises for the transaction of business, and for the preservation of the books and other documents connected therewith; and these premises shall be styled the shipping-commissioner's office.

Office of commissioner.

Ibid., s. 4, p. 263.

SEC. 4508. The general duties of a shipping-commissioner shall be:

Duties of commissioner.

First. To afford facilities for engaging seamen by keeping a register of their names and characters.

Ibid.

Second. To superintend their engagement and discharge, in manner prescribed by law.

Third. To provide means for securing the presence on board at the proper times of men who are so engaged.

Fourth. To facilitate the making of apprenticeships to the sea service.

Fifth. To perform such other duties relating to merchant seamen or merchant ships as are now or may hereafter be required by law.

CHAPTER TWO.

SHIPMENT.

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4510. Indentures of apprentices to be produced to commissioner.	4518. Penalty for violating preceding section.
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4515. Penalty for knowingly shipping seamen without articles.	4523. Unlawful shipments void.
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SEC. 4509. Every shipping-commissioner appointed under this Title shall, if applied to for the purpose of apprenticing boys to the sea-service, by any master or owner of a vessel, or by any person legally qualified, give such assistance as is in his power for facilitating the making of such apprenticeships; but the shipping-commissioner shall ascertain that the boy has voluntarily consented to be bound, and that the parents or guardian of such boy have consented to such apprenticeship, and that

Apprentices.

7 June, 1872, c. 322, s. 9, v. 17, p. 263.

he has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom such boy is to be bound is a proper person for the purpose. Such apprenticeship shall terminate when the apprentice becomes eighteen years of age. The shipping-commissioner shall keep a register of all indentures of apprenticeship made before him.

Indenture of apprentice to be produced to commissioner.

Ibid., s. 10, p. 264.

SEC. 4510. The master of every foreign-going vessel shall, before carrying any apprentice to sea from any place in the United States, cause such apprentice to appear before the shipping-commissioner before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof, if any; and the name of the apprentice, with the date of the indenture and of the assignment or assignments thereof, if any, shall be entered on the agreement; which shall be in the form as near as may be given in the table marked "A" in the schedule annexed to this Title; and no such assignment shall be made without the approval of a commissioner, of the apprentice, and of his parents or his guardian. For any violation of this section, the master shall be liable to a penalty of not more than one hundred dollars.

Shipping-articles.

Ibid., s. 12, p. 264.
15 Jan., 1873, c.
35, v. 17, p. 410.

Slocum v. Swift,
2 Low., 212.

SEC. 4511. The master of every vessel bound from a port in the United States to any foreign port other than vessels engaged in trade between the United States and the British North American possessions, or the West India Islands, or the republic of Mexico, or of any vessel of the burden of seventy-five tons or upward, bound from a port on the Atlantic to a port on the Pacific, or vice versa, shall, before he proceeds on such voyage, make an agreement, in writing or in print, with every seaman whom he carries to sea as one of the crew, in the manner hereinafter mentioned; and every such agreement shall be, as near as may be, in the form given in the table marked A, in the schedule annexed to this Title, 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, and shall contain the following particulars:

First. The nature and, as far as practicable, the duration of the intended voyage or engagement, and the port or country at which the voyage is to terminate.

Second. The number and description of the crew, specifying their respective employments.

Third. The time at which each seaman is to be on board, to begin work.

Fourth. The capacity in which each seaman is to serve.

Fifth. The amount of wages which each seaman is to receive.

Sixth. A scale of the provisions which are to be furnished to each seaman.

Seventh. Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which may be sanctioned by Congress as proper to be adopted, and which the parties agree to adopt.

Eighth. Any stipulations in reference to advance and allotment of wages, or other matters not contrary to law.

Rules for shipping-articles.

7 June, 1872, c.
322, s. 13, v. 17, p.
265.

SEC. 4512. The following rules shall be observed with respect to agreements:

First. Every agreement, except such as are otherwise specially provided for, shall be signed by each seaman in the presence of a shipping-commissioner.

Second. When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-commissioner, and the other part shall contain a special place or form for the description and signatures of persons engaged subsequently to the first departure of the ship, and shall be delivered to the master.

Third. Every agreement entered into before a shipping-commissioner shall be acknowledged and certified under the hand and official seal of such commissioner. The certificate of acknowledgment shall be indorsed on or annexed to the agreement; and shall be in the following form:

“State of ———, County of ———:

“On this ——— day of ———, personally appeared before me, a shipping-commissioner in and for the said county, A. B., C. D., and E. F., severally known to me to be the same persons who executed the foregoing instrument, who each for himself acknowledged to me that he had read or had heard read the same; that he was by me made acquainted with the conditions thereof, and understood the same; and that, while sober and not in a state of intoxication, he signed it freely and voluntarily, for the uses and purposes therein mentioned.”

SEC. 4513. The [*preceding section*] [section forty-five hundred and eleven] shall not apply to masters of vessels where the seamen are by custom or agreement entitled to participate in the profits or result of a cruise or voyage, nor to masters of coastwise nor to masters of lake-going vessels that touch at foreign ports; but seamen may, by agreement, serve on board such vessels a definite time, or, on the return of any vessel to a port in the United States, may reshipe and sail in the same vessel on another voyage, without the payment of additional fees to the shipping-commissioner, by either the seamen or the master.

Exception as to shipping-articles.

7 June, 1872, c. 322, s. 12, v. 17, p. 264.

27 Feb., 1877, c. 69, v. 19, p. 252.

SEC. 4514. If any person shall be carried to sea, as one of the crew on board of any vessel making a voyage as hereinbefore specified, without entering into an agreement with the master of such vessel, in the form and manner, and at the place and times in such cases required, the vessel shall be held liable for each such offense to a penalty of not more than two hundred dollars. But the vessel shall not be held liable for any person carried to sea, who shall have secretly stowed away himself without the knowledge of the master, mate, or of any of the officers of the vessel, or who shall have falsely personated himself to the master, mate, or officers of the vessel, for the purpose of being carried to sea.

Penalty for shipping without agreement.

7 June, 1872, c. 322, s. 14, v. 17, p. 265.

SEC. 4515. If any master, mate, or other officer of a vessel knowingly receives, or accepts, to be entered on board of any merchant-vessel, any seaman who has been engaged or supplied contrary to the provisions of this Title, the vessel on board of which such seaman shall be found shall, for every such seaman, be liable to a penalty of not more than two hundred dollars.

Penalty for knowingly shipping seamen without articles.

Ibid., s. 14, p. 265.

The U. S. v. The Steamship City of Mexico, 11 Blatch., 489.

SEC. 4516. In case of desertion, or of casualty resulting in the loss of one or more seamen, the master may ship a number equal to the number of whose services he has been deprived by desertion or casualty, and report the same to the United States consul at the first port at which he shall arrive, without incurring the penalty prescribed by the two preceding sections.

Lost seamen may be replaced.

7 June, 1872, c. 322, s. 14, v. 17, p. 265.

SEC. 4517. Every master of a merchant-vessel who engages any seaman at a place out of the United States, in which there is a consular officer or commercial agent, shall, before carrying such seaman to sea, procure the sanction of such officer, and shall engage seamen in his presence; and the rules governing the engagement of seamen before a shipping-commissioner in the United States, shall apply to such engagements made before a consular officer or commercial agent; and upon every such engagement the consular officer or commercial agent shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise duly made.

Shipping seamen in foreign ports.

Ibid., s. 15.

SEC. 4518. Every master who engages any seaman in any place in which there is a consular officer or commercial agent, otherwise than as required by the preceding section, shall incur a penalty of not more than one hundred dollars, for which penalty the vessel shall be held liable.

Penalty for violating preceding section.

Ibid.

SEC. 4519. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, omitting signatures, to be placed or posted up in such part of the vessel as to be accessible to the crew; and on default shall be liable to a penalty of not more than one hundred dollars.

Posting copy of agreement.

Ibid., s. 20, p. 266.

Shipping-articles for vessels in coasting-trade.

20 July, 1790, c. 29, s. 1, v. 1, p. 131.
7 June, 1872, c. 322, s. 12, v. 17, p. 264.

Oliver v. Alexander, 6 Pet., 143; *Gladding v. Constant, Sprague*, 73; *Milligan v. Propeller B. F. Bruce*, Newb., 539; *U. S. v. Hamilton*, 1 Mas., 443; *U. S. v. Haines*, 5 Mas., 272.

Penalty for shipping without articles.

20 July, 1790, c. 29, s. 1, v. 1, p. 131.

Wope v. Hemmenway, Sprague, 300; *The Cypress, Blatch. & H.*, 83; *The Warrington, Blatch. & H.*, 335; *The Sarah Jane, Blatch. & H.*, 401; *Jameson v. Ship Regulus*, 1 Pet. Adm., 212; *Walton v. Ship Neptune*, 1 Pet. Adm., 142; *Snow v. Wope*, 2 Cur., 301; *Magee et al. v. The Moss*, Gilp., 219; *Bartlett v. Wyman*, 14 Johns., 260; *Johnson v. Dalton*, 1 Cow., 543.

Penalty for omitting to begin voyage.

20 July, 1790, c. 29, s. 2, v. 1, p. 131.
27 Feb., 1877, c. 69, v. 19, p. 252.

Unlawful shipments void.

20 July, 1840, c. 48, v. 5, p. 395.
7 June, 1872, c. 322, s. 15, v. 17, p. 265.

SEC. 4520. Every master of any vessel of the burden of fifty tons or upward, bound from a port in one State to a port in any other than an adjoining State, except vessels of the burden of seventy-five tons or upward, bound from a port on the Atlantic to a port on the Pacific, or vice versa, shall, before he proceeds on such voyage, make an agreement in writing or in print, with every seaman on board such vessel except such as shall be apprentice or servant to himself or owners, declaring the voyage or term of time for which such seaman shall be shipped.

SEC. 4521. If any master of such vessel of the burden of fifty tons or upward shall carry out any seaman or mariner, except apprentices or servants, without such contract or agreement being first made and signed by the seamen, such master shall pay to every such seaman the highest price or wages which shall have been given at the port or place where such seaman was shipped, for a similar voyage, within three months next before the time of such shipping, if such seaman shall perform such voyage; or if not, then for such time as he shall continue to do duty on board such vessel; and shall moreover be liable to a penalty of twenty dollars for every such seaman, recoverable, one-half to the use of the person prosecuting for the same, and the other half to the use of the United States. Any seaman who has not signed such a contract shall not be bound by the regulations nor subject to the penalties and forfeitures contained in this Title.

SEC. 4522. At the foot of every such contract to ship upon such a vessel of the burden of fifty tons or upward, there shall be a memorandum in writing of the day and the hour on which the seamen who ship and subscribe shall render themselves on board to begin the voyage agreed upon. If any such seaman shall neglect to render himself on board the vessel, for which he has shipped, at the time mentioned in such memorandum, and if the master of the vessel shall, on the day on which such neglect happened, make an entry in the log-book of such vessel, of the name of such seaman, and shall in like manner note the time that he so neglected to render himself, after the time appointed, every such seaman shall forfeit for every hour which he shall so neglect to render himself, one day's pay, according to the rate of wages agreed upon, to be deducted out of his wages. If any such seaman shall wholly neglect to render himself on board of such vessel, or having rendered himself on board, shall afterward desert and escape, so that the vessel proceed to sea without him, he shall be liable to pay to the master, owner, or consignee of the vessel, a sum equal to that paid to him by advance at the time of signing the contract, over and besides the sum so advanced, both which sums shall be recoverable in any court, or before any justice of any State, city, town, or county within the United States, which, by the laws thereof, have cognizance of debts of equal value, against such seaman or mariner, or his surety or sureties, in case he shall have given surety to proceed [on] the voyage.

SEC. 4523. All shipments of seamen made contrary to the provisions of any act of Congress shall be void; and any seaman so shipped may leave the service at any time, and shall be entitled to recover the highest rate of wages of the port from which the seaman was shipped, or the sum agreed to be given him at his shipment.

CHAPTER THREE.

WAGES AND EFFECTS.

<p>Sec. 4524. Commencement of wages. 4525. Wages not dependent on freight. 4526. Termination of wages by loss of vessel. 4527. Wages in case of improper discharge. 4528. Suspension of wages. 4529. Time for payment. 4530. Payment of wages at ports, &c. 4531. Allotment of wages. 4532. Advances. 4533. Recovery in case of unlawful advances. 4534. Discount of advance security. 4535. Loss of lien. 4536. No attachment or assignment of wages. 4537. Limit of sums recoverable during voyage.</p>	<p>Sec. 4538. Effects of deceased seamen. 4539. Proceedings in regard to effects. 4540. Penalty for neglect in regard to seamen's effects. 4541. Duties of consular officers in regard to deceased seamen's effects. 4542. Payment of wages in case of death within the United States. 4543. Payment to circuit court. 4544. Distribution of seamen's money and effects by circuit court. 4545. Unclaimed wages and effects of deceased seamen. 4546. Summons for non-payment of wages. 4547. Libel for wages. 4548. Wages payable in gold.</p>	<p>Commencement of wages. <hr/>7 June, 1872, c. 322, s. 30, v. 17, p. 268.—The <i>Herman</i>, 1 <i>Low.</i>, 515. <hr/>Wages not dependent on freight. <i>Ibid.</i>, s. 32. <hr/>Termination of wages by loss of vessel. <i>Ibid.</i>, s. 33, p. 269. <hr/>Wages in case of improper discharge. <i>Ibid.</i>, s. 21, p. 266. <hr/>Suspension of wages. <i>Ibid.</i>, s. 34, p. 269. <hr/>Time for payment. <hr/>20 July, 1790, c. 29, s. 6, v. 1, p. 133. 7 June, 1872, c. 322, s. 35, v. 17, p. 269.</p>
<p>SEC. 4524. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.</p>		
<p>SEC. 4525. No right to wages shall be dependent on the earning of freight by the vessel; but every seaman or apprentice who would be entitled to demand and receive any wages if the vessel on which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same of the master or owner in personam, notwithstanding that freight has not been earned. But in all cases of wreck or loss of vessel, proof that any seaman or apprentice has not exerted himself to the utmost to save the vessel, cargo, and stores, shall bar his claim.</p>		
<p>SEC. 4526. In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the wreck or loss of the vessel, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period.</p>		
<p>SEC. 4527. Any seaman who has signed an agreement and is afterward discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, a sum equal in amount to one month's wages as compensation, and may, on adducing evidence satisfactory to the court hearing the case, of having been improperly discharged, recover such compensation as if it were wages duly earned.</p>		
<p>SEC. 4528. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, after the time fixed by the agreement for him to begin work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offense committed by him.</p>		
<p>SEC. 4529. The master or owner of every vessel making voyages from a port on the Atlantic to a port on the Pacific, or vice versa, shall pay to every seaman his wages, within two days after the termination of the agreement, or at the time such seaman is discharged, whichever first happens; and, in the case of vessels making foreign voyages, within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and in all cases the seaman shall, at the time of his discharge, be entitled to be paid, on account, a sum equal to one-fourth part of the balance due to him. Every</p>		

master or owner who neglects or refuses to make payment in manner hereinbefore mentioned, without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods; which sum shall be recoverable as wages in any claim made before the court. But this section shall not apply to the masters or owners of any vessel the seamen on which are entitled to share in the profits of the cruise or voyage.

Payment of wages at ports, &c.

20 July, 1790, c. 29, s. 6, v. 1, p. 133.

SEC. 4530. Every seaman shall be entitled to receive from the master of the vessel to which he belongs, one-third part of the wages which shall be due to him at every port where such vessel shall unlade and deliver her cargo before the voyage is ended, unless the contrary be expressly stipulated in the contract; and as soon as the voyage is ended, and the cargo or ballast is fully discharged at the last port of delivery, he shall be entitled to the wages which shall be then due.

Allotment of wages.

7 June, 1872, c. 322, s. 16, v. 17, p. 266.

SEC. 4531. All stipulations for the allotment of any part of the wages of a seaman, during his absence, which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made, and the persons to whom such payments are to be made.

Advances.

Ibid., s. 17.

SEC. 4532. No advance of wages shall be made, or advance security given to any person, but to the seaman himself, or to his wife or mother; and no advance of wages shall be made, or advance security given, unless the agreement contains a stipulation for the same, and an accurate statement of the amount thereof; and no advance wages or advance security shall be given to any seaman except in the presence of the shipping-commissioner.

Recovery in case of unlawful advance.

Ibid., s. 18.

SEC. 4533. If any advance of wages is made or advance security given to any seaman in any such manner as to constitute a breach of any of the provisions of the two preceding sections, the wages of such seaman shall be recoverable by him, as if no such advance had been made or promised; and in the case of any advance security so given, no person shall be sued thereon, unless he was a party to such breach.

Discount of advance security.

Ibid., s. 19.

SEC. 4534. Whenever any advance security is discounted for any seaman, such seaman shall sign or set his mark to a receipt indorsed on the security, stating the sum actually paid or accounted for to him by the person discounting the same; and if the seaman sails in the vessel from the port of departure mentioned in the security, and is then duly earning his wages, or is previously discharged with the consent of the master, but not otherwise, the person discounting the security may, ten days after the final departure of the vessel from the port of departure mentioned in the security, sue for and recover the amount promised by the security, with costs, either from the owner or from any agent who has drawn or authorized the drawing of the security; and in any such proceeding it shall be sufficient for such person to prove that the security was given by the owner or master, or some other authorized agent, and that the same was discounted to and received by the seaman; and the seaman shall be presumed to have sailed in the vessel from such port, and to be duly earning his wages, unless the contrary is proved.

Loss of lien.

Ibid., s. 31, p. 268.

SEC. 4535. No seaman shall, by any agreement other than is provided by this Title, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Title, and every stipulation by which any seaman consents to abandon his right to his wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

No attachment or assignment of wages.

Ibid., s. 61, p. 276.

SEC. 4536. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of wages, or of salvage, made prior to the accruing thereof, shall bind the party

making the same, except such advance securities as are authorized by this Title.

SEC. 4537. No sum exceeding one dollar shall be recoverable from any seaman, by any one person, for any debt contracted during the time such seaman shall actually belong to any vessel, until the voyage for which such seaman engaged shall be ended.

Limit of sum recoverable during voyage.

20 July, 1790, c. 29, s. 4, v. 1, p. 133.

Effects of deceased seamen.

7 June, 1872, c. 322, s. 43, v. 17, p. 271.

SEC. 4538. Whenever any seaman or apprentice belonging to or sent home on any merchant vessel, whether a foreign-going or domestic vessel, employed on a voyage which is to terminate in the United States, dies during such voyage, the master shall take charge of all moneys, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of such clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log-book, and cause it to be attested by the mate and one of the crew, containing the following particulars:

First. A statement of the amount of money so left by the deceased.

Second. In case of a sale, a description of each article sold, and the sum received for each.

Third. A statement of the sum due to deceased as wages, and the total amount of deductions, if any, to be made therefrom.

SEC. 4539. In cases embraced by the preceding section, the following rules shall be observed:

Proceedings in regard to effects of deceased seamen.

Ibid., s. 44.

First. If the vessel proceeds at once to any port in the United States, the master shall, within forty-eight hours after his arrival, deliver any such effects remaining unsold, and pay any money which he has taken charge of, or received from such sale, and the balance of wages due to the deceased, to the shipping-commissioner at the port of destination in the United States.

Second. If the vessel touches and remains at some foreign port before coming to any port in the United States, the master shall report the case to the United States consular officer there, and shall give to such officer any information he requires as to the destination of the vessel and probable length of the voyage; and such officer may, if he considers it expedient so to do, require the effects, money, and wages to be delivered and paid to him, and shall, upon such delivery and payment, give to the master a receipt; and the master shall within forty-eight hours after his arrival at his port of destination in the United States produce the same to the shipping-commissioner there. Such consular officer shall, in any such case, indorse and certify upon the agreement with the crew the particulars with respect to such delivery and payment.

Third. If the consular officer does not require such payment and delivery to be made to him, the master shall take charge of the effects, money, and wages, and shall, within forty-eight hours after his arrival at his port of destination in the United States, deliver and pay the same to the shipping-commissioner there.

Fourth. The master shall, in all cases in which any seaman or apprentice dies during the voyage or engagement, give to such officer or shipping-commissioner an account, in such form as they may respectively require, of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified by an entry in the official log-book, if there be any; and by such other vouchers, if any, as may be reasonably required by the officer or shipping-commissioner to whom the account is rendered.

Fifth. Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United States, the shipping-commissioner shall grant to the master a certificate to that effect. No officer of customs shall clear any foreign-going vessel without the production of such certificate.

SEC. 4540. Whenever any master fails to take such charge of the money or other effects of a seaman or apprentice during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages, or effects

Penalty for neglect in regard to seaman's effects.

Ibid., s. 45.

of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as is above directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the circuit court in whose jurisdiction such port of destination is situate, and shall pay and deliver the same accordingly; and he shall, in addition, for every such offense, be liable to a penalty of not more than treble the value of the money or effects, or, if such value is not ascertained, not more than two hundred dollars; and if any such money, wages, or effects are not duly paid, delivered, and accounted for by the master, the owner of the vessel shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the money and value, be liable to the same penalty which is incurred by the master for a like offense; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the courts and by the modes of proceeding by which seamen are enabled to recover wages due to them.

Duties of consular officers in regard to deceased seaman's effects.

Ibid., s. 46, p. 272.

SEC. 4541. Whenever any such seaman or apprentice dies at any place out of the United States, leaving any money or effects not on board of his vessel, the consular officer of the United States at or nearest the place shall claim and take charge of such money and effects, and shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions of this Title, and shall quarterly remit to the district judge for the district embracing the port from which such vessel sailed, or the port where the voyage terminates, all moneys belonging to or arising from the sale of the effects or paid as the wages of any deceased seamen or apprentices which have come to his hands; and shall render such accounts thereof as the district judge requires.

Payment of wages in case of death within the United States.

Ibid., s. 47.

SEC. 4542. Whenever any seaman or apprentice dies in the United States, and is, at the time of his death, entitled to claim from the master or owner of any vessel in which he has served, any unpaid wages or effects, such master or owner shall pay and deliver, or account for the same, to the shipping-commissioner at the port where the seaman or apprentice was discharged, or was to have been discharged.

Payment to circuit court.

Ibid., s. 48.

SEC. 4543. Every shipping-commissioner in the United States shall, within one week from the date of receiving any such money, wages, or effects of any deceased seaman or apprentice, pay, remit, or deliver to the circuit court of the circuit in which he resides, the money, wages, or effects, subject to such deductions as may be allowed by the circuit court for expenses incurred in respect to such money and effects; and should any commissioner fail to pay, remit, and deliver the same to the circuit court, within the time hereinbefore mentioned, he shall incur a penalty of not more than treble the value of such money and effects.

Distribution of seaman's money and effects by circuit court.

Ibid., s. 49.

SEC. 4544. If the money and effects of any seaman or apprentice paid, remitted, or delivered to the circuit court, including the moneys received for any part of his effects which have been sold, either before delivery to the circuit court, or by its directions, do not exceed in value the sum of three hundred dollars, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect to the seaman or apprentice, or of his money and effects, as the said court thinks fit to allow, the court may pay and deliver the said money and effects to any claimants who can prove themselves either to be his widow or children, or to be entitled to the effects of the deceased under his will, or under any statute, or at common law, or to be entitled to procure probate, or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or may, if he thinks fit so to do, require probate, or letters of administration or confirmation, to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and if such money and effects exceed in value the sum of three hundred

dollars, then, subject to deduction for expenses, the court shall pay and deliver the same to the legal personal representatives of the deceased.

SEC. 4545. When no claim to the wages or effects of a deceased seaman or apprentice, received by a circuit court, is substantiated within six years after the receipt thereof by the court, it shall be in the absolute discretion of the court, if any subsequent claim is made, either to allow or refuse the same. Such courts shall, from time to time, pay any moneys arising from the unclaimed wages and effects of deceased seamen, which, in their opinion, it is not necessary to retain for the purpose of satisfying claims, into the Treasury of the United States, and such moneys shall form a fund for, and be appropriated to, the relief of sick and disabled and destitute seamen belonging to the United States merchant marine service.

SEC. 4546. Whenever the wages of any seaman are not paid within ten days after the time when the same ought to be paid according to the provisions of this Title, or any dispute arises between the master and seamen touching wages, the district judge for the judicial district where the vessel is, or in case his residence be more than three miles from the place, or he be absent from the place of his residence, then, any judge or justice of the peace, or any commissioner of a circuit court, may summon the master of such vessel to appear before him, to show cause why process should not issue against such vessel, her tackle, apparel, and furniture, according to the course of admiralty courts, to answer for the wages.

Summons for non-payment of wages.
20 July, 1790, c. 29, s. 6, v. 1, p. 133.
23 Aug., 1842, c. 188, s. 1, v. 5, p. 517.
The steamboat Thomas Jefferson, 10 Wh., 428; The Cypress, Blatch & H., 83; The Cadmus, Blatch. & H., 139; The Warrington, Blatch. & H., 335; Freeman v. Baker, Blatch. & H., 372; The Phebe, Ware, 367; The Schooner David Faust, 1 Ben., 183; Whiteman v. The Ship Neptune, 1 Pet. Adm., 183; The Commerce, Sprague, 34; Collins v. Nickerson, Sprague, 126; The Ship William Jarvis, Sprague, 485; Kief & Lang v. The Steamboat London, Newb., 6; The Schooner Eagle, Olc., 232.

SEC. 4547. If the master against whom such summons is issued neglects to appear, or, appearing, does not show that the wages are paid, or otherwise satisfied or forfeited, and if the matter in dispute is not forthwith settled, the judge or justice or commissioner shall certify to the clerk of the district court that there is sufficient cause of complaint whereon to found admiralty process, and thereupon the clerk of such court shall issue process against the vessel, and the suit shall be proceeded on in the court, and final judgment shall be given according to the usual course of admiralty courts in such cases. In such suit all the seamen having cause of complaint of the like kind against the same vessel, shall be joined as complainants; and it shall be incumbent on the master to produce the contract and log-book, if required, to ascertain any matters in dispute; otherwise the complainants shall be permitted to state the contents thereof, and the proof of the contrary shall lie on the master. But nothing herein contained shall prevent any seaman from maintaining any action at common law for the recovery of his wages, or having immediate process out of any court having admiralty jurisdiction, wherever any vessel may be found, in case she shall have left the port of delivery where her voyage ended, before payment of the wages, or in case she shall be about to proceed to sea before the end of the ten days next after the delivery of her cargo or ballast.

SEC. 4548. Moneys paid under the laws of the United States, by direction of consular officers or agents, at any foreign port or place, as wages, extra or otherwise, due American seamen, shall be paid in gold or its equivalent, without any deduction whatever, any contract to the contrary notwithstanding.

Unclaimed wages and effects of deceased seamen.

Ibid., s. 50, p. 273.

Summons for non-payment of wages.

20 July, 1790, c. 29, s. 6, v. 1, p. 133.
23 Aug., 1842, c. 188, s. 1, v. 5, p. 517.

The steamboat Thomas Jefferson, 10 Wh., 428; The Cypress, Blatch & H., 83; The Cadmus, Blatch. & H., 139; The Warrington, Blatch. & H., 335; Freeman v. Baker, Blatch. & H., 372; The Phebe, Ware, 367; The Schooner David Faust, 1 Ben., 183; Whiteman v. The Ship Neptune, 1 Pet. Adm., 183; The Commerce, Sprague, 34; Collins v. Nickerson, Sprague, 126; The Ship William Jarvis, Sprague, 485; Kief & Lang v. The Steamboat London, Newb., 6; The Schooner Eagle, Olc., 232.

Libel for wages.

20 July, 1790, c. 29, s. 6, v. 1, p. 133.
23 Aug., 1842, c. 188, s. 1, v. 5, p. 517.

Oliver v. Alexander, 6 Pet., 143; The Trial, Blatch. & H., 94.

Wages payable in gold.

3 Mar., 1873, c. 265, p. 602.

CHAPTER FOUR.

DISCHARGE.

Sec.

4549. Mode of discharge.

4550. Account on discharge.

4551. Certificate of discharge.

Sec.

4552. Rules for settlement.

4553. Certificate of character.

Mode of discharge.

7 June, 1872, c. 322, s. 22, v. 17, p. 266.

SEC. 4549. All seamen discharged in the United States from merchant-vessels engaged in voyages from a port in the United States to any foreign port, or, being of the burden of seventy-five tons or upward, from a port on the Atlantic to a port on the Pacific, or vice versa, shall be discharged and receive their wages in the presence of a duly authorized shipping-commissioner under this Title, except in cases where some competent court otherwise directs; and any master or owner of any such vessel who discharges any such seaman belonging thereto, or pays his wages within the United States in any other manner, shall be liable to a penalty of not more than fifty dollars. [See § 5363.]

Account on discharge.

Ibid., s. 23, p. 267.

SEC. 4550. Every master shall, not less than forty-eight hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping-commissioner, to such shipping-commissioner, a full and true account of his wages, and all deductions to be made therefrom on any account whatsoever; and in default shall, for each offense, be liable to a penalty of not more than fifty dollars. No deduction from the wages of any seaman except in respect of some matter happening after such delivery shall be allowed, unless it is included in the account delivered; and the master shall, during the voyage, enter the various matters in respect to which such deductions are made, with the amounts of the respective deductions as they occur, in the official log-book, and shall, if required, produce such book at the time of the payment of wages, and, also, upon the hearing, before any competent authority, of any complaint or question relating to such payment.

Certificate of discharge.

Ibid., s. 24.

SEC. 4551. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of discharge, specifying the period of his service and the time and place of his discharge, in the form marked Table B in the schedule annexed to this Title; and every master who fails to sign and give to such seaman such certificate and discharge, shall, for each such offense, incur a penalty not exceeding fifty dollars. But whenever the master shall discharge his crew or any part thereof in any collection-district where no shipping-commissioner has been appointed, he may perform for himself the duties of such commissioner.

Rules for settlement.

Ibid., s. 24.

SEC. 4552. The following rules shall be observed with respect to the settlement of wages:

First. Upon the completion, before a shipping-commissioner, of any discharge and settlement, the master or owner and each seaman, respectively, in the presence of the shipping-commissioner, shall sign a mutual release of all claims for wages in respect of the past voyage or engagement, and the shipping-commissioner shall also sign and attest it, and shall retain it in a book to be kept for that purpose, provided both the master and seamen assent to such settlement, or the settlement has been adjusted by the shipping-commissioner.

Second. Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands for wages between the parties thereto, on account of wages, in respect of the past voyage or engagement.

Third. A copy of such release, certified under the hand and seal of such shipping-commissioner to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

Fourth. In cases in which discharge and settlement before a shipping-commissioner are required, no payment, receipt, settlement, or discharge otherwise made shall operate as evidence of the release or satisfaction of any claim.

Fifth. Upon payment being made by a master before a shipping-commissioner, the shipping-commissioner shall, if required, sign and give to such master a statement of the whole amount so paid; and such statement shall, between the master and his employer, be received as evidence that he has made the payments therein mentioned.

SEC. 4553. Upon every discharge effected before a shipping-commissioner, the master shall make and sign, in the form given in the table marked "B," in the schedule annexed to this Title, a report of the conduct, character, and qualifications of the persons discharged; or may state in such form, that he declines to give any opinion upon such particulars, or upon any of them; and the commissioner shall keep a register of the same, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him.

Certificate of
character.
Ibid., s. 28, p. 268.

CHAPTER FIVE.

PROTECTION AND RELIEF.

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4568. Allowance for reduction of provisions.	4586. Hospital dues of vessels sold abroad.
4569. Medicines.	4587. No enrollment without payment.
4570. Penalty for failure to keep medicines.	4588. Certificate of citizenship.
4571. Weights and measures.	4589. Protest upon impressment.
	4590. Penalty for neglecting to make protest.
	4591. List of certificates of citizenship.

SEC. 4554. Every shipping-commissioner shall hear and decide any question whatsoever between a master, consignee, agent, or owner, and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceedings which may be taken in the matter, before any court of justice, be deemed to be conclusive as to the rights of parties. And any document under the hand and official seal of a commissioner purporting to be such submission or award, shall be prima-facie evidence thereof.

Commissioner to
act as arbiter.
7 June, 1872, c.
322, s. 25, v. 17, p.
267.

SEC. 4555. In any proceeding relating to the wages, claims, or discharge of a seaman, carried on before any shipping-commissioner, under the provisions of this Title, such shipping-commissioner may call upon the owner, or his agent, or upon the master, or any mate, or any other member of the crew, to produce any log-books, papers, or other documents in their possession or power, respectively, relating to any matter in question in such proceedings, and may call before him and examine any of such persons, being then at or near the place, on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping-commissioner, does not produce any such books, papers, or documents, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable cause for such default, be liable to a penalty of not more than one hundred dollars for each offense; and, on application made by the shipping-commissioner, shall be further punished, in the discretion of the court, as in other cases of contempt of the process of the court.

Examination of
witnesses.
Ibid., s. 26.

Complaint that vessel is unseaworthy.

20 July, 1790, c. 29, s. 3, v. 1, p. 132.

Proceedings upon examination of vessel.

Ibid.

Penalty for refusal to proceed when vessel found seaworthy.

Ibid.

Appointment of inspectors by consul in foreign port.

20 July, 1840, c. 48, v. 5, p. 396.

29 July, 1850, c. 27, s. 6, v. 9, p. 441.

Coffin v. Weld, 2 Low., 81.

SEC. 4556. If the mate or first officer under the master, and a majority of the crew of any vessel, bound on a voyage to any foreign port, shall, after the voyage is begun, and before the vessel shall have left the land, discover that the vessel is too leaky, or is otherwise unfit in her crew, body, tackle, apparel, furniture, provisions, or stores, to proceed on the intended voyage, and shall require such unfitness to be inquired into, the master shall, upon the request of the mate or other officer and such majority, forthwith proceed to or stop at the nearest or most convenient port or place where such inquiry can be made, and shall there apply to the judge of the district court of that judicial district, if he shall there reside, or if not, to some justice of the peace of the city, town, or place, taking with him two or more of the crew who shall have made such request.

SEC. 4557. The judge or justice shall, upon such application of the master or commander, issue his precept directed to three persons in the neighborhood, the most skillful in maritime affairs that can be procured, requiring them to repair on board such vessel, and to examine the same in respect to the defects and insufficiencies complained of, and to make report to him, the judge or justice, as the case may be, in writing under their hands, or the hands of two of them, whether in any or in what respect the vessel is unfit to proceed on the intended voyage, and what addition of men, provisions, or stores, or what repairs or alterations in the body, tackle, or apparel will be necessary; and upon such report the judge or justice shall adjudge, and shall indorse on the report his judgment, whether the vessel is fit to proceed on the intended voyage; and if not, whether such repairs can be made or deficiencies supplied where the vessel then lies, or whether it is necessary for her to return to the port from whence she first sailed, to be there refitted; and the master and crew shall in all things conform to the judgment. The master or commander shall, in the first instance, pay all the costs of such view, report, and judgment, to be taxed and allowed on a fair copy thereof, certified by the judge or justice. But if the complaint of the crew shall appear, upon the report and judgment, to have been without foundation, the master or commander, or the owner or consignee of such vessel, shall deduct the amount thereof, and of reasonable damages for the detention, to be ascertained by the judge or justice, out of the wages growing due to the complaining seamen.

SEC. 4558. If after judgment that such vessel is fit to proceed on her intended voyage, or after procuring such men, provisions, stores, repairs, or alterations as may be directed, the seamen, or either of them, shall refuse to proceed on the voyage, it shall be lawful for any justice of the peace to commit, by warrant under his hand and seal, every such seaman who refuses to the common jail of the county, there to remain without bail or mainprise until he has paid double the sum advanced to him at the time of subscribing the contract for the voyage, together with such reasonable costs as are allowed by the justice, and inserted in the warrant; and the sureties of such seaman, in case he has given any, shall remain liable for such payment; nor shall any such seaman be discharged upon any writ of habeas corpus or otherwise, for want of any form of commitment, or other previous proceedings, until such sum is paid by him or his surety, if sufficient matter be made to appear, upon the return of such habeas corpus, and an examination then had, to detain him for the causes hereinbefore assigned.

SEC. 4559. Upon a complaint in writing, signed by the first, or the second and third officers and a majority of the crew, of any vessel while in a foreign port, that such vessel is in an unsuitable condition to go to sea, because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been, during the voyage, sufficient and wholesome, thereupon, in any of these or like cases, the consul or a commercial agent who may discharge any duties of a consul, shall appoint two disinterested, competent, practical men, acquainted with maritime affairs, to examine into the causes of

complaint, who shall, in their report, state what defects and deficiencies, if any, they find to be well founded, as well as what, in their judgment, ought to be done to put the vessel in order for the continuance of her voyage.

SEC. 4560. The inspectors appointed by any consul or commercial agent, in pursuance of the preceding section, shall have full power to examine the vessel and whatever is aboard of her, so far as is pertinent to their inquiry, and also to hear and receive any other proofs which the ends of justice may require; and if, upon a view of the whole proceedings, the consul or other commercial agent is satisfied therewith, he may approve the whole or any part of the report, and shall certify such approval; or if he dissents, he shall certify his reasons for dissenting.

SEC. 4561. The inspectors in their report shall also state whether, in their opinion, the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, or through mistake or accident, and in case it was by neglect or design, and the consul or other commercial agent approves of such finding, he shall discharge such of the crew as require it, each of whom shall be entitled to three months' pay in addition to his wages to the time of discharge; but if, in the opinion of the inspectors, the defects or deficiencies found to exist have been the result of mistake or accident, and could not, in the exercise of ordinary care, have been known and provided against before the sailing of the vessel, and the master shall, in a reasonable time, remove or remedy the causes of complaint, then the crew shall remain and discharge their duty; otherwise they shall, upon their request, be discharged, and receive each one month's wages in addition to their pay up to the time of discharge. [See §§ 1708, 1736.]

SEC. 4562. The master shall pay all such reasonable charges for inspection under such complaint as shall be officially certified to him under the hand of the consul or commercial agent; but in case the inspectors report that the complaint is without any good and sufficient cause, the master may retain from the wages of the complainants, in proportion to the pay of each, the amount of such charges, with such reasonable damages for detention on that account as the consul or commercial agent directing the inquiry may officially certify.

SEC. 4563. Every master who refuses to pay such wages and charges shall be liable to each person injured thereby in damages, to be recovered in any court of the United States in the district where such delinquent may reside or be found, and in addition thereto be punishable by a fine of one hundred dollars for each offense.

SEC. 4564. Every vessel belonging to a citizen of the United States, bound on a voyage across the Atlantic Ocean, shall, at the time of leaving the last port from whence she sails, have on board, well secured under deck, at least sixty gallons of water, one hundred pounds of salted flesh meat, and one hundred pounds of wholesome ship-bread, for every person on board such vessel, besides such other provisions, stores, and live-stock as shall by the master or passengers be put on board, and in like proportion for shorter or longer voyages.

Ship Elizabeth v. Rickers, 2 Paine, 291; *Pratt v. Thomas*, Ware, 439; *Coleman v. The Brig Harriet*, Bee, 80; *The Elizabeth Frith*, Blatch. & H., 195; *The Mary Paulina*, Sprague, 45; *Foster v. Sampson*, Sprague, 182; *Collins et al. v. Wheeler et al.*, Sprague, 188.

SEC. 4565. Any three or more of the crew of any merchant-vessel of the United States bound from a port in the United States to any foreign port, or being of the burden of seventy-five tons or upward, and bound from a port on the Atlantic to a port on the Pacific, or vice versa, may complain to any officer in command of any of the vessels of the United States Navy, or consular officer of the United States, or shipping-commissioner or chief officer of the customs, that the provisions or water for the use of the crew are, at any time, of bad quality, unfit for use, or deficient in quantity. Such officer shall thereupon examine the provisions or water, or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for

Report of inspectors.

20 July, 1840, c. 48, v. 5, p. 396.

Discharge of seamen on account of unseaworthiness of vessel.

Ibid.

Payment of charges for inspection.

Ibid.

Refusal to pay wages and charges; damages; penalty.

Ibid., p. 397.

Provisions.

20 July, 1790, c. 29, s. 9, v. 1, p. 135.

Sundry Mariners v. *The Ship Washington*, 1 Pet. Adm., 219; *Ferrara v. The Talent*, Crabbe, 216; *The*

Examination of provisions.

7 June, 1872, c. 322, s. 36, v. 17, p. 269.

use, or to be deficient in quantity, the person making such examination shall certify the same in writing to the master of the ship. If such master does not thereupon provide other proper provisions or water, where the same can be had, in lieu of any so certified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so certified to be insufficient in quantity, or uses any provisions or water which have been so certified as aforesaid to be of bad quality and unfit for use, he shall, in every such case, be liable to a penalty of not more than one hundred dollars; and upon every such examination the officers making or directing the same shall enter a statement of the result of the examination in the log-book, and shall send a report thereof to the district judge for the judicial district embracing the port to which such vessel is bound; and such report shall be received in evidence in any legal proceedings. [See § 5347.]

Forfeiture for
false complaint.

Ibid., s. 37.

SEC. 4566. If the officer to whom any such complaint, in regard to the provisions or the water, is made, certifies in such statement that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the master or owner, out of his wages, a sum not exceeding one week's wages.

Permission to
enter complaint.

Ibid., s. 38.

SEC. 4567. If any seamen, while on board any vessel, shall state to the master that they desire to make complaint, in accordance with the two preceding sections, in regard to the provisions or the water, to a competent officer, against the master, the master shall, if the vessel is then at a place where there is any such officer, so soon as the service of the vessel will permit, and if the vessel is not then at such a place, so soon after her first arrival at such place as the service of the vessel will permit, allow such seamen, or any of them, to go ashore, or shall send them ashore, in proper custody, so that they may be enabled to make such complaint; and shall, in default, be liable to a penalty of not more than one hundred dollars.

Allowance for re-
duction of provi-
sions.

Ibid., s. 39, p. 270.

SEC. 4568. If, during a voyage, the allowance of any of the provisions which any seaman has, by his agreement, stipulated for, is reduced, except in accordance with any regulations for reduction by way of punishment, contained in the agreement, and also for any time during which such seaman willfully, and without sufficient cause, refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore; or if it is shown that any of such provisions are, or have been during the voyage, bad in quality and unfit for use, the seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages:

First. If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding fifty cents a day.

Second. If his allowance is reduced by more than one-third of such quantity, a sum not exceeding one dollar a day.

Third. In respect of bad quality, a sum not exceeding one dollar a day.

But if it is shown to the satisfaction of the court before which the case is tried, that any provisions, the allowance of which has been reduced, could not be procured or supplied in sufficient quantities, or were unavoidably injured or lost, and that proper and equivalent substitutes were supplied in lieu thereof, in a reasonable time, the court shall take such circumstances into consideration, and shall modify or refuse compensation, as the justice of the case may require.

Medicines.

Ibid., s. 40.

The Phebe, Ware,
367; Freeman v.
Baker, Blatch. &
H., 376.

SEC. 4569. Every vessel belonging to a citizen of the United States, bound from a port in the United States to any foreign port, or being of the burden of seventy-five tons or upward, and bound from a port on the Atlantic to a port on the Pacific, or vice versa, shall be provided with a chest of medicines; and every sailing-vessel bound on a voyage across the Atlantic or Pacific Ocean, or around Cape Horn, or the Cape of Good Hope, or engaged in the whale or other fisheries, or in sealing, shall also be provided with, and cause to be kept, a sufficient quantity of lime or lemon juice, and also sugar and vinegar, or other anti-scorbu-

tics, to be served out to every seaman as follows: The master of every such vessel shall serve the lime or lemon juice, and sugar and vinegar, to the crew, within ten days after salt provisions mainly have been served out to the crew, and so long afterward as such consumption of salt provisions continues; the lime or lemon juice and sugar daily at the rate of half an ounce each per day; and the vinegar weekly, at the rate of half a pint per week for each member of the crew.

SEC. 4570. If, on any such vessel, such medicines, medical stores, lime or lemon juice, or other articles, sugar, and vinegar, as are required by the preceding section, are not provided and kept on board, as required, the master or owner shall be liable to a penalty of not more than five hundred dollars; and if the master of any such vessel neglects to serve out the lime or lemon juice, and sugar and vinegar in the case and manner directed, he shall for each such offense be liable to a penalty of not more than one hundred dollars; and if any master is convicted in either of the offenses mentioned in this section, and it appears that the offense is owing to the act or default of the owner, such master may recover the amount of such penalty, and the costs incurred by him, from the owner.

SEC. 4571. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, and in default shall, for every offense, be liable to a penalty of not more than fifty dollars.

SEC. 4572. Every vessel bound on any foreign voyage shall also be provided with at least one suit of woollen clothing for each seaman, for use during the winter months; and every such vessel shall be provided with fuel and a safe and suitable room in which a fire can be kept for the use of seamen.

SEC. 4573. Before a clearance is granted to any vessel bound on a foreign voyage or engaged in the whale-fishery, the master thereof shall deliver to the collector of the customs a list containing the names, places of birth and residence, and description of the persons who compose his ship's company; to which list the oath of the captain shall be annexed, that the list contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them; and the collector shall deliver him a certified copy thereof, for which the collector shall be entitled to receive the sum of twenty-five cents.

SEC. 4574. In all cases of private vessels of the United States sailing from a port in the United States to a foreign port, the list of the crew shall be examined by the collector for the district from which the vessel shall clear, and, if approved of by him, shall be certified accordingly. No person shall be admitted or employed on board of any such vessel unless his name shall have been entered in the list of the crew, approved and certified by the collector for the district from which the vessel shall clear. The collector, before he delivers the list of the crew, approved and certified, to the master or proper officer of the vessel to which the same belongs, shall cause the same to be recorded in a book by him for that purpose to be provided, and the record shall be open for the inspection of all persons, and a certified copy thereof shall be admitted in evidence in any court in which any question may arise under any of the provisions of this Title.

SEC. 4575. The following rules shall be observed with reference to vessels bound on any foreign voyage:

First. The duplicate list of the ship's company, required to be made out by the master and delivered to the collector of the customs, under section forty-five hundred and seventy-three, shall be a fair copy in one uniform handwriting, without erasure or interlineation.

Second. It shall be the duty of the owners of every such vessel to obtain from the [shipping-commissioner, or officer acting as such in] [collector of the customs of] the district from which the clearance is made,

Penalty for failure to keep medicines.

Ibid., s. 41.

Weights and measures.

Ibid., s. 42.

Clothing and fuel.

Ibid.

List of crew to be delivered to collector.

28 Feb., 1803, c. 9, s. 1, v. 2, p. 203.

4 April, 1840, c. 6, s. 2, v. 5, p. 370.

Taber v. U. S., 1 Story, 1.

Certificate to list.

3 Mar., 1813, c. 42, s. 3, v. 2, p. 809.

Rules as to list of crew.

20 July, 1840, c. 48, v. 5, pp. 394, 395, 397.

27 Feb., 1877, c. 69, v. 19, p. 252.

The Atlantic, Abb. Adm., 451; Lamb v. Briard,

Abb. Adm., 367; Miner v. Harbeck, Abb. Adm., 546; The Schooner Eagle, Olc., 232; The Ship Moslem, Olc., 239; Jordan v. Williams, 1 Curt., 69; Snow v. Wope, 2 Curt., 301; Campbell v. Steamer Uncle Sam, 1 McAll., 77.

a true and certified copy of the shipping-articles, containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

Third. These documents, which shall be deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, shall be produced by the master, and laid before any consul, or other commercial agent of the United States, whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.

Fourth. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, shall be deemed fraudulent alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with innocent purposes and the provisions of law which guard the rights of mariners.

Fifth. If any master of a vessel shall proceed on a foreign voyage without the documents herein required, or refuse to produce them when required, or to perform the duties imposed by this section, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, to be recovered in any court of the United States in the district where such delinquent may reside or be found, and in addition thereto be punishable by a fine of one hundred dollars for each offense.

Sixth. It shall be the duty of the boarding-officer to report all violations of this section to the collector of the port where any vessel may arrive, and the collector shall report the same to the Secretary of the Treasury and to the United States attorney in his district.

Bond for return of seamen.

28 Feb., 1803, c. 9, s. 1, v. 2, p. 203.

U. S. v. Hatch, 1 Paine, 336; Montell v. U. S., Taney, 24; Tingle v. Tucker, Abb. Adm., 519.

SEC. 4576. The master of every vessel bound on a foreign voyage or engaged in the whale-fishery, shall enter into bond, with sufficient security, in the sum of four hundred dollars, that he shall exhibit the certified copy of the list of the crew, to the first boarding-officer, at the first port in the United States at which he shall arrive on his return, and also produce the persons named therein to the boarding-officer; whose duty it shall be to examine the men with such list, and to report the same to the collector; and it shall be the duty of the collector at the port of arrival, where the same is different from the port from which the vessel originally sailed, to transmit a copy of the list so reported to him to the collector of the port from which such vessel originally sailed. But such bond shall not be forfeited on account of the master not producing to the first boarding-officer any of the persons contained in the list, who may be discharged in a foreign country with the consent of the consul, vice-consul, commercial agent, or vice-commercial agent there residing, certified in writing, under his hand and official seal, to be produced to the collector with the other persons composing the crew; nor on account of any such person dying or absconding, or being forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the collector.

Return of seamen.

28 Feb., 1803, c. 9, s. 4, v. 2, p. 204.

Matthews v. Offley, 3 Sumn., 115.

SEC. 4577. It shall be the duty of the consuls, vice-consuls, commercial agents, and vice-commercial agents, from time to time, to provide for the seamen of the United States, who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give. The seamen shall, if able, be bound to do duty on board the vessels in which they may be transported, according to their several abilities. [See §§ 1719, 1726, 5263.]

Penalty for refusal to receive seamen.

Ibid.

Matthews v. Offley, 3 Sumn., 115.

SEC. 4578. All masters of vessels belonging to citizens of the United States, and bound to some port of the same, are required to take such destitute seamen on board of their vessels, at the request of the consuls, vice-consuls, commercial agents, or vice-commercial agents, respectively, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed between the master and the consul or officer.

Every such master who refuses the same on the request or order of such consul or officer shall be liable to the United States in a penalty of one hundred dollars for each seaman so refused. The certificate of any such consul or officer, given under his hand and official seal, shall be presumptive evidence of such refusal, in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than two men to every one hundred tons burden of the vessel, on any one voyage. [See § 1719.]

SEC. 4579. Whenever distressed seamen of the United States are transported from foreign ports where there is no consular officer of the United States, to ports of the United States, there shall be allowed to the master or owner of each vessel, in which they are transported, such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable by the First Comptroller of the Treasury.

SEC. 4580. Upon the application of any seaman to a consular officer for a discharge, if it appears to such officer that he is entitled to his discharge under any act of Congress, or according to the general principles or usages of maritime law, as recognized in the United States, the officer shall discharge such seaman; and shall require from the master of the vessel from which such discharge shall be made, the payment of three months' extra wages, over and above the wages which may then be due to such seaman. When, however, after a full hearing of both parties, the cause of discharge is found to be the misconduct of the seaman, the consular officer may remit so much of the extra wages as would be, by section forty-five hundred and eighty-four, payable to the seaman.

[See §§ 1708, 1719, 1736.]

SEC. 4581. If any consular officer, when discharging any seaman, shall neglect to require the payment of and collect the extra wages required to be paid in the case of the discharge of any seaman, he shall be accountable to the United States for the full amount of their share of such wages, and to such seaman to the full amount of his share thereof; and if any seaman shall, after his discharge, have incurred any expense for board or other necessaries at the place of his discharge, before shipping again, such expense shall be paid out of the share of three months' wages to which he shall be entitled, which shall be retained for that purpose, and the balance only paid over to him. [See §§ 1719, 1736.]

SEC. 4582. Whenever a vessel belonging to a citizen of the United States is sold in a foreign country, and her company discharged, or when a seaman, a citizen of the United States, is, with his own consent, discharged in a foreign country, it shall be the duty of the master to produce to the consular officer, the certified list of his ship's company, and to pay such consul or officer, for every seaman so discharged, designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such seaman.

Caroline E. Kelly, 2 Abb. U. S., 160; Emerson v. Howland, 1 Mas., send, 4 Mas., 541; Bates v. Seabury, Sprague, 433; Pool v. Welsh, Gilp., 193; The Dawn, Daveis, 121; Wells v. Meldrum, Blatch. & H., 342; Ogden v. Orr, 12 Johns., 143; U. S. v. Parsons, 1 Low., 107; Hoffman et al., Yarrington, 1 Lowell, 168; Cls., 453.

SEC. 4583. No payment of extra wages shall be required upon the discharge of any seaman in cases where vessels are wrecked, or stranded, or condemned as unfit for service. If any consular officer, upon the complaint of any seaman that he has fulfilled his contract, or that the voyage is continued contrary to his agreement, is satisfied that the contract has expired, or that the voyage has been protracted by circumstances beyond the control of the master, and without any design on his part to violate the articles of shipment, then he may, if he deems it just, discharge the mariner without exacting the three months' additional pay. No payment of such extra wages, or any part thereof, shall be remitted in any case, except as allowed in this section.

SEC. 4584. Whenever any consular officer upon the discharge of any seaman demands or receives extra three months' wages for such seaman, two-thirds thereof shall be paid by such officer to the seaman so dis-

Additional allowance for transportation of destitute seamen.

28 Feb., 1811, c. 28, v. 2, p. 651.

Extra wages on discharge.

18 Aug., 1856, c. 127, s. 26, v. 11, p. 62.

3 Mar., 1873, c. 243, v. 17, p. 580.

Penalty for neglect to collect extra wages.

18 Aug., 1856, c. 127, s. 26, v. 11, p. 62.

Extra wages upon discharge, in case of sale.

28 Feb., 1803, c. 9, s. 3, v. 2, p. 203.

The Atlantic, Abb. Adm., 451; Montell v. U^s S., Taney, 24; The 45; Orne v. Town- Johns., 143; U. S. Pray's Case, 10 C.

When extra wages may be remitted.

20 July, 1840, c. 48, v. 5, p. 395.

18 Aug., 1856, c. 127, s. 26, v. 11, p. 62.

Disposal of extra wages.

28 Feb., 1803, c. 9, s. 3, v. 2, p. 203.
 20 July, 1840, c. 48, v. 5, p. 395.
 18 Aug., 1856, c. 127, s. 26, v. 11, p. 62.

Pray's Case, 10 C. Cls., 453.

Assessment of forty cents per month.

20 July, 1846, c. 60, s. 1, v. 9, p. 38.
 29 June, 1870, c. 169, s. 1, v. 16, p. 169.

10 Feb., 1871, Res. 27, s. 1, v. 16, p. 595.
 3 Mar., 1875, c. 156, ss. 1, 2, v. 18, p. 485.—Buckley v. Brown, 3 Wall., jr., 199.

Hospital-dues of vessel sold abroad.

29 April, 1864, c. 70, v. 13, p. 61.
 3 Mar., 1875, c. 156, s. 2, v. 18, p. 485.

No enrollment without payment.

20 July, 1846, c. 60, s. 1, v. 9, p. 38.
 29 June, 1870, c. 169, s. 2, v. 16, p. 169.
 10 Feb., 1871, Res. 27, s. 1, v. 16, p. 595.
 3 Mar., 1875, c. 156, ss. 1, 2, v. 18, p. 485.

Certificate of citizenship.

28 May, 1796, c. 36, s. 4, v. 1, p. 477.

charged, upon his engagement on board of any vessel to return to the United States. The remaining third shall be retained for the purpose of creating a fund for the payment of the passages of seamen, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of American seamen who may be destitute, and may be in such foreign port; and the several sums retained for such fund shall be accounted for with the Treasury every six months by the persons receiving the same. [See § 1719.]

SEC. 4585. There shall be assessed and collected by the collectors of customs at the ports of the United States, from the master or owner of every vessel of the United States arriving from a foreign port, or of every registered vessel employed in the coasting trade, and before such vessel shall be admitted to entry, the sum of forty cents per month for each and every seaman who shall have been employed on such vessel since she was last entered at any port of the United States; such sum such master or owner may collect and retain from the wages of such seamen. [See § 4903.]

SEC. 4586. Whenever a sale or transfer of any vessel of the United States is made in a foreign port or water, the consular officer of the United States within whose consulate or district the same is made, or in whose hands the papers of such vessel are, is required to collect of the master or agent of such vessel all moneys that shall have become due to the United States by virtue of the preceding section, and shall remain unpaid at the time of such sale or transfer; and such consular officer shall retain possession of the papers of such vessel until such money shall have been paid as herein provided; and in default of such payment the sale or transfer shall be void, excepting as against the vendor.

SEC. 4587. No collector shall grant to any vessel except canal-boats employed in navigating the canals within the United States, whose enrollment or license for carrying on the coasting trade has expired, a new enrollment or license, unless the master of such vessel shall have first rendered a true account to the collector of the number of seamen and the time they have been employed on such vessel, during the continuance of the license which has so expired, and shall have paid to such collector forty cents per month for every such seaman who shall have been employed; which sum the master is hereby authorized to retain out of the wages of such seaman. Whenever the master of any registered, enrolled, or licensed vessel of the United States renders a false account of the number of seamen so employed, or of the length of time they have severally been employed, as is herein required, he shall be liable to a penalty of fifty dollars, which shall be applied to, and shall make a part of, the general fund created for the relief of sick and disabled seamen; and all needful regulations for the mode of collecting the sums hereinbefore mentioned shall be prepared under the direction of the Secretary of the Treasury, by such person as by him may be designated.

SEC. 4588. The collector of every district shall keep a book or books, in which, at the request of any seaman, being a citizen of the United States of America, and producing proof of his citizenship, authenticated in the manner hereinafter directed, he shall enter the name of such seaman, and shall deliver to him a certificate, in the following form, that is to say: "I, A. B., collector of the district of D., do hereby certify, that E. F., an American seaman, aged ——— years, or thereabouts, of the height of ——— feet ——— inches, (describing the said seaman as particularly as may be,) has, this day, produced to me proof in the manner directed by law; and I do hereby certify that the said E. F. is a citizen of the United States of America. In witness whereof, I have hereunto set my hand and seal of office, this ——— day of ———." It shall be the duty of the collectors to file and preserve the proofs of citizenship so produced. For each certificate so delivered, the collectors shall be entitled to receive from the seaman applying for the same the sum of twenty-five cents. [See § 2174.]

SEC. 4589. The master of every vessel of the United States, any of the crew whereof shall have been impressed or detained by any foreign power, shall, at the first port at which such vessel arrives, if such impressment or detention happened on the high seas, or if the same happened within any foreign port, then in the port in which the same happened, immediately make a protest, stating the manner of such impressment or detention, by whom made, together with the name and place of residence of the person impressed or detained; distinguishing also whether he was an American citizen; and, if not, to what nation he belonged. Such master shall also transmit, by post or otherwise, every such protest made in a foreign country, to the nearest consul or agent, or to the minister of the United States resident in such country, if any such there be; preserving a duplicate of such protest, to be by him sent immediately after his arrival within the United States to the Secretary of State, together with information to whom the original protest was transmitted. In case such protest shall be made within the United States, or in any foreign country, in which no consul, agent, or minister of the United States resides, the same shall, as soon thereafter as practicable, be transmitted by such master, by post or otherwise, to the Secretary of State.

Protest upon impressment.

Ibid., s. 4.

SEC. 4590. The collectors of the districts of the United States shall, from time to time, make known the provisions of the two preceding sections to all masters of vessels of the United States entering or clearing at their several offices. The master of every such vessel shall, before he is admitted to an entry by any such collector, be required to declare on oath whether any of the crew of the vessel under his command have been impressed or detained, in the course of his voyage, and how far he has complied with the directions of the preceding section. Every master who willfully neglects or refuses to make the declarations herein required, or to perform the duties enjoined by the preceding section, shall be liable to a penalty of one hundred dollars. The collectors shall prosecute for any forfeiture that may be incurred under this section.

Penalty for neglecting to make protest.

Ibid., s. 6, p. 478.

SEC. 4591. The collector of every port of entry in the United States shall send a list of the seamen to whom certificates of citizenship have been granted, once every three months, to the Secretary of State, together with an account of such impressments or detentions, as shall appear, by the protests of the masters, to have taken place.

List of certificates of citizenship.

Ibid., s. 7.

CHAPTER SIX.

FEES OF SHIPPING-COMMISSIONERS.

Sec.
4592. Fees of commissioner.
4593. Payment of fees.

Sec.
4594. Limit of officer's compensation.
4595. Penalty for taking unlawful fees.

SEC. 4592. Fees not exceeding the sums specified in the tables marked "C" and "D" in the schedule annexed to this Title, shall be payable upon all engagements and discharges and apprenticeships effected before any shipping-commissioner. Each shipping-commissioner shall cause a scale of the fees payable to be prepared, and to be conspicuously placed in the shipping-office, and may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

Fees of commissioner.

7 June, 1872, c. 322, ss. 5, 9, v. 17, p. 263.

In re Shipping-Commissioners Port of New York, 13 Blatch., 339.

SEC. 4593. Every owner, consignee, agent, or master of a vessel engaging or discharging any seaman in a shipping-office, or before a shipping-commissioner, shall pay to the shipping-commissioner the whole of the fees hereby made payable in respect of such engagement or discharge; and may, for the purpose of in part re-imbursing himself, deduct, in respect to each such engagement or discharge, from the wages of all persons except apprentices, so engaged or discharged, and retain, any sums

Payment of fees.

Ibid., s. 6.

not exceeding the sums specified in that behalf in the table marked "E" in the schedule annexed to this Title.

Limit of officer's compensation.

SEC. 4594. In no case shall the salary, fees, and emoluments of any officer appointed under this Title be more than five thousand dollars per annum; and any additional fees shall be paid into the Treasury of the United States.

Ibid., s. 66, p. 277.

Penalty for taking unlawful fees.

SEC. 4595. Every shipping-commissioner, and every clerk or employé in any shipping-office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant-vessels, excepting the lawful fees payable under this Title, shall, for every such offense, be liable to a penalty of not more than two hundred dollars.

Ibid., s. 7, p. 263.

CHAPTER SEVEN.

OFFENSES AND PUNISHMENTS.

Sec.
4596. Various offenses by seamen; penalties.
4597. Entry of offenses in log-book.
4598. Deserters may be apprehended on justice's warrant.
4599. Arrest of seamen without warrant, when allowable.
4600. Reclamation and discharge of deserters by consular officers.
4601. Penalty for secreting seamen.
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4603. Enforcement of forfeitures.
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4605. Appropriation of wages to costs of conviction.
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4607. Penalty for soliciting seamen as lodgers.
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4609. Penalty for extortion for obtaining employment.
4610. Penalties and forfeitures, how recovered.
4611. Flogging abolished.
4612. Definitions, schedule and tables.

Various offenses by seamen; penalties.

SEC. 4596. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offenses, he shall be punishable as follows:

7 June, 1872, c. 322, s. 51, v. 17, p. 273.

First. For desertion, by imprisonment for not more than three months, and by forfeiture of all or any part of the clothes or effects he leaves on board, and of all or any part of the wages or emoluments which he has then earned.

The Hercules Sprague, 534; Cloutman v. Tunison, 1 Sumn., 373; The John Martin, 2 Abb. U. S., 172; Wood v. The Nimrod, Gilp., 83; Magee v. The Moss, Gilp., 219; Brower v. The Maiden, Gilp., 294; The Martha, Blatch. & H., 151; Freeman v. Baker, Blatch. & H., 372; The Brig Cadmus v. Matthews, 2 Paine, 229; The Schooner Phebe v. Dignum, 1 Wash., 48; The Bark Merrimac, 1 Ben., 490; The Schooner Catawanteak, 2 Ben., 189; The Brig Osceola, Olc., 451; Scott v. Rose, 2 Low., 381; U. S. v. McArdle, 2 Saw., 367.

Second. For neglecting and refusing, without reasonable cause, to join his vessel, or to proceed to sea in his vessel, or for absence without leave at any time within twenty-four hours of the vessel sailing from any port, either at the commencement or during the progress of any voyage; or for absence at any time without leave, and without sufficient reason, from his vessel, or from his duty, not amounting to desertion, or not treated as such by the master; by imprisonment for not more than one month, and also, at the discretion of the court, by forfeiture of his wages, of not more than two days' pay, and, for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Third. For quitting the vessel without leave after her arrival at her port of delivery, and before she is placed in security, by forfeiture out of his wages of not more than one month's pay.

Fourth. For willful disobedience to any lawful commands, by imprisonment for not more than two months, and also, at the discretion of the court, by forfeiture out of his wages of not more than four days' pay.

Fifth. For continued willful disobedience to lawful commands, or continued willful neglect of duty, by imprisonment for not more than six months, and also, at the discretion of the court, by forfeiture, for every twenty-four hours' continuance of such disobedience or neglect, of either a sum not more than twelve days' pay, or sufficient to defray any expenses which have been properly incurred in hiring a substitute.

Sixth. For assaulting any master or mate, by imprisonment for not more than two years. [See § 5359.]

Seventh. For combining with any others of the crew to disobey lawful commands, or to neglect duty, or to impede navigation of the vessel, or the progress of the voyage, by imprisonment for not more than twelve months. [See § 4590.]

Eighth. For willfully damaging the vessel, or embezzling or willfully damaging any of the stores or cargo, by forfeiture out of his wages, of a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, by imprisonment for not more than twelve months.

Ninth. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay such master or owner such a sum as is sufficient to re-imburse the master or owner for such loss or damage; and the whole or any part of his wages may be retained in satisfaction or on account of such liability; and he shall also be liable to imprisonment for a period of not more than twelve months.

SEC. 4597. Upon the commission of any of the offenses enumerated in the preceding section, an entry thereof shall be made in the official log-book, and shall be signed by the master, and by the mate or one of the crew; and the offender, if still in the vessel, shall, before her next arrival at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the entry has been so furnished, or the same has been so read over, together with the reply, if any, made by the offender, shall likewise be entered and signed in the same manner. In any subsequent legal proceedings the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the court hearing the case may, at its discretion, refuse to receive evidence of the offense. [See §§ 4290-4292.]

SEC. 4598. If any seaman who shall have signed a contract to perform a voyage shall, at any port or place, desert, or shall absent himself from such vessel, without leave of the master, or officer commanding in the absence of the master, it shall be lawful for any justice of the peace within the United States, upon the complaint of the master, to issue his warrant to apprehend such deserter, and bring him before such justice; and if it then appears that he has signed a contract within the intent and meaning of this Title, and that the voyage agreed for is not finished, or altered, or the contract otherwise dissolved, and that such seaman has deserted the vessel, or absented himself without leave, the justice shall commit him to the house of correction or common jail of the city, town, or place, to remain there until the vessel shall be ready to proceed on her voyage, or till the master shall require his discharge, and then to be delivered to the master, he paying all the cost of such commitment, and deducting the same out of the wages due to such seaman.

SEC. 4599. Whenever, either at the commencement of or during any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea in, any vessel in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master, or any mate, or the owner, or consignee, or shipping-commissioner, may, in any place in the United States, with or without the assistance of the local public officers or constables, who are hereby directed to give their assistance if required, and also at any place out of the United States, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon, in any case, and shall in case he so requires and it is practicable, convey him before any court of justice or magistrate of any State, city, town, or county, within the United States, authorized to take cognizance of offenses of like degree and kind, to be dealt with according to the provisions of law governing such cases; and may, for the purpose of conveying him before such court or magistrate, detain him in custody for a period not exceeding twenty-four hours, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board. If such apprehension appears to the court or magistrate

Entry of offense
in log-book.

7 June, 1872, c.
322, s. 52, v. 17, p.
274.

Deserters may
be apprehended
on justice's war-
rant.

20 July, 1790, c.
29, s. 7, v. 1, p. 134.

*Brower v. The
Maiden, Gilp., 294.*

Arrest of seamen
without warrant,
when allowable.

7 June, 1872, c.
322, s. 53, v. 17, p.
274.

before whom the case is brought to have been made on improper or on insufficient grounds, the master, mate, consignee, or shipping-commissioner who makes the same, or causes the same to be made, shall be liable to a penalty of not more than one hundred dollars; but such penalty, if inflicted, shall be a bar to any action for false imprisonment.

Reclamation and discharge of deserters by consular officers.

Ibid., s. 56, p. 275.

Penalty for secreting seamen.

20 July, 1790, c.

29, s. 4, v. 1, p. 133.

18 Feb., 1875, c.

80, r. 18, p. 320.

Penalty for drunkenness or neglect of duty.

7 June, 1872, c.

322, s. 54, v. 17, p.

274.

Enforcement of forfeitures.

Ibid., s. 56, p. 275.

Disposal of forfeitures.

Ibid., s. 55.

Stevenson v. Hare, 2 Saw., 583.

Appropriation of wages to costs of conviction.

Ibid., s. 57.

27 Feb., 1877, c.

69, v. 19, p. 252.

SEC. 4600. It shall be the duty of consular officers to reclaim deserters and discountenance insubordination by every means within their power; and where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end, in the most effectual manner. In all cases where deserters are apprehended, the consular officer shall inquire into the facts; and if he is satisfied that the desertion was caused by unusual or cruel treatment, the seaman shall be discharged, and receive, in addition to his wages to the time of the discharge, three months' pay; and the officer discharging him shall enter upon the crew-list and shipping-articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and subscribe his name thereto. [See § 1736.]

SEC. 4601. Whenever any person harbors or secretes any seaman belonging to any vessel, knowing him to belong thereto, he shall be liable to pay ten dollars for every day during which he continues so to harbor or secrete such seaman, recoverable one-half to the use of the person [persecuting] [prosecuting] for the same, the other half to the use of the United States.

SEC. 4602. Any master of, or any seaman or apprentice belonging to, any merchant-vessel, who, by willful breach of duty, or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to such vessel, or tending immediately to endanger the life or limb of any person belonging to or on board of such vessel; or who, by willful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall, for every such offense, be deemed guilty of a misdemeanor, punishable by imprisonment for not more than twelve months.

SEC. 4603. Any question concerning the forfeiture of, or deductions from, the wages of any seaman or apprentice, may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding the offense in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

SEC. 4604. All clothes, effects, and wages which, under the provisions of this Title, are forfeited for desertion, shall be applied, in the first instance, in payment of the expenses occasioned by such desertion, to the master or owner of the vessel from which the desertion has taken place, and the balance, if any, shall be paid by the master or owner to any shipping-commissioner resident at the port at which the voyage of such vessel terminates; and the shipping-commissioner shall account for and pay over such balance to the judge of the circuit court within one month after the commissioner receives the same, to be disposed of by him in the same manner as is prescribed for the disposal of the money, effects, and wages of deceased seamen. Whenever any master or owner neglects or refuses to pay over to the shipping-commissioner such balance, he shall be liable to a penalty of double the amount thereof, recoverable by the commissioner in the same manner that seamen's wages are recovered. In all other cases of forfeiture of wages, the forfeiture shall be for the benefit of the master or owner by whom the wages are payable.

SEC. 4605. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has, in the course of the voyage, been convicted of any offense by any competent tribunal, and rightfully punished therefor, by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such [seamen] [seaman,] not exceeding fifteen dollars, to be applied in re-imbursing any costs

properly incurred by the master in procuring such conviction and punishment.

SEC. 4606. Every person who, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, without permission of the master, shall, for every such offense, be punishable by a fine of not more than two hundred dollars, and by imprisonment for not more than six months; and the master of such vessel may take any such person so going on board into custody, and deliver him up forthwith to any constable or police officer, to be by him taken before any justice of the peace, to be dealt with according to the provisions of this Title.

Penalty for boarding vessels before arrival.

7 June, 1872, c. 322, s. 62, v. 17, p. 276.

U. S. v. Anderson, 10 Blatch., 227.

SEC. 4607. If, within twenty-four hours after the arrival of any vessel at any port in the United States, any person, then being on board such vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offense, be punishable by a fine of not more than fifty dollars, or by imprisonment for not more than three months.

Penalty for soliciting seaman as lodgers.

7 June, 1872, c. 322, s. 63, v. 17, p. 276.

SEC. 4608. No seaman in the merchant-service shall wear any sheath-knife on shipboard. It shall be the duty of the master of any vessel registered, enrolled, or licensed under the laws of the United States, and of the person entering into contract for the employment of a seaman upon any such vessel, to inform every person offering to ship himself of the provisions of this section, and to require his compliance therewith, under a penalty of fifty dollars for each omission, to be sued for and recovered in the name of the United States, under the direction of the Secretary of the Treasury; one half for the benefit of the informer, and the other half for the benefit of the fund for the relief of sick and disabled seamen.

Carrying sheath-knives prohibited.

27 July, 1866, c. 286, ss. 1, 2, v. 14, p. 304.

SEC. 4609. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever other than the fees hereby authorized, for providing him with employment, he shall, for every such offense, be liable to a penalty of not more than one hundred dollars.

Penalty for extortion for obtaining employment.

7 June, 1872, c. 322, s. 11, v. 17, p. 264.

SEC. 4610. All penalties and forfeitures imposed by this Title, for the recovery whereof no specific mode is hereinbefore provided, may be recovered, with costs, in any circuit court of the United States, at the suit of any district attorney of the United States, or at the suit of any person by information to any district attorney in any port of the United States, where or near to where the offense is committed or the offender is found; and if a conviction is had, and the sum imposed as a penalty by the court is not paid either immediately after the conviction, or within such period as the court at the time of the conviction appoints, it shall be lawful for the court to commit the offender to prison, there to be imprisoned for the term hereinbefore provided in case of such offense, the commitment to be terminable upon payment of the amount and costs; and all penalties and forfeitures mentioned in this Title for which no special application is provided, shall, when recovered, be paid and applied in manner following: So much as the court shall determine, and the residue shall be paid to the court and be remitted from time to time, by order of the judge, to the Treasury of the United States, and appropriated as provided for in section forty-five hundred and forty-five: *Provided always*, That it shall be lawful for the court before which any proceeding shall be instituted for the recovery of any pecuniary penalty imposed by this act, to mitigate or reduce such penalty as to such court shall appear just and reasonable; but no such penalty shall be reduced to less than one-third of its original amount: *Provided also*, That all proceedings so to be instituted shall be commenced within two years next after the commission of the offense, if the same shall have been committed at or beyond

Penalties and forfeitures, how recorded.

Ibid., s. 64, p. 276.

the Cape of Good Hope or Cape Horn, or within one year if committed elsewhere, or within two months after the return of the offender and the complaining party to the United States; and there shall be no appeal from any decision of any of the circuit courts, unless the amount sued for exceeds the sum of five hundred dollars.

Flogging abolished.

SEC. 4611. Flogging on board vessels of commerce is hereby abolished.

28 Sept., 1850, c. 80, s. 1, v. 9, p. 515.—U. S. v. Collins, 2 Curt. C. C., 194.

Definitions, schedule and tables.

7 June, 1872, c. 322, s. 65, v. 17, p. 277.

SEC. 4612. In the construction of this Title, every person having the command of any vessel belonging to any citizen of the United States shall be deemed to be the "master" thereof; and every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall be deemed and taken to be a "seaman;" and the term "vessel" shall be understood to comprehend every description of vessel navigating on any sea or channel, lake or river, to which the provisions of this Title may be applicable, and the term "owner" shall be taken and understood to comprehend all the several persons, if more than one, to whom the vessel shall belong.

SCHEDULE.

TABLE A.

FORM OF ARTICLES OF AGREEMENT.

Ibid., s. 68.

UNITED STATES OF AMERICA.

(Date and place of first signature of agreement, including name of shipping-office):

It is agreed between the master and seamen or mariners of the _____, of which _____ is at present master, or whoever shall go for master, now bound from the port of _____, to _____, (here the voyage is to be described, and the places named at which the vessel is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated.)

And the said crew agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said master, or of any person who shall lawfully succeed him, and of their superior officers in everything relating to the vessel, and the stores and cargo thereof, whether on board, in boats, or on shore; and in consideration of which service, to be duly performed, the said master hereby agrees to pay the said crew, as wages, the sums against their names respectively expressed, and to supply them with provisions according to the annexed scale. And it is hereby agreed that any embezzlement, or willful or negligent destruction of any part of the vessel's cargo or stores, shall be made good to the owner out of the wages of the person guilty of the same; and if any person enters himself as qualified for a duty which he proves himself incompetent to perform, his wages shall be reduced in proportion to his incompetency. And it is also agreed that if any member of the crew considers himself to be aggrieved by any breach of the agreement or otherwise, he shall represent the same to the master or officer in charge of the vessel, in a quiet and orderly manner, who shall thereupon take such steps as the case may require. And it is also agreed that (here any other stipulations may be inserted to which the parties agree, and which are not contrary to law).

In witness whereof the said parties have subscribed their names hereto, on the days against their respective signatures mentioned.

Signed by _____, master, on the _____ day of _____, eighteen hundred and _____.

Signature of crew.	Birthplace.	Age.	Feet.	Height.	Description.	Complexion.	Hair.	Wages per month.	Wages per run.	Advance wages.	Amount of monthly allotment.	Months.	Days.	Time of service.	Hospital-money.	Whole wages.	Wages due.	Place and time of entry.	Time at which he is to be on board.	In what capacity.	Shipping-commissioner's signature or initials.	Allotment payable to—	Conduct qualifications.

NOTE.—In the place for signatures and descriptions of men engaged after the first departure of the ship, the entries are to be made as above, except that the signatures of the consul or vice-consul, officer of customs, or witness before whom the man is engaged, is to be substituted for that of the shipping-master.

ACCOUNT OF APPRENTICES ON BOARD.

Christian and surname of apprentice in full.	Date of registry of indenture.	Port at which indenture was registered.	Date of register of assignment.	Port at which assignment was registered.

SCALE OF PROVISIONS TO BE ALLOWED AND SERVED OUT TO THE CREW DURING THE VOYAGE.

	Bread.	Beef.	Pork.	Flour.	Pease.	Rice.	Barley.	Tea.	Coffee.	Sugar.	Water.
	Lbs.	Lbs.	Lbs.	Lbs.	Pts.	Pts.	Pts.	Ozs.	Ozs.	Ozs.	Qts.
Sunday	1	1½		½						2	3
Monday	1	1½	½	½						2	3
Tuesday	1	1½		½						2	3
Wednesday	1	1½	½	½						2	3
Thursday	1	1½		½						2	3
Friday	1	1½	½	½						2	3
Saturday	1	1½		½						2	3

(Here any stipulation for changes, or substitution of one article for another, may be inserted.)

SUBSTITUTES.

One ounce of coffee, or cocoa, or chocolate, may be substituted for one-quarter ounce of tea; molasses for sugar, the quantity to be one-half more; one pound of potatoes or yams, one-half pound flour or rice; one-third pint of pease or one-quarter pint of barley may be substituted for each other. When fresh meat is issued, the proportion to be two pounds per man per day, in lieu of salt meat. Flour, rice, and pease, beef and pork, may be substituted for each other, and, for potatoes, onions may be substituted.

TABLE B.

CERTIFICATE OF DISCHARGE.

Name and official number of ship.	Port of registry.	Tonnage.	Description of voyage or employment.	Name of seaman.	Place of birth.	Date of birth.	Character.	Declines to give statement of character.	Capacity.	Date of entry.	Date of discharge.	Place of discharge.
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I certify that the above particulars are correct, and that the above-named seaman was discharged accordingly.

Dated ____ day of _____, eighteen hundred and ____.

(Signed)

_____, Master.

(Countersigned) _____, Seaman.

Given to the above-named seaman in my presence this ____ day of _____, eighteen hundred and ____.

(Signed)

_____,
Shipping-Commissioner.

TABLE C.

FEES, (SEAMEN.)

Fee payable on engaging crew, for each member of the crew, (except apprentices).....	\$2 00
Fee payable on discharging crew, for each member of crew discharged.....	50

TABLE D.

FEES, (APPRENTICES.)

For each boy apprenticed to the merchant service, including the indenture.....	\$5 00
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TABLE E.

REDUCTION FROM WAGES OF SEAMEN.

In partial repayment of the fees payable in Table C, in respect of engagements, from the wages of each member of the crew, twenty-five cents.

In respect of discharges, from the wages of each member of the crew, twenty-five cents.