

Removal of Guano—Trespass on Crown Lands

WESTERN AUSTRALIA

ANNO QUADRAGESIMO

VICTORIÆ REGINÆ

No. 9

An Act to make further provision for the punishment of persons trespassing on certain portions of the Crown Lands in Western Australia.

[Assented to 12th September, 1876]

WHEREAS it is expedient to make further provision for the punishment of persons landing and taking away certain deposits of guano existing in certain remote parts of the Colony; Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble

1. The word 'guano' shall include all phosphorated substances, gypsum, dung, compost, and manure of any kind.

Interpretation clause

2. Any person collecting or removing guano on or from any place forming part of the territorial dominion of Western Australia, without being duly licensed thereunto by the Commissioner of Crown Lands, or some person authorised by him in that behalf, shall, irrespectively of any liability or penalty that he may thereby incur under any Law, Act, or Ordinance now in force, be guilty of a misdemeanour, and shall, on conviction thereof, be punishable with imprisonment, with or without hard labour, for any period not exceeding twelve calendar months.

Persons removing guano without a license punishable

3. It shall be lawful for any officer of Her Majesty's army or navy (being on full pay) or for any principal officer of customs, or Collector of Revenue, or Justice of the Peace, to seize any ship (together with her tackle, apparel, furniture, and everything on board her) at any place within the limits of the Colony that may be engaged in collecting guano on any part of the waste lands aforesaid, without a license, and to bring such ship, together with her tackle, apparel, furniture, and everything on board her, to the port of Fremantle, and to there keep possession of her, her tackle, apparel, furniture, and everything on board her, for the space of six weeks, unless within that time an information be filed as hereinafter stated, in which case such officer, collector, or justice, as aforesaid, shall retain possession of the said ship, her tackle, apparel, furniture, and everything on board her, until the said information shall have been tried or otherwise disposed of.

Power to certain persons to seize ships engaged in removing guano

4. It shall be lawful for the Attorney General, within six weeks after any such ship shall have been brought into the port of Fremantle as aforesaid, to file an information in the office of the Master of the Supreme Court against the master and owners of the said ship,

Attorney General to take proceedings with a view to condemnation of such ship

Removal of Guano—Trespass on Crown Lands

charging that the said ship has been engaged in collecting guano on some part of the waste lands aforesaid, without a license as aforesaid, and has been seized under the provisions of this Act; and in such information it shall not be necessary to name the said master or owners, but they may be described as the master and owners.

Power to Judge
to condemn ship
unless notice
given to claim
the same

5. At any time after the expiration of thirty days from the filing of any such information as aforesaid, it shall be lawful for any Judge of the Supreme Court to declare the said ship, together with her said tackle, apparel, furniture, and everything on board her, forfeited to the use of Her Majesty, unless in the meantime the owner of such ship, or of her said tackle, apparel, furniture, or anything on board her, or some person authorised by him, or acting in his behalf, shall give notice to the Master of the Supreme Court that he intends to claim the said ship, or her said tackle, apparel, furniture, or anything on board her, and shall give security for the payment of any costs that may be awarded against him, in which case it shall not be lawful for the said Judge to declare forfeited anything that may be comprised in the said notice of claim.

On such notice
being given,
Attorney General
to proceed to
trial

6. On any such notice and security being given as last aforesaid, the Attorney General shall proceed to have the said information tried in the same way that informations are ordinarily tried, with all reasonable despatch, and at such trial it shall be lawful for the said person or persons who have given the said notice as aforesaid to appear as defendant or defendants. If, on the trial of such information, in the Supreme Court, it be made to appear that the said ship claimed as aforesaid was engaged, as aforesaid, in collecting guano on some part of the waste lands aforesaid, without a license as aforesaid, or that the tackle, apparel, furniture, or other thing claimed as aforesaid, belonged to, or was on board any ship engaged as aforesaid at the time she was so engaged, the said Judge shall declare the said ship, tackle, apparel, furniture, or other thing claimed as aforesaid, forfeited to the use of Her Majesty, and may make such order as to costs as may seem to him right.

Appropriation of
forfeitures

7. Any ship or thing declared to be forfeited under this Act to the use of Her Majesty, shall at once become and be the property of Her Majesty, and shall be dealt with at the discretion of the Governor for the public use of the Colony.

When ship to be
deemed to be
collecting guano
without license

8. Any ship shall, for all purposes of this Act, be deemed to be engaged in collecting guano on some part of the waste lands of the Crown in the Colony without a license, if she

- (i.) Has on board her any guano collected as aforesaid, by persons not licensed as aforesaid to collect and remove guano; or
- (ii.) Has within three calendar months brought to some island or place, forming part of the waste lands aforesaid, any persons who, not being licensed as aforesaid, shall have commenced to collect or remove guano on or from such island or place.

Any guano that may be discovered on board any ship found within three miles of any island or place forming part of the waste lands

Removal of Guano—Trespass on Crown Lands

aforsaid on which guano deposits exist, shall be deemed to have been collected on such island or place, unless the contrary be shown.

9. When a ship has been seized under this Act, and, within six weeks after such ship is brought into the port of Fremantle as aforesaid, no information be filed by the Attorney General in the Supreme Court, charging as aforesaid; or when such information has been filed, if upon the trial thereof it appear that such seizure was without reasonable cause, or if proceedings on such information be abandoned and not prosecuted; in any such case, when no judgment of forfeiture be obtained, compensation shall be paid to any person or persons for any loss or damage which he or they may have sustained by reason of the seizure and detention of the ship, her tackle, apparel, furniture, and anything on board. And all moneys so payable in respect of the seizure or detention as aforesaid, under this Act shall be paid from public funds, by warrant of the Governor on the Colonial Treasurer.

Compensation to be paid under certain circumstances to owner of ship seized

WILLIAM C. F. ROBINSON,
GOVERNOR.
