



WESTERN AUSTRALIA.

ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

NO. II.

AN ORDINANCE to establish Courts of Inquiry into the causes of Wrecks and other casualties.

[11th July, 1864.]

WHEREAS it is expedient to establish Courts of Inquiry into the causes of Wreck and casualty happening on the Coasts of this Colony, with a view to investigate the same as soon as possible after they occur: 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. WHEN any British ship or vessel used in navigation, and not propelled by oars, is lost, abandoned, or materially damaged on or near the coasts of Western Australia, or when any such ship or vessel causes loss or material damage to any other ship or vessel on or near such coasts, or when, by reason of any casualty happening to or on board

Inquiries to be instituted in case of Wreck and casualty.

28° VICTORIÆ, No. 2.

Inquiries into Wrecks and Casualties.

of any such ship or vessel on or near such coasts, loss of life ensues, or when any such loss, abandonment, damage, or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the said Colony, it shall be lawful for the Principal Officer of Customs residing at or near the place where such loss, abandonment, damage, or casualty occurred, if the same occurred on or near the Coasts of Western Australia, but if elsewhere, at or near the place where such witnesses as aforesaid arrived, or are found, or can be conveniently examined, assisted by a Justice of the Peace, to make inquiry respecting such loss, abandonment, damage, or casualty, and to draw up a formal case setting forth the specific charges of incompetency or misconduct alleged against any owner of a certificate of a master, mate, or engineer of any such ship or vessel, as having caused such loss, abandonment, damage, or other casualty, and such Principal Officer of Customs and Justice, if it shall appear to them requisite and expedient, shall formally investigate, hear, and determine such charges and case, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses, administering oaths, taking evidence, and the regulation of proceedings, have and exercise similar powers as a Justice of the Peace has and exercises in proceedings relating to offences or causes of complaint upon summary conviction or order, or as near thereto as circumstances admit; and it shall be the duty of such Principal Officer of Customs and Justice, after stating their decision as to cancelling or suspending such certificate in open Court, to send a full report upon the case to the Governor, containing a full statement of their opinion thereon, accompanied by the evidence, and all the papers and proceedings used on such investigation, and such observations as they or either of them think fit; And such Principal Officer of Customs and Justice, shall, for the purposes of this Ordinance, have all the powers given by the first part of the Imperial Act entitled the "Merchant Shipping Act, 1854," to inspectors appointed by the Board of Trade.

Witnesses to be allowed expenses.

2. EVERY witness summoned by such Principal Officer of Customs and Justice, shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before the Supreme Court, and every person who refuses to attend as a witness before any such Principal Officer of Customs and Justice, after having been required so to do, and after having had a tender made to him of the expenses, if any, to which he is entitled as aforesaid, or who refuses or neglects to make answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declaration, which any such principal Officer of Cus-

Penalty for refusing to give evidence, &c.

28° VICTORIÆ, No. 2.

Inquiries into Wrecks and Casualties.

toms and Justice are hereby empowered to require, shall for each such offence incur a penalty not exceeding Ten pounds, recoverable before any Justice of the Peace.

3. EVERY person who wilfully impedes any such Principal Officer of Customs and Justice in the execution of their duty, whether on board such ship or vessel or elsewhere, shall incur a penalty not exceeding Ten pounds, recoverable before any Justice of the Peace, and may be seized and detained by such Principal Officer of Customs, or by any other person or persons whom he may call to his assistance, until such offender can be conveniently taken before some Justice of the Peace, or other Officer having proper jurisdiction.

Penalty for obstructing Officers.

4. THE powers of cancelling and suspending the certificate of a master, mate, or engineer of any such ship or vessel, by the Two hundred and forty second section, paragraph five, of the Act of the Imperial Parliament, entitled the "Merchants Shipping Act, 1854," as amended by "The Merchant Shipping Act Amendment Act, 1862," shall, subject to the confirmation of the Governor as in the said Act of 1854 mentioned, be exercised by such Principal Officer of Customs and Justice.

Powers of Board of Trade to be exercised by Principal Officer of Customs and Justice, subject to Governor's confirmation.

5. IN cases where nautical skill and knowledge are required, such Principal Officer of Customs and Justice, shall have power to appoint one or more person or persons of nautical skill and knowledge, to act as assessor or assessors to such Principal Officer of Customs and Justice, and such assessor or assessors shall, upon the conclusion of the case, either signify his or their concurrence in the decision, or if he or they dissent therefrom, shall signify such dissent and the reasons therefor in writing to such Principal Officer of Customs and Justice.

Power to appoint nautical assessors.

6. NO Certificate shall be cancelled or suspended under this Ordinance, unless a copy of the formal case and charges upon which the investigation is had, has been furnished to the Owner of the Certificate, a reasonable time before the commencement of such investigation, nor, in cases where an assessor or assessors has or have been appointed, unless one assessor, at least, expresses his concurrence in the decision of the said Principal Officer of Customs and Justice.

Certificate not to be cancelled unless Owner has had a copy of report.

7. THE said Principal Officer of Customs and Justice, may make such order with respect to the costs and expenses of such investigation, or any portion thereof, as they may deem just, and such costs

Costs of such investigation.

28° VICTORIÆ, No. 2.

Inquiries into Wrecks and Casualties.

shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before a Justice of the Peace.

Master, mate, or engineer may be compelled to deliver certificate to be held.

8. SUCH Principal Officer of Customs and Justice may, if they think fit, require any master, mate, or engineer possessing a certificate of competency or service, whose conduct is called in question, or appears to them likely to be called in question, in the consideration of such investigation, to deliver such certificate to them, and they shall hold the same until the conclusion of the investigation, and shall then, either return the same to such master, mate, or engineer, or, if they are of opinion such certificate should be cancelled or suspended, forward the same together with the said report to the Governor, who shall then either return the same to such master, mate, or engineer, or, if he shall confirm the decision to cancel or suspend such certificate, forward it to the Board of Trade, to be ultimately dealt with as such Board thinks fit; and if any master, mate, or engineer fails so to deliver his certificate, when so required, he shall incur a penalty of not exceeding Fifty pounds, to be recovered before any two or more Justices of the Peace.

Governor to notify his decision to accused, and forward proceedings to Board of Trade.

9. THE Governor shall, on receipt of such report, as soon after as possible, notify to the accused party the decision to which he may have come with respect to confirming or otherwise the decision of such Principal Officer of Customs and Justice as to cancelling or suspending the Certificate of a master, mate, or engineer of such ship or vessel, and may, if he shall think fit, direct such Principal Officer of Customs and Justice to take further evidence, or to reconsider their decision and report; and shall, with all convenient despatch, transmit all the proceedings in such investigation, together with his decision, to the Board of Trade, and shall also, if he confirms the decision to cancel or suspend any such certificate, forward such certificate or any directions he may have given in reference thereto to the Board of Trade, with his report, so that the said Board may exercise the powers conferred by paragraph four, section Twenty-three, of the Twenty-fifth and Twenty-sixth of Victoria chapter Sixty-three.

Sections of Shortening Ordinance adopted.

10. THAT Sections A, C, G, H, and I of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Ordinance to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth herein.

Interpretation.

11. THE term "Principal Officer of Customs" shall mean the

28° VICTORIÆ, No. 2.

Inquiries into Wrecks and Casualties.

Officer for the time being in charge of the Customs Department in any port or place.

12. THIS Ordinance may be cited as “The Inquiries into Wrecks Ordinance, 1864.” Short Title.

J. S. HAMPTON,

GOVERNOR AND COMMANDER-IN-CHIEF.



*Passed the Legislative Council,
this 11th day of July, 1864.*

G. E. HAMPTON,

Clerk of the Council.