



WESTERN AUSTRALIA.

ANNO TRICESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. XIV.

AN ACT to alter and extend the provisions of "The Shipping and Pilotage Consolidation Ordinance, 1855," (18th Victoria, No. 15.)

[Assented to, 29th July, 1873.]

WHEREAS it is expedient to alter and extend the provisions of "The Shipping and Pilotage Consolidation Ordinance, 1855" and to make provisions with reference to harbours, docks and wharves in Western Australia: Be it 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:—

1 THE fourth and fifth sections of the said Ordinance are hereby repealed. And in lieu thereof be it enacted that the master or commander of every ship or vessel entering any port or harbour of this Colony shall pay the several harbour master's, pilotage, light and tonnage dues set forth in the scale or lists respectively lettered A B.

Sections 4 and 5 of 18 V. No. 15 repealed.

Master of any ship entering any port or harbour to pay light, pilotage, harbour master's and tonnage dues.

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Her Majesty's ships of war exempt from all dues except those for ordinary pilotage.

Coasters may compound for light dues.

C and D in the Schedule to the said Ordinance annexed. Provided that no such dues as aforesaid (save those for ordinary pilotage) shall be deemed payable by any of Her Majesty's ships or vessels of war or ships or vessels chartered on behalf of Her Majesty; provided further that it shall be lawful for the owner of any ship or vessel *bona fide* engaged in the coasting trade of this Colony to make an agreement (in accordance with such rules in that behalf as shall hereafter be made by the Governor with the advice of the Executive Council and published in the *Government Gazette* which said rules may from time to time be varied by the Governor with the advice of the said Council, notice being given of such variation in the *Government Gazette*) with the Collector of Customs of any such port or harbour as aforesaid to pay a fixed sum annually or otherwise on account of light dues instead of paying the said last-mentioned dues for each entry into port.

Governor in Council may remit or vary all dues upon terms and conditions.

2 IT shall be lawful for the Governor with the advice of the Executive Council of the said Colony with reference to all ports or harbours or any port or harbour to alter and vary (but so as never to exceed) all or any of the scales or lists of dues set forth in the said Schedule and by notice to be inserted in the *Government Gazette* to declare from time to time with reference to all ports or harbours or any port or harbour of this Colony what shall be the several harbour master's, pilotage, light or tonnage dues chargeable in respect of ships or vessels entering the same; and also by notice as aforesaid in favor of any class or classes of ships or vessels to remit vary or alter (but so as never to exceed) for such time or times as may be deemed necessary and upon such terms and conditions as may be deemed necessary in that behalf (which said time or times terms and conditions shall be stated in the said notice) all or any of the said scales or lists of dues.

Governor in Council may make rules and regulations for the maintenance of good order in ports or harbours.

3 FROM and after the passing of this Act it shall be lawful for the Governor in Executive Council from time to time to frame rules and regulations and the same from time to time to vary or alter not repugnant to any of the provisions of the said Ordinance for the preservation of good order within all ports or harbours or any port or harbour; And such rules and regulations shall be observed accordingly by all persons whatsoever under a penalty to be named in such rules and regulations not exceeding Five pounds. Such rules and regulations shall come into force on publication of the same in the *Government Gazette*. Provided always that nothing herein contained shall affect or in any way take away from anything contained in the second and third sections of the said Act.

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4 IT shall be lawful for the harbour master of any port or harbour to order the master of any ship or vessel within such harbour to shift the berth of such ship or vessel to any part of such port or harbour other than that where such ship or vessel may be lying at the time of the making of such order; the master of any ship or vessel who shall neglect or refuse on receiving any such order to comply therewith with all convenient speed shall forfeit and pay such fine or penalty not exceeding Twenty pounds as may be determined in a summary manner by any two Justices.

Harbour Master may order master of vessel to shift berth.

5 IT shall be lawful for the harbour master to remove any wreck, floating timber or any other substance which in any way obstructs or tends to obstruct any harbour, dock or wharf or the approaches to the same or which impedes or tends to impede the navigation thereof or access thereto or which shall be a nuisance or inconvenience therein or thereto; and the expense of such removal shall be repaid by the owner of such wreck, timber or other substance to such harbour master, and in default of payment thereof on demand the said harbour master may recover the same as a penalty, and such harbour master may detain such wreck, floating timber or substance for securing the expenses, and on non-payment thereof on demand may sell the same and out of the proceeds of such sale pay such expenses, rendering the surplus (if any) to the owner on demand.

Harbour master to remove wreck.

6 IN case there shall be in any port or harbour in this Colony any ship, hulk or vessel which is not ordinarily used for sea service and which the harbour master of such port or harbour may have reason to believe is unsound or unsafe and likely to prove an obstruction to the navigation of such port or harbour, it shall be lawful for the harbour master of such port or harbour accompanied by such persons as may be appointed for that purpose by the Governor to visit, board, survey and inspect the same at reasonable times in the day time, and the master or other person in charge thereof shall do all such acts as may reasonably be deemed necessary to enable the harbour master and such person or persons as may accompany him to ascertain the state and condition of such vessel. And if the said harbour master and the persons accompanying him as aforesaid or the majority of them shall after such survey and inspection consider the said ship, hulk or vessel in an unfit state for sea service and unsound and unsafe and likely to prove an obstruction to the navigation of the port or harbour, the said harbour master shall give notice in writing to the master or owner thereof to remove the said ship, hulk or vessel to such

Unserviceable vessels to be removed from harbours.

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place as shall be named in the notice; and if within seven days of such notice being given to such master or owner or being left for him at his last known or most usual place of residence in the said Colony, or on board of the said ship, hulk or vessel, such ship, hulk or vessel be not moored, unmoored, placed or removed in accordance with the terms of the said notice, it shall be lawful for the said harbour master to cause such ship, hulk or vessel to be moored, unmoored, placed or removed as he shall think fit, and for that purpose the harbour master may cast off, unloose or cut the rope or unshackle or break the chain by which any such vessel is moored or fastened; and all expenses attending the mooring, unmooring, placing or removing of such ship, hulk or vessel in such case shall be paid to the harbour master by the master of such ship, hulk or vessel and in default of payment thereof on demand may be recovered as a penalty; and such harbour master may detain such ship, hulk or vessel for securing the expenses and on non-payment thereof on demand may sell the same and out of the proceeds of such sale pay such expenses, rendering the surplus (if any) to the owner on demand. Provided always that if, within the seven days named in the notice aforesaid, the master, owner or other person in charge of such ship, hulk or vessel give notice to the harbour master of his intention to appeal against the order contained in such notice, and give good and sufficient security to the satisfaction of the nearest Resident or Police Magistrate for the removal of such ship, hulk or vessel in case she should thereafter become an obstruction to the navigation of such port or harbour and also for the costs of the appeal the said harbour master shall not proceed to cause such ship, hulk or vessel to be moored or unmoored, placed or removed; and such appeal shall be made to the Supreme Court and shall be determined by the Chief Justice thereof with or without a jury as the said Chief Justice shall determine; and the proceedings on the hearing of any such appeal shall be assimilated as far as may be to the proceedings on the hearing of an ordinary civil action; and the question on such appeal shall be whether or no the said ship, hulk or other vessel was at the time of the survey and inspection aforesaid in an unfit state for sea service and unsound and unsafe and likely to prove an obstruction to such port or harbour; and, if the said question be determined in the affirmative, the said Chief Justice shall affirm the order appealed against, and if the said question shall be determined in the negative, the Chief Justice shall quash the same; and the costs of any such appeal shall abide the event. And if the Chief Justice shall affirm the said order, such proceedings shall be had and taken thereupon as if such order had been made by the said harbour master on the day of such affirmance.

Master of such vessel may appeal to the Supreme Court.

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Provided always that, if the appellant is guilty of any unreasonable delay in prosecuting such appeal, it shall be competent for the Chief Justice to fix a day for the hearing and determination thereof. Provided also that the harbour master shall in no case unloose or cut any rope or unshackle or break any chain by which any vessel is moored or fastened unless there be a sufficient number of persons on board to protect the same. Provided also that in no such case as aforesaid shall the harbour master order any such ship hulk or vessel as aforesaid to be taken to any place outside the port or harbour unless in the judgment of such harbour master there is no place within the port or harbour where she might lie without prejudice or risk of prejudice to the navigation and use thereof.

7 NO ballast that is disapproved of by any harbour master as being of an unsafe or dangerous nature shall be put on board any vessel. Any master of a vessel continuing to ship such ballast on board of such vessel or any person continuing to supply such ballast, or both of them, after any harbour master shall have in writing expressed his disapproval of the same, shall forfeit and pay any sum not exceeding Fifty pounds.

No ballast to be shipped if disapproved of by harbour master.

Penalty.

8 EVERY person, other than the harbour master, who shall wilfully cut, break or destroy, except for the purposes of this Act, the moorings or fastenings of any vessel lying in a harbour or dock at or near a wharf shall for every such offence be liable to a penalty not exceeding Five pounds, in addition to any liability he may so incur by proceedings at the suit of or for the benefit of any person damnified thereby.

Penalty for wilfully cutting moorings &c.

9 IF any harbour master or any of his assistants without reasonable cause or in an unreasonable or unfair manner shall exercise any of the powers or authorities vested in the harbour master and his assistants by this Act or the said recited Act, the person so offending shall for every such offence be liable to a penalty not exceeding Fifty pounds.

Penalty on harbour master for misbehaviour.

10 IF any person shall give or offer any sum of money or anything whatsoever by way of reward or bribe to any harbour master or any officer or person employed in or about any harbour dock or wharf for the purpose of gaining an undue preference in the execution of his office or for the purpose of inducing such harbour master or other officer to do or omit to do anything in relation to his office,

Penalty for offering or taking bribes.

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or if such harbour master or other officer shall receive or engage to receive any such reward or bribe as aforesaid every such person so offending shall be liable for every such offence to a penalty of Twenty pounds.

Incorporation with 18 Vict.
No. 15.

11 THIS Act shall form part of and be incorporated with "The Shipping and Pilotage Consolidation Ordinance, 1855."

Interpretation clause.

12 THE following words and expressions in this Act and the said recited Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction that is to say—

The word "vessel" shall include ship hulk boat lighter and craft of every kind and whether navigated by steam or otherwise.

The words "master" and "commander" when used in relation to any vessel shall be understood to mean the person having the command or charge custody or control of the vessel for the time being.

The words "harbour master" shall include "Resident Magistrate or Police Magistrate" for the port or district where the harbour master discharges his functions but only in case of the absence from such port or inability from any cause whatever of such harbour master to perform his functions; and also in case there shall be no such harbour master in any port or district then such words shall include the Resident Magistrate or Police Magistrate for such port or district; and in case of the absence of such Resident or Police Magistrate any two Justices of the Peace of the Colony.

In the name and on behalf of the Queen I hereby assent to this Act.

FRED. A. WELD, Governor.