



WESTERN AUSTRALIA.

ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ,

No. 15.

An Act for the regulation of Pilotage and Shipping in the Harbours of Western Australia.

WHEREAS in the Second year of the Reign of Her present Majesty Queen Victoria, an Act was passed entitled "An Act to amend an Act for the Regulation of Pilotage and Shipping in the Harbours of Western Australia;" which said Act has been, by an Act passed in the present Session, revived and continued for a limited period; and, whereas, the said last-mentioned Act will expire on the third day of August next; and it is expedient that provision should be made for the due regulation of Pilotage and Shipping in the Harbours of this colony:—Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that from and after the expiration of the said last-mentioned Act, it shall be lawful for

Preamble.
2nd Vic., No. 7, expired.
4th and 5th Vic., No 7, about to expire.
Governor may issue Licenses to Pilots, to be pro-

required. the Governor to grant Licenses to persons duly qualified to act as Pilots for any of the ports, harbours or anchorages of this colony, under such regulations as the Governor in Executive Council shall from time to time appoint; which License every such Pilot shall produce, when so required by any master or commander of any ship of which he may apply to take charge.

Masters of ships to pay the several dues in regulations. II. AND be it enacted, that the master or commander of every ship or vessel (not *bonâ fide* engaged in the coasting trade of the colony) entering any port, harbour or anchorage in this colony, wherein any licensed Pilot shall be appointed, or quitting his station for the purpose of shifting berth, or proceeding to sea from such port, harbour or anchorage, shall pay the several dues respectively appointed by the Governor in the regulations of the respective port, harbour or anchorage. Provided always, that if such master or commander shall have made the signal for a Pilot at the proper time, and that no Pilot shall offer himself to take charge of the ship or vessel, that then such master or commander shall not be deemed to be liable to pay the pilotage fees in such case respectively appointed.

Provisio—Masters making signal for pilot, not liable to pay pilot dues, if no pilot offers.

Outward-bound vessels to pay in advance. III. AND be it enacted, that no Pilot shall be bound to conduct any ship or vessel to sea until the full amount of the outward pilotage fees of such ship or vessel shall have been first paid, or secured to be paid, to the satisfaction of such Pilot.

Pilot detained on board to receive such extra fee as the Governor may appoint in the regulations of the port. IV. AND be it enacted, that any Pilot in charge of any ship or vessel, who shall be detained on board such ship or vessel for a period exceeding forty-eight hours, either by stress of weather, or under Quarantine, or by any act of the Master thereof, shall be entitled to demand and receive, over and above the pilotage fee, such sum as may be appointed in the regulations before mentioned.

Harbour Master to appoint places of mooring or anchorage for each vessel; to superintend shifting berth, &c. V. AND be it enacted, that whenever any ship or vessel (not *bonâ fide* engaged in the coasting trade of the colony) shall arrive within any of the ports, harbours or anchorages in this colony, the Harbour Master of such port, harbour or anchorage shall, with all due diligence, repair on board such ship or vessel, and shall appoint the place where such ship or vessel shall moor or cast anchor; and as often as the master or commander of any ship or vessel shall be desirous of removing the same from one place of moorage or anchorage to another, he shall notify his desire to the Harbour Master who shall with all convenient speed go on board of such ship or vessel; and, unless he shall see good and sufficient cause to the contrary, shall direct the removal thereof; and who, for every such service, shall be entitled to demand and receive the several fees respectively appointed in the regulations aforesaid.

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4 & 5 Vic. No. 15.

VI. AND be it enacted, that the master or commander of every ship or vessel arriving in any port, harbour or anchorage in this colony, shall, as soon as reasonably possible, report his arrival at the office of the Collector or Sub-Collector of Revenue thereof, and deliver to such officer a muster-roll of the ship's company, a list of his passengers, a list of all sick persons, if any, on board, a manifest of his cargo, his clearance from the port last left, and all other such papers and documents as the said officer shall reasonably desire to inspect; and shall at the same time enter into a bond according to the form in the annexed schedule, with one surety to be approved by the said officer, for the due observance of the enactments in this Act contained, and the regulations aforesaid.

Masters to report particulars of the crew, passengers, cargo, and papers; and to enter into bond for observance of regulations.

VII. AND be it enacted, that the Master or Commander of every ship or vessel arriving in any of the ports, harbours or anchorages of this colony, shall deliver up, as soon as reasonably possible after his arrival, to the Boarding Officer, or other person duly authorised, all public despatches, letters and parcels addressed to the Governor, or any Public Officer of the Government: as well as all Post Office Mails and Letters; whether the same be in parcels, or loose; upon such boarding officer, or other authorised person, signing a receipt for the same; and such master or commander shall repair to the Post Office, as soon as reasonably possible after his arrival, and shall there subscribe the declaration required by a certain Act of Parliament, passed in the Fifty-fifth year of the reign of His late Majesty King George the Third, entitled, "An Act for granting certain Rates on the Postage of Letters to and from Great Britain, the Cape of Good Hope, the Mauritius, and the East Indies, and for making certain regulations respecting the postage of ship letters and of letters in Great Britain," of his having delivered all such despatches, letters, parcels, and post office mails, as aforesaid, intrusted to his charge; which declaration shall be produced by the said Master or Commander to the Collector or Sub-Collector of Revenue, or other person duly authorised, on making his report to him; and any master neglecting or failing to comply with the provisions hereby enacted, shall forfeit and pay a sum not less than Ten pounds nor exceeding Fifty pounds.

Masters to deliver up Mails, &c., and to subscribe and produce declaration required by 55 George III, under penalty of from £10 to £50.

VIII. AND be it enacted, that any Master or Commander who shall wilfully make an untrue report of any of the aforesaid particulars, touching his crew, passengers, cargo, or papers, or wilfully exhibit any false papers or documents relating thereto, shall forfeit and pay a sum not less than Ten pounds nor exceeding Fifty pounds.

Penalty for Master making false report, £10 to £50.

IX. AND be it enacted, that any Licensed Pilot who shall,

Penalty for Pilot neglecting his duty, £5 to £25.

without good and sufficient cause, refuse, neglect, or delay to take charge of any ship or vessel when so required; or who shall quit any ship or vessel, or decline the piloting thereof, after he has been engaged, before the service for which he was hired shall have been performed; or shall by drunkenness, or otherwise, render himself incapable of conducting any ship or vessel; or shall do any wilful injury to the same, or to the rigging or furniture thereof; shall forfeit and pay a sum not less than Five pounds nor exceeding Twenty-five pounds.

Penalty for Masters suffering unauthorised persons to leave the colony, forfeiture of Bond; for suffering embarkation of such persons for such purpose, £10 to £50.

X. AND be it enacted, that if any person who shall not have obtained the certificate in the annexed Schedule, shall be suffered to depart from this colony in any ship or vessel, whether such offence shall be by the wilful act or by the negligence of the master or commander, such master or commander shall be deemed to have broken the condition of his bond aforesaid; and if the embarkation of any such person for the apparent purpose of leaving this colony, shall be proved before the departure of such ship or vessel, the master or commander thereof shall forfeit and pay a sum not less than Ten pounds nor exceeding Fifty pounds.

Penalty for throwing rubbish overboard, or removing stone, &c., 10s. to £50.

XI. AND be it enacted, that any person who shall throw or cause to be thrown out of any ship, vessel or boat, in any port, harbour or anchorage of this colony, any ballast or other rubbish into the water, or below high-water mark; or who shall remove or take away from any part of any such port, harbour or anchorage, any sand, stone or ballast, without having first obtained the consent of the Harbour Master thereof, shall forfeit and pay a sum not less than Ten shillings nor exceeding Fifty pounds.

Penalty for throwing Corpses overboard, £5 to

XII. AND be it enacted, that the Corpse of any person dying on board any ship or vessel in any port, harbour or anchorage of this Colony, shall be carried on shore and interred in a lawful and accustomed burial ground; and if any Corpse shall be thrown overboard within the precincts of any of the ports, harbours or anchorages of this colony, the Master or Commander of the ship or vessel from which such corpse shall have been removed, shall forfeit and pay a sum not less than Five pounds, nor exceeding Twenty-five pounds.

Penalty for injuring buoys, beacons, &c., £10 to £50.

XIII. AND be it enacted, that any person who shall wilfully remove, injure or destroy any Buoy, Beacon or Sea-mark used for the convenience of Navigation or security of shipping, shall forfeit and pay a sum not less than Ten pounds nor exceeding Fifty pounds.

XIV. AND be it enacted, that any person who shall, without ^{Penalty for mooring to buoys, £2 to £10.} permission from the Harbour Master, makè fast any ship, vessel, boat, raft, timber, or any other article, to any such Buoy, Beacon, or Sea-mark as aforesaid, shall forfeit and pay a sum not less than Forty shillings nor exceeding Ten pounds.

XV. AND be it enacted, that any person, who shall oppose ^{OR} obstruct the execution on board any ship or vessel in or off any of ^{Penalty for opposing Officer, £10 to £50; or, if aggravated, fine under £100, or imprisonment under six months.} the ports, harbours or anchorages of this Colony, of any warrant or other legal process, shall forfeit and pay a sum not less than Ten pounds, nor exceeding Fifty pounds. But in case such opposition or obstruction shall appear to the Justice or Justices of the Peace before whom the information shall have been laid, to be accompanied by any circumstances of aggravation, it shall be lawful for such Justice or Justices to commit the offender for trial at the next Quarter Sessions of the Peace; or to take sufficient bail for the appearance of such offender to take his trial at the said Sessions; and in case such offender shall be thereat convicted of an aggravated act of such obstruction or opposition as aforesaid, he shall such suffer punishment by fine not exceeding One hundred pounds, or by imprisonment for any period not exceeding six months, as to the said Court of Quarter Sessions shall seem meet.

XVI. AND be it enacted, that no seaman forming part of the ^{Exemption of seamen from arrest for debts under £10.} crew of any ship or vessel shall be arrested on account of any debt of less amount than Ten pounds, unless he shall have engaged himself as such while resident in this colony.

XVII. AND be it enacted, that all Informations and Proceed- ^{Limitation of prosecutions six months.} ings in respect of offences against this Act shall be commenced within six calendar months next after the offences thereby respectively charged shall have been committed.

XVIII. AND be it enacted, that all Prosecutions for offences ^{Recovery of penalties.} charged to have been committed against the provisions of this Act may be heard and determined in a summary way by any two or more Justices of the Peace, who shall have power to commit the offender to Gaol, there to be kept to hard labour for any period not exceeding six months, in case the fine and costs adjudged by them be not paid.

XIX. Provided always, and be it enacted, that if any fine imposed under this Act shall exceed ten pounds, or the imprisonment ad- ^{Appeal to Quarter Sessions.} judged shall exceed one month, and that the person convicted shall consider himself aggrieved by such conviction. such person may appeal therefrom to the next Court of Quarter Sessions; which Court

shall hear and determine the matters of such appeal, and shall make such order therein in affirmance or reversal of the conviction appealed from, with, or without costs, to either party, as to the said Court shall seem meet, and shall enforce such order as they make, by distress and sale of the goods and chattels of any person neglecting or refusing to obey such order; or by imprisonment of such person to be kept to hard labour for any time not exceeding six calendar months. Provided always that the person so appealing shall give notice thereof to the convicting justices within three days next after conviction, and shall deposit with them the sum of Five pounds, or enter into a Recognizance with two sureties for the purpose of securing payment of the costs of such appeal

Convictions not void for want of form, nor removeable by certiorari.

XX AND be it enacted, that no Conviction or Adjudication under this Act shall be quashed for want of form, or removed by writ of certiorari, or otherwise; and no warrant or commitment shall be held void by reason of any defect therein; provided it be therein alleged that the party has been convicted, and that there be a good and valid conviction to sustain the same.

Bond may be put in suit for benefit of private parties.

XXI. AND be it enacted, that it shall be lawful for the Governor to direct that any such bond as aforesaid shall be put in suit for the benefit of any private person who shall consider himself aggrieved by any act committed contrary to the provisions of this Act.

Proceedings against sureties to be commenced within six months; and conviction to be a bar to proceedings on bond.

XXII. Provided always, and be it enacted, that no proceedings upon such bond as aforesaid shall be had against the surety or sureties in such bond, unless the same be commenced within six calendar months after the departure of the respective ship or vessel; and that any summary conviction under this Act, followed by payment of the costs and fine thereby imposed, shall be a bar to any proceedings on such bond for the same offence.

Appropriation of Fines. Act may be amended.

XXIII. AND be it enacted, that all Fines and Forfeitures under this Act shall be divided, paid, and applied as follows—that is to say, after deducting charges of prosecution and sale from the produce thereof, one moiety shall be paid to the Colonial Treasurer, to be applied towards the Government of this colony in such manner as the Governor, acting with the advice of the Legislative Council, shall by law appoint; and the other moiety to the party or parties informing.

XXIV. AND be it enacted, that this Act may be amended or repealed by any Act to be passed in the present Session.

JOHN HUTT,

GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Council }
3rd August, 1841. }

WALKINSHAW COWAN,
Clerk of the Council.

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SCHEDULE REFERRED TO BY THE ANNEXED ACT.

No. 1.

Bond to be entered into by the Master or Commander of every Ship or Vessel arriving in any of the Ports, Harbours, or Anchorages of this Colony.

Know all men by these presents, that we, A B, Master or Commander of the ship , *now lying in* , *in the Colony of Western Australia, and C D, of* , *in the said Colony, are held and firmly bound to E F, Collector of Revenue of the aforesaid port, in the sum of one hundred pounds of lawful money current in this colony, to be paid to the said E F, or his certain attorney, or his successor for the time being in his said Office, for which payment, well and truly to be made, we jointly and severally bind ourselves, our executors and administrators, firmly by these Presents*

Sealed with our seals and dated the *day of*

The condition of the above written bond is such, that if the said A B do well and truly observe and obey all and every the requisitions and prohibitions (relative to the conduct of Masters and Commanders of merchant ships in or off any of the ports, harbours or anchorages of the said Colony) contained in a certain Act of Council passed on the third day of August, 1841, intituled "An Act for the Regulation of Pilotage and Shipping in the Harbours of Western Australia," then this bond shall be null and void, but otherwise shall be in full force and effect.

A B.
C D.

Signed, sealed and delivered by the above-named
A B and C D in the presence of

No. 2.

Certificate to be obtained by Persons desirous of leaving the Colony.

Western Australia } I hereby certify that there is not at present
to wit. } any Suit or Action pending, or Judgment re-
maining unsatisfied against *of*

Dated this *day of*
Registrar Clerk of Civil Court.

(Countersigned) Colonial Secretary.