

THE FREMANTLE HARBOUR TRUST ACT, 1902.

(No. 17 of 1902, as amended by No. 35 of 1906, 25 of 1911, and 4 of 1913.)

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FREMANTLE HARBOUR TRUST.

ANNO SECUNDO.

EDWARDI SEPTIMI REGIS.

No. 17 of 1902.

(As amended by No. 35 of 1906,* No. 25 of 1911,† and No. 4 of 1913.‡)

AN ACT to constitute the Fremantle Harbour Trust Commission ; to regulate the appointment of Commissioners ; to define their powers and authorities ; and for other purposes incidental thereto.

[Assented to 11th December, 1902.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Fremantle Harbour Trust Act*, 1902, and shall come into force on the first day of January, One thousand nine hundred and three.

Short title and commencement.

2. In this Act, and any regulations thereunder, the following words shall have the meaning stated, unless the contrary intention appears:—

Interpretation.
See N.S.W. Act,
No. 1, 1901, s.

“Buoys and beacons” include all other marks and signs placed for the purpose of navigation.

“Commissioners.”—The Fremantle Harbour Trust Commissioners constituted under this Act.

* Assented to 14th December, 1906. † Assented to 16th February, 1911.

‡ Assented to 4th October, 1913.

- “Goods.”—All wares and merchandise, and all chattels, live stock, and other things of whatsoever description.
- “Harbour master” includes assistant harbour master.
- “Master” includes every person having the command, charge, or management of a vessel for the time being.
- “Minister” means the responsible Minister of the Crown charged with the administration of this Act.
- “Owner” includes any person who is owner jointly with any other person, and any joint stock company; and when used in relation to goods, includes any consignee, consignee, shipper, or agent for the sale or custody, loading or unloading of goods.
- “Ship.”—Every description of vessel used in navigation and not propelled exclusively by oars.
- “The harbour.”—So much of the harbour of Fremantle as is contained within the boundaries described in the Schedule to this Act, or as altered from time to time by the Governor.
- “Vessel.”—Any ship, lighter, barge, boat, raft, or craft, of whatever description, and howsoever navigated.

Constitution of the Commission.

3. There shall be five commissioners for carrying this Act into execution, who shall be a body corporate by the name of the Fremantle Harbour Trust Commissioners, with perpetual succession, a common seal, and power to hold land.

4. (1) The commissioners shall be appointed by the Governor.

(2) One of the commissioners shall be annually appointed by the Governor as chairman.

5. Judicial notice shall be taken of the incorporation and common seal of the commissioners, and every deed, instrument, or writing, when sealed, shall be admissible in evidence on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.

6. Every commissioner shall hold office for the term of three years, and, at the expiration of his term of office, shall be eligible for re-appointment for a like term of three years.

The Fremantle Harbour Trust Commissioners.

See N.S.W. Act, No. 1, 1901, s. 5.

Appointment of commissioners.

Seal of commissioners.

Deed, instrument, or writing, sealed, admissible in evidence.

Term of office.

7. On the occurrence of any vacancy in the office of a commissioner, the Governor may appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office.

Vacancies.

8. (1.) In the case of illness, suspension, or absence of any commissioner, the Governor may appoint some person to act as the deputy of such commissioner during such illness, suspension, or absence, and until such appointment is terminated by notice in the *Government Gazette*. Every person so appointed shall, while so acting, have all the powers and perform all the duties of such commissioner.

Deputy commissioners.

(2.) If such commissioner is the chairman, the Governor may temporarily appoint another commissioner acting chairman, who while so acting shall have all the powers and perform all the duties of the chairman.

9. (1.) The Governor may suspend a commissioner from his office—

Tenure of office.

See N.S.W. Act,
No. 1, 1901, ss. 1
and 10.

- (a) For misbehaviour or incompetence; or
- (b) If he becomes bankrupt, or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors; or
- (c) If he absents himself from three consecutive meetings of the commissioners (except on leave granted by the Governor) or becomes incapable of performing his duties; or
- (d) If he becomes concerned or interested in any written contract made by or on behalf of the commissioners, or participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom.

Provided that this subsection shall not extend to an interest as a shareholder in an incorporated company of at least twenty members.

(2.) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the next sitting.

(3.) A commissioner suspended under this section shall not be restored to office, unless both Houses of Parliament, within thirty days from the time when such statement has

been laid before them, declare by resolution that the said commissioner ought to be restored to office.

(4.) If both Houses of Parliament within the said time so declare, the said commissioner shall be restored by the Governor accordingly and subject thereto may be removed from office.

(5.) A commissioner shall not be removed from office except as hereinbefore provided.

Remuneration of commissioners.

10. Each commissioner, other than the chairman, may receive a fee of two guineas for every ordinary meeting of the commissioners at which he attends.

Remuneration of chairman.

11. The chairman shall receive a fee of four guineas for every ordinary meeting of the commissioners at which he attends.

Maximum remuneration.

12. The fees payable to the chairman shall not in any one year exceed three hundred pounds, and those payable to any commissioner other than the chairman shall not in any one year exceed one hundred and fifty pounds.

Quorum.

13. For the conduct of business, any three commissioners shall be a quorum, and shall have all the powers and authorities vested in the commissioners.

Acting chairman.

14. In the absence of the chairman from any meeting of the commissioners, or if after being present he retires, the commissioners present may elect one of their number to be acting chairman for that meeting or for the remainder of the meeting.

Procedure on difference of opinion.

15. If, at any meeting at which four commissioners only are present, such commissioners shall be equally divided in opinion, the chairman or acting chairman shall have a casting as well as a deliberative vote.

Acts of commissioners not invalidated by vacancy.

16. No act or proceeding of the commissioners shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any commissioner

17. The commissioners shall—

Minutes of proceedings.

(1) Keep minutes of their proceedings in such manner and form as the Governor shall direct; and

(2) Make a yearly report of their proceedings to the Minister, who on receipt thereof may forthwith publish such report, and such report shall be laid before both Houses of Parliament.

Yearly report.
No 35 of 1906, s. 2.

18. The office of commissioner, and the office of any person employed or retained by the commissioners otherwise than at a salary, shall not be deemed an office of profit within the meaning of the Constitution Act, 1889, or any amendment hereof.

Office of commissioner not to be deemed an office of profit.

Officers.

19. (1.) The Governor, on the nomination of the commissioners, may appoint a secretary, an engineer, a harbour master, assistant harbour masters, pilots, berthing masters, and such other officers and servants as may be necessary for the administration of this Act, and on the recommendation of the commissioners, may dismiss any such officer or servant.

Appointment of officers and servants.

See N.S.W. Act, No. 1, s. 17.

(2.) All persons so appointed shall be subject to the control of the commissioners.

(3.) The appointment and dismissal of servants and labourers, at daily or weekly wages, shall be in the sole power of the commissioners.

(4.) The Commissioners may, from time to time, appoint and dismiss special constables, who, within the limits of the Harbour, shall have, exercise, and enjoy such powers, authorities, and immunities, and be subject to such duties and responsibilities as any police officer duly appointed now has or is subject to by law.

Appointment of Special Constables.

Inserted by No. 25 of 1911, s. 2.

Provided that such special constables shall not be members of the police force, but shall be servants of the commissioners, and under their direction and control.

20. Before any officer or servant, entrusted with the custody of money or other property, shall enter upon the duties of his office, the commissioners shall take from him sufficient security for the faithful execution thereof.

Certain officers to give security.

Harbour master.

21. The harbour master appointed under this Act may also hold the office of chief harbour master for the State.

Vesting of Property.

Property vested in commissioners.

See N.S.W. Act, No. 1 of 1901, s. 27.

22. There shall be vested in the commissioners, for the purposes of this Act,—

- (1) All lands of the Crown within the boundaries of the harbour, as described in the Schedule to this Act, including the bed and shores of the harbour.
- (2) All harbour lights and beacons within the boundaries of the harbour, except the lighthouses on Rottneest Island and at Woodman's Point.
- (3) All wharfs, docks, landing stages, piers, jetties, wharf sheds, and railways belonging to the Government and within the boundaries of the harbour.
- (4) All such other property as the commissioners may acquire or the Governor may at any time think fit to vest in the commissioners for the purposes of this Act.

Provided that the Governor may from time to time, by notification in the *Government Gazette*,—

- (a) Alter the boundaries of the harbour.
- (b) Withdraw any land or other property of any kind from the commissioners, and re-vest the same in His Majesty.

Lands vested in commissioners free from municipal rates.

N.S.W. Act, No. 1 of 1901, s. 39.

23. All lands vested in the commissioners under this Act shall be exempt from any rate, tax, or imposition which any local authority might, but for this section, lawfully levy or impose; but nothing herein contained shall preclude a local authority from levying and collecting rates and other lawful charges in respect of land, houses, and buildings of the commissioners leased and occupied for private purposes, and by persons other than the commissioners, their officers and servants.

Powers and Duties of Commissioners.

Commissioners to control, maintain, and preserve.

See N.S.W. Act, No. 1, 1901, s. 33.

24. The commissioners shall have the exclusive control of the harbour, and shall be charged with the maintenance and preservation of all property vested in them under this Act.

Harbour extensions.

25. The completion and extension within the harbour of all harbour works shall be deemed Government work within the meaning of the Public Works Act, 1902, and may be undertaken by the Minister for Works on the recommendation and under the advice of the commissioners.

No. 35 of 1906, s. 3.

Provided that the completion and extension within the harbour of harbour works may, with the approval of the Governor, be undertaken by the commissioners, who shall be deemed a local authority within the meaning of the Public Works Act, 1902.

The term "Harbour Works" in this proviso includes any pier, quay, wharf, jetty, bridge, viaduct, embankment, or dam, or any reclamation of land from the sea, or river, or excavation, deepening, dredging, or widening of any channel, basin, or other part of the harbour:

Provided also, that the total cost of any one of the undertakings by the commissioners shall not exceed two thousand pounds.

26. The commissioners—

Roadways and approaches.

No. 35 of 1906 s. 4.

- (a) may make and maintain roads and approaches to all wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds that are now or may hereafter be erected on the lands vested in them; and
- (b) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be kept in good repair; and
- (c) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be well and sufficiently lighted; but a breach of the duty imposed by this subsection shall not confer a right of action on any person who may suffer damage therefrom; and
- (d) may provide such depots and sheds for the reception of goods, and such engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging of vessels, and provide such other conveniences upon or near the wharves, docks, piers, jetties, landing stages,

slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depots, sheds, engines, cranes, hoisting and weighing machines, and such other apparatus and conveniences.

Power to lease lands for certain purposes.
N.S.W. Act, No. 1 of 1901, s. 41.

27. The Governor may, upon the recommendation of the commissioners, grant leases of any land vested in them by this Act, for any term not exceeding twenty-one years, as yards or sites for ship-building, boat-building, storing of timber, coal, merchandise, or other property, or for the erection of workshops or foundries, or for other purposes connected with shipping, provided that no lease for a period exceeding three years shall be granted unless applications therefor have first been advertised in the *Government Gazette* for one calendar month, and in at least two insertions in a newspaper published in Perth.

Commissioners may make contracts, etc.
N.S.W. Act, No. 1 of 1901, s. 48.

28. The commissioners may, by their corporate name, enter into contracts with any persons for the execution of any work they may think proper to do, or to direct to be done, under the powers conferred by this Act, or for furnishing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary to enable them to carry the purposes of this Act into effect, in such manner, and upon such terms, and under such stipulations, regulations, and restrictions as they may think proper.

Goods left on wharfs, etc., may be advertised and sold.
See N.Z. Act No. 55, 1878, s. 73.
Amended by No. 25 of 1911, s. 3.

29. (1.) If any goods remain upon any wharf or the approaches thereto, or in any store or warehouse, for a longer time than allowed by the regulations, or if any goods within the harbour shall be deemed by the commissioners in their absolute discretion to be injurious to, or to injuriously effect, or to be liable to injuriously affect, other goods, or any shed, store, or other premises or open yard or place within the harbour; any person authorised by the commissioners may remove the goods to a convenient place, within or outside the limits of the harbour, and keep the same until payment of the expenses of such removal and keeping.

(2.) If such expenses are not paid within seven days after demand thereof made upon the owner, or if the owner is unknown or cannot be found, then after public notice by adver-

tisement, at least once in each of two consecutive weeks, in a newspaper circulating at the port, the commissioners may sell such goods by public auction; provided that goods, if perishable, may be sold without demand after twenty-four hours.

(3.) The proceeds of sale shall be applied in payment of all dues and charges payable in respect of such goods, and the expenses of removal, keeping, and sale thereof, and the surplus shall be rendered to the owner on demand, and in the meantime shall be paid into the Treasury.

30. Any dispute between the commissioners and the Commissioner of Railways, or any other department of the Government, with respect to any land or other property vested in the commissioners, shall be referred to the Minister, whose decision shall be final and binding upon the parties.

Disputes between departments to be settled by Minister.

N.S.W. Act, No. 1, 1901, s. 31.

31. The commissioners may provide servants and labourers for loading and unloading goods on the wharves vested in the commissioners, and for working cranes, weighing machines, or other machines and conveniences erected or provided by the commissioners for such purpose.

Commissioners may provide labourers, etc., for working cargo.

No. 35 of 1906, s. 31

Pilotage.

32. (1.) Except as otherwise provided by regulations, pilotage shall be compulsory within the boundaries of the harbour.

Pilotage.

(2.) If, after a qualified pilot has offered to take charge of the ship, or has made a signal for the purpose, the master of any ship not exempted from pilotage by regulations, pilots the ship himself, he shall be liable for each offence to a fine of double the amount of the pilotage dues that could be demanded under this Act for the conduct of the ship

See Merchant Shipping Act, 1894, s. 603.

Lights, Buoys, and Signals.

33. The commissioners—

(1) shall not erect or place any harbour light, signals, buoy, or beacon within the boundaries of the harbour, or alter or remove the position of any light, signal, buoy, or beacon without the sanction of the Minister; and

Harbour lights, buoys, and beacons not to be erected or removed without sanction of Minister.

N.Z. Act, No. 35 of 1878, s. 96.

And may be controlled by Minister.
Ibid., s. 100.

- (2) shall replace, remove, or discontinue any harbour light, signals, buoys, or beacons, or make any variation in the character of any such light or signals, or in the mode of exhibiting the same, as the Minister may from time to time require.

Minister may act on neglect of commissioners.

Ibid., s. 101.

34. If the commissioners shall, for a reasonable time after being required by the Minister in that behalf, fail or neglect to do or perform or cease to do or perform any act or thing of the kind mentioned in the last preceding section, the Minister may take all such steps and do all such acts as may be necessary to give effect to his requirements, and the expense thereof shall be charged to the commissioners.

Wrecks, Obstructions, and Damage.

Removal of wreck.

See N.Z. Act, No. 35, 1878, s. 105.

35. If any vessel is sunk, stranded, or abandoned within the limits of the harbour in such way as to tend to the injury of navigation, such vessel, together with the tackle thereof, and the goods if any therein (all of which are in this section hereinafter included under the term "the wreck"), may be removed in the following manner:—

- (1) The commissioners shall give notice in writing to the owner of such vessel, or to an agent of such owner, that he is required, within a time specified in such notice, either to remove the wreck in a manner satisfactory to the commissioners, or to undertake, under security satisfactory to the commissioners, to remove the wreck in a manner satisfactory to and within a time to be fixed by the commissioners.
- (2) In case the owner or agent cannot be found within the State, or fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the commissioners, or to enter into such undertaking as aforesaid to remove the same, or, having undertaken to remove the wreck, fails to remove it in accordance with his undertaking, then the commissioners may remove the wreck, and may recover from the owner, in any court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as "the expenses of removal").

- (3) The commissioners may, for the purpose of removal, destroy the wreck or any part of it, and may remove and take possession of the wreck or any part of it, and may sell the same, and may, out of the proceeds, if any, of such sale, without any reference to the part of the wreck from the sale of which such proceeds may accrue, reimburse themselves for the whole of the expenses of removal, and shall, after reimbursing themselves, render the surplus, if any, to the owner.
- (4) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the commissioners may recover the balance from the owner of the vessel, if such vessel was stranded or sunk by his fault or negligence, or from any other person by whose fault or negligence the vessel was stranded or sunk.

For the purposes of this section the term "owner" shall mean and include not only the owner of the wreck at the time of the sinking, stranding, or abandonment thereof, but also any purchaser of any such wreck, or the materials of which the same may be or may have been composed, so long as the same shall be and remain sunk, stranded, or abandoned.

36. Where any injury is done by a vessel, floating timber, or material, or by any person employed about the same, to any part of the works or property of the commissioners,—

Responsibility for injury to works of harbour.
Ibid., s. 106.

- (1) the owner of such vessel, floating timber, and material; and
- (2) in case the injury is caused through the act or negligence of the master of such vessel, or of the person having charge of such timber or material, the owner and also such master or person,

shall be answerable in damages to the commissioners for the injury, but the commissioners shall not recover twice for the same cause of action.*

* By section two of the Harbours and Jetties Act, 1928, it is provided that the owner of a vessel, and the master of a vessel shall be answerable under the provisions of the Fremantle Harbour Trust Act, 1902, for any loss or damage caused by the vessel, or by any fault of the navigation of the vessel, notwithstanding that the vessel was in charge of a pilot and that pilotage was compulsory, unless it is proved by the owner or by the master that the damage was caused by the negligence of the pilot.

See 2 and 3 Geo. V., c. 31, s. 15 (Imp.).

Recovery by owner
from master of ship.
Ibid., s. 107.

37. Where the owner of any vessel, floating timber, or material pays any money in respect of any injury done to any part of the works or property of the commissioners by any master or other person, or pays any pecuniary penalty by reason of any act or omission of any master or other person, he shall be entitled to recover the money so paid with costs from such master or other person.

Damage to cables.
No. 35 of 1906, s. 6.

38. If any damage is done to any submarine cable, the property of or vested in the commissioners, within or partly within the harbour, by any ship, or any part of the equipment of any ship, such damage shall forthwith be made good by and at the expense of the master, owner, or agent of such ship; and in default, the commissioners may cause such repairs to be effected, and may recover the expense thereof from the master or owner or agent in any court of competent jurisdiction.

Actions against Commissioners and Officers.

Commissioners not
liable for acts or
omissions of pilots.

See N.Z. Act,
No. 34, 1894,
s. 6.

39. The commissioners shall not be liable for any act or omission of any qualified pilot or of their harbour master in case he is a qualified pilot.

Actions against
commissioners or
officers.

See N.S.W. Act,
No. 1, 1901, s. 26,
and N.Z. Act,
No. 35, 1878,
s. 227.

40. (1.) All actions to be brought against the commissioners, or any person, for anything done under this Act shall be commenced within six months after the act complained of was committed.

(2.) Notice in writing of the intended action, and the cause thereof, shall be served upon the commissioners at least one month before any process is issued, with the name and place of abode of the party intending to bring such action.

(3.) If—

(a) tender of sufficient amends has been made before such process is issued; or

(b) the matter complained of appears to have been done under the authority and in the execution of this Act; or

(c) such action is brought after the time limited for bringing the same; or

(d) such notice is not given as aforesaid,
judgment shall be given for the defendant with costs.

Harbour Dues and Wharfage Charges.

41. Harbour dues and wharfage charges shall be made and levied, and shall be payable in accordance with regulations under this Act.

Harbour dues, etc., to be made by regulation.

See N.Z. Act, No. 35 of 1878, s. 110.

42. Until such regulations are made, all harbour dues and wharfage charges now payable by law shall continue to be levied and charged, and shall be payable and paid to the commissioners as if the same had been made payable under this Act.

Existing dues and charges to continue.

Ibid., s. 109.

43. (1.) The commissioners may, from time to time, make regulations providing that harbour improvement rates, not exceeding in any case one shilling per ton by weight or by measurement as shall be expressed in such regulations, shall be levied upon all goods discharged at or shipped from the harbour.

Power to levy harbour improvement rates.

N.Z. 1878, No. 35 s. 216.

No. 35 of 1906, s. 8.

(2.) In and by such regulations the commissioners may provide for the manner of levying and collecting such rates, and by whom the same shall be paid, and in what manner the same shall be paid to any authorised officer of the commissioners or other person authorised by the commissioners in that behalf.

44. (1.) Where any vessel has been registered at a port in the United Kingdom, or any British possession, the amount of tonnage specified in the certificate of such registry shall, for the purposes of this Act, be deemed to be the tonnage of such vessel.

Tonnage of British vessels.

Ibid., s. 113.

(2.) In the case of vessels belonging to any foreign country which has adopted the provisions of the Merchant Shipping Act, 1894, in respect of tonnage, such vessels shall be deemed to be of the tonnage denoted in the certificate of registry or other national papers.

Foreign vessels.

45. In order to ascertain the tonnage of any vessel not registered as aforesaid as to which any question arises, any officer appointed in that behalf by the commissioners may measure such vessel according to the regulations for the measurement of shipping for the time being in force in the State; or the commissioners may, in their discretion, accept as the measurement of the vessel the measurement appearing

Ascertainment of tonnage of other foreign vessels.

See *ibid.*, s. 114.

No. 35 of 1906, s. 7.

in the latest edition of Lloyd's Register in the possession of the commissioners.

List of dues to be exhibited.

N.Z. Act, No. 35, 1878, s. 116.

46. The commissioners shall at all times keep exhibited in front of their principal office, a board having painted or affixed thereon lists of all dues and charges payable for the time being.

In case of difference, power to weigh or measure goods.

Ibid., s. 117.

47. Where a difference arises between any officer authorised to collect any such dues or charges and the owner of goods respecting the weight or quantity of any goods—

- (1) The officer authorised to collect such dues or charges may cause the goods to be weighed or measured.
- (2) If the weight or quantity exceeds that alleged by the owner, the expenses of the weighing or measuring shall be paid to the commissioners, and shall be recoverable as dues are recoverable.
- (3) If the weight or quantity does not exceed that alleged as aforesaid, the expenses of the weighing or measuring shall be paid by and shall be recoverable from the commissioners in any court of competent jurisdiction.

Liability for dues payable by ship.

Ibid., s. 119.

48. The owner and master of any ship, and such consignee or agent thereof as may have paid or made himself liable to pay any charge on account of the ship, shall be liable to pay the dues payable in respect of such ship.

Liability for dues payable for goods.

Ibid., s. 120.

49. The following persons shall be liable to pay the dues payable in respect of any goods carried in any ship, that is to say, the owner of such goods, and also any consignor, consignee, shipper, or agent for the sale of or custody of such goods, and also any person entitled, either as owner or agent for the owner, to the possession of such goods.

Persons other than master or owner of ship liable for dues may retain moneys received on account of master or owner of ship for such payments.

Ibid., s. 121.

50. Every consignor, consignee, shipper, or agent, not being the owner or master of any ship or goods, by this Act made liable for the payment of any dues in respect of any ship or goods, as the case may be, may, out of any moneys in his hands received on account of such ship or goods, or belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of payment and liability.

51. All dues may be recovered by the commissioners in any court of competent jurisdiction as a debt due to them.

Recovery of dues.
Ibid., s. 122.

52. Any officer authorised to collect dues may distrain any ship and the tackle thereof, or any goods in respect of which dues are payable, and may keep such ship and tackle or goods respectively until such dues are paid; and if the same are not paid within seven days after the distress, may cause the property distrained or any part thereof to be sold, and out of the proceeds of the sale may pay the amount of such dues and the expenses of the distress, keeping, and sale.

Persons authorised to collect dues may distrain.
Ibid., s. 123.

53. Where a difference arises concerning the amount of any dues payable, or of the charges occasioned by any distress, the person distraining may detain the ship, tackle, or goods distrained until such amount is ascertained by the Local Court at Fremantle, or until he is satisfied that sufficient security has been given for the payment of such amount when ascertained, and of the expenses arising from non-payment thereof. The court shall, upon application made for that purpose, determine the amount, and award such costs to be paid by either party to the other as the court thinks reasonable.

Settlement of dispute concerning dues or charges occasioned by distress.
Ibid., s. 124.

54. If any master, owner, consignor, consignee, shipper, or agent evades or attempts to evade the payment of any dues, he shall incur a penalty either not exceeding ten pounds, or in case the amount of the dues which he has evaded or has attempted to evade exceeds ten pounds, then not exceeding such amount.

Penalty on evasion.
Ibid., s. 125.

55. If in the opinion of the Governor the commissioners shall not, in any year, have collected and received from dues, charges, rents, and other sources of revenue sufficient, or shall in any year have collected and received as aforesaid more than sufficient, to provide for the lawful expenditure of the commissioners, including interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against them under sections fifty-six and fifty-seven, or if for any other reason the Governor thinks fit so to do, the Governor may revise the harbour dues, harbour improvement rates, wharfage charges, and other dues, tolls, rates, fees, and charges prescribed by the regulations under

Power to Governor to revise harbour dues.
No. 35 of 1906, s. 10.

this Act, and it shall be the duty of the commissioners to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

Finance.

Minister to declare value of property vested in commissioners.

N.S.W. Act, No. 1, 1901, s. 73.

56. The Minister shall, on the commencement of this Act, cause a schedule to be made of all property vested in the commissioners, and shall determine the value thereof to be charged against the commissioners.

Subsequent works.
See *ibid.*, s. 74.

57. After the determination of such value, the Minister shall, at the end of each financial year, cause a schedule to be made of the cost of all additional works and improvements constructed, and the proportionate cost of works in course of construction, and of all property acquired by the commissioners during the preceding financial year, to be charged as aforesaid.

Collection of dues, etc.
See *ibid.*, s. 75.

58. All dues, charges, rents, and other monéys levied and collected by the commissioners—

(1) shall be collected and received by them or their authorised officers for the use of His Majesty, and paid into the Treasury to the credit of an account to be called the Fremantle Harbour Trust account; and

(2) shall, in each year; be chargeable with all fees, salaries, and wages paid by the commissioners, and with all expenditure lawfully incurred by the Board in exercise of their powers under this Act.

No. 35 of 1906, s. 9.

(3) The balance shall be carried to the Consolidated Revenue Fund, subject to such regulations as may be made by the Governor for the payment of interest on capital, and the provision of a sinking fund, and of a fund for the replacement of depreciating property.

Expenditure.

59. All drafts upon the Treasury for expenditure by the commissioners shall be by orders signed by two commissioners, one of whom shall be the chairman or acting chairman, and countersigned by the secretary.

60. The commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein—

Accounts.
No. 35 of 1906, s. 11.

- (a) of all moneys received and paid by them, and of all moneys owing to and by them under this Act, and of the several purposes for which such moneys shall have been received and paid, and owing; and
- (b) of all the assets and liabilities of the commissioners under this Act.

61. (1.) All such books shall be open to the inspection of the Minister and the Auditor General, and any person authorised by the Minister or Auditor General to inspect the same, and all such persons may take copies or extracts therefrom.

Books may be inspected.
See N.S.W. Act,
No. 1, 1901, s. 76.

(2.) Any clerk or other person having the custody of the books who does not, on demand, permit any person as aforesaid to examine the said books and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding five pounds.

62. The commissioners shall cause their accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced.
No. 35 of 1906, s. 12.

63. (1.) The commissioners shall cause a full and true balance sheet of the assets and liabilities, together with a revenue account or profit and loss account for each year, and such other statements as may be necessary to be compiled from the books and submitted to the Auditor General for audit.

Accounts to be audited.
No. 35 of 1906,
s. 13.

(2.) The Auditor General shall certify that he has found the accounts in order, or otherwise, as the case may be; that, in his opinion, the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books; that all items of receipts and payments and all known liabilities and assets have been brought into account, and that the value of all assets has in all cases been fairly stated.

(3.) The Auditor General may express an opinion upon the necessity of reserve or renewal funds of amounts set aside to meet depreciation and obsolescence of plant in addition to the statutory sinking fund, and of the adequacy of such amounts.

(4.) The Auditor General shall, in respect to such accounts, have all the powers conferred on him by the Audit Act, 1904, and any amendment thereof.

Copies of accounts as audited to be furnished.
No. 35 of 1906, s. 14.

64. The commissioners shall, once at least in every year, furnish to the Governor a true copy of the accounts so audited, and copies of such accounts, together with the Auditor General's report thereon, shall be laid before both Houses of Parliament, if then sitting, or if not then sitting, at the next ensuing session thereof.

Regulations.

Power to make regulations.

65. The commissioners may make regulations under this Act for all or any of the following purposes:—

Proceedings of the Board.

(1) The general conduct of their business and proceedings.

(2) Prescribing the days upon which the ordinary meetings of the commissioners shall be held.

(3) The control, supervision, and guidance of their officers and servants.

Harbour control.
See N.Z. Act, No. 35, 1878, s. 212.

(4) Regulating all matters relating to the protection of life and property, and the safe navigation of the harbour.

(5) The prevention of overloading or overcrowding of vessels.

(6) Regulating the landing, shipping, transshipping, deposit, removal, and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods.

(7) Regulating the mode and place of mooring and anchoring of ships, and their position and government in the harbour, and their unmooring and removal out of the harbour.

(8) Enabling the harbour master to insure the observance of such by-laws, in case of non-compliance therewith, by mooring, unmooring, placing, or removing a ship, and for that purpose casting off or loosing any warp or rope, or unshackling or loosing any chain by which the ship is moored or fastened, first putting on board a sufficient number of persons for the protection of the ship in case there is no person on board to protect it.

- (9) Regulating the times, places, order, and mode of the shipping, unshipping, landing, warehousing, stowing, and depositing of goods (with special regulations and restrictions in the case of dangerous goods), and the landing and embarking of passengers, and the taking in and delivery of ballast.
- (10) Imposing, levying, and receiving all harbour dues, including tonnage dues, light dues, berthing dues, and other tolls, rates, or charges. Harbour dues. See N.S.W. Act, No. 1, 1901, s. 79 (d).
- (11) The exemption of ships in the service of His Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from harbour dues.
- (12) Regulating the use of wharfs or docks, quays, landing stages, and other landing places, and generally regulating the traffic on the same. Wharfs, etc. See N.Z. Act, No. 35, 1878, s. 212.
- (13) Fixing scales of dues, tolls, and charges to be paid for the use thereof.
- (14) Fixing scales of dues for the storage of goods and charges to be paid for taking into and delivering the same from warehouses or buildings belonging to or in the occupation of the commissioners.
- (15) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the commissioners, and fixing charges to be paid for the use of the same.
- (16) Regulating the cleansing, repair, and effectual preservation of docks and wharves, and providing for the keeping and maintenance of the same in a fit state for the convenience of persons walking upon or landing on or embarking from any such wharf.
- (17) Regulating the duties and conduct of all persons, as well the servants of the commissioners as others not being officers of customs, who are employed in the harbour. Duties of employees
- (18) Providing for the control and management of steam or other ferry boats plying for hire at wharves or public thoroughfares. Ferries.
- (19) The granting of licenses for tugs to conduct vessels into or out of port, and the fees to be paid for such licenses. Tugs.

Ballast and other
boats.

(20) Providing for the registration and licensing of all ballast boats, tank boats, cargo boats, lighters, and other vessels and boats plying for hire either for goods or passengers within the harbour, and for the registration and licensing of master boatmen and others, and to prevent unlicensed boatmen plying for hire.

(21) Providing for the inspection of all such boats or vessels and preventing the use of such as are unseaworthy or insufficient.

(22) Providing for the name of each boat or vessel and the name of its owner being shown thereon.

License fees for
boats, etc.

(23) Fixing the fees to be paid for licensing any such boats or vessels as aforesaid, and the fares and charges for the carriage of persons and goods in licensed boats of the several kinds hereinbefore mentioned, or any of them, according to either time or distance.

(24) Regulating the conduct, and for the punishment of misconduct, of licensed boatmen when practising their calling.

(25) The guidance of porters, cabdrivers, carters, carmen, and others carrying goods or driving horses, cabs, carriages, wagons, carts, drays, trucks, or other vehicles for conveying passengers or goods, and other commodities on any wharf.

Pilotage.

See N.Z. Act,
No. 35, 1878, s. 212.

(26) Prescribing pilotage rates and determining the nature of the services for which such rates respectively shall be payable.

(27) The time of payment for pilotage services rendered to any vessel.

(28) The amount to be paid for detention of pilots on board vessels under quarantine or otherwise.

(29) The conditions of exemption from compulsory pilotage.

No. 35 of 1906, s. 15.

(30) The granting of exemption certificates: Provided that every exemption certificate shall be revocable in the absolute discretion of the commissioners.

(31) The government of pilots, and for ensuring the effectual performance of their duties.

- (32) Empowering a collector of dues, either alone or with other persons, to enter a ship in order to ascertain the dues payable in respect of the ship or of the goods therein. Collection of rates and dues.
N.Z. Act, No. 35,
1873, s. 212.
- (33) Requiring the master of every ship to report his arrival within a specified time after his arrival.
- (34) Requiring the master of every ship to produce the certificate of registry to any officer on demand.
- (35) Requiring the master of every ship to give as many copies as may be required by the commissioners of the bill of lading or manifest of the cargo, or other proper account of goods intended to be unshipped, and the name of the consignee or other person to whom they are intended to be delivered, and as many copies as may be required by the commissioners of all alterations in or additions to such bill of lading, manifest, or other proper account. No. 35 of 1906,
s. 15.
- (36) Requiring the master of every ship to give notice of the intended time of unshipment.
- (37) Requiring the shippers of goods to furnish accounts of the goods intended to be shipped.
- (38) Regulating the time when dues on goods shipped or unshipped are to be payable.
- (39) Limiting the liability of the commissioners for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the commissioners, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever. Limitation of liability.
No. 35 of 1906, s. 15.
- (40) Limiting the amount of liability on each package of goods coming into the custody of the commissioners and enabling the commissioners to rely upon, and the owner of goods to be bound by all statements, exceptions, and conditions indorsed on ships' receipts, bills of lading, or ships' manifests for goods, as to declarations of value.
- (41) Providing that in any case of discharge and landing of goods outside what may be fixed by the commissioners as the ordinary working hours of the harbour, the commissioners shall not be liable to any person for the condition of such goods.

- (42) Providing that the commissioners shall in no case be liable for the contents of packages of goods which are so packed or secured that the contents are not plainly visible, or the character thereof not ascertainable on receipt of the goods without the goods being unpacked or opened.
- (43) Exempting the commissioners from liability for damage to goods caused or contributed to by insufficient protection or packing.
- (44) Exempting the commissioners from liability for damage to or loss of goods which may have been delivered on their premises, but for which the commissioners or their servants have not given a receipt.
- (45) Exempting the commissioners from liability for damage suffered by any person in consequence of delay in, or the wrongful delivery of goods.
- (46) Exempting the commissioners from liability for damage to goods if landed or otherwise handled in wet weather, and authorising the wharf manager to decide in his absolute discretion when the weather is wet.
- (47) Limiting the time within which claims in respect of goods damaged or lost must be made against the commissioners, and exempting the commissioners from liability in case claims are not made in accordance with such regulations.
- (48) Regulating the working and the provision of servants and labourers for the working of cranes, weighing machines, and other machines and conveniences erected or provided by the commissioners for use in the loading and unloading of goods on any of the wharves of the commissioners, and prescribing the rates or charges for the same, and for the handling and storing of goods.
- (49) Regulating the charges to be made by licensed boatmen, porters, and other carriers.
- (50) Prohibiting persons from acting as boatmen plying for hire, porters, cab-drivers, carters, carmen, or otherwise in the carriage of goods or passengers without previously obtaining and continuing to hold the license of the commissioners, and pre-

Loading and unloading.

No. 35 of 1906, s. 15.

Licensed boatmen, etc.

1906, No. 35, s. 15.

scribing the duration of and the fees for such licenses, and providing that the issue of any such license and the cancellation thereof shall be at the absolute discretion of the commissioners.

- (51) Authorising and empowering the commissioners, in their discretion, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting harbour dues, wharfage, and handling and storage charges.

Weight and measurement.
1906, No. 35, s. 15.

- (52) Regulating and limiting the speed of vessels within the harbour.

Speed of vessels.
1906, No. 35, s. 15.

- (52a) Authorising and empowering the commissioners to cause the removal from the harbour to some other place or places within or outside the limits of the harbour of goods which the commissioners or their wharf manager shall, in their or his absolute discretion, consider to be injurious to or which may injuriously affect other goods or any shed, store, or other premises or open yard or place within the harbour.

Amendment of Section 65.
Removal and storage of goods.
Inserted by No. 2 of 1911, s. 4

Any such regulation may provide for and authorise the storage of such goods in any shed or store, or in or on any exposed or open place, and in any and every case at the risk and expense of the owner of the goods; and such shed, store or place may be within or outside the limits of the harbour as the commissioners or their wharf manager may think fit.

The cost of such removal and the keeping and storage of the goods, whether within or outside the said limits shall be chargeable against the owner of the goods, and may be recovered from him by the commissioners in an action in the Local Court of Western Australia held at Fremantle.

Any such regulation shall be additional to the provisions contained in section twenty-nine, and shall not be deemed *ultra vires* of the commissioners in consequence of the same being in excess of the powers therein contained.

- (53) And for other purposes relating to the convenience of shipping, or of the public, within the harbour, and generally for duly administering and carrying out the powers vested in the commissioners by this Act.

Generally

Penalties for breach of regulations.

66. Every regulation—

- (1) May impose a penalty not exceeding one hundred pounds for the breach thereof; and
- (2) May provide that, in addition to the penalty, any expense incurred by the commissioners in consequence of the breach of such regulation shall be paid by the person committing such breach.

Regulations to be approved by the Governor and published in *Government Gazette*.

67. Every regulation shall, upon approval by the Governor and publication in the *Government Gazette*, have the force of law; and shall be laid before Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

Municipal Councils may make by-laws under 64 Vict., No. 8, s. 167 (35).
No. 35 of 1906, s. 17.

68. It shall be lawful for the Councils of the Municipalities of Fremantle, East Fremantle, and North Fremantle, with the approval of the commissioners, to make by-laws under subsection thirty-five of section one hundred and sixty-seven of the Municipal Institutions Act, 1900, or the corresponding provisions of any Act amending the same, having the force of law within the boundaries of the harbour; and for such purpose the harbour shall be deemed to be within the respective municipal districts to such extent as may be prescribed by such by-laws:

Provided that such by-laws may from time to time be altered, amended, or repealed by the Governor.

Miscellaneous.

Provision for Sundays and holidays.
No. 35 of 1906, s. 18.

69. When the day on which anything is by this Act or the regulations required to be done falls on a Sunday, Good Friday, Christmas Day, New Year's Day, or any public holiday, such thing shall be done on the day next following.

Governor may rectify irregularities.
No. 35 of 1906, s. 19.

70. Whenever by any misadventure or accident anything is at any time done after the time required by this Act or the regulations, or is otherwise irregularly done in matter of form, the Governor may, from time to time, make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required, or irregularly done in the matter of form, so that the true intent and purpose of this Act and the regulations may have effect.

71. The master of any vessel who, after the service on him of notice in writing signed by the harbour master or any officer acting on behalf of the harbour master, does not forthwith regulate such vessel according to such directions, shall be liable to a penalty not exceeding fifty pounds.

Penalty for not complying with directions of harbour master.
See N.S.W. Act, No. 1 of 1901, s. 22.

72. If the master of any vessel within the harbour does not moor, unmoor, place, or remove such vessel according to the directions of the harbour master in writing given to the said master, the harbour master may cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and employ a sufficient number of persons for that purpose; and the expenses attending such mooring, unmooring, placing, or removing shall be paid by the master of such vessel.

Power of harbour master to remove vessels.

Ibid., s. 23.

73. If the master of any vessel, or any person on board, hinders the harbour master or any person employed by him in mooring, unmooring, placing, or removing such vessel, such master or other person shall, on conviction for every such offence, be liable to a penalty not exceeding fifty pounds.

Penalty on master or person on board for obstructing harbour master.

See *Ibid.*, s. 24.

74. If any master or other person on board any vessel moored or fastened within the harbour does not, upon demand of the harbour master, unloose or slacken the rope or chain by which such vessel is moored or fastened, or if there is no person on board of any such vessel so moored or fastened, it shall be lawful for the harbour master to unloose or slacken the rope or chain by which such vessel is so moored or fastened, and to cause, if necessary, a sufficient number of persons to be put on board for the protection of the vessel, and all expenses thereby incurred shall be paid by the master of such vessel.

Harbour master may slacken ropes.

Ibid., s. 25.

75. If any person commits any of the following offences, so as to be or tend to the injury of navigation, that is to say:—

Restriction on deposit of ballast or rubbish.

N.Z. Act, No. 35, 1878. s. 217.

- (1) casts, or causes to be cast, or suffers to fall, either from on board ship or from land, any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, or other substance or thing, on any tidal land, or into the harbour, or tidal water, or into the sea below low water-mark; or
- (2) casts, or causes to be cast, or suffers to fall, any such substance or thing on land, in a position where the same may be liable to fall or descend, or be carried

or washed down by ordinary or high tides, or by any stream or flow of water, or by any storm or flood, or otherwise, into the harbour or tidal water, or into the sea; or

- (3) casts, or places or leaves, or causes to be cast, placed, or left, any ship or boat laid by or neglected as unfit for sea service, any floating or other timber, or any other thing on any tidal lands, or in the harbour or tidal water, or in the sea,

he shall be guilty of an offence, and for each offence shall be liable to a penalty not exceeding twenty pounds, and to pay the expenses of the removal to a proper position of any such substance or thing.

Series of acts
tending to the
injury of
navigation.
N.Z. Act, No. 35 of
1878, s. 102.

76. Any act shall be deemed to tend to the injury of navigation, within the meaning of this Act, in any case where a series of like acts has produced or would produce injury to navigation.

Penalties for
damaging lights,
buoys, or beacons.
Ibid., s. 218.

77. If any person wilfully or negligently commits any of the following offences, that is to say—

- (1) injures any harbour light, or the lights exhibited therein, or any buoy or beacon;
- (2) removes, alters, or destroys any harbour light, light-ship, buoy, or beacon;
- (3) rides by, makes fast to, or runs foul of any harbour light, light-ship, buoy, or beacon;
- (4) removes, alters, injures, or destroys any signal or signal staff used for purposes in aid of vessels navigating,

he shall, in addition to the expenses of making good any damage so occasioned, be liable, on conviction, to a penalty not exceeding one hundred pounds, or imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilfully
cutting moorings.
Ibid., s. 219.

78. Any person excepting the harbour master, or persons acting under his authority, who wilfully cuts, breaks, or destroys the mooring or fastening of any vessel in the harbour shall, for every such offence, incur a penalty not exceeding fifty pounds, or imprisonment not exceeding twelve calendar months, with or without hard labour.

79. Any person who wilfully destroys or in any way damages or injures any wharf, shed, roadway, building, or other harbour work whatsoever, or any part thereof, constructed or in course of construction, shall be liable for every such offence to a fine not exceeding one hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilful damage to works.
Ibid., s. 220.

80. If any person wilfully or negligently breaks or damages or takes away any lamp or other appliance used for the purpose of lighting any wharf, quay, pier, or any road or dock, or other place, or wilfully extinguishes any light, every person so offending shall be liable to a penalty not exceeding twenty pounds.

Penalty for wilful damage to lights.
Ibid., s. 221.

81. If any person—

Offence incurring penalty.
Ibid., s. 222.

- (a) fails, refuses, or neglects to do, or in any manner obstructs, impedes, or interferes with the doing of anything enjoined or authorised to be done; or
 - (b) wilfully does anything prohibited by this Act; or
 - (c) molests or makes use of any threatening language to any engineer, surveyor, harbour master, pilot, or other officer or person acting in the execution of his duty, and whether under the authority of the Governor or the Minister, or of the commissioners; or
 - (d) in any other respect offends against any of the provisions of this Act or any regulation thereunder,
- every such person in any such case so offending shall, where no other penalty is in that behalf specifically provided, be liable to a penalty not exceeding twenty pounds.

82. Any person who gives or offers any reward or bribe to any officer or servant of the commissioners for the purpose of gaining an undue preference in the execution of his office, or for the purpose of inducing him to do or omit to do anything relating to his office, shall, for every such offence, be liable to a penalty not exceeding one hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for offering bribes to officers.
Ibid., s. 224.

83. Any offence against this Act, and any breach of any of the provisions thereof or of any regulation thereunder, may be heard and determined summarily by any two or more Justices of the Peace in the manner provided by the Justices Act, 1902.

Summary procedure for breach of by-laws.
Ibid., s. 225.

What shall be sufficient averment.
Ibid., s. 226.

84. In any proceedings for any offence, the averment that such offence was committed within the limits of the harbour shall be sufficient, without proof of such limits, unless the contrary is proved.

Application of penalties.
N.S.W. Act, No. 1,
1901, s. 104.

85. All penalties recovered for offences against this Act, or against any regulation thereunder, shall be paid to the commissioners, and the proceeds of such penalties are hereby appropriated for the purposes of this Act.

Police officers to report breaches of Act.
No. 35 of 1906,
s. 20.

86. It shall be the duty of every police officer and constable who is aware or has reason to believe that any of the provisions of the Act or the regulations thereunder are being contravened, to forthwith report the matter to the secretary to the commissioners.

Offenders may be prosecuted under other Acts.

87. When an offender is punishable under the provisions of this Act, and also under the provisions of some other Act, he may be prosecuted and convicted under the provisions of either Act, so that he is not punished twice for the same offence.

Security to Customs.
Inserted by No. 4 of
1913, ss. 2 and 3.

88. The commissioners may give, by bond or otherwise, such security as the Customs may require under the provisions of the Customs Act, 1901.

THE SCHEDULE.

Section 2.

[As amended by the Governor by notification in the *Government Gazette* on the 26th day of August, 1932.]

Description of inner harbour and of outer harbour.

That portion of the said Harbour, which shall be known as the Inner Harbour, shall be bounded as follows:—

By a line starting from the intersection of the North side of Lukin Road and the prolongation Northwards of the fence on the West side of the Railway Reserve, North Fremantle, and extending Southerly along the fence on the Western boundary of the Railway Reserve and along the Railway Bridge; thence along the Railway fence to the Western abutment of the Overhead Bridge; thence following the North-Western foot of the embankment of the approach to the Overhead Bridge to a point opposite 92 feet North-Easterly from the South-East corner of "H" Shed; thence South-Easterly to the angle in the Railway fence; thence South-Westerly along the said fence to the Eastern side of Cliff Street; thence Southerly along the said side of Cliff Street for a distance of about two chains; thence Westerly crossing Cliff Street and following along the South-Eastern boundary fences of the Fremantle Harbour Trust offices and Harbour Works Depot to the South-Western corner of the said depot; thence South about four chains;

thence on a bearing of 106deg. 30min. for about eleven chains; thence South to the sea-coast and generally Westerly along same and the Southern side of the South Mole to its Western extremity; thence West-North-Westerly to the Western extremity of the North Mole; thence Easterly and North-Easterly along the North side of the said North Mole and the sea-coast to a point due West of a point on the Western boundary of the Vacuum Oil Company's lease, seven chains from the South-West corner of the said lease; thence due East to the point aforesaid on the Western boundary of the Vacuum Oil Company's lease; thence South-Westerly along the said boundary to the South-West corner; thence South-Easterly along the Southern boundary of the Vacuum Oil Company's lease to the South-East corner; thence North-Easterly along the Eastern boundary of the Vacuum Oil Company's lease to its intersection with a line parallel to and fifty links distant from the fence on the prolongation Easterly of the Southern boundary of the Vacuum Oil Company's lease; thence along the said line to its intersection with the North Fremantle Store site fence; thence North-Easterly along the said fence on the South-Easterly side to its intersection with the prolongation of the North side of Lukin Road; thence North-Easterly along the said prolongation and the North side of Lukin Road to the starting point; but there shall be excluded from the said Inner Harbour all that piece of land at Arthur's Head contained in a lease to the Fremantle and the North Fremantle Councils for the purpose of a Tramway Electric Power House, and known as Fremantle Town Lot Number 1524, and as described in the *Government Gazette* of the 16th September, 1904.

That portion of the said Harbour, which shall be called the Outer Harbour, shall be:—

Bounded by a line starting at a point on the sea-coast of the mainland in Lat. 31deg. 56min. 22sec. S. and extending South of Westerly to Duck Rock Beacon; thence Southerly to Bathurst Point, Rottnest Island, and along the Eastern and Southern shores of Rottnest Island in a generally Southerly direction to Parker Point; thence South-Easterly to Entrance Point, Garden Island; thence Easterly, Southerly, and Westerly passing along the Northern, Eastern, and Southern shores of the said island to South-West Head; thence Southerly to John Point on the Mainland; thence Easterly and Northerly along the sea-coast of the mainland to a point due Easterly of the Southern extremity of the Fishing Boat Harbour Mole; thence due Westerly to the Southern extremity of the said Mole; thence Northerly along the Western side of the Fishing Boat Harbour Mole; thence Northerly and Westerly along the sea-coast of the mainland and the Southern side of the South Mole to the latter's Western extremity; thence West-North-Westerly to the Western extremity of the North Mole, and thence Easterly and North-Easterly along the Northern side of the said North Mole and Northerly along the sea-coast of the mainland to the starting point; but there shall be excluded from the said Outer Harbour any lands which have heretofore been and remain alienated from the Crown in fee simple.

And the said Harbour shall comprise the areas included in the said Inner and Outer Harbours.

