

211

MARINE BOARDS.

NEW ZEALAND.

ANNO VICESIMO SEXTO
VICTORIÆ REGINÆ.

No. 20.

An Act to establish Marine Boards for the general Control and Management of Ports, Pilots, Lighthouses, and other Matters relating to Navigation, and to regulate Port Charges and other Rates.

Preamble.

WHEREAS it is expedient that the general control and Management of Ports, Harbours, Wharves, Docks, Pilots, Lighthouses, and other matters relating to navigation and shipping should be vested in Marine Boards:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand, in Parliament assembled, and by authority of the same, as follows:—

Short Title.

I. The short title of this Act shall be, "The Marine Board Act, 1862."

Interpretation Clause.

II. In the construction and for the purposes of this Act, and of all proceedings under this Act, the following words shall have the meanings hereinafter assigned to them, unless there is something in the context of the Act repugnant to such construction:—

"Board" shall mean the Marine Board of the Port in relation to which the term is used.

"Warden" shall include Master Warden.

"Port" shall extend to and include any port, harbour, or haven, or navigable creek or river within the jurisdiction of the Boards respectively.

"Wharf" shall extend to and include any public wharf, quay, or pier, or any place used for the landing of goods or passengers situate within any "Port," the management of which is otherwise provided for by law.

"Collector of Customs" shall include the person acting as such at the Port in respect of which the term is used.

"Harbour Master" shall extend to and include any Deputy Harbour Master or person for the time being acting as such Harbour Master or Deputy.

"Master" shall extend to and include the person, not being a Pilot, commanding, or for the time being having the principal or actual charge, custody, or control of a vessel.

"Colonial Ports" shall mean all Ports within the colony, and within the Australian colonies.

"Colonial trader" shall mean and intend a vessel the master of which has at any time made more than two consecutive voyages to and fro between the Port in this colony in which the vessel may be and any other Colonial Port, and which is actually trading between Colonial Ports.

Governor to exercise powers of the British Board of Trade.

III. The Governor shall have and exercise within the colony all the powers, *mutatis mutandis*, which are, in and by the Act of the Imperial Parliament entitled "The Merchant Shipping Act, 1854," vested in the Board of Trade.

Certain powers to be vested in the Governor in Council.

IV. Where, by the said "Merchant Shipping Act, 1854," any power may be exercised by the Board of Trade, with the assistance of the Commissioner of Customs, such power may be exercised by the Governor in Council.

THE CHIEF MARINE BOARD.

Chief Marine Board to be established.

V. The Governor in Council shall, as soon as conveniently may be after the passing of this Act, establish a Board to be called the Chief Marine Board of New Zealand, and shall appoint some fit and proper person to be President of Marine Boards, who shall act as Master Warden of such Chief Marine Board, and not less than three nor more than five other persons to be Wardens thereof, of whom one shall be appointed to be the Treasurer thereof: and such appointment from time to time as he shall think fit, to revoke and cancel and to make others in lieu thereof.

Appointments to be Gazetted.

VI. Every appointment by the Governor in Council of a Warden shall be made by warrant, of which a notice shall be published in the *Government Gazette* of the Colony, and also of the Province to which the same shall relate.

When Warden's Seat vacant.

VII. If any Warden is declared insolvent, or ceases or neglects to attend the sittings of the Chief Marine Board for a period of three months at one time, except in case of illness, certified by a duly qualified medical practitioner, or of absence by permission of the said Board, it shall be lawful for the said Board to declare such Warden's seat vacant, and it shall thereupon be vacant accordingly.

New Appointment of Warden.

VIII. Upon every vacancy among the Wardens a new Warden shall be nominated and appointed in manner aforesaid to supply such vacancy.

Board shall be Corporation and have a Seal.

IX. The said Board shall be a body corporate by the name of the Chief Marine Board of New Zealand, and by that name shall have perpetual succession, and be capable of suing and being sued, and of taking, purchasing, and holding land and personal estate, and of alienating, mortgaging, leasing, and disposing of the

same, and shall have a common seal; and, in all cases of legal proceedings service or notice thereof upon the Master Warden for the time being shall be sufficient service on the Board.

Conveyances must be approved.

X. Provided that every purchase and every alienation, mortgage, lease, and disposition of land by such Board, shall be approved of by the Governor in Council.

Pilots and Pilotage.

Appointment of Pilots.

XI. The Chief Marine Board is hereby empowered to appoint, license, suspend, or dismiss all Pilots within the Colony.

Board to regulate Pilot Charges, &c.

XII. The Chief Marine Board shall regulate the duties and conduct of all Pilots within the Colony, and shall fix the Pilotage rates, which shall be payable at each Port, not being greater than the rates specified in the Schedule, and shall determine the nature of the service for which such rates respectively shall be payable, the time of payment, and the amount to be paid for detention of Pilots on board vessels under quarantine or otherwise.

Pilots to be examined.

XIII. No person shall be appointed to be a Pilot at any Port unless he shall have first undergone an examination before the Marine Board of such Port, or before examiners appointed by the Board, and shall have received a certificate of competency; and such examination shall be conducted, and such certificate shall be given, subject to regulations to be made by the Chief Marine Board in that behalf, and not otherwise: Provided, that no such regulations shall take effect unless they shall have been submitted to and approved of by the Governor in Council.

Pilots may be suspended from Duty.

XIV. It shall be lawful for any Board, to be constituted as hereinafter provided at any Port, at any time, as it may deem necessary, to suspend any Pilot from acting as such for a port within its jurisdiction: Provided that every such suspension, and the cause thereof, shall be forthwith reported to the Chief Marine Board, whose decision shall be final.

Boards may appoint and regulate Pilots.

XV. It shall be the duty of the Chief Marine Board to fix the remuneration to be paid to Pilots, and to pay such remuneration out of the funds at its disposal under this Act, and to settle how Pilots' establishments are to be upheld and maintained.

Penalty on Person illegally piloting.

XVI. If any person, unless in the case of some unavoidable necessity, acts as Pilot without being licensed, or after he has been suspended or dismissed, such person shall forfeit a penalty not exceeding Fifty Pounds.

Pilots who have been licensed under former Law to act.

XVII. Every Pilot who, at the time of the commencement of this Act is legally licensed as a Pilot, shall, during the continuance of such license, and until such license is revoked by the Chief Marine Board, be deemed to be licensed as a Pilot under this Act.

Rates of Pilotage to be fixed and prepaid.

XVIII. No Pilot shall, in any case, conduct a vessel to sea from any Port until the full amount of Pilotage, according to the rates for the time being fixed and established for such Port has been paid.

Regulates Exemption from Pilotage.

XIX. The Chief Marine Board is hereby empowered to grant certificates of exemption from Pilotage to such colonial traders as it shall think fit, which certificates shall state that the master of the colonial trader, specifying his name, and that of the vessel, is qualified to conduct and navigate his vessel into the Port or Ports where the exemption is claimed; and a register, in the nature of a counterpart of each certificate, shall be kept by the said Board of all such colonial traders, and the master thereof, who shall have received certificates accordingly, and every such master shall sign such register; and all colonial traders, in respect of which such exemptions are granted and in force, shall unless the master actually requires the services of a Pilot, and employs one accordingly, be exempt from payment of more than one full rate of Pilotage in and out of such Port in each year, accordingly: Provided, that no such vessel shall be so exempt from Pilotage unless the master produces such certificate of exemption when required by the Collector of Customs of the Port, or by any licensed Pilot who may board such vessel, and permits the same to be read by such Collector of Customs or Pilot: Provided, also, that no such vessel shall be entitled to such exemption from Pilotage unless, from the time of approaching within six leagues of the shore up to the time of her anchoring in the Port, there is kept flying at her mast or main-mast head, as the case may be, such distinguishing flag as the Chief Marine Board from time to time for that purpose directs: Provided, also, that all vessels exempt from Pilotage at the time of the commencement of this Act shall continue so exempt for six months thereafter, and no longer, unless the vessel is then exempt under the provisions of this Act.

Penalty on Masters evading Pilotage.

XX. If any vessel not exempt from Pilotage, or not employed in coasting only, proceeds to sea from any Port for which a Pilot is so licensed as aforesaid, or quits her station or anchorage in such Port, in order to proceed to sea, without receiving on board some Pilot so licensed for the purpose of conducting her to sea, the master of such vessel shall, over and above the amount which would have been payable for Pilotage if a Pilot's services had actually been engaged, forfeit a penalty not exceeding Fifty Pounds.

Penalty on Master refusing or hindering Pilot,

XXI. If the master of any vessel not exempt from Pilotage, or not employed in coasting only, arriving from any place beyond sea, at or off any Port for which a Pilot is so licensed as aforesaid, and intending to enter such Port, does not immediately upon demand receive on board such vessel the licensed Pilot who first offers himself to conduct her into Port, or does not forthwith upon demand, and upon the Pilot producing, if required, his license, give the vessel in charge to such Pilot, the master so offending shall, over and above the amount which would have been payable for Pilotage if the Pilot's services had actually been accepted, forfeit a penalty not exceeding Fifty Pounds.

Extra Charge for Detention of Pilot.

XXII. If any Pilot in charge of a vessel entering into or proceeding out of any Port remains on board such vessel whilst under Quarantine, or is delayed in the performance of his duty by any act of the master, the master or owner shall, for every day the Pilot remains on board, or is delayed as aforesaid, pay, in addition to the amount of Pilotage so fixed as aforesaid, such sum as may from time to time be directed by the Board, by any by-law to be made and published by it under the authority of this Act, and such additional amount shall be a Port charge on the vessel.

Light-houses.

Board to manage and control Coast-lights.

XXIII. The Chief Marine Board shall have the management and control of, and is hereby charged with the maintenance and reparation of the several Light-houses, light-ships, sea marks, and beacons, erected or to be erected, on the Coast of this Colony, and, subject to the provisions of this Act, shall have all the powers and jurisdiction in respect of such Light-houses and Light-ships which the guild or fraternity, commonly called the Corporation of the Trinity House of Deptford Stroud, has and exercises, or may hereafter have and exercise within the United Kingdom.

Provision for erection of Light-houses, &c.

XXIV. For the purpose of erecting any new Light-house, or stationing any Light ship on the Coast of any Province, the Chief Marine Board, and the Marine Board or Boards for such Province, if such shall have been established, shall form a consolidated Board, of which the President of the Marine Boards shall be the Chairman; and such consolidated Board is hereby authorised and required to meet from time to time, as occasion requires, for the purpose of determining the necessity or expediency of establishing new Light-houses or Light-ships; and such consolidated Board is hereby authorised to do all things necessary for the erection and establishment of any new Light-houses or Light-ships which such consolidated Board may determine to be necessary or desirable.

Board may fix Light Dues.

XXV. It shall be lawful for the Chief Marine Board to fix Light-house dues not exceeding those specified in the Schedule to this Act, which shall be payable at any Port or Ports within the Colony in respect of all vessels arriving at such Ports, by the Master of every such vessel.

Surveys and other duties.

Board to make Marine Surveys.

XXVI. It shall be the duty of the Chief Marine Board to make and complete or authorize to be made and completed all such Surveys of any Port, harbour, or coastline of the Colony as may be requisite for the safety of shipping, and all such Surveys so made and completed shall be published by authority of the said Board.

Inspection of Steam Vessels.

XXVII. In any Port of the Colony where no Marine Board shall have been constituted as hereinafter provided, and until some Marine Board shall be so constituted the Chief Marine Board shall have all such powers and exercise all such duties and functions as are or may be conferred upon any Board by the "Steam Navigation Act, 1862," or by any Act which may hereafter be passed by the Legislature of the Colony for the same or similar purposes.

Board may delegate Powers under Navigation Act.

XXVIII. Provided that it shall be lawful for the Chief Marine Board, with the consent of the Governor in Council to delegate in writing any or all such powers duties and functions in respect of any Port to the Collector of Customs of such Port, or to some other fit and proper person, to be by him had and exercised on behalf of the Chief Marine Board in accordance with regulations to be expressed in such delegation.

Quarantine Regulations.

XXIX. The Chief Marine Board shall from time to time as occasion may require, make and issue Quarantine Regulations to be in force within any Port or Ports of the Colony. Provided that all such regulations shall, before coming into operation, be approved of by the Governor in Council, and published in the *Government Gazette* of the Colony, and of the Province to which the same shall relate.

Accounts.

Funds how to be dealt with.

XXX. All Light-house dues and Pilotage rates leviable under the authority of this Act shall be paid by the Master of the vessel in respect of which the same shall be payable, to the Collector of Customs of the Port, who shall, from time to time pay the whole amount thereof to the Colonial Treasurer. And all such dues and rates respectively shall be carried by the Colonial Treasurer to a separate account, and shall be by him paid from time to time, upon the warrant of the Governor, to the Chief Marine Board.

Dues and Rates to form special Fund.

XXXI. The Light-house dues so paid over shall form a fund to be applied by the Chief Marine Board exclusively to the erection, maintenance and repair of Light-houses on the coast of the Colony: And the Pilotage rates so paid over shall in like manner be applied to the remuneration of Pilots, and the maintenance of Pilot establishments within the Colony.

Annual Account to be transmitted and Audited.

XXXII. An annual account of all moneys received and expended by the Chief Marine Board for the purposes of this Act, signed by the Master Warden, or two of the Wardens, made up to the thirty-first day of December in each year shall, before the end of the then next January, be transmitted by the Board to the Auditor of public accounts for examination and audit.

LOCAL BOARDS.

Method of Appointment.

XXXIII. It shall be lawful for the Superintendent and Provincial Council of any Province by Act or Ordinance to be passed in that behalf before the 31st day of December in the year 1863 to constitute for any Port within such Province a Marine Board and to distinguish each Board by such name as may seem fit, and to confer upon such Board any powers duties and functions subject to the provisions of this Act, and to give power to the Superintendent of the Province to define the limits of jurisdiction of any such Board within the Province. Provided that every such Act or Ordinance shall be reserved for the Governor's assent.

Who shall compose Boards.

XXXIV. Such Boards shall respectively consist of not less than three nor more than five Wardens, who shall be appointed and removeable by the Superintendent of the Province and such Wardens shall as soon as may be after the establishment of the Board elect one of their number to be the Master Warden of the Board, and another to be Treasurer thereof; and from time to time, as any vacancy occurs in the office of Master Warden, or Treasurer, the Wardens shall, as soon as may be after their number is complete, in like manner elect another to supply such vacancy.

Appointments to be Gazetted.

XXXV. Every appointment of any such Warden shall be made by warrant, of which a notice shall be published in the *Government Gazette* of the Province to which the same shall relate.

When Warden's Seat vacant.

XXXVI. If any Warden is declared insolvent, or ceases or neglects to attend the sittings of the Board for a period of three months at one time, except in case of illness, certified by a duly qualified medical practitioner, or of absence by permission of the Board, it shall be lawful for the Board to declare such Warden's seat vacant, and it shall thereupon be vacant accordingly.

New Appointment of Warden.

XXXVII. Upon every vacancy among the Wardens, a new Warden shall be appointed in manner aforesaid to supply such vacancy.

Boards shall be Corporations and have a Seal.

XXXVIII. Such Boards respectively shall be bodies corporate by the respective names aforesaid, and by those names respectively shall have perpetual succession, and be capable of suing and being sued, and shall respectively have a common seal; and, in all cases of legal proceedings, service or notice thereof upon the Master Warden for the time being shall be sufficient service on the Board.

Governor may constitute Board in certain cases.

XXXIX. If in any Port no Marine Board shall have been established by Act or Ordinance of the Superintendent and Provincial Council of the Province within which the same is situated as hereinbefore provided before the 1st day of January 1864 it shall be lawful for the Governor in Council at any time thereafter as he shall think fit to establish a Marine Board for such Port; and every Board so established shall have and exercise the same powers duties and functions as are by this Act conferred upon the Marine Board of any Port and shall be composed in the same way, and the Governor in Council shall have the same powers in relation thereto as are hereinbefore conferred upon the Superintendent of such Province

General Powers and Duties of Boards.

Definition of Powers and Duties.

XL. The Boards respectively, are hereby empowered and required to perform the general functions and duties following:—

To superintend and maintain harbour marks, buoys, lights, and beacons now or hereafter to be erected or placed;

To license Boatmen plying for hire in any Port, and fix the Fees to be paid for such Licenses, and also the Penalties on persons plying for hire without being licensed; to regulate the Fares to be charged by Licensed Watermen plying for hire within the Ports in their jurisdiction; to fix places at which Licensed Watermen shall ply, and otherwise regulate their conduct and proceedings; and to regulate and control steam or other Ferry boats plying for hire at wharfs or public thoroughfares:

To license tugs, if necessary, for conducting vessels into and out of Port; and to fix the Fees to be paid for such Licenses, and the Rates to be charged for the services of such tugs:

To appoint and remove Harbour Masters and other officers of the Port:

To regulate the berthing of vessels at wharves and in docks, and the mooring, unmooring, and removal of vessels, and the number of days during which a vessel shall be permitted to occupy any berth, and to fix and determine the depth of water to which vessels in any dock may be loaded whilst in such dock:

To license ballast boats, and tank boats, and as far as possible to regulate the supply of ballast and water to the shipping:

To regulate the duties and conduct of the Harbour Masters, and other persons employed and acting in carrying out and effectuating the several objects of this Act within any Port; the limits to which the powers and duties of Harbour Masters shall extend; and the mode in which Masters of vessels shall apply for and obtain the services of the Harbour Masters:

To carry out and enforce all Harbour and Quarantine Regulations which shall be lawfully in force within the Port :

To make and enforce rules, in cases where such shall not have already been provided by law, for the convenience of persons walking upon or landing on or embarking from any wharf, for regulating the shipping or landing of goods, merchandise, or other commodities, at or from any dock or wharf; the nature of the goods, merchandise, or other commodities which may or may not be shipped or landed, and the mode and time of shipping and landing the same; for the cleansing, repair, and effectual preservation of docks and wharves; for the governing and regulation of porters, carters, carmen, and others carrying goods, or using or driving horses, waggons, carts, drays, trucks, or other carriages for conveying passengers, goods, merchandise, or other commodities to or from docks or wharves; for the convenience of persons using or resorting to the same; and otherwise generally for the better governance, regulation, and management, safety, and protection of the ports, docks, wharves, and shipping, as to such Boards respectively seem necessary or desirable.

Buoys, &c., to belong to Marine Boards.

XLII. All buoys, beacons, and sea-marks within any Port shall be vested in the Superintendent of the Province within which the same shall be situate.

Wharves and Docks.

Superintendent may define Limits.

XLIII. For the prevention of doubts and disputes as to the limits of any wharf, quay, pier, or dock, under the charge of the Board, it shall be lawful for the Superintendent of any Province, from time to time as occasion may require, by proclamation for that purpose published in the *Gazette* of the Province to define the limits and boundaries for the purposes of this Act, of any wharf, quay, pier, or dock within each Province under the charge of the Board; and such proclamation from time to time to revoke, and in manner aforesaid to re-define such limits and boundaries; and every wharf, quay, pier, or dock so defined or re-defined shall be a wharf, quay, pier, or dock within the meaning and for the purposes of this Act, and the limits and boundaries so defined or re-defined shall be deemed to be the limits and boundaries of the same.

Plans of Construction of additional Wharves, &c., to be laid before Board.

XLIII. It shall not be lawful for any person to commence or undertake the construction of any new or additional wharf, quay, dock, pier, or other harbour work in any Port, within the jurisdiction of any Board, until he shall have laid before the Board detailed plans and specifications of such proposed work, nor until the same shall have been approved of by the Board, and notice in writing of such approval shall have been given to such person accordingly. And no works executed with such approval shall render any person liable for indictment for nuisance or prepeiture. Provided always that nothing in this Act contained shall be held to interfere with any rights or privileges of water frontage or any other rights or privileges of any person or persons in to or over any lands reclaimed or to be reclaimed from the sea.

Accounts.

Annual Account to be transmitted, audited, and published.

XLIV. An annual account of all moneys received and expended by each Board for the purposes of this Act, signed by the Master Warden, or two of the Wardens, made up to the thirty-first day of December in each year, shall before the end of the then next January, be transmitted by the Board to the Auditor of the Province within which such Board is established, for examination and Audit.

GENERAL PROVISIONS.

Governor in Council may make Harbour Regulations.

XLV. It shall be lawful for the Governor in Council from time to time to make such Regulations as may be found necessary respecting the anchoring and mooring of vessels in any Port, the packing, landing, deposit and removal of gun-

powder, the erection of magazines for the safe keeping thereof, the watering and ballasting and discharging of ballast of or from vessels, and all other matters relating to the safe and commodious navigation of any Port Harbour or River and the order and management of vessels resorting thereto; and for the purpose of giving effect to such regulations it shall be lawful for the Governor in Council to authorise the levying of Harbour Masters Fees not exceeding the Rate specified in the Schedule and to impose any penalty not exceeding £20 for any one offence against any provisions thereof Provided that all Harbour dues payable under this Act shall be paid to the Marine Board of the Port in which they shall arise.

Provisions of Act to apply to each Board and Officer respectively.

XLVI. All the provisions of this Act relating to the Board or any Warden shall apply to the Boards respectively, and the Wardens of such Board in respect of the Ports and other matters to which such provisions relate, which are within the jurisdiction of the respective Boards.

General Dues and Rates.

XLVII. Subject to any alteration made by or under Authority of this Act, and until other provision is made in that behalf under the authority of this Act, all Light-house, Pilotage, Wharfage, and other dues, rates, and charges now payable by law within any of the Ports of this Colony, shall continue to be levied, and shall be paid to the Collector of Customs, or other person or persons authorised to receive the same, at the Port where the same are payable and shall be available only for the purposes of the Port in which they are levied.

General Expenses.

XLVIII. All necessary and lawful expenses incurred by any Board in the execution of this Act, or of any powers or duties at any time vested in such Board by law, shall be defrayed out of the funds at the disposal of such Board.

Light-house and Pilotage Dues to be Port Charges and to be paid before Clearance.

XLIX. All Light-house, Pilotage, and other dues and payments whatever hereby made payable by the master of any ship or vessel, or in respect of any ship or vessel, shall be deemed to be Port charges, and shall be paid and recovered in the same manner as any Port charge is by law payable and recoverable; and the clearance of any vessel in respect of which any Port charge, or any other charge or sum of money has been imposed, or is payable under this Act, shall be withheld until all such Port charges and other charges and sums of money are duly paid, satisfied, and discharged, as by this Act required; and if the master of any vessel attempts to take such vessel to sea without such clearance such vessel may be detained.

Whalers to be exempt from Port Charges.

L. In order to encourage the resort of vessels of all nations engaged in the whale fishery, and vessels arriving under the circumstances hereinafter mentioned, to the Ports of the Colony, all vessels of all nations outfitting for, or refitting from, the whale fisheries, and all vessels arriving and sailing in ballast, or which do not break bulk, or only to such an extent as may be necessary to provide funds for the repairs, refittings, or refreshments required by such vessels, and all vessels belonging to any Foreign Power with which a treaty in commerce, declared by any Royal Order in Council to be subsisting, has been made, which arrive at any Port for the purpose of landing any oil or whalebone, the produce of fish caught or taken by the crews of such vessels, and which shall land such oil and whalebone at any wharf appointed by the Board for that special purpose, shall be, and the same are hereby wholly exempted from the payment of Light-house dues, and all Port charges whatsoever, except only those of Pilotage, in cases where the services of a Pilot have been actually required and received.

Masters of Whalers exempt from Penalties.

LI. No master of any such vessel as last aforesaid shall, upon such vessel proceeding to sea from any Port, or arriving from any place beyond sea at or off any

Port, be subject or liable to pay any fine or penalty by reason of such master not receiving on board a Pilot for the purpose of conducting such vessel to sea, or into Port, as the case may be.

Rules for Mooring, &c., such Vessel.

LII. No such vessel as last aforesaid shall be anchored or moored or moved from place to place within any Port, within the limits for the time being defined for the performance of the duties of the Harbour Master of such Port, unless with the permission of such Harbour Master for that purpose first obtained: Provided always, that nothing herein contained shall render any person liable to any penalty for anchoring or mooring any such vessel within any such limits, upon her first arriving, if no Harbour Master then repairs on board such vessel, and appoints the place where she is to be anchored or moored.

By-Laws.

LIII. Every Board constituted under the provisions of this Act is hereby empowered, from time to time, to make, publish, alter, modify, amend, or repeal such By-laws as to such Board seem meet for regulating its own proceedings; and for carrying into effect, and enforcing the general powers and duties hereinbefore vested in and imposed on the Board and also all other matters and things whatsoever which the Board is authorised to do, or cause to be done, under this Act; and for the collection of all dues and sums of money payable to such Board for the purposes of this Act; and to appoint by such By-laws such penalties as are deemed necessary for enforcing the same: Provided, that no such penalty shall exceed the sum of Fifty Pounds; and no such By-law shall have any effect unless the same shall have been submitted to and approved of by the Governor in Council, and shall have been published in the *Government Gazette* of the Colony or of the Province to which the same shall relate: Provided, also, that no By-law to be made by the Board shall be repugnant to this Act, or to the general spirit and intentment of the laws in force in this Colony, and of the Province within which the same shall be established.

By-Laws deemed part of Act.

LIV. All by-laws so made and in force as aforesaid shall be deemed to be incorporated with this Act, and shall be of the same force and effect as though the provisions of such By-laws were expressly enacted in this Act.

Proof of By Laws.

LV. In all proceedings the production of the *Gazette* containing any such By-law shall alone be sufficient *prima facie* evidence that all the provisions of this Act, relating to the making and confirmation of such By-law, have been duly complied with, and that such By-law is in full force and effect; and the *onus* of proving the contrary shall, in every case, be on the person disputing the validity of such By-law.

Penalties.

Offence incurring Penalty.

LVI. If any person fails, refuses, or neglects to do, or in any manner obstructs, impedes, or interferes with the doing of anything enjoined or authorized to be done or wilfully does anything prohibited by this act, or molests, or makes use of any threatening or abusive language to any Warden, Harbour Master, Pilot, or other officer whilst in the execution of his duty under this Act, or in any other respect offends against any of the provisions of this Act, or any regulation duly made under authority of this Act, every such person in any such case so offending shall, where no other penalty is in that behalf specifically provided, forfeit a penalty not exceeding Fifty Pounds.

Penalty for obstruction.

LVII. If any person wilfully obstructs, molests, or hinders any engineer, surveyor, workman, labourer, or other person employed by any Board, in the performance of his duty or employment in the execution of this Act, every person so offending shall forfeit, for every such offence, a penalty not exceeding Twenty Pounds.

Penalty for wilful Damage to Works.

LVIII. If any person wilfully breaks, throws down, destroys, or in anywise damages or injures any wharf, quay, pier, dock, shed, roadway, building, or other work whatsoever which is under the charge of any Board, every person so offending shall, for every such offence, forfeit a penalty not exceeding Fifty Pounds over and above the amount of injury or damage done.

Penalty for wilful Damage to Lights.

LIX. If any person wilfully or negligently breaks, throws down, damages, or takes away any lamp, lamp-post, lamp-iron, or other work set up for the purpose of lighting any such wharf, quay, pier, or dock as aforesaid, or any such adjoining roadway or street as aforesaid, or wilfully extinguishes any light within any such lamp, every person so offending shall forfeit for every such offence, a penalty not exceeding Twenty Pounds over and above the amount of injury or damage done.

Trees felled to be removed from Rivers, &c.

LX. If any tree is felled by the owner or occupier of any land, or by any person employed or authorised by him, on the bank of any navigable river or creek, so that any part thereof is in or over the water below high-water mark, and the same is not removed within two days after having been so felled, such owner or occupier shall forfeit a penalty not exceeding Forty Shillings, and a further penalty of Forty Shillings for each day beyond the two days aforesaid during which any such tree so felled as aforesaid so continues on the bank of such navigable river or creek; and if any tree is so felled by any unauthorized person, such unauthorized person shall, for every such tree so felled, forfeit a penalty not exceeding Five Pounds, together with the cost of removing the same.

Penalty for removing or defacing Buoys, &c.

LXI. Any person who wilfully injures, removes, or destroys any buoy, beacon, or sea-mark used for the convenience of navigation or for the preservation of vessels, shall be guilty of felony, and, on conviction of the said offence, shall be liable to penal servitude for a period not exceeding Four Years.

Accidental Injuries to be repaired under Penalty.

LXII. Any person who makes any vessel, boat, timber, or other article fast to any buoy, beacon, or sea-mark, and any master or owner of a vessel being navigated without having a Pilot on board, or the owner of any boat by which any such buoy, beacon, or sea-mark is accidentally removed, injured, or destroyed, who does not forthwith, and either with or without demand, make good such damage, or pay to the Collector of Customs at the Port, for the purposes of this Act, a sum in the judgment of the Board sufficient to cover the expense of so doing shall, for every such offence, forfeit a penalty not exceeding One Hundred Pounds.

Penalty on Harbour Master for neglect &c.

LXIII. Any Harbour Master, or other Officer or person, who refuses or neglects to perform any duty imposed on him by this Act, or by any regulations made and issued under the authority of this Act, or who through negligence or drunkenness does or occasions any injury to a vessel or to the tackle or furniture thereof, or who,

while in the execution of his duty as such Harbour Master, makes use of any threatening or abusive language to the master of any vessel, shall forfeit a penalty not exceeding Fifty Pounds.

Penalty on Pilots for Misbehaviour, &c.

LXIV. Any Pilot who refuses, neglects, or delays to take charge of a vessel without good and sufficient cause in that behalf, or quits any vessel departing before the vessel has passed the point or distance which may be fixed for that purpose by the Board, or who, by drunkenness, renders himself incapable of conducting the vessel, or, by ignorance, or from want of due care, does or occasions any injury to the vessel or to the tackle or furniture thereof, or makes use of any threatening or abusive language to the master, shall, on proof of the offence to the satisfaction of the Board, forfeit a penalty not exceeding Fifty Pounds, and shall besides be liable to suspension and dismissal as hereinbefore provided.

Sums unaccounted for to be deemed Crown Debts.

LXV. All sums of money received by any Board by virtue and for the purposes of this Act, of which the application or disposition for the purposes of this Act is not duly shown or accounted for by the Board, or for the payment and disbursement of which for such purposes no legal or proper voucher or receipt is produced by the Board, to the satisfaction of the Auditor of Public Accounts, or Provincial Auditor as the case may be or which is wrongly or improperly retained by the Board or any member thereof, shall be and be recoverable as a debt upon record from the Board to her Majesty.

Summary Procedure for Breach of By-laws.

LXVI. Any breach whatsoever of any of the provisions of this Act, or of any by-law or regulation made thereunder, shall, where no other mode or remedy is by this Act specifically provided, be heard and determined in a summary way, before any Resident Magistrate or two or more Justices of the Peace.

What shall be sufficient Averment.

LXVII. In any proceeding for any offence against this Act, the averment that such offence was committed within the limits of the Port within which the same is alleged to be committed, shall be sufficient, without proof of such limits, unless the contrary is proved.

Limitation and Regulation of Actions.

LXVIII. No plaintiff shall recover in any action commenced against any person for anything done in pursuance of this Act, unless such action be commenced within three months after the fact committed, and unless notice in writing has been given to the defendant one month before such action is commenced of such intended action, signed by the attorney of the plaintiff, specifying the cause of such action; nor shall the plaintiff recover in any such action, if tender of sufficient amends has been made to him or his attorney, by or on behalf of the defendant, before such action brought; and in case no such tender is made, it shall be lawful for the defendant, in any such action, at any time before issue joined, to pay into Court such sum of money as he thinks proper; and the defendant in every such action may plead the general issue, and give the special matter in evidence, and that the same was done in pursuance, and under the authority of this Act; and if the same appears to have been so done, or if such action or suit has been brought before the expiration of one month next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, then, and in every of such cases, the jury shall find a verdict for the defendant; and upon such verdict, or if the plaintiff is nonsuited, or discontinues his action or if upon demurrer, or otherwise, judgment is given against the plaintiff, then, and in every such case, the defendant shall recover treble costs, and shall have the same remedy for recovering the same as any defendant has for his costs in any other case by law.

245

British Registry to rule Tonnage.

LXIX. 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 to be measured.

LXX. In order to ascertain the tonnage of any vessel not registered as aforesaid, as to which any question arises, it shall be lawful for any Officer of the Customs, or other person appointed in that behalf by the Collector of Customs at the Port in which such vessel may then be, to measure such vessel; and such Officer or person, in measuring such vessel, shall follow the regulations contained in the law regulating the measurement of shipping for the time being in force in this Colony.

Acts repealed.

LXXI. An Ordinance passed by the Legislative Council of New Zealand, intituled "An Ordinance to provide for the Regulations of Harbours," and another Ordinance passed by the said Legislative Council, intituled "An Ordinance to amend an Ordinance to provide for the Regulation of Harbours," are hereby respectively repealed.

Existing Rules to remain in force.

LXXII. All rules and regulations made under the ordinances which are in force when this Act comes into operation, shall continue in force as if made under this Act, until revoked or altered under the authority of this Act, and no longer.

SCHEDULE.

HARBOUR MASTERS' FEES.

For every Service performed by a Harbour Master under this Act, a sum not exceeding *One Penny* per Ton of the Vessel in respect of which the Service is performed.

PILOTAGE RATES

For every Sailing Vessel, a sum not exceeding *Six Pence* per Ton Inwards, and the same sum Outwards.
For every Steam Vessel, a sum not exceeding *Four Pence* per Ton Inwards, and the same sum Outwards.
For every day that a Pilot is detained on board any Vessel whilst under Quarantine, or by any act of the Master, a sum not exceeding *Twenty Shillings* per day.

LIGHT-HOUSE RATES.

For every Steam Vessel and for every Vessel employed in the Coasting Trade, on entering Inwards at the Customs of this Colony, *Four Pence* per Ton.
For every other Vessel entering Inwards at the Customs of this Colony, *Nine Pence* per ton.