

WESTERN AUSTRALIA

ANNO SEPTIMO DECIMO

VICTORIÆ REGINÆ

No. 4

An Ordinance for the better Preservation of the Navigable Waters in Western Australia, and for the further Security of Life and Property thereon.

[Assented to 15th May, 1854.]

WHEREAS great inconvenience and danger have arisen from logs and rafts of timber having been placed and left in the navigable channels of the roadsteads, harbours and rivers of this Colony; and whereas it is expedient to make provisions for the remedy thereof and for ensuring as far as may be practicable the safe navigation of all roadsteads, harbours and rivers of this territory: Be it therefore enacted by His Excellency the Governor of Western Australia and its Depen-
Preamble

Harbours and Pilotage

dencies, by and with the advice and consent of the Legislative Council thereof, as follows :—

Timber obstruct-
ing boats

1. That from and after the passing of this Ordinance, any person who shall moor or anchor, or shall wilfully or by culpable negligence, ground, sink or set adrift in any of the fair channels or passages of any navigable river or water within the territory of Western Australia, any timber or raft or any other bulky substance or article liable to obstruct the passage of boats or crafts by coming in contact with them, shall on conviction thereof before any two or more Justices of the Peace for the said Colony, forfeit and pay any sum not less than one pound nor exceeding twenty pounds.

Authority of
Governor

2. That the foregoing clause shall not be construed to prevent any person or persons acting under authority of the Governor from placing such beacons, buoys or other marks as may be deemed necessary for improving or facilitating the navigation of any river or water as aforesaid, or from constructing below high-water mark under similar authority any bridge, jetty, wharf or causeway, or any necessary approach to the same.

Owner abate
within twelve
months

3. That if the owner of any timber, raft or bulky substance as aforesaid placed or left so as to endanger or impede the navigation of any such river or water as aforesaid, or if the person so placing or leaving the same, shall not remove the impediment so as to effectually abate the nuisance complained of within twelve hours after a conviction of such offence under this Ordinance, or after being required so to do by a written notice from the Harbour Master or a Justice of the Peace, shall on conviction thereof before any two or more Justices of the Peace forfeit and pay any sum not less than one pound nor exceeding twenty pounds; and moreover, that if the owner or some person on behalf of the owner of any ship, boat or vessel, sunk, stranded or run on shore in any harbour, port, roadstead, channel or navigable river within the said territory, shall not weigh, raise or otherwise remove such ship, boat or vessel within ten days next after the same shall have been so sunk, stranded or run on shore, then and in every such case it shall be lawful for the Harbour Master of such harbour, port or roadstead, or for the Government Resident of the district in which such ship, boat or vessel shall lie to take and use all necessary ways and means for clearing such harbour, port, roadstead, channel or river of such ship, boat or vessel and of all wreck and parts thereof or belonging to the same, and to sell or cause to be sold the hull, rigging, tackle and furniture of such ship, boat or vessel, and out of the moneys arising from such sale to pay the charges and expenses of clearing such harbour or place as aforesaid, and of seizing, removing and selling such hull, rigging, tackle and furniture, rendering the overplus (if any) to the owner of such ship, boat or vessel.

Sell hull and
rigging

Tree

4. That if after the passing of this Ordinance any tree or trees be felled on the shore of any navigable river, estuary or creek, so that the navigation thereof shall be in any way obstructed thereby, and the same be not removed within two days after having been so felled, the owner or occupant of the land from which such tree or trees shall have been cut, shall on proof thereof before any two or more Justices of the Peace forfeit and pay any sum not exceeding five pounds for every tree so cut

£5 penalty

Harbours and Pilotage

and not removed: Provided always nevertheless that if any person other than the owner or occupant of the said land shall without the consent of such owner or occupant offend as aforesaid, such person and not such owner or occupant shall be liable to the penalty last aforesaid.

5. That if any person having been convicted under the first section or under the fourth section of this Ordinance of causing an obstruction to navigation shall fail or neglect, although he shall have paid any penalty imposed by such conviction, to remove or cause to be removed such obstruction within five days after such conviction (excluding the day of such conviction), it shall be lawful for any Harbour Master, Port Officer or Justice of the Peace, to remove or cause to be removed such obstruction by any means, and to summon such offender so failing or neglecting as aforesaid to appear before him and to pay or satisfy the amount of all reasonable expenses incurred in or by such removal; and in case such offender shall fail to appear to such summons or, appearing thereto, shall fail to pay such an amount, either forthwith or at such other time as such Justice in his discretion shall assign for that purpose, it shall be lawful for such Justice to levy such amount and all attendant costs by distress and sale of such offender's goods and chattels; and in default of sufficient distress to commit such offender to prison, with or without hard labour, for any term not exceeding one calendar month.

Even after penalty paid, the obstruction to be removed

Justice of Peace to levy

Imprisonment, one month

6. That any person who shall throw or cause to be thrown out of any vessel or boat into the navigable part of any river, creek or water, below high-water mark, any sand, ballast, stone or rubbish, or who shall remove or take away from any bank of the same above high-water mark not being private property, any sand, ballast or stone, without having first obtained the consent of the Harbour Master of the port (if any) or of the Government Resident or Resident Magistrate of the district, shall on conviction for any such offence before any Justice of the Peace forfeit and pay any sum not less than ten shillings nor exceeding five pounds.

Sand, ballast, and stone

7. That the sections lettered respectively A, D, F, G, in the schedule to the 'Shortening Ordinance, 1853,' shall be and are hereby incorporated with this Ordinance.

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.