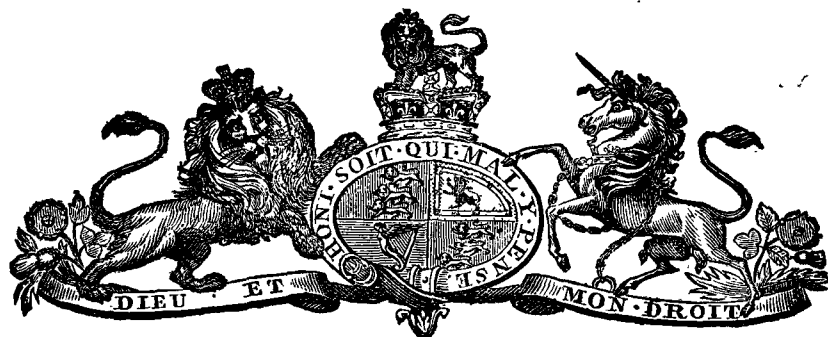


NEW ZEALAND.



QUADRAGESIMO SECUNDO
VICTORIÆ REGINÆ.
 No. 35.

ANALYSIS.

- | | |
|--|---|
| <p>Title.</p> <p>1. Short Title. Commencement of Act.</p> <p style="text-align: center;">PRELIMINARY.</p> <p>2. Regulation of Local Elections Act incorporated.</p> <p>3. Repeal of Acts.</p> <p>4. Saving of Acts.</p> <p>5. Saving powers independent of this Act.</p> <p>6. Provisions of this Act to be in addition to those of any other enactment for like purposes.</p> <p>7. Act not to affect prerogative of the Queen.</p> <p>8. Interpretation clause.</p> <p style="text-align: center;">HARBOURS.</p> <p>9. Power of Governor respecting ports and harbours.</p> <p>10. Alteration of harbours not to affect jurisdiction. Powers of Board to extend to altered harbours.</p> <p>11. Governor may make surveys.</p> <p style="text-align: center;">SPECIAL PROVISIONS WHERE THERE IS NO HARBOUR BOARD.</p> <p>12. Where no Harbour Boards, Governor in Council to have powers conferred on Harbour Boards.</p> <p>13. Governor in Council to appoint and dismiss officers of any harbour not under management of a Harbour Board.</p> <p>14. Governor in Council may vest management of any wharf in local governing body, &c.</p> <p>15. Every wharf so vested to be deemed property of such body.</p> <p>16. Governor in Council may authorize construction of harbour works.</p> <p>17. Power to levy dues on private wharves.</p> <p>18. Rights and powers so granted may be resumed by Governor on giving notice.</p> <p style="text-align: center;">HARBOUR BOARDS. <i>Existing Boards.</i></p> <p>19. Existing Harbour Boards constituted under this Act.</p> <p>20. Constitution of Harbour Boards.</p> | <p>21. Exceptional constitution of Boards.</p> <p>22. Duration of office of Boards.</p> <p>23. Retirement and reappointment of members appointed by Governor.</p> <p>24. Extraordinary vacancies in existing Boards.</p> <p>25. Boards already constituted to be deemed Boards under this Act.</p> <p>26. Continuance of members of or persons holding office under Board.</p> <p>27. Provision where a local body form the Board.</p> <p style="text-align: center;"><i>Future Boards.</i></p> <p>28. Special Acts for Harbour Boards.</p> <p>29. Constitution of Boards.</p> <p style="text-align: center;"><i>Elections, Nominations, and Resignations.</i></p> <p>30. Duration of office of non-elective members.</p> <p>31. Certificate as to identity of Mayor or Chairman of local governing body to be evidence.</p> <p>32. Duration of office of elective members.</p> <p>33. Conduct of elections.</p> <p>34. Provision for elections by ratepayers.</p> <p>35. Provision for other elections.</p> <p>36. Provision for elections by owners, or payers of dues, &c.</p> <p>37. Provision in case of special districts.</p> <p>38. Extraordinary vacancies.</p> <p>39. How filled up.</p> <p>40. Other vacancies.</p> <p>41. In default of members being elected, Governor may appoint persons to fill vacancies.</p> <p>42. Members when to come in and go out of office.</p> <p>43. Disqualification of members.</p> <p style="text-align: center;"><i>Dissolution and Reconstitution of Boards.</i></p> <p>44. Dissolution and reconstitution of Board.</p> <p>45. Governor in Council may appoint a person to make inquiries.</p> <p>46. Governor in Council may declare what bodies shall return members in certain cases. Or that two or more bodies may unite in electing a member. Change of name not to affect right of body to elect or appoint a member.</p> <p>47. Governor may declare that Mayor, &c., of newly-constituted body shall be a member of Board.</p> |
|--|---|

*Harbours.**Incorporation of Boards. Conduct of Business.*

48. Incorporation of Boards.
49. Board may appoint officers.
50. Security to be given before entering upon office.
51. No paid member of the Board to hold any paid office of the Board.
52. Election of Chairman.
53. Resignation of Chairman.
54. Deliberative and casting vote.
55. Annual meetings.
56. Ordinary meetings.

By-laws.

57. Board may make by-laws.
58. Existing by-laws to continue.
59. Conditions under which by-laws may be made.
60. Copies of by-laws to be evidence.
61. Payment for copies of by-laws.
62. Disallowance of by-laws.
63. Production of newspaper confirming by-laws.
64. Penalties under by-laws.

POWERS AND DUTIES OF HARBOUR BOARDS.

Contracts.

65. Board may enter into contracts for certain works.
66. Contracts to be in writing, specifying work, &c., to be done, &c.
67. Contract exceeding £50 to be made only after public tender.
68. Power to compound for breach of contracts.

Loading and Discharging.

69. Harbour Board to provide labourers, &c., for working cranes, &c.
70. Penalty on wharfinger giving undue preference.
71. Board to provide certain accommodation for Customs officers.
72. Goods not to be allowed to remain on piers, &c., longer than allowed by by-laws.
73. Board may remove goods in cases herein mentioned, and dispose of same to pay expenses.

Pilots and Pilotage.

74. Owner or master not required to give ship in charge to pilot in certain cases.
75. Governor may alter and vary pilotage districts.
76. Appointment of pilots.
77. Pilots to be examined.
78. Master or mate may be examined and passed for the purpose of receiving a pilotage certificate.
79. On production of report, Board to grant master or mate pilotage exemption certificate.
80. If Harbour Board refuse to examine master or mate, Minister may appoint persons to examine, and may authorize exemption certificate to be issued.
81. Fee for pilotage exemption certificate.
82. On change of vessel by master or mate, pilotage exemption certificate may be extended by indorsement.
83. Pilotage exemption certificate paid for by owners of vessels may be transferred on change of master.
84. Power to withdraw pilotage exemption certificate.
85. Pilotage exemption certificate paid for by owners to be given up by master on leaving vessel.
86. Exemption ships to hoist white flag on entering port.
87. Exemption from compulsory pilotage.
88. Exempted vessels to pay one full rate of pilotage annually.
89. Penalty on pilot obtaining charge of a ship by misrepresentation.
90. Vessels not to be conducted to sea until pilotage rates are paid.
91. Offences of pilots.
92. Penalty on pilot endangering ship, life, or limb.
93. Penalty on pilot for demanding or receiving more than legal dues.
94. Pilot boat and pilot signals. Characteristics of pilot boats.
95. Signals to be displayed by ships requiring a pilot.

Lights, Buoys, and Seemarks.

96. Harbour lights, buoys, and beacons not to be erected, placed, or removed without sanction of Minister.
97. How sanction obtained.
98. Marine Department to inform harbour authorities of decision of Minister.
99. Minister may appoint persons to inspect buoys and beacons.
100. Power of Minister to control lights under local authorities.
101. Minister may act in neglect of Board to act.

Wrecks, Obstructions, and Damages.

102. Series of acts tending to the injury of navigation.
103. Power to make by-laws respecting removal of ballast, shingle, &c., from shore.
104. Board may agree with local bodies to take earth, &c., for reclamation or ballast.
105. Removal of wreck.
106. Responsibility for injury to works of harbour.
107. Recovery by owner from master of ship.
108. Trees felled to be removed from rivers, &c.

Harbour Dues, &c.

109. Existing charges and dues to continue.
110. Prohibition of partiality as to dues.
111. Foreign ships employed in the coasting trade not to be subject to higher rates than British ships.
112. No exemption from dues allowed on account of reasons herein named.
113. Tonnage of British vessel.
114. Tonnage of foreign vessel, how to be ascertained.
115. Prohibition of levying of dues before completion of harbour.
116. List of dues to be kept exhibited.
117. In case of difference, power to weigh or measure goods.
118. Power for Collector of Customs to withhold clearance until dues are paid.
119. Liability for dues payable by ship.
120. Liability for dues payable for goods.
121. 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.
122. Recovery of dues.
123. Person authorized to collect dues may distrain.
124. Settlement of dispute concerning dues or charges occasioned by distress.
125. Penalty on evasion.
126. Prohibition of dues except for shipping purposes.

Special Provisions as to certain Harbour Lights.

127. Governor in Council may fix dues in respect of local lights.
128. Governor may reduce, alter, or increase all such dues.
129. Dues may be levied for local lights.
130. Application of dues for local lights.
131. Accounts of same.

Exemptions from Dues.

132. British and foreign ships of war, &c., exempt from dues.
133. Yachts, whaling ships, &c., exempt.
134. Ships returning from stress of weather.

Reserves and Endowments.

135. Power to grant public reserves or other lands under any Act or Ordinance still to subsist.
136. Reserves so vested to be subject to contracts, leases, &c., affecting same.
137. Board may lease lands.
138. Leases to be disposed of by public auction.
139. Endowments under any Act or Ordinance still to subsist.
140. Endowments to be dealt with by Waste Lands Board.
141. Governor in Council to revoke endowments when Board refuse or neglect to perform duties imposed on them.

Resumption of Land.

142. Governor on behalf of the Queen may take land, &c., for railways.

Harbours.

143. Power to the Governor to take portion of lands vested in Board for works of public utility.
144. Board to receive compensation therefor.
145. Upon giving notice, lands to vest in the Crown.
146. Her Majesty's right to take land for purposes of Act not to be affected.
- Foreshores and Reclamations.*
147. Foreshores and land under the sea only to be granted by special authority of Act of General Assembly.
148. No land to be reclaimed, or graving dock, &c., to be erected without an Act of the General Assembly. Plans to be deposited.
149. Harbour Board may purchase lands for purpose of obtaining access to other lands.
150. Land reclaimed to be under control of local governing body. Power to take streets through same and lay down drains.
151. Governor in Council may make grants to Board of lands reclaimed by Board.
- Harbour Works.*
152. Governor in Council may exercise in certain cases all powers vested in him by sections 16, 17, and 18: Provided that the exercise thereof does not interfere with works already under control of Harbour Board.
153. Power to construct works.
154. Harbour Board not to construct works, &c., on tidal lands or tidal waters without sanction of Governor in Council.
155. Penalties for constructing works without sanction.
156. Restriction on works affecting harbours or navigation, under statutory powers.
157. Lights on works.
158. Provisions for preventing deviation of works along sea or tidal river without consent of Governor in Council.
159. Power of Minister in respect to works.
160. Minister may employ engineers, &c., to abate works. Expenses of abating work, how recoverable.
161. Application of provisions of this Act to works required to be constructed in accordance with certain provisions of "The Marine Act, 1867," and "The Harbour Works Act, 1874."
162. Restrictions as to works not to apply to works constructed by the Governor.
163. Restrictions to apply to all Harbour Boards, saving as to special powers.
164. Existing rights protected.
165. Board may define limits of wharf.
- Power of taking Lands for Harbour Works.*
166. Power to take lands.
167. Power to remove soil, &c.
168. Compensation.
169. Parts of Public Works Act incorporated.
170. Governor to have powers of Board in respect of Government wharf.
- FUNDS OF HARBOUR BOARD.**
171. Moneys constituting Harbour Fund.
172. Disposal of moneys comprising Harbour Fund.
173. Application of lighthouse dues and pilotage rates. Pilotage rates.
- Accounts and Audit.*
174. Board to keep books.
175. Board to balance accounts.
176. Accounts to be laid before Auditors.
177. Accounts balanced, &c., with vouchers, &c., to be laid before Auditors.
178. Debenture-holders or creditors may be present at audit.
179. Signature of Auditors to accounts.
180. Statement and account to be printed.
181. General inspection by creditors or others interested to be allowed.
182. Accounts to be produced at annual meeting.
183. Abstract of accounts to be published at least once.
184. Governor to appoint Auditors.
185. Governor to regulate audit and salary of Auditors.
186. Governor may order special audit.
- Borrowing Powers.*
187. Powers to raise money given by Act or Ordinance still to remain in force.
188. Power to borrow money given by special Act to be exercised under conditions of this Act.
189. Saving of rights of holders of securities.
190. Board authorized to raise money for special works.
191. Amount and form of debentures.
192. Where payable.
193. Interest payable.
194. Debentures and coupons transferable by delivery.
195. Power to appoint agents for raising loans.
196. Pending raising loan, debentures may be hypothecated.
197. Holders of debentures not to have any claim on public revenues.
198. Principal and interest secured by debentures to be first charge on Harbour Fund.
199. Proceeds of sale of endowments may be pledged.
200. Board may issue debentures in lieu of mortgaging land.
- Repayment of Loans.*
201. Board may make provision for repayment of loan.
202. Provision for Sinking Fund.
203. Provision for the appointment of Sinking Fund Commissioners.
204. Commissioners to furnish accounts of moneys in their hands.
205. Commissioners also to send certificate of securities.
206. Accumulated Sinking Fund to be applied in payment of loan.
207. Board may reborrow under certain circumstances.
- Remedies of Debenture-holders.*
208. Proceeding in default in payment of debenture-holders, or coupons.
209. Judge may direct property of Board to be sold.
210. Also may appoint Receiver.
211. Unpaid principal and interest to be debt of Board.
- REGULATIONS AND BY-LAWS.**
- General Harbour Regulations.*
212. Governor in Council may make regulations.
213. Regulations under this Act to supersede by-laws made by Harbour Boards.
214. Orders in Council may be altered. To be gazetted.
- Harbour By-laws.*
215. Power by by-laws to regulate position, mooring, and government of ships within harbour. By-laws respecting pilotage rates. Collection of rates and dues.
- Harbour Improvement Rates.*
216. Board may levy harbour improvement rates.
- OFFENCES.**
217. Restriction on deposit of ballast or rubbish. Who to recover penalty.
218. Penalties for damaging lights, buoys, or beacons.
219. Penalty for wilfully cutting moorings.
220. Penalty for wilful damage to works.
221. Penalty for wilful damage to lights.
222. Offence incurring penalty.
223. Penalty on Harbourmaster for neglect, &c.
224. Penalty for offering bribes to officers.
225. Summary procedure for breach of by-laws.
226. What shall be sufficient averment.
- Limitation of Actions.*
227. Limitation and regulation of actions.
- MISCELLANEOUS.**
228. Certain provisions of repealed Acts and Ordinances to remain in force.
229. Rates authorized for harbour purposes to be raised as provided by "The Rating Act, 1876."
230. Freedom of passage for Customs officers.
231. Special constables.
232. Provision for Sundays and holidays.
233. Governor in Council may rectify irregularities, and extend times for doing acts, &c.
234. Moneys, how to be dealt with. Schedules.

Harbours.

Title.

AN ACT to regulate the Management of Harbours, and to make provision for matters connected therewith. [1st November, 1878.]

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

Short Title.

Commencement of Act.

1. The Short Title of this Act shall be "The Harbours Act, 1878," and it shall come into operation on the first day of January, one thousand eight hundred and seventy-nine, and this date is hereinafter referred to as the commencement of this Act.

PRELIMINARY.

Regulation of Local Elections Act incorporated.
Repeal of Acts.

2. "The Regulation of Local Elections Act, 1876," is hereby incorporated with this Act.

3. Except as hereinafter provided, the several Acts and Ordinances the short titles of which are set forth in the First Schedule hereto, saving the exceptions therein mentioned, shall, immediately on this Act coming into operation, be repealed.

Notwithstanding such repeal such Acts and Ordinances, or the parts thereof repealed, shall nevertheless remain in full force so far as relates to anything done, appointment or instrument made, right or privilege accrued, moneys borrowed, debentures issued, security given, contracts made, work authorized, offence committed, forfeiture penalty or liability incurred, action prosecution or proceeding commenced, or any grant, assurance, or other conveyance of land authorized to be made under the authority of or against the provisions of any such Act or Ordinance before the commencement of this Act.

Saving of Acts.

4. Nothing in this Act contained shall in any way derogate from or annul any of the provisions of "The Shipping and Seamen's Act, 1877," or of any Act relating to the Customs, nor revoke or in any way interfere with the administration of or revenues arising in respect of any lighthouse, buoy, or beacon, or any other act, matter, or thing regulated under any of the aforesaid Acts.

Saving powers independent of this Act.

5. Nothing in this Act shall be deemed to take away, supersede, or abridge any jurisdiction, right, power, or remedy existing independently of this Act for the abatement of, or the imposition of punishment for, any nuisance affecting the sea or any harbour or tidal water or tidal lands, or affecting navigation, or affecting any right belonging to or enjoyed by the public over tidal water or tidal lands.

Provisions of this Act to be in addition to those of any other enactment for like purposes.

6. The provisions of this Act respecting anything in the last preceding section mentioned shall be deemed to be in addition to, and not in substitution for or in restraint of, any other enactment, regulation, jurisdiction, right, power, or remedy for the like object; and all enactments, regulations, jurisdictions, rights, and remedies in this section mentioned or referred to shall remain operative, and be, as far as may be, as if this Act had not been passed, but so, nevertheless, that nothing herein shall be deemed to authorize that any person be sued or prosecuted twice in respect of the same matter.

Act not to affect prerogative of the Queen.

7. Nothing in this Act shall be construed or allowed to affect any right or prerogative of Her Majesty, her heirs or successors.

Interpretation clause.

8. In this Act, and in any by-laws or regulations made hereunder, the following words and expressions shall have the meanings hereby given to them, unless there be something in the context or subject-matter inconsistent therewith or repugnant thereto:—

Harbours.

- “Minister” means the member of the Executive Council administering the Marine Department of the colony as now constituted, or as the same may hereafter be constituted by any Act of the General Assembly hereafter to be passed.
- “Harbour,” “port,” includes any harbour properly so called, whether natural or artificial, and any haven, estuary, navigable lake or river, dock, pier, jetty, and work in or at which ships do or can obtain shelter, or ship or unship goods or passengers, and any port defined under “The Marine Act, 1867;” and any harbour defined under this Act, and the same terms, or either of them, when used in any provision relating to the jurisdiction or powers of a Harbour Board, extend to and include the limits within which such jurisdiction or power may be exercised.
- “Harbour works” include any basin, graving-dock, slip, dock, pier, quay, wharf, jetty, bridge, viaduct, breakwater, embankment, or dam, or any reclamation of land from the sea, navigable lake, or river, or excavation, deepening, dredging, or widening of any channel, basin, or other part of a harbour, and generally any works for the improvement, protection, or management of a harbour, whether complete or incomplete, in the sea, or in or near the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith.
- “Harbour Board,” “Board,” means any Harbour Board constituted under this Act and a special Act, and includes any local governing body as herein defined, and the Governor, in cases where the powers and duties of such Boards are vested in any such body or are exercisable by the Governor.
- “Wharf” includes all wharves, quays, piers, jetties, and premises in on or from which passengers or goods may be taken on board of or landed from ships or vessels.
- “Local governing body” includes a County Council constituted under “The Counties Act, 1876,” a Borough Council constituted under “The Municipal Corporations Act, 1876,” a Municipal Corporation, Town Board, or other body constituted under any Act or Ordinance in force providing for the constitution of such Corporations, Boards, or other bodies for the management and control of the local affairs of a city or town, and any Road Board, Trustees, persons, or body (howsoever denominated) having the charge and control of roads or highways under any Act or Ordinance.
- “Ratepayers” mean the persons for the time being entitled to vote at the election of members of the local governing body as hereinbefore defined.
- “Collector of Customs” includes the principal or only officer of Customs at the port or place in respect of which the term is used.
- “Master” extends to and includes the person, not being a pilot, having command or charge of any ship.
- “Pilot” means any person not belonging to a ship who has the conduct thereof.
- “Pilot boat” means any ship or boat employed in the pilotage service under this Act.
- “Harbour dues,” “dues,” mean and include any due, rate, fee,

Harbours.

- toll, tax, pilotage rate, port charge, or payment in the nature thereof, payable or leviable under this Act or a special Act.
- “Owner,” when used in relation to goods, includes any consignor, consignee, shipper, or agent for sale or custody of such goods, as well as the owner thereof.
- “Goods” include wares and merchandise of every description, and all chattels, live stock, and other articles in respect of which dues are payable in or at any harbour.
- “Coastal light” means any light established or maintained by the Marine Department on the coasts of the colony, and not being a harbour light.
- “Ship” includes every description of vessel, whether used in navigation or in any way kept or used as a hulk or store-ship, or for any other purpose, and not propelled exclusively by oars.
- “Boat” means every description of vessel used in navigation not being a ship.
- “Vessel” means a ship or boat.
- “Tackle,” used in relation to a ship, includes all furniture and apparel thereof.
- “Tidal water” means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides.
- “Tidal lands” mean such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides.
- “Warehouse” includes all warehouses, buildings, and premises in which goods landed from or to be carried in ships may be lawfully placed.
- “Ballast” includes any material or thing used for the ballasting of ships.
- “Harbour light” means any light erected in aid of navigation within harbour limits, or near the approaches to any harbour, and which is declared by the Minister not to be a coastal light, and includes all light-ships or other fixed or floating lights erected, moored, or placed for that purpose.
- “Buoys and beacons” include all marks and signs within a harbour in aid of navigation.
- “Colonial trading vessel” shall mean and include any vessel actually trading between New Zealand and any port within the Australian Colonies, including Tasmania, or between New Zealand and any of the Islands lying between the parallels of thirty degrees North and thirty degrees of South latitude, and the meridians of one hundred and fifty-five degrees East and one hundred and thirty degrees West longitude.
- “Gazette” means the *New Zealand Gazette*, and “gazetted” means published in such *Gazette*.
- “Publicly notified” and “published” mean notified or published in some newspaper circulating at or near the port or place in respect of which or in relation to which such expression is used.

HARBOURS.

Power of Governor respecting ports and harbours.

9. For the purposes of this Act the Governor may, from time to time, by warrant under his hand,—

- (1.) Define, alter, annul, and re-define the limits of any harbour :
- (2.) Revoke any instrument whereby the limits of any port or harbour have at any time been defined :

Harbours.

- (3.) Fix or alter the name by which any port or harbour already defined, or hereafter to be defined, shall be known or designated.

10. No alteration of the limits of any harbour shall prejudice or affect any rights or powers which may be or may have been exercised in respect of such harbour by any Harbour Board having jurisdiction in such harbour.

Alteration of harbours not to affect jurisdiction.

And no revocation of any instrument defining or redefining a harbour as aforesaid shall prejudice or affect any rights or powers which may have been acquired or exercised by any Harbour Board having jurisdiction within the limits of such harbour prior to such revocation.

The rights and powers of any Harbour Board in respect of any harbour shall extend to the limits of such harbour when altered under this Act.

Powers of Board to extend to altered harbours.

11. The Governor may authorize surveys to be made and completed of any harbour, or of the coast line of the colony, as may be requisite for the safety of shipping. Such surveys shall be issued by the Marine Department, and be deemed officially-authorized surveys.

Governor may make surveys.

SPECIAL PROVISIONS WHERE THERE IS NO HARBOUR BOARD.

12. In harbours where there is no Harbour Board, or where any Board shall be dissolved under the powers hereinafter contained, the Governor in Council shall have all the powers, functions, duties, and authorities by this Act conferred upon Harbour Boards, and may exercise the same in accordance with this Act.

Where no Harbour Boards, Governor in Council to have powers conferred on Harbour Boards.

Any power or authority herein conferred upon the Governor in Council which, in the case of a Harbour Board, would be exercised by or under by-laws to be made by such Board, shall and may be exercised under regulations to be made in the manner provided in section two hundred and twelve.

But nothing herein contained shall be construed to make it obligatory on the Governor in Council to exercise and perform the powers, functions, duties, and authorities by this Act conferred upon him, and such powers, functions, duties, and authorities shall only be exercised and performed in such ports and places in the colony as the Governor in Council thinks fit.

13. The Governor may appoint, dismiss, or revoke the appointment of Harbourmasters, pilots, and other officers of any harbour not under the control or management of any Harbour Board.

Governor in Council to appoint and dismiss officers of any harbour not under management of a Harbour Board.

14. The Governor in Council may vest the management of any wharf the property of Her Majesty in any local governing body or person, upon such terms and conditions as the Governor in Council thinks fit.

Governor in Council may vest management of any wharf in local governing body, &c.

15. Every wharf the management of which shall be so vested shall, subject to the terms and conditions mentioned in such Order in Council, be deemed to be the property of such local governing body or person for the purpose of all actions, suits, and proceedings in respect thereof or in relation thereto so long as such management remains so vested.

Every wharf so vested to be deemed property of such body.

16. In any harbour where no Harbour Board is in existence the Governor in Council may authorize any local governing body or any person to construct harbour works (other than the reclamation of land from the sea or any harbour, or the construction of any graving dock, dock, or breakwater in any harbour or in the sea) for the use and benefit of the public, and to use and occupy such part of the foreshore or of any tidal land or tidal water as may be necessary for the construction and use of such harbour works.

Governor in Council may authorize construction of harbour works.

Harbours.

Power to levy dues on private wharves.

17. In and by any such Order in Council it may be prescribed what dues and rates shall be taken by the body or person in whom any such wharf shall be vested as aforesaid, or by whom such harbour works shall be constructed for the use thereof.

Every such Order in Council shall be made upon such terms and conditions as the Governor in Council thinks fit, and the rights thereby conferred shall only be granted for a limited period not exceeding in any case fourteen years, and may at any time be altered, modified, or revoked.

Rights and powers so granted may be resumed by Governor on giving notice.

18. The rights and powers conferred under or by virtue of any such Order in Council may be resumed at any time by the Governor, on giving to the body or person holding the same such previous notice, not exceeding twelve months, as may be expressed in the Order in Council conferring such rights and powers.

Any body or person affected by any such notice shall be at liberty to remove any wharf or building erected in pursuance of any privilege granted by Order in Council, as aforesaid, and all the material thereof, but shall not be entitled to any further compensation or allowance.

HARBOUR BOARDS.

Existing Boards.

Existing Harbour Boards constituted under this Act.

19. The several Harbour Boards the names of which are set forth in the Second Schedule hereto shall be and be deemed to be Harbour Boards constituted under this Act, and this Act shall, in the case of each such Board, be deemed to be a special Act for the purpose of such constitution.

Constitution of Harbour Boards.

20. Such Boards shall be constituted in the manner and consist of the persons mentioned in the second, third, and fourth columns of the aforesaid Schedule, and set opposite the name of each Board, as follows:—

- (1.) The number of members mentioned in the second column of the said Schedule shall be appointed by the Governor from time to time.
- (2.) The persons holding the offices mentioned in the third column of the said Schedule, and their successors in office, shall from time to time be members of the Board.
- (3.) The persons to be elected or appointed as members of the Board shall be so elected or appointed as mentioned in the fourth column of the said Schedule.

Exceptional constitution of Boards.

21. If at the commencement of this Act any Board shall consist wholly or partly of persons other than those named in any of the columns of the said Second Schedule, the foregoing provisions shall nevertheless take effect as if such first mentioned persons had been named or referred to in the said Schedule.

Duration of office of Boards.

22. The several Boards hereby constituted, and the members thereof at the time this Act comes into operation, shall continue to hold office until the second Monday in February in the year one thousand eight hundred and seventy-nine, when an election shall be held for such of the said members as by or under this Act are declared or required to be elective members of such Boards, at the time and in the manner provided by this Act in respect to elections.

Retirement and re-appointment of members appointed by Governor.

23. All members of such Boards who may have been appointed by the Governor in Council, or by the Governor, or by a Superintendent of any province formerly existing, shall, on such second Monday in February, one thousand eight hundred and seventy-nine, go out of office; and the Governor shall make fresh appointments of the same or such other persons as he thinks fit and as the case may

Harbours.

require ; and the persons so appointed shall hold office for the period of three years from the first day of July, one thousand eight hundred and seventy-eight, in the manner hereinbefore prescribed.

24. If after the commencement of this Act any extraordinary vacancy shall occur in any Board mentioned in the said Second Schedule, such vacancy shall be filled up in the manner hereinafter provided by this Act.

Extraordinary vacancies in existing Boards.

25. Every Board constituted under this Act shall, in respect of all real and personal property, rights, claims, obligations, liabilities, contracts, and engagements, and for all purposes whatsoever, in law or in equity, be deemed to be the same Board as that existing at the port in respect of which the same was constituted before its constitution as a Board under this Act.

Boards already constituted to be deemed Boards under this Act.

For the purposes of this provision the term "port" shall have the meaning given thereto in the Act or Ordinance under which the Board in respect of which such term is used is constituted, subject, however, to the provisions of this Act respecting the alteration of the limits of a port or harbour.

26. Every member, and every person holding any office in or under any Board in existence at the commencement of this Act, shall, notwithstanding any defect in their elections or appointments, be deemed to have been duly elected or appointed, and shall continue to hold such office in or under the Board constituted under this Act, as if he had been elected or appointed under this Act, subject however to the provisions hereinafter contained.

Continuance of members or of persons holding office under Board.

27. In any case where the members of a local governing body form the Board the provisions of this Act respecting election of members shall have no application, and the Board so constituted shall be and become a Harbour Board within the meaning of this Act, and continue to perform the functions of such Board from time to time without complying with the provisions of this Act in relation to such election.

Provision where a local body form the Board.

Future Boards.

28. Every Harbour Board created after the passing of this Act shall be constituted by an Act of the General Assembly, hereinafter termed a "special Act."

Special Acts for Harbour Boards.

29. Every such Board shall consist of elective and non-elective persons in manner as may be prescribed by the special Act, and every such Act shall make provision for the first election of the elective members, and shall otherwise provide as may be necessary to give effect to this Act and such special Act.

Constitution of Boards.

"Elective members" mean and include persons who are or may become members of a Harbour Board either by election of the ratepayers or by the appointment of a local governing body or of any other body or association entitled to elect or appoint a member, and shall also include any member elected or appointed by the payers of dues or charges, or owners of vessels, or in any other manner where the member is not appointed by the Governor or is a member by virtue of his office.

"Non-elective members" mean all such persons as are or may become members of a Harbour Board upon the appointment or nomination of the Governor, or who are such members by virtue of their offices.

Elections, Nominations, and Resignations.

30. All persons who may be nominated or appointed by the Governor in Council or by the Governor to be members of a Board

Duration of office of non-elective members.

Harbours.

shall hold office for a period of two years, to be computed from the first day of July in the year in which the Board shall be constituted; and, in case any of such members shall cease to hold office under the provisions of this Act, the person nominated or appointed in lieu of the member so ceasing to hold office shall hold office so long as the vacating member would have held the same if he had not ceased to be a member.

Certificate as to identity of Mayor or Chairman of local governing body to be evidence.

31. A certificate under the corporate seal of any local governing body or association that any person named therein is the Mayor or Chairman of such body or association, as the case may be, shall be conclusive evidence that the person named therein is such Mayor or Chairman, as the case may be.

If such body or association be not incorporated, then a declaration in writing, signed by any two members thereof, shall be conclusive evidence of the fact that the person therein named is the Chairman or other presiding officer of such body or association.

Duration of office of elective members.

32. The elective members of all Harbour Boards shall hold office for two years from the date of the biennial election, and on the second Monday in the month of February in every alternate year there shall be an election of the elective members of the Board; and, subject to this Act and the special Act, all persons who were previously members of the Board shall be eligible for re-election.

Conduct of elections.

33. All elections of members of the Board who are required to be elected by the ratepayers entitled to elect members of a local governing body shall be held in the manner provided by "The Regulation of Local Elections Act, 1876," or any Act amending the same.

Provision for elections by ratepayers.

34. Where an elective member is required to be elected by the ratepayers entitled as hereinbefore mentioned, then, subject to the provisions of this Act, the election of such member shall be held and conducted in the same manner, and the proceedings shall be the like as to the number of votes to be given, as are now or shall from time to time hereafter be required and provided with respect to the election of members of such local governing body.

Provision for other elections.

35. All other elections shall be held in such manner as may be prescribed by the special Act, and, if no provision be made in that behalf, then in such manner as the Governor in Council shall from time to time direct by regulations to be made for that purpose.

Provision for elections by owners, or payers of dues, &c.

36. Where an elective member is required to be elected by the payers of dues, or by registered owners or part owners of ships, then and in any case where such dues shall have been paid by two or more persons jointly, or where any vessel shall be owned by more than one person, only one of such persons paying or owning, as the case may be, shall be entitled to vote in respect of such payment or ownership.

Any corporate body being the payer of dues or owner of any ship may from time to time, by writing under its corporate seal, appoint some person to vote in respect of such payment or ownership.

Provision in case of special districts.

37. Where the members of a Board, or any of them, are required to be elected by the votes of persons in any area or district comprising several local governing bodies, the Board shall annually, or as often as occasion shall require, make up an electoral roll for such area or district, and, subject to the provisions of the special Act constituting the Board, there shall be placed on such roll the name of every person whose name appears on the valuation roll of such local governing bodies as aforesaid. And every person whose name appears upon the aforesaid electoral roll shall be qualified to vote at every election of a member of the Board, as provided by the forty-first section of "The Counties Act, 1876."

Harbours.

38. If any member of a Board shall, by writing addressed to the Chairman of the Board, resign his office of member of the Board, or become of unsound mind, or accept any office of profit under the Board, he shall immediately cease to be a member of the Board.

Extraordinary vacancies.

Where a member of a Board shall hold his office by virtue of his being a member of a local governing body, or of any other body or association, then and whenever he shall cease to be a member of such local governing body, or other body or association, he shall also cease to be a member of the Board; and the vacancy thereby created shall be deemed an extraordinary vacancy within the meaning of the next succeeding section.

39. If the office of any elective member of a Board shall become vacant from any of the causes aforesaid, or from death, such vacancy shall be deemed to be an extraordinary vacancy, and the election of a new member shall be held in the manner provided in the case of the election or appointment of the member who has vacated his seat; and such new member shall retain his office so long as the vacating member would have retained the same if no vacancy had occurred.

How filled up.

40. If the office of any member of the Board appointed by the Governor shall become vacant from any of the causes aforesaid, or from death, the Governor may appoint some person in the place of the member whose office has become vacant.

Other vacancies.

Where any person is a member of a Board by virtue of his office, his successor in such office from time to time shall be a member of the Board so long as he holds such office, without any further appointment.

41. In the event of any refusal or neglect to elect or appoint the full number of elective members of the Board required by this Act, or to supply any vacancies, it shall be lawful for the Governor to appoint as many members as may be necessary to complete such number or to supply such vacancies, as the case may be.

In default of members being elected, Governor may appoint persons to fill vacancies.

Any person so appointed shall hold office till the next ordinary vacancy shall occur, unless such person shall cease to be a member of the Board in accordance with the provisions of this Act.

No act of any Board shall be questioned on the ground that the seat of any member of the Board is vacant, or that any supposed member thereof is incapable of being a member.

42. Every member of the Board shall come into office on the day of his election or appointment, and shall cease to hold office on the day his successor comes into office.

Members when to come in and go out of office.

43. If any member shall become interested, either solely or jointly with any other person, in any contract with the Board otherwise than as a member of any incorporated or registered company or of any body corporate, or be adjudicated a bankrupt or insolvent, or take the benefit of or be brought under the operation of any Act relating to bankrupt or insolvent debtors, or become in any manner disqualified under this Act to be a member of the Board, or be absent without leave of the Board from four consecutive meetings thereof, or be convicted of treason, felony, perjury, or any infamous crime, he shall immediately cease to be a member of the Board.

Disqualification of members.

Dissolution and Reconstitution of Boards.

44. Any Board may, by a resolution to be passed by an absolute majority of the members of such Board, request the Governor in Council to dissolve such Board, and if the Governor dissolves such Board, then, on such day as the Governor in Council shall fix, an election of the elective members and a nomination of the nominated members of the Board shall be held or made.

Dissolution and reconstitution of Board.

Harbours.

In voting upon any resolution under this section the Chairman shall have only a deliberative and not a casting vote.

Governor in Council may appoint a person to make inquiries.

45. In the exercise of the powers given to him by the preceding section, the Governor in Council may appoint a fit person or persons to make all such inquiries, and examine and inspect all books, papers, and accounts as may be necessary to ascertain the debts and liabilities of the Board and what property is vested in it.

If any Board, or the Chairman, Secretary, or any member or officer of any such Board, shall refuse to give information to any person so appointed, or to produce any books, papers, or accounts in its or their custody or possession, every person so offending shall be liable to a penalty not exceeding fifty pounds.

Governor in Council may declare what bodies shall return members in certain cases.

46. If at any time it shall be made to appear to the Governor that a local governing body or association electing or appointing a member or members of the Board has ceased to exist, or has been incorporated with or united to some other local governing body or association, the Governor may, by Order in Council, declare what other local governing body or association shall return a member in lieu of the body or association so ceasing to exist or being incorporated or united as aforesaid.

Or that two or more bodies may unite in electing a member.

If any such body or association becomes divided into two or more like bodies, the Governor in Council may order that the original bodies or associations and the new bodies or associations shall unite in electing or appointing a member or members of the Board, as the case may be.

Change of name not to affect right of body to elect or appoint a member.

If the name of any such body or association is changed, but such body or association shall in other respects remain unaltered, such change of name shall not affect the right of such body or association to elect or appoint a member.

Governor may declare that Mayor &c., of newly-constituted body shall be a member of Board.

47. When any local governing body or association shall become incorporated with some other body or association, or shall cease to exist, the Governor in Council may in like manner declare that any Mayor, Chairman, or other chief presiding officer of such newly-constituted body or association shall take the place of any Mayor, Chairman, or other officer of the body or association becoming incorporated or ceasing to exist, and who by virtue of his office was entitled to be a member of the Board.

Incorporation of Boards. Conduct of Business.

Incorporation of Boards.

48. Every Board shall be a corporate body by the name of "The [*stating the name*] Harbour Board," with perpetual succession and a common seal, and with full power and authority by that name to sue and be sued in all Courts whatsoever, and shall be capable in law for the purposes of and subject to this and the special Act to do and suffer all such acts and things as bodies corporate may do and suffer, with power to take and hold all lands, tenements, or hereditaments.

Board may appoint officers.

49. Every Board may from time to time appoint and employ a Secretary, Treasurer, Clerk, Harbourmaster, Pilots, Wharfinger, and all such other officers and servants to assist in the execution of this Act as it shall think proper, and from time to time may remove or discontinue the office of any of such persons and appoint others in the room of such as shall be so removed, or as may die or resign. Such salaries and allowances shall be paid out of the Harbour Fund to the said persons respectively as the Board shall think reasonable.

One person may hold two or more of any of such offices.

Security to be given before entering upon office.

50. Before any officer intrusted by the Board with the custody or control of moneys by virtue of his office shall enter upon such office, the Board shall take sufficient security from him for the faithful execution thereof.

Harbours.

51. No member of the Board shall receive any salary or remuneration other than his actual travelling expenses to and from meetings of the Board, and no member of the Board shall, if any salary is attached to such office, be capable of being or continuing Clerk or Treasurer or any other officer of the Board, as hereinbefore mentioned.

No paid member of the Board to hold any paid office of the Board.

52. Every Board shall hold its first meeting, on a day and at a place to be appointed by the Governor, as soon as conveniently may be after the constitution thereof, for the election of one of its members as a Chairman; and shall hold an annual meeting for the like purpose on the first Tuesday in each year after the anniversary of the day of the first meeting of the Board.

Election of Chairman.

At every such meeting the Board, by a majority of the members present, shall elect one of its number to be Chairman, who shall hold office for a term of one year only, but he shall be eligible for re-election.

In the event of there being an equality of votes, the election of Chairman shall be decided by lot at such meeting.

53. If the Chairman shall from any cause cease to be a member of the Board, or resign the office of Chairman, the Board shall, as soon thereafter as conveniently may be, elect another member of the Board to be Chairman in his stead, who shall hold office until the next election of a Chairman as hereinbefore provided.

Resignation of Chairman.

54. At all meetings of the Board the Chairman, or in his absence such member of the Board as the majority of the members assembled shall choose, shall preside, and such Chairman or presiding member shall have a deliberative vote, and, in all cases of equality of votes, shall also have a casting vote.

Deliberative and casting vote.

55. Every Board shall hold a meeting at noon on the third Monday in the month of January in each year, at the office of the Board.

Annual meetings.

At such meeting the accounts of the Board for the past year, duly audited and certified as hereinafter provided, shall be laid before the meeting, and, if the same shall be adopted, a balance-sheet framed therefrom shall be published at least three times in some one or more newspapers circulating at the port for which such Harbour Board is constituted.

56. Every Board shall also hold ordinary meetings for the transaction of general business, and the ordinary meetings shall be held at the office of the Board at such stated time as the Board shall from time to time appoint.

Ordinary meetings.

By-laws.

57. Every Board may from time to time make, alter, and revoke by-laws for regulating the general conduct of business and proceedings of the Board, and for all such other purposes as the Board is by this or the special Act empowered to make by-laws.

Board may make by-laws.

Such by-laws shall not be repugnant to the provisions of this Act, or the General Harbour Regulations to be made hereunder, nor to any Act of the General Assembly; and they shall not come into operation until after a copy under the seal of the Board has been sent to, and the receipt thereof has been acknowledged by, the Minister.

58. All by-laws or regulations in force under any Act or Ordinance hereby repealed in respect of any port or place within the jurisdiction of any such Board shall continue in force until altered or repealed in the manner provided by this Act.

Existing by-laws to continue.

59. By-laws shall be made only in the manner and subject to the conditions following:—

Conditions under which by-laws may be made.

- (1.) They shall be adopted at a special meeting, of which each member of the Board shall have notice in writing two clear

Harbours.

days at the least before such meeting, and such notice shall set forth the business to be brought before the meeting :

- (2.) They shall be publicly notified in the borough or place in which the office or place of meeting of the Board is situated seven clear days before being considered at the special meeting, but may be amended before adoption :
- (3.) They shall have the common seal of the Board affixed thereto :
- (4.) They shall be published in the borough or place in which the office or place of meeting of the Board is situated seven clear days before coming into force, and shall come into force upon a day named in such publication.

Copies of by-laws to be evidence.

60. A copy of any by-law, sealed with the common seal of the Board, shall be received as evidence of the same having been duly made as by this Act provided, unless the contrary be proved.

Payment for copies of by-laws.

61. Any person desiring to purchase a copy of such by-laws shall be entitled to do so on application at the office of the Board, and on payment of such sum as the Board may fix from time to time, not exceeding one shilling.

Disallowance of by-laws.

62. The Governor may, within six months after the copy of any by-law has been sent to the Minister, disallow the same or any part thereof, and, upon such disallowance being gazetted, such by-law or part thereof so disallowed shall cease to have any force; but such disallowance shall not affect the validity of anything theretofore done under the by-law or part thereof so disallowed.

Production of newspaper confirming by-laws.

63. In all proceedings the production of the newspaper containing any such by-laws shall be sufficient *prima facie* evidence that all the provisions of this Act relating to the making 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 under by-laws.

64. Any by-law made in pursuance of this Act may provide for a penalty for every breach thereof, of an amount which shall be in the discretion of the Court inflicting the same, and shall in no case exceed twenty pounds.

POWERS AND DUTIES OF HARBOUR BOARDS.

Contracts.

Board may enter into contracts for certain works.

65. Every Board may enter into contracts with any person for the erection, construction, or execution of any harbour works permitted or authorized to be erected or constructed by the Board, or for furnishing materials, or for the purchase or construction of machinery or appliances of any kind, and any other contracts necessary for the purpose of carrying out the objects for which such Board has been constituted.

Contracts to be in writing, specifying work, &c., to be done, &c.

66. Every such contract shall be in writing, and shall specify the work to be done or executed, and the materials to be furnished, and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof, or other the nature and terms of the contract entered into.

The power hereby granted to the Board to enter into contracts may lawfully be exercised as follows, that is to say,—

Any contract which if made between private persons would be by law required to be in writing and under seal, the Board may make in writing and under the common seal of the

Harbours.

Board, and in the same manner may vary or discharge the same.

Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, the Board may make in writing signed by the members thereof, or any two of their number acting by the direction and on behalf of the Board, and in the same manner may vary or discharge the same.

Any contract which if made between private persons would be by law valid although made by parol only and not reduced into writing, the members of the Board, or any two of them acting by the direction and on behalf of the Board, may make by parol only, without writing, and in the same manner may vary or discharge the same: Provided that any agreement made by parol only shall not be valid for any sum exceeding ten pounds.

67. No contract the amount whereof exceeds fifty pounds shall, except in cases of emergency, be made except after public tender, of which public notice shall be given; but the Board shall not be compelled to accept the lowest tender.

Contract exceeding £50 to be made only after public tender.

68. Any Board may compound with any person for such sum of money or other recompense as it thinks fit in respect of the breach of any contract, or any penalty incurred thereunder, or of any debt due to the Board, whether before or after any action or suit is brought for the recovery of the same.

Power to compound for breach of contracts.

Loading and Discharging.

69. Proper servants and labourers shall be provided by every Harbour Board for working, at all reasonable times, any cranes and weighing machines or other machines and conveniences erected or provided by such Board for the use of the public in loading or unloading any goods on any of the wharves belonging to any Harbour Board.

Harbour Board to provide labourers, &c., for working cranes, &c.

70. If any wharfinger or other servant of any Harbour Board, or any of their lessees, or the servants of such lessees, shall give any undue preference or show any partiality in loading or unloading any goods on any wharf belonging to any Harbour Board, the person so offending shall be liable to a penalty not exceeding five pounds.

Penalty on wharfinger giving undue preference.

71. Every Board shall, on being required to do so by the Commissioner of Customs, provide, and, until relieved from this duty by him, shall always thereafter maintain in good order, at such place and in such manner as he shall direct or approve, suitable receiving and examining sheds, with weighing appliances, and accommodation for the use of the officers and others acting under the Commissioner's directions, free of rent or any other charges in respect thereof.

Board to provide certain accommodation for Customs officers.

If any Board fails to comply in any respect with the provisions of this section, it shall incur a penalty not exceeding fifty pounds for every month during which such failure continues.

72. No goods shall be allowed to remain upon any wharf, or in the approaches thereto, or in any store or warehouse in which goods may be placed, for a longer time than shall be allowed by the by-laws of any Board.

Goods not to be allowed to remain on piers, &c., longer than allowed by by-laws.

73. If any goods so remain without the consent of the Harbour Board, any person appointed by the Board for that purpose may remove the same to any of the premises of the Board or other convenient place, and keep the same until payment to the Board of the expenses of such removal and of the keeping of

Board may remove goods in cases herein mentioned, and dispose of same to pay expenses.

Harbours.

the goods; and, if such expenses be not paid within seven days after demand thereof made upon the owner, or if such owner cannot be found, or shall be unknown, then, after the Board shall have given public notice by advertisement at least once in each of three consecutive weeks in some newspaper circulating at the port where such goods are, the Board may sell such goods by public auction, and out of the proceeds of such sale pay all dues and charges payable thereon and the expenses of removal and of the sale thereof, and the surplus (if any) shall be rendered to the owner on demand.

If the owner of the goods cannot be found, or be unknown, then the surplus shall be paid into the Public Account of the colony, and shall go to and form part of the Trust Fund, and be dealt with accordingly.

Pilots and Pilotage.

Owner or master not required to give ship in charge to pilot in certain cases

74. No owner or master of any ship shall in any case be compelled to employ or give his ship into the control or charge of a pilot at any port at which the pilots are at the time of the commencement of this Act licensed or appointed directly by the Governor, or to pay at any such port any pilotage rates where such owner or master has not employed or given his ship into the charge of a pilot.

This provision shall not apply to any port where a Harbour Board has been constituted under any Act or Ordinance.

Governor may alter and vary pilotage districts.

75. The Governor shall have power from time to time to define and to alter and vary the limits of pilotage districts within which pilots may act for the purposes of this Act, and the limits so defined shall be gazetted.

Appointment of pilots.

76. Every Harbour Board shall have power from time to time to appoint or license pilots for the purpose of acting within the district attached to the harbour under the control of such Board, and may fix their remuneration. Every Board shall, in manner hereinafter provided, fix the pilotage rates to be paid within such district.

Pilots to be examined.

77. No person shall be appointed to be a pilot at any port unless he shall have first passed such an examination as is herein provided, and shall have received and shall continue to hold a certificate of competency or license.

Master or mate may be examined and passed for the purpose of receiving a pilotage certificate.

78. The master or mate of any colonial trading vessel may, upon giving due notice, apply to any Harbour Board to be examined as to his capacity to pilot the ship of which he is master or mate, or any other ship or ships, within any part of the district over which such Harbour Board has jurisdiction, and such master or mate shall, if such Harbour Board thinks fit, thereupon be examined by the Harbourmaster or by such other competent person or persons as may be appointed for this purpose by the Harbour Board. If such person is found competent, such Harbourmaster shall report to the Harbour Board that the said master or mate has passed such examination, or that he is competent to pilot the ship of which he is master or mate, and the ship or ships specified in such report, within the limits described therein, such limits to be within such jurisdiction as aforesaid.

On production of report, Board to grant master or mate pilotage exemption certificate.

79. On the production of such report, the Harbour Board shall grant to such master or mate a pilotage exemption certificate containing his name, a specification of the ship or ships in respect of which he has been examined, and a description of the limits within which he is to pilot the same.

Such certificate shall (subject to the provisions hereinafter contained as to the hoisting a flag) authorize the person therein named to pilot the ship or any of the ships therein specified of which he is acting as master or mate at the time, but no other, within the limits therein

Harbours.

described, without incurring any penalties for the non-employment of a qualified pilot.

80. If upon complaint to the Minister it appears to him that any Harbour Board as aforesaid has, without reasonable cause, done or suffered any of the following things, that is to say,—

(1.) Refused or neglected to allow any master or mate to be examined who has applied to such Harbour Board for the purpose, or, after he has passed the examination, has without reasonable cause refused or neglected to grant him a pilotage exemption certificate setting forth that he has passed such examination, or that he is competent to pilot the ship of which he is master or mate;

(2.) Unfairly or improperly conducted the examination of any such master or mate;

(3.) Imposed or sought to impose unfair or improper terms,—the Minister may, if in his judgment the circumstances appear to require it, appoint any person or persons he may think fit to examine such master or mate, and if he is found competent may authorize a pilotage exemption certificate to be granted to him by the person for the time being appointed for the purpose, containing the same particulars as would have been inserted in a pilotage exemption certificate granted on the report of such Harbourmaster as aforesaid, and such pilotage exemption certificate shall be granted upon such terms and conditions and subject to such regulations as the Minister may think fit.

81. There shall be paid for every such pilotage exemption certificate a fee of two pounds two shillings.

82. Any master or mate holding a pilotage exemption certificate, on taking charge of or being appointed to any vessel not specified therein, may have such certificate extended to such vessel without charge, which may from time to time be done by an indorsement made thereon to that effect by or under the authority of the Harbour Board or under the hand of the person appointed by the Minister as aforesaid to sign and issue such certificate :

But such master or mate shall produce a report, signed by the Harbourmaster of the port, that such master or mate is competent to pilot the vessel to be specified in such indorsement within the limits of such port.

83. When a pilotage exemption certificate has been paid for by the owners of any vessel or vessels, and a master or mate not named in such certificate is appointed to any of such vessels, such certificate may be transferred to the new master or mate on production of such exemption certificate and such report, as required by the seventy-eighth section of this Act, that such master or mate is competent to pilot such vessel or all of the other vessels specified in the certificate within the limits of the port named therein.

Such transfer shall be made by indorsement on the pilotage exemption certificate in the manner set forth in the last preceding section.

84. If at any time it appears to any Harbour Board or to the Minister that any master or mate to whom a pilotage exemption certificate has been granted has been guilty of gross neglect, drunkenness, or other misconduct, or has shown himself incompetent to pilot his ship, such Harbour Board or Minister may thereupon withdraw the pilotage exemption certificate granted to such person, and such certificate shall thenceforth cease to be of any effect whatever.

85. If any master or mate refuses to give up to any owner of a vessel any such pilotage exemption certificate as shall have been paid for by such owner, he shall be liable to a penalty not exceeding ten

If Harbour Board refuse to examine master or mate, Minister may appoint persons to examine, and may authorize exemption certificate to be issued.

Fee for pilotage exemption certificate.

On change of vessel by master or mate, pilotage exemption certificate may be extended by indorsement.

Pilotage exemption certificate paid for by owners of vessels may be transferred on change of master.

Power to withdraw pilotage exemption certificate.

Pilotage exemption certificate paid for by owners to be given up by master on leaving vessel.

Harbours.

pounds, to be recovered in a summary way, and such certificate shall be withdrawn in the manner prescribed by the eighty-fourth section of this Act, and a new certificate granted to such owners in lieu thereof, with the name of the new master or mate inserted therein, but shall be limited to such vessel as the Harbourmaster's report shall apply to.

Exemption ships to hoist white flag on entering port.

86. No master or mate holding a pilotage exemption certificate shall be exempt from liability for non-employment of a pilot, unless such master or mate shall, when required by the Collector of Customs of the port in respect of which such exemption is claimed, or by any licensed pilot who may board the vessel, produce and permit to be read by him the said exemption certificate, and unless from the time of approaching within two leagues of the pilot station to the time of such vessel anchoring in the port there shall be displayed at the top of the mainmast-head of such vessel a white flag not less than six feet long and four feet broad.

Exemption from compulsory pilotage.

87. All vessels of not more than one hundred tons registered tonnage shall be exempted from compulsory pilotage.

Exempted vessels to pay one full rate of pilotage annually.

88. Any colonial trading vessel the master or mate of which holds a pilotage exemption certificate shall, unless the master employs a pilot, pay annually, on first entering the port, one full rate of pilotage in and out of the port in respect of which such certificate is issued and that such vessel may visit, which shall exempt such vessel from liability for pilotage rates for one year from the date of such annual payment.

Penalty on pilot obtaining charge of a ship by misrepresentation.

89. If any person, by any misrepresentation of circumstances upon which the safety of a ship may depend, or by using a license to which he is not entitled, becomes employed or endeavours to become employed to pilot such ship, or enables or endeavours to enable any other person to be so employed, or obtains or endeavours to obtain for himself or any other person the charge of such ship, he shall, in addition to any liability for damages, incur a penalty not exceeding one hundred pounds, and shall also be liable to suspension or dismissal by the authority by whom he is licensed or appointed.

Vessels not to be conducted to sea until pilotage rates are paid.

90. No pilot shall in any case conduct a vessel to sea from any harbour unless such vessel has been cleared outwards at the Customs, if subject to clearance, nor until the full amount of pilotage according to the rates for the time being fixed and established for such harbour has been paid.

Offences of pilots.

91. If any pilot commits, either within or without the district for which he is licensed, any of the following offences:—

- (1.) Commits any fraud or offence against the revenues of Customs, or the laws relating thereto;
- (2.) Lends his license;
- (3.) Acts as pilot whilst suspended;
- (4.) Acts as pilot while in a state of intoxication;
- (5.) Employs or causes to be employed, on behalf of any ship of which he has the charge, any steamboat, boat, anchor, cable, or other store, matter, or thing beyond what is necessary for the service of such ship, whereby the expenses of pilotage are enhanced for his own gain or for the gain of any other person;
- (6.) Refuses or delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of the pilotage district upon the signal for a pilot being made by such ship, or upon being required to do so by the master, owner, agent, or consignee thereof, or by any officer of the Board by whom such pilot is licensed, or by any principal officer of Customs;

Harbours.

- (7.) Attempts, upon being so signalled or required, to make any special bargain for salvage ;
- (8.) Refuses when requested by the master to conduct the ship on board of which he is into any port or place into which he is licensed to conduct the same, except on reasonable ground of danger to the ship ; or
- (9.) Quits the ship which he has undertaken to pilot, without the consent of the master, before the service for which he was taken has been performed,—

such pilot shall, for each offence, in addition to any liabilities for damages, incur a penalty not exceeding one hundred pounds, and also be liable to suspension or dismissal by the authority by whom he is licensed or appointed.

92. If any pilot, when on board any ship for the purpose of piloting her, by breach or neglect of duty, or by reason of drunkenness, either—

Penalty on pilot endangering ship, life, or limb.

- (a.) Does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person on board such ship ; or
- (b.) Refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from danger to life or limb,—

he shall for each such offence be deemed guilty of a misdemeanour, and be liable to imprisonment for a period not exceeding twelve months, with or without hard labour, and shall also be liable to suspension or dismissal by the authority by whom he is licensed.

93. Any pilot demanding or receiving any sum in respect of pilotage services greater than the dues for the time being demandable by law shall for each offence incur a penalty not exceeding fifty pounds.

Penalty on pilot for demanding or receiving more than legal dues.

94. Every pilot boat shall, when afloat, use and display at the mast-head, or on a sprit or staff, or in some equally conspicuous situation, the distinguishing marks following, that is to say,—

Pilot boat and pilot signals.

In the daytime—

A flag of large dimensions compared with the size of the pilot boat, and of two colours, the upper horizontal half white, and the lower horizontal half red :

Characteristics of pilot boats.

At night—

A white light at the mast-head visible all round the horizon, and a flareup light exhibited every fifteen minutes ;

or such other signals as may from time to time be substituted therefor.

95. If a vessel requires the services of a pilot, the signals to be used and displayed shall be the following, that is to say,—

Signals to be displayed by ships requiring a pilot.

In the daytime—

- (1.) To be hoisted at the fore, the jack or other national colour usually worn by merchant ships, having around it a white border ;
- (2.) The international code pilotage signals, indicated by P.T. :

At night—

- (1.) The pyrotechnic light known as a blue light, every fifteen minutes ; or
- (2.) A bright white light flashed or shown at short or frequent intervals just above the bulwarks for about a minute at a time ;

Harbours.

or such other signals as may from time to time be substituted therefor by Her Majesty by Order in Council under the Act of the Imperial Parliament of which the Short Title is "The Merchant Shipping Act, 1874," or any Act amending the same.

Lights, Buoys, and Seamarks.

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

How sanction obtained.

96. No Harbour Board shall erect or place any harbour light, signals, buoy, or beacon in any harbour or the approaches thereto, or alter or remove the position of any light, signal, buoy, or beacon within their jurisdiction, without the sanction of the Minister.

97. In order to obtain such sanction, the Harbour Board shall forward a detailed plan fully specifying the position and nature of the light proposed to be erected, or of the work proposed to be undertaken in placing or removing any light, signals, buoy, or beacon, to the Minister, who shall have power to give any directions he may think fit in relation to the matter referred to in the notice sent to him by granting or withholding his sanction either wholly or partially and either with or without modification.

Marine Department to inform harbour authorities of decision of Minister.

98. The Marine Department shall forthwith communicate the directions given by the Minister in relation to the matters aforesaid to the Harbour Board affected thereby, who on receipt of such directions shall be bound to act in conformity therewith, and to do or forbear doing anything thereby directed to be done or forborne.

Minister may appoint persons to inspect buoys and beacons.

99. If any harbour light, signals, buoy, beacon, or other seamark under the management of any Board, or any work connected therewith, be inefficient, or improperly placed or managed, or unnecessary, the Minister may authorize some officer of the Marine Department to inspect the same.

Any person so authorized may inspect the same accordingly, and make such inquiries in respect thereof and of the management thereof as he may think fit; and every person having the care of such harbour lights, signals, buoys, beacons, or other seamarks, or concerned in the management thereof, shall furnish all such information and explanations in relation thereto as such officer may require.

Power of Minister to control lights under local authorities.

100. Every Harbour Board shall erect lights, lay down buoys and beacons, in such manner as may be required by the Minister from time to time, and shall replace, remove, or discontinue any harbour light, signals, buoy, or beacon, or make any variation in the character of any such light or signals, or in the mode of exhibiting the same, as may be so required.

Minister may act in neglect of Board to act.

101. If any Board shall, for a reasonable period after being required in that behalf, fail or neglect to erect any light or lay down any buoy or beacon, or 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 such regulations, or to any requirements made by him, and the cost and charges of so doing shall be a debt due from the Board to the Crown, and may be recovered accordingly.

Wrecks, Obstructions, and Damages.

Series of acts tending to the injury of navigation.

102. An 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.

Power to make by-laws respecting removal of ballast, shingle, &c., from shore.

103. Any Board may from time to time make by-laws for regulating, restricting, or prohibiting the taking away of any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, or other substance or thing from any tidal land, or a tidal water, or from the sea-shore below high-water mark in any harbour within its jurisdiction.

Harbours.

104. The Board may agree with any local governing body to permit sand, earth, or other material for reclamation purposes and for ballast for vessels to be taken free of cost from any lands vested in such local governing body, or over which it has a disposing power.

Board may agree with local bodies to take earth, &c., for reclamation or ballast.

105. If any vessel is sunk, stranded, or abandoned in any harbour or tidal water, or on the sea-shore, in such a 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:—

Removal of wreck.

- (1.) The Board having jurisdiction over the place where the wreck may be 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 Board, or to undertake, under security satisfactory to the Board, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Board.
- (2.) In case the owner or agent cannot be found, or fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the Board, 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 Board 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 Board 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 Board 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.
- (5.) If such Board fails, within fourteen days after notice in writing from the Minister, to remove or to take steps to cause the owner of the vessel to remove the wreck, then the Minister shall be deemed the proper authority to remove the same, and shall have all the powers hereby given to the Board under the foregoing provisions.
- (6.) The expenses of removal incurred by the Minister or any person by his direction or authority in pursuance of this section upon any default of a Harbour Board shall be recoverable from such Board, with full costs of suit, as a debt of record due to the Crown.
- (7.) If there be no Board having jurisdiction at the place where the wreck may be, then the Collector of Customs, or, if there be no such Collector, then some person acting by or under the authority of the Minister, shall have all powers

Harbours.

and duties of the Board hereinbefore contained, and may exercise the same accordingly.

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.

Responsibility for injury to works of harbour.

106. 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 any Harbour Board, the following persons, namely,—

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

shall each be answerable in damages to the Board for the whole injury; but no person shall be entitled by virtue hereof to recover twice for the same cause of action.

Recovery by owner from master of ship.

107. 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 any Board 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.

Trees felled to be moved from wharf, &c.

108. If any tree is felled by the owner or occupier of any land, or by any person employed or authorized 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.

Harbour Dues, &c.

Existing charges and dues to continue.

109. Until other provision is made in that behalf under this Act, all harbour dues now payable by law within any of the harbours of the colony shall continue to be levied and shall be payable and paid as if the same had been made payable by this Act.

Prohibition of partiality as to dues.

110. Harbour dues shall be made by by-laws in the manner provided by this Act, and after the commencement of this Act all dues shall be chargeable equally to all persons in respect of the same description of ships, the same description of voyage, and the same description of goods.

Foreign ships employed in the coasting trade not to be subject to higher rates than British ships.

111. No foreign ship employed in the coasting trade of the colony, nor any goods carried in such ship, shall, during the time such ship is so employed, be subject to any higher or other rate of harbour dues, or other charges whatsoever, or to any other rules as to the employment of pilots, or any other rules or restrictions whatsoever, than British ships employed in like manner, or goods carried in such ships, any law to the contrary notwithstanding.

No exemption from dues allowed on account of reasons herein named.

112. After the commencement of this Act, no exemption from dues (including under the term every privilege of paying smaller dues than the public at large under like circumstances) shall be allowed in

Harbours.

any harbour on account of one or more of the following reasons, that is to say,—

- (1.) On account of any ship being registered at or belonging to any particular country, port, or place, or trading between any particular ports or places :
- (2.) On account of any ship or goods being the property of or being consigned by or to any particular person :
- (3.) On account of any goods being stored for sale in any particular town, place, or market :
- (4.) On account of any ship or goods being sent to or from, or anchoring or mooring at, or being laden or unladen at any particular place in any harbour, except where a ship, in going to or from, or anchoring or mooring at, or being laden or unladen at such place, derives from the expenditure of the class of dues in question no benefit, or less benefit than ships going to or from, or anchoring or mooring at, another place in the same port :
- (5.) On account of any goods being the product of or being destined for use at any particular manufactory, place, or district, or any particular class of manufactories.

113. 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 vessel.

In the case of vessels belonging to any foreign country which has adopted the provisions of "The Merchant Shipping Act, 1854," in respect of the measurement of tonnage, such vessel shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers.

114. 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 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. Tonnage of foreign vessel, how to be ascertained.

115. No Board shall take any dues in respect of any wharf, dock, pier, quay, or other harbour work until such works are completed so far as to be fit for the reception of ships, or for whatever purpose it or any part of it is intended. Prohibition of levying of dues before completion of harbour.

116. Every Board shall before taking any dues put up, and shall at all times keep exhibited, in front of its principal office, and on some conspicuous part of the principal wharf or quay under its control, boards having painted or affixed thereon lists in large printed or painted characters of the dues for the time being payable. List of dues to be kept exhibited.

If any Board fails to comply with any of the requirements of this section, it shall incur a penalty not exceeding five pounds for every day during which such failure continues.

117. Where a difference arises between the person authorized to collect any such dues and the owner of goods respecting the weight or quantity of any goods liable to dues,— In case of difference, power to weigh or measure goods.

- (1.) The person authorized to collect such dues 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 Board, and shall be recoverable as dues are recoverable :

Harbours.

(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 Board in any Court of competent jurisdiction.

Power for Collector of Customs to withhold clearance until dues are paid.

118. The Collector of Customs may refuse to receive any entry or give any shipping bill, discharge, or clearance, or to take any report inwards or outwards, of any ship liable to dues payable to a Board, until the master of the ship produces to him a certificate, under the hand of the collector of such dues, that the dues so payable in respect of the ship have been paid, or, if there is any difference as to the dues payable, until such Collector or officer of Customs is satisfied that sufficient security has been given for the payment of the dues when ascertained, and of the expenses arising from non-payment thereof.

Liability for dues payable by ship.

119. The following persons shall be liable to pay the dues payable by or in respect of any ship—that is to say, the owner and master, and such consignee or agent thereof as may have paid or made himself liable to pay any other charge on account of such ship in the port of her arrival or discharge, or in the port from which she clears out.

Liability for dues payable for goods.

120. 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 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.

121. 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 such payment and liability.

Recovery of dues.

122. All dues may be recovered in any Court of competent jurisdiction by the Board to whom the same are payable, as a debt due to it.

Persons authorized to collect dues may distrain.

123. Any person authorized 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.

The power given to the collector under this section shall be given in addition to the remedies hereby provided for the recovery of dues.

Settlement of dispute concerning dues or charges occasioned by distress.

124. 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 a Resident Magistrate's Court, 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.

Such Court shall, upon application made for that purpose, determine such amount, and award such costs to be paid by either party to the other as the Court thinks reasonable.

Penalty on evasion.

125. 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.

Harbours.

126. It shall not be lawful for any Harbour Board to levy any dues unless the dues levied are applied to some shipping purpose the benefit whereof is enjoyed by the ships or goods on which such dues are levied.

Prohibition of dues except for shipping purposes.

For the purpose of this section the term "shipping purpose" includes the erecting or making of any harbour work, or constructing or doing of any work or thing, that conduces to the safety or convenience of ships, or that facilitates the shipping or unshipping of goods or passengers, or is intended to do so, and also the payment of interest and sinking fund upon moneys borrowed for the purpose of any such works, and the management and superintending of any such work; and also includes the maintenance of lights, buoys, beacons, pilot establishments, and signal stations, and the maintenance of any life-boat or other means of preserving life in case of shipwreck.

Special Provisions as to certain Harbour Lights.

127. In respect of any harbour light, signals, buoy, or beacon, heretofore maintained by the Government of any province or of the colony, or by any Harbour Board, or which may hereafter, with the sanction of the Minister, be maintained, erected, or placed in any harbour by any Harbour Board, the Governor in Council may fix such dues to be paid by every ship which enters the harbour wherein such harbour light, or signals, or buoy, or beacon is situate, and which passes the said light, or signals, or buoy, or beacon, and derives benefit therefrom, as he may deem reasonable.

Governor in Council may fix dues in respect of local lights.

128. The Governor may, by Order in Council, from time to time reduce, alter, or increase all or any of such dues, so that the same may, as far as is practicable, be sufficient, and not more than sufficient, for the payment of the expenses incurred by the Harbour Board in respect of the lights, or signals, or buoy, or beacon for which the dues are levied.

Governor may reduce, alter, or increase all such dues.

129. The dues fixed by any such Order in Council as aforesaid shall be paid accordingly by the master of the said ship or other person or persons by whom the said dues if levied in respect of coastal lights would be payable, and shall be recoverable in the same manner as such coastal light dues are recoverable.

Dues may be levied for local lights.

130. All dues leviable under the last preceding section shall be applied for the purposes of the construction, placing, maintenance, and improvement of the harbour lights, or signals, or buoys, or beacons in respect of which the same are levied, and for no other purpose.

Application of dues for local lights.

131. The Harbour Board to whom such dues are paid shall keep a separate account of the receipt and expenditure of such dues, and shall once in every year, or at such other time as the Minister may determine, send a copy of such account to the Marine Department, and shall send the same in such form and shall give such particulars in relation thereto as the Minister may require.

Accounts of same.

Exemptions from Dues.

132. Nothing in this Act shall charge with any harbour dues—

- (1.) Any ship of or in the service of Her Majesty, her heirs and successors, or any stores or goods required for the use of Her Majesty's naval or military forces;
- (2.) Any ship in the naval service of any foreign Power;
- (3.) Any ship in the service of the Government of this or any other British colony;
- (4.) Vessels employed in fishing, sealing, or oyster-dredging, and not conveying goods for hire;

British and foreign ships of war, &c., exempt from dues.

Harbours.

- (5.) Any steamship carrying mails under any contract made with the Postmaster-General, in cases where it is provided by the terms of such contract that such steamships shall be exempt therefrom ;
- (6.) Any person in the service of Her Majesty or the Government of the colony, travelling on public service, or his baggage ;
- (7.) Any ship or goods under seizure by officers of revenue ;
- (8.) Goods of or for the service of Her Majesty in the colony ;
- (9.) Any of Her Majesty's military forces, or of the Militia or Volunteer Forces, or any constables or peace officers, while travelling on duty, or their baggage.

If any person claims and takes the benefit, or endeavours to take the benefit, of any exemption under this section without being entitled thereto, he shall for every such offence incur a penalty not exceeding ten pounds.

Yachts, whaling ships, &c., exempt.

133. Vessels engaged in the whale fisheries, yachts, and missionary ships not trading to or from any ports in the colony, and not conveying goods for hire, and vessels in distress putting into any port through stress of weather, or for water or provisions, or to refit, and vessels calling at any port for orders, shall be exempt from all harbour dues, and from pilotage rates except where the services of a pilot are actually made use of.

Ships returning from stress of weather.

134. If any other ship (whether laden with cargo or in ballast) for which harbour dues have been paid is obliged, from stress of weather or other sufficient cause, after leaving the harbour, to return thereto with the same cargo or ballast, no further dues shall be payable.

Reserves and Endowments.

Power to grant public reserves or other lands under any Act or Ordinance still to subsist.

135. Where authority has been given under any Act or Ordinance to the Governor or to the Superintendent of a province to grant or convey to a Harbour Board constituted under any such Act or Ordinance any public reserves or other lands, either absolutely or upon any terms or conditions, the power to make such grant or conveyance shall, notwithstanding the repeal of any such Act or Ordinance, vest in and may be exercised by the Governor in respect of the Harbour Board constituted under this Act in the place of such first-mentioned Board.

Reserves so vested to be subject to contracts, leases, &c., affecting same.

136. All such reserves and lands shall be so vested subject to any contracts, leases, mortgages, or other debts or charges for the time being affecting such lands, and the Board constituted under this Act shall be liable for the payment of such mortgages, debts, or other charges, and such lands shall be held by the Board to which the same may be granted or conveyed for and upon the same trusts and purposes (subject to this Act) as are now or may hereafter be attached to the same.

Board may lease lands.

137. The Board may, subject to this Act, let any lands vested in it, or any part thereof, at such rents and upon such terms and conditions as the Board shall determine, so that such leases for rural or pastoral lands be for any term not exceeding twenty-one years, and for town lands or lands used for building purposes be for any term not exceeding fifty years, to take effect in possession from the time of the execution thereof, and that an annual rent be reserved, payable at such times or periods as the Board thinks fit. When any lease is for a longer term than twenty-one years, the annual rent reserved by such lease for any period beyond the first twenty-one years shall be an advance at least of fifty per centum upon the annual

Harbours.

rent payable under such lease during the last year of the expired twenty-one years: Provided that on no lease shall any premium, fine, or foregift be taken.

Nothing herein contained shall prejudice or affect any lease already granted or agreed to be granted under powers conferred upon any Board by any Act or Ordinance hereby repealed.

138. The lease of all such lands shall be sold by public auction or public tender, and at least two months' notice of such intended sale shall be publicly notified, and all rents and profits derived from such sale of the leases granted in respect thereof shall, from time to time, be paid into the Harbour Fund, and shall be appropriated thereout for the purposes of this Act.

Leases to be disposed of by public auction.

Appropriation of rents.

139. All lands set aside, or authorized to be set aside, under any Act or Ordinance hereby repealed, as endowments for Harbour Boards, and remaining undisposed of, shall be deemed to be set aside or may be set aside under this Act for the same purposes for which such lands were respectively so set aside or authorized to be set aside.

Endowments under any Act or Ordinance still to subsist.

140. Where any block of land has been set aside under any Act or Ordinance in force at the time of the coming into operation of this Act as an endowment for any Board, with power to any Land Board to sell, deal with, or otherwise dispose thereof, the Land Board of the district where such lands are situate may from time to time sell or otherwise deal with and dispose of such lands as are last mentioned, in like manner as waste lands within the respective provincial districts in which they are situated may be sold, dealt with, or disposed of; and the Receiver of Land Revenue shall, after deducting the costs of survey of such land, pay the proceeds and profits thereof to the Board, who shall pay the same into the Harbour Fund.

Endowments to be dealt with by Waste Lands Board.

141. If any Board, which has under or by virtue of any Act been endowed with any waste lands or the proceeds of the sale thereof, or to which, under any Act or Ordinance, have been granted or conveyed any reserves or lands for the purposes of the harbour, shall refuse or neglect to undertake or carry on the general administration of the harbour, it shall be lawful for the Governor, by Order in Council, to do any of the following things:—

Governor in Council to revoke endowments when Board refuse or neglect to perform duties imposed on them.

(1.) To call in and revoke any such endowment; and thereupon any grant made in respect thereof, or of any such reserves or lands as aforesaid, shall cease to have any force or operation whatever, and shall be deemed to be wholly void as against the Crown, and the lands comprised therein shall revert to Her Majesty the Queen, her heirs and successors, and shall by her and them be held for the like purposes, as nearly as may be, as those for which such endowments, reserves, or lands were originally made, granted, or conveyed:

(2.) To direct that the control and management of such endowments, or the proceeds thereof, and the control and management of all or any of such reserves or lands granted or conveyed as aforesaid, and the rents and profits thereof, shall be vested in any local governing body or other authority to whom may be committed the control and management of the harbour under this Act.

But nothing herein contained shall affect any lease, mortgage, security, or other contract which may have been entered into by such Board in good faith prior to such Order in Council taking effect.

Resumption of Land.

142. The Governor, on behalf of Her Majesty the Queen, may at any time, and from time to time, continue any existing line of rail-

Governor on behalf of the Queen may

Harbours.

take land, &c., for
railways.

way vested in Her said Majesty, or any line of roadway, into or upon any land or harbour works vested in any Board, or under its control or management, or may lay down, construct, and maintain thereon any railway or tramway or roadway to connect with any such railway, and may take, hold, and use any land or work for that purpose.

No compensation shall be paid or payable to any Board for the land or work so taken or used, so long as the construction or erection thereof does no material damage to any building thereon; and if any such damage is done, or it becomes necessary to remove any building as aforesaid, compensation shall be paid to the Board, to be ascertained in the manner hereinafter provided.

Power to the
Governor to take
portion of lands
vested in Board
for works of public
utility.

143. It shall be lawful for the Governor, or any person whom he may appoint for that purpose, on behalf of Her Majesty, from time to time and at any time hereafter, upon giving one month's notice in writing to the Board, to enter upon and take possession of such portion of any lands that has been or may hereafter be granted to or vested in the Board under this or the special Act, and that may be required for the erection or construction of any public works or buildings of any kind, or for the purposes of any railway authorized to be constructed under any Act of the General Assembly now or hereafter to be in force: Provided that, if any lands taken under this or the last preceding section shall be in the occupation of any person or persons as the tenants of the Board, then such person or persons shall be entitled to receive compensation from the Governor for his or their estate or interest in the lands so taken, and such compensation shall be ascertained and settled in the manner provided by "The Public Works Act, 1876."

Board to receive
compensation
therefor.

144. The Board shall be entitled to receive compensation for any land so taken, but not in any case exceeding the amount which the Board shall have actually laid out upon the said land, either for cost of reclamation or otherwise in permanently improving the same; and the amount of such outlay shall, in case of dispute, be ascertained and settled in the like manner as claims for compensation may be ascertained and settled under the provisions of "The Public Works Act, 1876," or any other Act for the time being in force for ascertaining and settling claims to compensation for land taken for the purpose of constructing or erecting public works, and every such Act, so far as applicable, shall be deemed to be incorporated with this Act.

Upon giving notice,
lands to vest in the
Crown.

145. Upon the giving of such notice as aforesaid, the lands specified therein shall vest absolutely in Her Majesty the Queen, her heirs and successors, freed and discharged from any trusts upon which the same may be held.

Her Majesty's right
to take land for
purposes of Act not
to be affected.

146. Nothing herein contained shall be construed to affect any other right or power that may be vested in Her Majesty, or the Governor, or in any other person on behalf of Her said Majesty, of taking lands for all or any of such purposes as hereinbefore mentioned.

Foreshores and Reclamations.

Foreshores and land
under the sea only to
be granted by special
authority of Act of
General Assembly.

147. No part of the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up as the tide flows and re-flows, nor any land under the sea or under any navigable river, except as may already have been authorized by or under any Act or Ordinance, shall be leased, conveyed, granted, or disposed of to any Harbour Board, or any other body (whether incorporated or not), or to any person or persons, without the special sanction of an Act of the General Assembly.

No land to be
reclaimed or graving
dock, &c., to be

148. No land shall be reclaimed from the sea or in any harbour, and no graving dock, dock, or breakwater shall be constructed in

Harbours.

any harbour or in the sea except under the authority of a special Act; and the applicants for such special Act shall, three months at least before the session of the General Assembly at which such Act is sought to be obtained, deposit at the office of the Marine Department a plan, on a scale not less than three chains to one inch, prepared by a competent surveyor authorized by the Surveyor-General for the time being, or some person discharging his duties, showing all tidal waters coloured blue, and the extent of the land sought to be obtained for the purpose of the said Acts: Provided that this section shall not apply to any work on the plans for which any Harbour Board shall have incurred expense before the passing of this Act, and the plans for which shall be forwarded for the sanction of the Governor in Council within four months after the passing of this Act.

created without an Act of the General Assembly.

Plans to be deposited.

149. Any Harbour Board may, out of any funds at its disposal, purchase or acquire any lands necessary for the purpose of obtaining access to any other land vested in it, or required for the purposes of any reclamation or other works.

Harbour Board may purchase lands for purpose of obtaining access to other lands.

150. Whenever any land, adjacent to any land under the jurisdiction or control of a local governing body, has been reclaimed from the sea, so much thereof as has been reclaimed shall be and become subject to the jurisdiction of such body, who shall, if the land has been reclaimed for building purposes, have power at all times, and from time to time, to take and lay out roads, streets, and drains on and through any part of the land so reclaimed, without making any compensation to the Board in respect thereof: Provided always that the position of the roads, streets, and drains shall only be fixed with the consent of the Harbour Board, and, in the event of the local governing body and Harbour Board disagreeing, then by the Minister: Provided further that streets or roads shall not, without the consent of the Harbour Board, be more than ninety-nine feet nor less than sixty-six feet in width: And provided further that no drainage works shall be allowed that will interfere with any works carried on by any Harbour Board and sanctioned by a Minister, without the consent of the Harbour Board or the Minister.

Land reclaimed to be under control of local governing body.

Power to take streets through same and lay down drains.

151. Subject to the provisions of this Act and the special Act, the Governor in Council may, in the name and on behalf of Her Majesty, grant to any Board any portion of the land which such Board may reclaim from the sea, or from any navigable lake or river; and such land, when so granted, shall be held by the Board for the purposes of this and the special Act.

Governor in Council may make grants to Board of lands reclaimed by Board.

No grant shall be made to any Board for any land intended to be reclaimed until the reclamation thereof has been fully completed, in accordance with the provisions of this Act.

Harbour Works.

152. Where it shall appear to the Governor in Council that any harbour works are required for the use, benefit, or convenience of the public within a harbour, or any part thereof, under the control of a Harbour Board, and that such Board—

Governor in Council may exercise in certain cases all powers vested in him by sections 16, 17, and 18.

- (1.) Either cannot conveniently execute or carry out such works; or
- (2.) Refuses or neglects to make provision for the use, benefit, or convenience of the public in such harbour, or any part thereof—

then, and in any such case, the Governor in Council may exercise all or any of the powers vested in him by the sixteenth, seventeenth, and eighteenth sections of this Act.

Harbours.

Provided that the exercise thereof does not interfere with works already under control of Harbour Board.

Power to construct works.

Provided that this section shall not authorize the erection or construction of any harbour works which, in the opinion of the Governor in Council, would interfere with or injure any harbour works already constructed by the Board, or under its control, or that may be in progress.

153. Every Harbour Board may, within the limits of its jurisdiction, and subject to the provisions of this Act, do the following things:—

- (1.) Make, construct, erect, and maintain harbour works, as defined by this Act:
- (2.) On any lands legally vested in it, construct such warehouses, storehouses, sheds, and other buildings and works as may be necessary for the accommodation of goods shipped or unshipped at the harbour:
- (3.) Erect or provide such cranes, weighing or other machines, weights and measures, conveniences, or appliances, as may be necessary:
- (4.) Lease or grant the use or occupation of any warehouses, buildings, wharves, yards, cranes, machines, or other conveniences provided by them, at such annual rents and on such terms as may be agreed upon, so, however, that no such lease be granted for a longer term than three years:

Every such lease shall be sold by public auction, of which sale at least fourteen days' notice shall have been publicly notified:

- (5.) Lay down on or through any land or wharf vested in such Board, construct, and maintain, or grant or allow to any persons the right of laying down or constructing and maintaining, pipes or channels for the conveyance of water to and within the harbour, and demand and receive such sums in consideration of such grant or allowance as they may think reasonable:
- (6.) Lay down, construct, and maintain, or grant or allow to any persons, body, or authority, the right of laying down, any tramway or railway in or upon any wharf, quay, or dock, or upon any lands vested in it, for the conveyance of goods and passengers, or one or other of such purposes.

154. No Harbour Board or other body, whether incorporated or not, or any person or persons, shall commence, make, erect, or construct any harbour works, or place any pile or other structure in, on, over, through, or across tidal lands or a tidal water, nor in or upon any part of the bottom or bed of any harbour, without the sanction of the Governor in Council first obtained in the manner hereinafter provided.

155. If any such Board, body, or person, or any person by the authority or request of any such Board, body, or person, shall construct, erect, or attempt to construct or erect any such work, pile, or structure as aforesaid, without having obtained the sanction of the Governor in Council as hereinafter provided, the Board, body, or person so offending shall be liable to a penalty not exceeding one hundred pounds, and, for every day that any such work or structure shall be allowed to remain after notice to remove the same has been given by or on behalf of the Minister, a further penalty not exceeding ten pounds.

156. Before any Harbour Board or any other body or person shall commence to make, construct, or erect any harbour works or other structure of any kind on, in, over, through, or across tidal lands or a tidal water, or the sea-shore below low-water mark, or in the bed or bottom of any port or harbour, by virtue of this or any other Act, the following provisions shall have effect:—

Harbour Board not to construct works, &c., on tidal lands or tidal waters without sanction of Governor in Council.

Penalties for constructing works without sanction.

Restriction on works affecting harbours or navigation, under statutory powers.

Harbours.

- (1.) Before commencing the making or construction of the work, such Board, body, or person shall deposit at the office of the Marine Department a plan in duplicate of the whole work, showing all the details of the proposed work and the mode in which it is proposed the same shall be carried out.
- (2.) If it appears to the Governor in Council that the proposed work will not be or tend to the injury of navigation, the Governor in Council may approve the deposited plan, with or without modification or addition, and subject or not to any restriction or condition necessary for the preservation of any public right.
- (3.) The work shall not be made, constructed, altered, or extended without the like approval; but any such approval shall not confer on such Board, body, or person any right to construct, alter, or extend any work which independently thereof it would not have had.
- (4.) If any Board, body, or person acts in any respect in contravention of any provisions of this section in relation to any work, the Minister may, at the expense of such Board, body, or person, take all necessary steps and proceedings and employ persons to abate and remove the work, and restore the site thereof to its former condition.
- (5.) No person who, with such approval as aforesaid, constructs, makes, or erects any harbour work or structure, shall be liable for indictment for nuisance or perpesture on account thereof.

157. Every Board, body, or person making, constructing, altering, or extending any work on, in, over, through, or across tidal lands or a tidal water, or the sea-shore below low-water mark, shall, on or near the work, during the whole time of the making, constructing, altering, or extending thereof, exhibit and keep burning at its or his own expense every night from sunset to sunrise such lights, if any, as the Marine Department from time to time require or approve; and shall also on or near such work, when completed, always maintain, exhibit, and keep burning every night from sunset to sunrise such lights, if any, for the guidance of ships as the Marine Department from time to time require or approve.

Lights on works.

If any person fails to comply in any respect with the provisions of this section, he shall, for each night on which he so fails, incur a penalty not exceeding twenty pounds.

158. Where a work which has been or may hereafter be made or constructed by a Harbour Board skirts a public navigable tidal water, the work shall not deviate from the continuous lines thereof marked on the plan deposited at the office of the Marine Department, even within the limits of deviation, if any, shown on that plan, in such manner as to diminish the navigable space, without the previous consent of the Governor in Council, otherwise than in such manner as may be expressly authorized by the Governor in Council.

Provisions for preventing deviation of works along sea or tidal river without consent of Governor in Council.

159. The Minister shall have the following duties and powers in the cases hereinafter mentioned, that is to say,—

Power of Minister in respect to works.

- (1.) If any harbour work which has been or may hereafter lawfully be made or constructed by a Harbour Board on, in, over, through, or across tidal lands or a tidal water, or the sea-shore below low-water mark, is abandoned or suffered to fall into decay, he may, at the expense of the Board liable to repair and maintain it, cause the work to be repaired, or may abate and remove it or any part of it, and restore the site thereof to its former condition as nearly as may be.

Harbours.

(2.) Where any deviation shall be made by any Board from any plan of a harbour work approved by the Governor in Council under this Act, and if the Board shall, after notice in that behalf, refuse or neglect to adhere to the plan so approved, the Minister may, at the expense of such Board, cause the work in the construction whereof the deviation has occurred to be abated and removed, and the site thereof restored to its former condition as nearly as may be.

Minister may employ engineers, &c., to abate works.

160. Where the Minister is empowered or authorized by this Act to abate or remove any work he may employ all such engineers, contractors, servants, labourers, or other persons, as may be necessary for that purpose.

Expenses of abating work, how recoverable.

Any expense incurred by the Minister in repairing, abating, or removing any such work shall be deemed to be a debt of record due, by the Harbour Board by which such work has been made or erected, to the Crown, and may be enforced or recovered accordingly.

Application of provisions of this Act to works required to be constructed in accordance with certain provisions of "The Marine Act, 1867," and "The Harbour Works Act, 1874."

161. Where in any Act or Ordinance provision is made that any works, made or constructed under the powers in such Act or Ordinance contained, shall be made or constructed in accordance with the provisions of the thirty-third section of "The Marine Act, 1867," as amended by "The Harbour Works Act, 1874," then and in any such case such works shall be made or constructed in accordance with this Act.

Restrictions as to works not to apply to works constructed by the Governor.

162. The last preceding nine sections of this Act shall not apply to public works made, constructed, or authorized by or under the authority of Her Majesty, or the Governor, or the Government of the colony, under the provisions of any Act of the General Assembly heretofore or hereafter to be passed.

Restrictions to apply to all Harbour Boards, saving as to special powers.

163. The provisions contained in the sections numbered one hundred and fifty-three to one hundred and sixty, both inclusive, shall apply to all Harbour Boards, and to all lands granted to any such Boards, and to all harbour works hereafter constructed or proposed to be constructed or erected thereby, but shall not control or limit any special power or privilege given to Her Majesty or the Government of the colony by any Act or Ordinance not hereby repealed, altered, or amended.

Existing rights protected.

164. Nothing herein contained shall prejudice or affect the rights, powers, and privileges of any body corporate or person of, in, and to any land below high-water mark in any harbour, arm, or creek of the sea, or in any navigable river, or on the sea-coast, granted under the authority of "The Public Reserves Act, 1854," or "The Public Reserves Act Amendment Act, 1862," but such rights, powers, and privileges shall remain and continue unaffected.

No harbour works shall be constructed on such land except with the consent of the Governor in Council.

Board may define limits of wharf.

165. For the prevention of doubts and disputes as to the limits of any wharf, it shall be lawful for any Harbour Board, from time to time, as occasion may require, by notice publicly notified, and with the previous consent of the Minister, to define the limits and boundaries, for the purposes of this Act, of any wharf; and every such wharf so defined shall be deemed to be a wharf for the purposes and within the meaning of this Act.

Power of taking Lands for Harbour Works.

Power to take lands.

166. Every Harbour Board may take land required for any harbour works which such Board is by this or any special Act authorized to undertake in the manner provided by the Second Part of "The Public Works Act, 1876."

Harbours.

167. Every Harbour Board may take any earth, stone, boulders, gravel, sand, or other material off, from, or out of any land, for the purpose of using the same in or about any harbour works, in the manner provided by the Second Part of "The Public Works Act, 1876."

Power to remove soil, &c.

168. The Second and Third and Fourth Parts of "The Public Works Act, 1876," are hereby incorporated with this Act, and shall be read with this Act as if the words "Harbour Board" and "Harbour works" had respectively been inserted in the aforesaid Parts in the place of the words "County Council," or "Road Board," or "Board," and "County works," or "Road District works," or "District works," respectively.

Compensation.

And the whole of the provisions of the aforesaid Parts of the said Public Works Act shall be read and construed for the purposes of this Act accordingly.

169. Every person having any estate or interest in any land so affected, or suffering any damage by the exercise of any of the powers given by section one hundred and forty-eight, or section one hundred and sixty-four, shall be entitled to full compensation for the same, which may be obtained and shall be determined in the manner provided by the Third Part of the aforesaid Act. And in any such proceedings the Harbour Board shall be deemed to be the respondent within the meaning of the said Act.

Parts of Public Works Act incorporated.

170. In any case where any wharf, whether in a harbour or not, shall be the property of or belong to Her Majesty or the Government of the colony, the Governor in Council shall, with respect to such wharf, have all the powers and may do all the things that a Harbour Board have or may do under this Act over wharves within a harbour. No Harbour Board shall, with respect to such wharf as is hereinbefore firstly mentioned, exercise any of the powers or do any of the things given by this Act to a Harbour Board, except with the consent of the Governor in Council.

Governor to have powers of Board in respect to Government wharf.

FUNDS OF HARBOUR BOARD.

171. The Harbour Fund shall consist of the moneys arising from the following sources:—

Moneys constituting Harbour Fund.

- (1.) Harbour dues, and pilotage rates, and all other dues which the Board may be empowered to levy or receive :
- (2.) Harbour improvement rates :
- (3.) Rents and profits of land vested in the Board :
- (4.) Proceeds and profits of land set aside as endowments :
- (5.) All other moneys which may be received by or become the property of the Board under the authority of this or a special Act.

But nothing herein shall be deemed to give any Board a right to have, collect, or receive any dues collected or received for coastal lights the management and control of which is vested in the Minister.

172. All moneys arising from any of the sources aforesaid shall be paid into an account at such bank as the Board may from time to time determine, to an account to be called "The Harbour Fund Account," and be expended and laid out in the construction, maintenance, and repair of harbour works within the port, or for the payment of interest and sinking fund, if any, upon moneys borrowed for the purposes of such works, and generally in payment of expenses incurred by the Board in carrying out this Act.

Disposal of moneys comprising Harbour Fund.

173. All 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, if the

Application of light-house dues and pilotage rates.

Harbours.

same shall be payable to a Harbour Board, shall pay the same over to such Board from time to time as may be directed by the Minister.

Pilotage rates.

But such pilotage rates shall not be paid over to such Board unless it provides to the satisfaction of the Governor or Minister for the maintenance of the pilot and general harbour establishment in respect of which such rates have been paid.

Accounts and Audit.

Board to keep books

174. Every Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums received and paid for and on account of this Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any of the members of the Board, and any holder of debentures, and any person being a creditor of the Board, without fee or reward.

The members of the Board and such persons as aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same.

Any Clerk or other person having the custody of such books, who shall not, on the reasonable demand of any member of the Board or any such person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall be liable to a penalty not exceeding five pounds for every such offence.

Board to balance accounts.

175. The Board shall cause its accounts to be balanced in every year to the thirty-first day of December in each year, and shall cause a true statement and account to be drawn out of all contracts entered into and of all moneys received or expended by virtue of this Act during the preceding year, and of all available assets of, and of all debts then owing by, the Board.

Accounts to be laid before Auditors.

176. Such statement and account shall be laid before the Auditors of the Board, to be appointed as hereinafter mentioned, who are hereby required to attend at the office of the Board as soon as conveniently may be after the balancing of the said accounts and drawing out of the said statement and account, and who shall, in the presence of the Clerk or other officer of the Board having the custody of the said books, if he desire to be present, proceed to audit the accounts of the year preceding such balancing.

Accounts balanced, &c., with vouchers, &c., to be laid before Auditors.

177. The Board shall produce and lay before the Auditors the accounts so balanced as aforesaid, together with the said statement and account, accompanied with proper vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto.

Debenture-holders or creditors may be present at audit.

178. Any person interested in the said accounts, either as a holder of debentures or a creditor of the Board, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such accounts.

Signature of Auditors to accounts.

179. If the accounts of the Board be found correct, such Auditors shall sign the same in token of their allowance thereof; but, if such Auditors think there is just cause to disapprove of any part of the said accounts, they may disallow any such parts of the said accounts as shall be so disapproved of.

Statement and account to be printed.

180. The Board shall cause such statement and account to be printed, and allow the same to remain for inspection at the office of the Board; and every holder of debentures, creditor, or any other person, may at all reasonable times inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the Board.

Harbours.

The Clerk shall on demand furnish a printed copy of the said statement and account to every such holder of debentures and creditor of the Board, without fee.

181. Seven days at least before the meeting for examining and settling such accounts as hereinafter mentioned, the Board shall give public notice of such intended meeting, stating in such notice that the said statement and account are printed, and lie at the office of the Board ready for the inspection of the creditors or other parties interested.

General inspection by creditors or others interested to be allowed.

182. The accounts of the Board, so balanced and audited, and either allowed or disallowed by the Auditors, together with the said statement and account, shall be produced at the annual meeting of the Board or at some adjournment thereof, at which meeting all such holders of debentures, creditors, and other persons interested, may be present.

Accounts to be produced at annual meeting.

The accounts shall be then finally examined and settled by the Board; and if the same be found correct they shall be allowed by the Board, and certified accordingly under the hand of the Chairman of the Board, or person who shall act as chairman at such meeting.

After such accounts have been so allowed and signed by such Chairman, and also by the Auditors, the same shall be final in regard to all persons whomsoever.

183. After such audit as aforesaid an abstract of the receipts and expenditure for the period for which such accounts shall have been made, together with a statement of the assets and liabilities of the Board, shall be made out, signed by the Chairman and by the Treasurer, and published at least once. A copy of such abstract and statement shall also be sent to the Minister.

Abstract of accounts to be published at least once.

184. The Governor may from time to time appoint one or more persons, as he shall think fit, to be an Auditor or Auditors for the purposes of this Act, and from time to time may remove any such persons; and, on the death, resignation, or removal of any such Auditor or Auditors, may appoint any other person or persons in the place of any person so dying, resigning, or being removed.

Governor to appoint Auditors.

185. The Governor may, if he shall think fit, from time to time make regulations regulating the manner in which such Auditor or Auditors shall audit the accounts of the Board, and appointing the amount of salary or remuneration to be paid to such Auditor or Auditors, the amount whereof shall be paid out of the Harbour Fund.

Governor to regulate audit and salary of Auditors.

186. The Governor may, if he shall think fit, at any time appoint any person to make a special examination of the accounts of any Harbour Board, and direct the result of such examination to be reported specially to him.

Governor may order special audit.

Borrowing Powers.

187. Where, under any Act or Ordinance hereby repealed, power has been given to borrow and raise money for the purposes of any Harbour Board, such power shall, notwithstanding the repeal of any such Act or Ordinance, and to the amount prescribed by such Act or Ordinance, still continue and subsist, but shall be exercised in the manner hereinafter provided.

Powers to raise money given by Act or Ordinance still to remain in force.

If the power to borrow given to any Board has only been partially exercised, then the Board constituted under this Act may borrow and raise such part of the sum originally authorized as has not been borrowed.

In each case herein provided for, the powers conferred by this Act shall be deemed to have been created by special Act in respect of each Board affected by this provision.

Harbours.

Power to borrow money given by special Act to be exercised under conditions of this Act.

Saving of rights of holders of securities.

188. Where by any special Act power shall be given to any Harbour Board to borrow money, such power shall be exercised in the manner and subject to conditions of this Act.

189. All rights and liabilities in respect of moneys borrowed, or the interest to accrue due thereon, and all remedies for enforcing the payment of such moneys or interest, shall and may be exercised by the holders of any mortgage, bond, debenture, or other security issued under any such Act or Ordinance, or under the last preceding section of this Act, against any Board constituted under this Act, as effectually as if the same had been issued and made under the authority of this Act and a special Act.

Board authorized to raise money for special works.

190. In order to raise money for the purpose of constructing harbour works within any harbour, it shall be lawful for any Board to issue debentures under the common seal of the Board to the extent specified in the special Act.

Amount and form of debentures.

191. Every debenture issued under this Act shall be in form in the Third Schedule, or to the effect thereof, and shall be numbered consecutively so that no two debentures shall at any time bear the same number, and shall be for the sum of not less than twenty or more than one thousand pounds.

No such debenture shall be sold at such a price as to produce to the purchaser an interest of more than seven per centum on the price paid.

Where payable.

192. Every debenture shall be repayable, both as to principal and interest, at a place within or without the colony named in the debentures, and at a time named therein, not longer than fifty years from the issue thereof; and shall state on the face thereof the funds upon which the principal and interest are secured.

Interest payable.

193. The interest on every debenture shall not exceed seven per centum on the amount thereof, and shall be payable half-yearly or otherwise, and separate coupons for each sum so payable, in the form in the Fourth Schedule, or to the effect thereof, and numbered consecutively for each debenture, shall be attached thereto.

The signatures to coupons attached to debentures issued under this Act may be made by facsimiles thereof in lithograph or such other manner to represent the signature of the person signing such coupon; but no advantage shall be taken of this provision, and no coupon shall be issued until the original debenture has been signed by the person or persons whose signature is represented on such coupon.

Debentures and coupons transferable by delivery.

194. Debentures and coupons respectively shall be transferable by delivery; and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the corporation of all liability in respect of such debenture or coupon.

Power to appoint agents for raising loans.

195. Any Board may appoint any joint-stock company, or any two or more persons, within or without the colony, to be agents for raising and managing any loan authorized to be raised under any special Act, and such agents shall have full power to raise such loans by bonds, debentures, or otherwise, in such manner, at such times, in such parts, and upon such terms and conditions as the Board shall direct, and to give and grant any necessary discharge or acquittance for the moneys raised under any such loan, or otherwise to dispose of moneys as the Board shall prescribe.

All such bonds and debentures shall be signed by the Chairman and countersigned by the Treasurer, or shall be signed by the agents, if any, for raising the loan.

Pending raising loan, debentures may be hypothecated.

196. Pending the raising of any moneys hereby authorized to be raised, such agents may borrow any sum or sums of money, not exceeding the whole amount then authorized to be borrowed, by the hypothecation or mortgage of any debentures hereby authorized to be

Harbours.

issued; but all moneys so borrowed shall be a first charge upon, and shall be repaid out of, the loan when raised.

197. No claim of any holder of debentures issued under this Act shall attach to, or be paid out of, the public revenues of New Zealand, or by the General Government thereof.

Holders of debenture not to have any claim on public revenues.

198. All such debentures, and the interest payable thereon, shall be a first charge upon all moneys in the Harbour Fund, excepting moneys theretofore pledged as security for any loans, or appropriated to any special purpose.

Principal and interest secured by debentures to be first charge on Harbour Fund.

199. In addition to any security hereby authorized, the Board may from time to time pledge or otherwise give security over the proceeds and profits of waste lands set aside as endowments as hereinbefore provided, in such manner as the Board shall think fit; and, in the event of the Board so doing, such proceeds and profits shall be paid by the Receiver of Land Revenue to such Trustees or other persons as may be agreed upon between the Board and the holder of the security.

Proceeds of sale of endowments may be pledged.

200. Where power is given to any Harbour Board to borrow money on the security of any land by mortgage, and it shall appear to the said Board that such money could be more advantageously obtained by the issue of debentures, it shall be lawful for the Governor in Council, on being satisfied as to the nature of the transaction and the validity of the securities, to authorize the Harbour Board applying to him in that behalf to issue debentures from time to time for any sums not exceeding the amount originally authorized to be borrowed, or not exceeding the said amount less any portion thereof that is already borrowed. Every such debenture shall be subject to the provisions of the Act authorizing the loan, and of this Act; and, on the issue of any such debentures, all the powers contained in the aforesaid Act authorizing the raising of money on mortgage shall absolutely cease and determine in respect of, and be reduced by, an amount of money equivalent to the amount of the debentures issued under the authority of any such Order in Council.

Board may issue debentures in lieu of mortgaging land.

Repayment of Loans.

201. Before raising any loan, the Board may make provision for the repayment thereof either—

Board may make provision for repayment of loan.

- (1.) By making, with or without a Sinking Fund, the whole loan repayable at a stated period, or any parts thereof at stated periods; or
- (2.) By making any debentures of such loan repayable by periodical drawings.

202. In order to provide funds for the creation of a Sinking Fund, or for the repayment of debentures coming due by periodical drawings, the Board may permanently appropriate any part of the Harbour Fund not appropriated for any special purpose.

Provision for Sinking Fund.

203. The Board shall appoint, and may from time to time remove and reappoint, Commissioners within or out of the colony to whom they shall pay all moneys so appropriated as a Sinking Fund or for the repayment of debentures as above provided; and such Commissioners shall dispose of such moneys—

Provision for the appointment of Sinking Fund Commissioners.

- (1.) In the case of a Sinking Fund, by investing the same, together with all interest and profits accruing therefrom, in such securities as the Board from time to time directs:
- (2.) In the case of periodical drawings, by paying all debentures coming due according to the conditions on which the loan is raised.

Harbours.

Commissioners to furnish accounts of moneys in their hands.

204. Such Commissioners shall send to the Board, at such times as the Board directs, accounts of all moneys and all securities in their hands, and shall also annually send to the Board a balance-sheet showing all transactions in respect of such moneys or securities during the last year.

Commissioners also to send certificate of securities.

205. Such Commissioners shall, together with such balance-sheet, send to the Board a certificate, under the hand of one of the Commissioners of Audit or such person as they shall appoint for the purpose, of all securities held by the Commissioners.

The Commissioners to be appointed as hereinbefore provided may be interpreted to mean the Public Trustee, or may include any joint-stock company within or out of the colony as one of such Commissioners.

Accumulated Sinking Fund to be applied in payment of loan.

206. When the principal of any loan becomes payable, the accumulated Sinking Fund provided for repaying the same shall be applied in the payment thereof.

Board may re-borrow under certain circumstances.

207. When the principal of any loan becomes payable, except when the debentures of such loan are paid by periodical drawings as above provided, it shall be lawful for the Board to re-borrow moneys, under the provisions of this Act, for the purpose of paying so much of the said principal moneys as is not provided for by any accumulated Sinking Fund held by the said Trustee or Trustees for the payment thereof.

Remedies of Debenture-holders.

Proceeding in default in payment of debenture-holders, or coupons.

208. If any person, holding a debenture issued under any special Act, shall tender the same for payment of the principal thereby secured at the place at which such principal is payable at the time when such principal is payable, or at any time thereafter, and such principal shall not be paid in full; or if any person holding a coupon for payment of interest, or any debenture issued under this Act, shall tender the same for payment at the place at which such interest is payable, and at the time when such interest is payable, or at any time thereafter, and such interest shall not be paid in full, such person may apply for relief under this Act, by petition in a summary way, to the Judge of the Supreme Court of New Zealand to whom the judicial district comprising the harbour has been assigned.

Judge may direct property of Board to be sold.

209. The Judge, upon being satisfied of the truth of the matters alleged in such petition, may order that the whole or part of the lands vested in the Board be sold in such manner and at such time or times as such Judge shall direct, and that the proceeds of sale thereof shall be applied—

(1.) In payment of the expenses of such application and order, and of the proceedings thereon, and the sale in pursuance thereof;

(2.) Next, in payment of the principal moneys secured by the said debentures with interest thereon respectively at the rate aforesaid, until all such principal moneys shall have been paid:

(3.) And the residue (if any) shall be paid to the Board.

Also may appoint Receiver.

210. The Judge may from time to time appoint a Receiver of the rents and profits arising from the land vested from time to time in the Board, and of all moneys, dues, and rates chargeable or receivable by the Board under the authority of this or any other Act; or he may from time to time appoint a Receiver of all or any of the rents and profits arising from the land, or of the dues and rates, without directing a sale, and may direct that such Receiver shall be paid thereout such remuneration as to the said Judge shall seem fit.

Harbours.

211. The principal moneys secured by every debenture issued under any special Act shall, when the same shall become payable, be a debt of the Board to the holder for the time being of such debenture; and the interest secured by every such debenture shall, when the same becomes payable, be a debt of the Board to the holder for the time being of the coupon for such interest; and every sum of money owing by the Board under this provision shall be recoverable by action against the Board.

Unpaid principal and interest to be debt of Board.

REGULATIONS AND BY-LAWS.

General Harbour Regulations.

212. The Governor in Council may from time to time make regulations, to be called "General Harbour Regulations," and which shall be in force in all the ports of the colony, for the following purposes:—

Governor in Council may make regulations.

- (1.) For the prevention of overloading of either steam or sailing vessels, and of the overcrowding of sailing vessels with passengers:
- (2.) For regulating all other matters relating to the protection of life and property in or on vessels, and the safe navigation of any harbour, navigable river, or navigable lake:
- (3.) For prescribing the form and mode of erecting harbour lights, and the mode and use of signals, and for laying down buoys and beacons, and the forms and colours thereof respectively:
- (4.) For regulating the landing and shipping, transshipping, deposit, and removal of gunpowder and other explosive substances and compounds, or of any goods or substances enacted or declared to be "dangerous" or "specially dangerous" under "The Dangerous Goods Act, 1869," or any Act amending the same, or passed for like purposes; and the providing or appointing of places or magazines, whether afloat or ashore, for the safe keeping of the same:
- (5.) For regulating the use of fire and lights, and the keeping or using of gunpowder, combustibles, explosive substances, and other dangerous goods, and loaded guns, on board ship or elsewhere; and to provide for the entry by any Harbourmaster, or other harbour officer, upon or into any ship or place to search for fire or light suspected to be therein contrary to any by-law, and extinguishing it if found:
- (6.) For carrying into effect and enforcing the general powers and duties by this Act vested in and imposed on the Governor or the Governor in Council, or which he is authorized to do or cause to be done under this Act, and also all duties and powers which are by this Act imposed upon the Minister:
- (7.) In and by any such regulations, to fix such penalties within variable limits as are deemed necessary for enforcing the same: But no such penalty shall exceed the sum of one hundred pounds.

213. All regulations made by the Governor in Council under the authority of this Act shall supersede all by-laws made upon like subjects by any Harbour Board, and every Harbour Board shall carry out and enforce any regulations so made by the Governor in Council.

Regulations under this Act to supersede by-laws made by Harbour Boards.

Harbours.

Orders in Council
may be altered.

214. Whenever under this Act the Governor is empowered to make an Order in Council for any purpose, it shall be lawful for the Governor in Council from time to time to alter, modify, and revoke such Order.

To be gazetted.

Every Order in Council made under this Act shall be gazetted, and published in such other manner as to the Governor in Council may seem best for making it known to all bodies or persons interested therein.

Every such Order in Council shall come into operation upon such date as may be prescribed by the Order, and, if no date be prescribed, then from the date of publication thereof in the *Gazette*.

Harbour By-laws.

Powers by by-laws
to regulate position,
mooring, and govern-
ment of ships within
harbour.

215. Every Board shall have power from time to time, by by-laws made under this Act, to do all or any of the following things for and within the limits of the harbour, namely,—

In respect of harbour control—

- (1.) Regulate the mode and place of mooring and anchoring of ships within the limits of the harbour, and their position and government in the harbour, and their unmooring and removal out of the harbour :
- (2.) Provide for the Harbourmaster insuring 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) :
- (3.) Regulate 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 of the landing and embarking of passengers, and of the taking in and delivery of ballast :
- (4.) Fix and authorize the levying of Harbourmasters' fees and port charges, not exceeding the rates specified in the Fifth Schedule to this Act :
- (5.) Regulate the use of wharves or docks, quays, landing-stages, and other landing-places, and generally regulate the traffic on the same :
- (6.) Fix scales of dues, tolls, and charges to be paid for the use of such wharves or docks :
- (7.) Fix 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 Board :
- (8.) Regulate the use of cranes, weighing and other machines, weights and measures, conveniences, or appliances, belonging to the Board, and fix charges to be paid for the use of the same :
- (9.) Regulate the duties and conduct of all persons, as well the servants of the Harbour Board as others, not being officers of Customs or of the Marine Department, who are employed in the harbour :
- (10.) Provide for the control and management of steam or other ferry-boats plying for hire at wharves or public thoroughfares :

Harbours.

- (11.) License tugs for conducting vessels into or out of port, and collect the fees to be paid for such licenses :
- (12.) License watermen plying for hire in any port, and prescribe the fees to be paid for such licenses.
- (13.) Regulate the fares to be charged by licensed watermen plying for hire within the port :
- (14.) Provide for the name of each boat and the name of its owner being shown thereon :
- (15.) Provide for the registration and licensing of all ballast boats, tank boats, cargo boats, lighters, whether decked or undecked, and whether propelled by steam or not, and other vessels and boats plying for hire either for goods or passengers within the harbour or any part of the sea adjacent thereto, and for the registration and licensing of master boatmen and others, and to prevent unlicensed boatmen plying for hire :
- (16.) Provide for the inspection of all such boats, and prevent the use of such as are unseaworthy or insufficient :
- (17.) Fix the fees to be paid for licensing any such boats or vessels as aforesaid, and the fees to be paid 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 :
- (18.) Regulate the conduct and punish the misconduct of licensed waterman and boatmen when practising their calling :
- (19.) Regulate the cleansing, repair, and effectual preservation of docks and wharves, and provide for keeping and maintaining the same in a fit state for the convenience of persons walking upon or landing on or embarking from any such wharf :
- (20.) Make regulations for the guidance of porters, cab-drivers, carters, carmen, and others carrying goods or driving horses, cabs, carriages, wagons, carts, drays, trucks, or other vehicles for conveying passengers or goods or other commodities on any wharf.

In respect of pilots and pilotage—

- (21.) Fix and alter pilotage rates, not being greater than the rates specified in the Fifth Schedule to this Act, and determine the nature of the services for which such rates respectively shall be payable and the time of payment for pilotage services rendered to any ship, and the amount to be paid for detention of pilots on board vessels under quarantine or otherwise :
- (22.) Abolish compulsory pilotage :
- (23.) Determine what shore signals in aid of vessels entering or going out of harbour shall be deemed to be pilot service, and the rates to be paid therefor :
- (24.) Make regulations for the government of the pilots, and for insuring their good conduct and constant attendance to and effectual performance of their duty on board ship and on shore :
- (25.) Make rules for punishing any breach of such regulations by the dismissal or withdrawal or suspension of the license of the person guilty of such breach, or by the infliction of penalties :
- (26.) Prescribe rules to be approved by the Governor for determining the qualification in respect of age, time of service,

By-laws respecting pilotage rates.

Harbours.

skill, character, and otherwise, to be required from persons applying to be appointed or licensed as pilots.

Collection of rates and dues.

In respect of dues payable or belonging to them, and the collection thereof, for and within the limits of the harbour—

- (27.) Empower the 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 goods therein :
- (28.) Require the master of every ship to report his arrival within a specified time (not being less than twenty-four hours) after his arrival :
- (29.) Require the master of every ship to produce the certificate of registry to the Collector of Dues on demand, and also, where cargo or goods are liable to the payment of dues, to such Harbour Board :
- (30.) Require the master of every ship to give a copy 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 :
- (31.) Require the master of every ship to give to the Collector of Dues, if required, notice of the intended time of unshipment :
- (32.) Require from the shippers of goods accounts of the goods intended to be shipped :
- (33.) Regulate the time when dues on goods shipped or unshipped are to be payable.

Harbour Improvement Rates.

Board may levy harbour improvement rates.

216. Every Board may from time to time make by-laws providing that harbour improvement rates not exceeding in any case two shillings per ton, by weight or by measurement, as shall be expressed in such by-law, shall be levied upon all goods and merchandise discharged at or shipped from the port.

In and by such by-laws the Board may provide for the manner of levying and collecting such rate, and by whom the same shall be paid, and in what manner the same shall be paid to any authorized officer of the Board or other person authorized by the Board in that behalf.

OFFENCES.

Restriction on deposit of ballast or rubbish.

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

- (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 any 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 any 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 any harbour or tidal water, or in the sea,—

Harbours.

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

Any such penalty shall be recovered only on the prosecution of the Harbour Board having jurisdiction at the place where the offence is committed or the injury to navigation is or would be produced; and, if there is no Harbour Board at such place, then any such penalty shall be recovered only on a prosecution directed by the Minister; but it shall not be necessary to prove that any such direction has been given.

Who to recover penalty.

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

Penalties for damaging lights, buoys, or beacons.

- (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, incur a penalty not exceeding two hundred pounds, or, in default of payment thereof imprisonment for not exceeding twelve calendar months, with or without hard labour.

219. Any person, excepting the Harbourmaster, or persons acting according to his authority, who wilfully cuts, breaks, or destroys the mooring or fastening of any ship in any harbour, shall for every such offence incur a penalty not exceeding fifty pounds.

Penalty for wilfully cutting moorings.

220. If any person wilfully breaks, throws down, destroys, or in any wise damages or injures any wharf, shed, roadway, building, or other harbour work whatsoever, or any part thereof, constructed or in course of construction by or under the authority of Her Majesty or of the Government of the colony, or any Harbour Board, every person so offending for every such offence shall be guilty of a misdemeanour, and this provision shall not interfere with any other Statute or law applicable to any such offence, so as any person offending be not punished twice for the same offence.

Penalty for wilful damage to works.

221. 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 docks 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.

Penalty for wilful damage to lights.

222. 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 language to any Harbourmaster, Pilot, Engineer, Surveyor, or other officer or person whilst in the execution of his duty under this Act, and whether acting under the authority of the Governor, or the Minister, or any Harbour Board, or in any other respect offends against any of the provisions of this Act or any by-law or 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 twenty pounds.

Offence incurring penalty.

Harbours.

Penalty on Harbourmaster for neglect, &c.

223. Any Harbourmaster 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 Harbourmaster or other officer or person, makes use of threatening or abusive language to the master of any vessel, shall forfeit a penalty not exceeding fifty pounds.

Penalty for offering bribes to officers.

224. If any person gives or offers any money or thing by way of reward or bribe to any Harbourmaster, Collector of Dues, or other officer employed about a harbour, 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, he shall for every such offence incur a penalty not exceeding twenty pounds.

Summary procedure for breach of by-laws.

225. Any breach 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 Justices of the Peace, in the manner provided by "The Justices of the Peace Act, 1866."

What shall be sufficient averment.

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

Limitation of Actions.

Limitation and regulation of actions.

227. No plaintiff shall recover in any action commenced against any Harbour Board or person for anything done in pursuance of this Act unless such action be commenced within three months after the act committed, and unless notice has been given to the defendant one month before such action is commenced of such intended action, signed by the plaintiff or his solicitor, specifying the cause of such action.

The plaintiff shall not 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.

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.

Nothing in this section shall be deemed to give any person any further or greater remedy against Her Majesty the Queen in respect of anything done under this Act than such person has by any law for the time being in force.

Harbours.

MISCELLANEOUS.

228. Notwithstanding the repeal of the Acts or Ordinances mentioned in the First Schedule hereto, the provisions of such of the said Acts and Ordinances as are excepted from such repeal by the said Schedule shall be and remain operative, and may be exercised and enforced by and in respect of the Boards constituted under this Act which are respectively affected by such provisions as occasion may require.

Certain provisions of repealed Acts and Ordinances to remain in force.

229. Where under any Act or Ordinance power is given to any Board to make and levy a rate for any purpose connected with a harbour, or to provide interest for the payment of interest and sinking fund on money borrowed in respect of such harbour, by levying a rate on lands or other rateable property as in such Act or Ordinance mentioned, every such rate shall be made and levied in the manner prescribed by "The Rating Act, 1876," and any Act amending the same, and for that purpose the Board shall be deemed to be a local body within the meaning of the last-mentioned Acts.

Rates authorized for harbour purposes to be raised as provided by "The Rating Act, 1876."

If the area within which any Board is empowered to levy such rate comprises more than one district or parts of a district, the rate may be made and levied upon the valuation rolls of such last-mentioned districts; but no such rate shall exceed the sum of one shilling in the pound upon the value of the rateable property.

230. Officers of Customs, or officers of the Marine Department, acting in the execution of their duty, shall at all times have free ingress, passage, and egress, into, through, and out of any harbour, by land or water, and upon any wharf, and with vessels or otherwise, without payment.

Freedom of passage for Customs officers.

231. Any Justice of the Peace may appoint persons nominated by the Board to be special constables within the limits of the harbour, and within one mile of the same.

Special constables.

Every person so appointed shall be sworn in by a Justice duly to execute the office of a constable within those limits, and when so sworn in shall have the same powers, protection, and privileges within those limits, and shall be subject to the same liabilities, as constables have or are subject to by law.

Any two Justices may, upon request of a Harbour Board, by order under their hands, dismiss any such constable from his office.

232. When the day on which anything is herein 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 following.

Provision for Sundays and holidays.

233. In any case in which, by any misadventure or accident, anything is at any time done after the time required by this Act, or is otherwise irregularly done in matter of form, the Governor may, by Order in Council duly gazetted, 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 so irregularly done in matter of form, so that the true intent and purpose of this Act may have effect.

Governor in Council may rectify irregularities, and extend times for doing acts, &c.

234. All moneys of the Board amounting to five pounds and upwards shall, within three days after they shall have come to the hands of the proper officer of the Board, be paid into such bank as the Board shall from time to time appoint for that purpose, and no such money shall be drawn out of such bank save by cheques issued under authority of a resolution of the Board, and signed at a meeting of the Board by the presiding Chairman, and countersigned by the Treasurer of the Board, or by such other person as the Board may appoint.

Moneys, how to be dealt with.

Harbours.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

Sec. 3, 228.

ACTS AND ORDINANCES REPEALED.

Acts affecting Harbour Boards generally.

- “The Marine Act, 1867.”
 “The Marine Act Amendment Act, 1870.”
 “The Marine Act Amendment Act, 1877.”
 “The Harbour Boards Act, 1870.”
 “The Harbour Boards Act Amendment Act, 1874.”
 “The Harbour Works Act, 1874.”

Provincial District of Auckland.

- “The Auckland Harbour Board Act, 1871.”
 “The Thames Harbour Board Act, 1876.”
 [Except section 29.]
 “The Whangarei Port Act, 1877.”

Provincial District of Taranaki.

- “The New Plymouth Harbour Board Ordinance, 1875.”
 [Except section 17.]
 “The New Plymouth Harbour Board Ordinance 1875 Amendment Act, 1877.”
 [Except sections 15, 19, and the Second Schedule.]
 “The Patea Harbour Board Act, 1876.”
 “The Patea Harbour Board Act 1876 Amendment Act 1877.”
 “The Waitara Harbour Board Act, 1876.”

Provincial District of Hawke's Bay.

- “The Napier Harbour Board Act, 1875.”

Provincial District of Wellington.

- “The Wanganui Harbour and River Conservators Board Act, 1876.”
 [Except sections 17 to 19, 26 to 28, 32 to 34, and 53, all inclusive, and the Schedule.]
 “The Wanganui Harbour Endowment and Borrowing Act, 1877.”
 “The Castlepoint Harbour Board Act, 1876.”
 “The Foxton Harbour Board Act, 1876.”

Provincial District of Canterbury.

- “The Lyttelton Harbour Board Act, 1876.”
 “The Timaru Harbour Board Act, 1876.”
 [Except sections 28 and 38.]
 “The Waimakariri Harbour Board Act, 1876.”

Provincial District of Westland.

- “The Greymouth Quays Act, 1869.”
 “The Hokitika Harbour Board Act, 1876.”
 [Except so much of section 2 as defines the term “river,” sections 18 and 19, and such parts of sections 27 and 34 as relate to works on and the navigation of such river.]

Provincial District of Otago.

- “The Bluff Harbour Board Act, 1876.”
 “The Bluff Harbour Endowment and Borrowing Act, 1877.”
 “The Clutha River Conservators Board Act, 1875.”
 [So far as relates to the Harbour and Harbour Board of Port Molyneux.]
 “The Kakanui Harbour Board Ordinance, 1873.”
 “The Kakanui Harbour Board Act, 1875.”
 “The Moeraki Harbour Board Act, 1875.”
 “The New River Harbour Management Act, 1877.”
 “The Oamaru Harbour Board Ordinance, 1874.”
 “The Otago Harbour Board Ordinance, 1874.”
 “The Otago Harbour Board Empowering Act, 1875.”
 [Except sections 12 and 14.]
 “The Otago Harbour Board Act, 1876.”
 “The Riverton Harbour Board Ordinance, 1874.”

Harbours.

SECOND SCHEDULE.

| Corporate Names of Boards and Number of Members. | Members nominated or appointed by Governor. | Members by Succession. | Members by Election, their Qualification, and by whom elected. | Sec. 19, 20, 21. |
|--|---|--|--|------------------|
| "The Auckland Harbour Board." Thirteen members. | Three. | The Chairman for the time being of the Chamber of Commerce. | Three elected by Borough Council of the City of Auckland, being members of such Council; one to be elected by each of the District Boards of the Highway Districts of Ponsonby and Devonport, and one by the Borough Council of Parnell; three by and out of the persons who shall have paid two pounds or upwards of port, harbour, pilotage, or wharfage dues within the Port of Auckland during the preceding year, or who at the time of such election shall be, or within twenty-eight days preceding such election shall have been, the owners or part owners, and whose names shall appear, as such owners or part owners, within such twenty-eight days, on the books of the Customhouse at Auckland, of any vessel to the extent of twenty tons or upwards. | |
| "The Bluff Harbour Board." Ten members. | Two. | ... | Two to be elected by the ratepayers of the Borough of Invercargill; one to be elected by the ratepayers of the Boroughs of East Invercargill, South Invercargill, North Invercargill, Avenal, and Gladstone; one to be elected by the ratepayers of the Borough of Campbelltown; one to be elected by the Chamber of Commerce, Invercargill; one to be elected by the Southland County Council; one to be elected by the Wallace County Council; and one to be elected by the Lake County Council. | |
| "The Castlepoint Harbour Board." | ... | Board to consist of the members of the Castlepoint Road Board for time being. | | |
| "The Foxton Harbour Board." Seven members. | Three. | Chairman of the Town Board of Foxton; Chairman of the Council of the County of Manawatu. | Two to be elected by the Town Board of Foxton. | |
| "The Hokitika Harbour Board." Eight members. | ... | The Mayor of the Borough of Hokitika; the Chairman of the Council of the County of Westland; and the Collector of Customs of the Port of Hokitika. | Five qualified to be Councillors of the Borough of Hokitika, to be elected by the burgesses of the said borough. | |
| "The Kakanui Harbour Board." Seven members. | Two. | ... | One member to be nominated by the Waitaki County Council; one member to be elected by the Town of Kakanui; one member to be elected by Totara-sub-Kakanui Road Board; one member to be elected by Incholme-sub-Kakanui Road Board; one member to be elected by Chelsea-sub-Otepopo Road Board. | |

*Harbours.*SECOND SCHEDULE—*continued.*

| Corporate Names of Boards and Number of Members. | Members nominated or appointed by Governor. | Members by Succession. | Members by Election, their Qualification, and by whom elected. |
|--|---|--|---|
| "The Lyttelton Harbour Board." Ten members. | Two. | Mayor of the Borough of Lyttelton. | Two to be elected by members of the Chamber of Commerce at Christchurch from among themselves; two to be elected by the County Council of the County of Selwyn; two to be elected by the ratepayers of the City of Christchurch; and one by the ratepayers of the Borough of Lyttelton. |
| "The Moeraki Harbour Board." Seven Members. | Seven. | | |
| "The Napier Harbour Board." Twelve members. | Three. | Mayor of the Borough of Napier. | Three persons to be elected by the ratepayers of the Borough of Napier; two persons to be elected by the County Council of Hawke's Bay; two persons to be elected by the County Council of Waipawa; one person to be elected by the County Council of Wairoa. |
| "New Plymouth Harbour Board." Nine members. | Three. | ... | Six persons to be elected by the persons entitled to vote at the election of members of the County Council of Taranaki, the Borough Council of New Plymouth, and by the persons whose names are on the electors' roll of the Patea County Council on account of lands owned or occupied by them within the rating district described in the Second Schedule of "The New Plymouth Harbour Board Ordinance 1875 Amendment Act, 1877." |
| "New River Harbour Board." | ... | The Municipal Corporation of the Town of Invercargill, constituted under "The Otago Municipal Corporations Ordinance, 1865," for the time being shall be the Harbour Board under this Act for the New River Harbour, and shall in respect of such harbour have all the powers conferred upon Harbour Boards by this Act. | |
| "Oamaru Harbour Board." Twelve members. | Four. | Mayor of the Borough of Oamaru. | One elected by Waitaki County Council; one elected by Waitareka Road Board; one elected by Waitaki Road Board; one elected by Kakanui Road Board; three by ratepayers of the Borough of Oamaru. |
| The Otago Harbour Board." Ten members. | Three. | ... | Two to be elected by the City Council of the Borough of City of Dunedin; one by the Town Council of the Corporation of the Town of Port Chalmers; one by the Municipal Councils of South Dunedin, Caversham, and St. Kilda jointly; one by |

*Harbours.*SECOND SCHEDULE—*continued.*

| Corporate Names of Boards and Number of Members. | Members nominated or appointed by Governor. | Members by Succession. | Members by Election, their Qualification, and by whom elected. |
|---|---|---|---|
| "The Otago Harbour Board"— <i>continued.</i> | | | the Chamber of Commerce of Dunedin; one elected by all persons who in any one year shall have paid the sum of £10 for harbour dues or jetty dues, or other dues levied by the said Harbour Board; one by persons being registered owners of vessels in the Port of Otago of a registered tonnage or aggregate registered tonnage of fifty tons. |
| "The Patea Harbour Board." Seven members. | One. | ... | Two to be elected by the Town Board of Carlyle; one by the Council of the County of Patea; one by each of the ridings of the Patea County. |
| "The Port Molyneux Harbour Board." Seven members. | ... | ... | One elected by the Municipal Council of Balclutha; one by each of the Boards of the following six road districts, viz.: Balmoral, Clydevale, Pomahaka, Clutha, South Molyneux, and Matau. |
| "The Riverton Harbour Board." Twelve members. | Four. | ... | Two to be elected by the County Council of Wallace; two to be elected by the Aparima Road Board; and four, inclusive of the Mayor, to be elected by the Council of the Corporation of Riverton. |
| "The Thames Harbour Board." Nine members. | ... | Mayor of the Borough of the Thames. | Two to be elected by Mayor and Council of the Borough of Thames; one by the Waiotahi Road Board; one by the Kauwaeranga Road Board; one by the Parawai Road Board; three by persons who shall have paid port, harbour, pilotage, and wharfage dues and charges, in respect of the Port of the Thames, to the amount of not less than £2 sterling during the year preceding the day of election. |
| "The Timaru Harbour Board." Twelve members. | Four. | Mayor of the Borough of Timaru. | One by the Geraldine Road Board; one by the Mount Peel Road Board; one by the Temuka Road Board; one by the Levels Road Board; one by the Waimate Road Board; one by the Mount Cook Road Board; one by the Timaru Chamber of Commerce. |
| "The Waimakariri Harbour Board." Nine members. | Two. | Mayor of the Borough of Kaiapoi. | Two by the ratepayers of the Borough of Kaiapoi; two by the ratepayers of the Eyreton Road Board District; two by the ratepayers of the Mandeville and Rangiora Road Board District. |
| "The Waitara Harbour Board." Seven members. | Three. | Chairman of Town Board of Raleigh; Chairman of the Council of the County of Taranaki. | Two by Town Board of Raleigh. |

*Harbours.*SECOND SCHEDULE—*continued.*

| Corporate Names of Boards and Number of Members. | Members nominated or appointed by Governor. | Members by Succession. | Members by Election, their Qualification, and by whom elected. |
|--|---|--|---|
| "The Wanganui Harbour and River Conservators Board." Nine members. | One. | Mayor of the Borough of Wanganui; Chairman of the Council of the County of Wanganui. | Four persons qualified to be Councillors of the Borough of Wanganui; two persons qualified to be members of the County Council of the County of Wanganui; to be elected by the ratepayers of the borough and county respectively. |
| "The Whangarei Port." | ... | Board to consist of the Chairman and Councillors of the County of Whangarei. | |

Sec. 191.

THIRD SCHEDULE.

HARBOUR BOARD LOAN OF £

Number , £ . Debenture for £

Payable at , on

Issued by the Harbour Board of , New Zealand, under an Act of the General Assembly of New Zealand intituled "The Harbours Act, 1878."

Secured on [*State on what secured*].

N.B.—The holder of this debenture has no claim in respect thereof on the public revenues of New Zealand, or on the General Government thereof.

ON presentation of this debenture at , on or after the day of , 18 , the bearer hereof will be entitled to receive £ . Interest on this debenture will cease after the day when the payment falls due, unless default is made in payment.

Issued under the Seal of the Board, the day of 18 .

(Signed)

Chairman of the Board.

(Countersigned)

Treasurer of the Board.

[Or duly appointed Agents of the Harbour Board.]

Sec. 193.

FOURTH SCHEDULE.

COUPON.

Debenture No. , of the Harbour Board of , New Zealand issued under "The Harbours Act, 1878."

Secured on [*State on what secured*].

ON presentation of this coupon at , on and after the day of , 18 , the bearer hereof will be entitled to receive £

(Signed)

Chairman of the Board.

(Countersigned)

Treasurer of the Board.

[Or duly-appointed Agents of the Harbour Board.]

Sec. 215.

FIFTH SCHEDULE.

HARBOURMASTERS' FEES.

FOR every service performed by a Harbourmaster under this Act, for vessels of one hundred and twenty tons and upwards, a sum not exceeding one penny per ton of the vessel in respect of which the service is performed, and for vessels less than one hundred and twenty tons, ten shillings.

PORT CHARGES.

For every vessel or boat, whether coming from seaward or not, whether decked or undecked, and whether propelled by steam or not, navigating or plying, whether for hire or not, within any port of the province, a port charge not exceeding sixpence per ton half-yearly.

Harbours.

For every boatman or waterman, and every person who shall be the master of or who shall work or navigate any such vessel or boat as last aforesaid, used or employed in landing or embarking cargo, passengers, or luggage, within any port, a license fee yearly not exceeding two pounds two shillings.

PILOTAGE RATES.

For every sailing vessel, a sum not exceeding sixpence per ton inwards, and the same sum outwards.

For every steam vessel a sum not exceeding fourpence 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.

WELLINGTON, NEW ZEALAND:

Printed under authority of the New Zealand Government, by GEORGE DIDSBUXY, Government Printer.