

No. XIX.

WOLLONGONG
HARBOUR TRUST.

An Act to provide for the improvement, management, and regulation of the port of Wollongong and certain portions of the Tom Thumb Lagoon, and for other purposes connected therewith. [30th September, 1889.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

*Preliminary—ss. 1 to 3.*Short title and com-
mencement of Act.

1. This Act may be cited as the "Wollongong Harbour Trust Act 1889," and shall come into force on the first day of October, one thousand eight hundred and eighty-nine.

Arrangement of Act.

2. The enactments hereinafter contained are arranged under Parts in the order following:—

PART I.—*Constitution of the Wollongong Harbour Trust Commission, ss. 4–32.*

PART II.—*Officers, ss. 33–42.*

PART III.—*Property and Powers of Commissioners, ss. 43–74.*

PART IV.—*Rates, &c., ss. 75–82.*

PART V.—*Harbour Trust Fund, &c.—Loans, ss. 83–95.*

PART VI.—*Regulations, ss. 96, 97.*

PART VII.—*Miscellaneous, ss. 98–121.*

Interpretation.

3. In the construction and for the purposes of this Act, each of the following expressions shall have the meaning hereby assigned to it, unless such meaning be inconsistent with the context in which the expression occurs—

"Ballast"—Includes every kind of stone, gravel, sand, and soil, and material commonly used for the ballasting of vessels.

"Commissioners"—The Wollongong Harbour Trust Commissioners constituted under this Act.

"Goods"—Includes all wares, merchandise, and articles of whatsoever description.

"Governor"—The Governor, with the advice of the Executive Council.

"Harbour master"—Includes assistant harbour master.

"Master"—Includes every person having lawfully, or *de facto*, the command, charge, or management of a vessel for the time being.

"Owner of a registered ship"—Includes any person who is the owner jointly with any other person or persons, or as a shareholder in any joint stock company registered as owners.

"Owner," when used in relation to goods—Includes any consignor, consignee, shipper, or agent for the sale or custody, loading or unloading of such goods, as well as the owner thereof.

"River"—

Wollongong Harbour Trust.

- “River”—Includes creek.
- “Ship”—Every description of vessel used in navigation not propelled by oars.
- “Shore”—The shore so far as the tide flows and re-flows.
- “The port”—The port of Wollongong, including the present harbour as well as the foreshore, extending two miles north and south respectively from a point in the harbour to be marked by an obelisk, together with the lands described in the First Schedule.
- “Vessel”—Any ship, lighter, barge, boat, raft, craft, or vessel of whatever description and howsoever navigated.
- “Wreck”—Includes jetsam, flotsam, lagan, and derelict.

PART I.

Constitution of the Wollongong Harbour Trust Commission.

4. There shall be twelve Commissioners for carrying this Act into execution, who shall be a body corporate by the name of “The Wollongong Harbour Trust Commissioners,” and, by that name, shall have perpetual succession and a common seal, with power to take, purchase, sell, lease, and hold lands, tenements, and hereditaments, goods, chattels, and other property, for any of the purposes of this Act, but in all cases subject to the provisions of this Act.

Appointment of Commissioners.

5. All courts, judges, and persons acting judicially, shall take judicial notice of the incorporation, and also of the common seal of “The Wollongong Harbour Trust Commissioners” affixed to any deed, instrument, or writing, and shall presume that such seal was properly affixed thereto; and such deed, instrument, or writing, when sealed, whether such instrument or writing required to be sealed or not, shall be admissible in evidence for and against the said Commissioners on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing, or of the due incorporation of the said Commissioners.

Seal of Commissioners.

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

6. Of such Commissioners the Council of the Borough of Wollongong shall elect two; the Council of the Borough of Central Illawarra shall elect one; the Council of the Municipal District of North Illawarra shall elect one; and the Bulli and Clifton Division of the Electoral District of Illawarra, within the area of their respective population boundaries, when formed into a municipality shall, by their Council, elect one; the owners of ships registered in Sydney, trading with the Port of Wollongong, shall elect two; and the colliery owners, merchants, and traders liable to pay wharfage rates under this Act, shall elect two. The Governor shall appoint three Commissioners; and may suspend or remove from office any Commissioner appointed by him. The Commissioners to be elected by the Councils herein specified shall be so elected by a majority of votes of the whole of the members of each of such Councils.

Election and appointment of Commissioners.

7. The Commissioners elected by the Council of the Borough of Wollongong shall hold office for a period of two years next ensuing from the date of such election, unless disqualified as herein provided, and shall retire in rotation each alternate year. Provided that at the first election the Commissioner elected by the second highest number of votes shall hold office for one year only, and at all times at least one of such Commissioners must be a person in no way connected with, or holding office in or under the Council of the said Borough.

Election of Commissioners for Wollongong.

Wollongong Harbour Trust.

Election of Commissioners for Central and North Illawarra.

8. The Commissioners elected by the Councils of the Borough of Central Illawarra and also by the Municipal District of North Illawarra shall each hold office for a period of two years next ensuing from the date of such election, unless disqualified as herein provided, and shall retire in rotation each alternate year. Provided that at the first election the Commissioner for Central Illawarra shall hold office for one year only.

Election of Commissioners for Bulli and Clifton when formed into a municipality.

9. The Bulli and Clifton division of the Electoral District of Illawarra, within their respective population boundaries, whenever formed into a Municipality under the "Municipalities Act of 1867" or any Act relating to Municipalities, shall by their Council elect a Commissioner, who shall hold office for a period of two years next ensuing from the date of such election unless disqualified as herein provided. Provided that the Governor shall appoint a Commissioner for the said division until formed into a Municipality, and qualified to elect a Commissioner in like manner as the other Municipalities specified in this Act.

Preparation of rolls of shipowners, colliery owners, merchants, and traders.

10. The Collector of Customs shall, within thirty days after the passing of this Act, cause to be prepared a list of names of all persons registered as owners of ships registered at Sydney or any other port in the Colony and trading to the port of Wollongong, with the amount of tonnage owned by each at the date of the passing of this Act set opposite their names; and also a list of the names and addresses of all persons entitled as herein provided to vote as colliery owners, merchants, and traders. Such lists shall each be certified by the said Collector. Such lists so certified shall be the rolls to be used at the first election of such Commissioners by the shipowners and colliery owners and other persons mentioned in section six of this Act respectively, and shall remain in force until new rolls have been prepared and revised as herein provided. And no election held under any such roll shall be liable to be questioned in any Court by reason of the improper omission of any name from, or of the improper inclusion of any name in, such roll, and such rolls when prepared shall be exposed to the public at the doors of the Custom House in Wollongong for one fortnight.

Election by shipowners.

11. The persons whose names are on the rolls for owners of ships in force for the time being, shall elect two Commissioners, who shall hold office for a period of two years next ensuing from the date of such election, unless disqualified as herein provided, and who shall retire in rotation each alternate year. Provided that at the first election the Commissioner who obtained the second highest number of votes shall hold office for one year only.

The powers who may vote.

- (I) Every person who is registered as owner of not less in the whole than thirty tons of shipping shall be entitled to one vote in respect of every thirty tons of shipping owned by him for each Commissioner to be elected by shipowners, but so that the votes of any owner for any one Commissioner shall not exceed three.
- (II) Where a ship is registered in the name of one person he shall be deemed the owner.
- (III) Where a ship is registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed for the purpose of an election the owner of the tonnage so apportioned to him.
- (IV) Where a ship is registered jointly, without severance of interest, in the names of more persons than one, the tonnage, if it is sufficient, either alone or together with other tonnage

(if

Wollongong Harbour Trust.

(if any) owned by such joint owners, to give a qualification to each of them, shall be apportioned equally between them; and each of such joint owners shall, for the purpose of an election, be deemed to be the owner of the share so apportioned to him; but, if it is not sufficient, the whole of such tonnage shall, for the purpose aforesaid, be deemed to be owned by such one of the joint owners as is first named in the register.

(v) For the purposes of any apportionment under this section, any portion may be struck off so as to produce a divisible amount.

(vi) The whole amount of tonnage so owned by each person, whether in ships, or in shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification.

12. The colliery owners, merchants, and traders whose names are on the rolls in force for the time being shall elect two Commissioners, who shall hold office for a period of two years next ensuing from the date of such election, unless disqualified as herein provided, and shall retire in rotation each alternate year. Provided that at the first election, the Commissioner obtaining the second highest number of votes, shall hold office for one year only.

Election by colliery owners, merchants, and traders.

13. For the purpose of electing Commissioners to represent the colliery owners, merchants, and traders paying wharfage rate as aforesaid, all persons shall be entitled to be inscribed on the certified roll in force for the time being whose names appear in the books of Commissioners as having paid during the year immediately preceding the preparation of the roll in each year, the sum of ten pounds sterling or upwards for wharfage rates, shall be an elector, and entitled to vote according to the following scale:—

Colliery owners, merchants, and traders who may vote.

(i) Payment of ten pounds or upwards, but less than one hundred pounds, shall give one vote for each Commissioner.

(ii) Payment of one hundred pounds or upwards, but less than three hundred pounds, shall give two votes for each Commissioner.

(iii) Payment of three hundred pounds or upwards, but less than five hundred pounds, shall give three votes for each Commissioner.

(iv) Payment of five hundred pounds, but less than one thousand pounds, shall give four votes for each Commissioner, with one additional vote for every additional thousand pounds or part of a thousand pounds.

Provided that at the first election, the roll of colliery owners, merchants, and traders certified by the said Collector, shall be the roll in force and to be used at the said first election, and until new rolls are prepared pursuant to this Act.

14. The Commissioners appointed by the Governor shall continue in office for two years next ensuing from the date of their appointment, unless disqualified, or removed as herein provided.

Commissioners appointed by the Governor.

15. The Commissioners appointed by the Governor shall, within seven days after their appointment, elect one of their number to act as temporary Chairman, who shall have power to do all things requisite to carry into effect the election of the Commissioners to represent the Municipal Councils. And from and after such election the Commissioners appointed by the Governor and elected by the Councils shall be empowered to carry on the affairs of the Trust, and shall, within one month from the date of the election of the Commissioners by the Councils, provide for holding elections of Commissioners to represent the shipowners, and of Commissioners to represent the colliery owners, merchants, and traders. Provided that all elections of Commissioners, whether by the Council or otherwise, shall be by ballot, and that all appointments

First duties of appointed Commissioners.

Wollongong Harbour Trust.

appointments and elections of Commissioners shall be duly notified in the *Gazette* within seven days from the date of such appointments or elections. The costs of all such elections shall be defrayed from the funds of the Harbour Trust Funds hereinafter mentioned.

Elections after the first election.

16. The vacancies created by the retirement of Commissioners at the expiration of their respective terms of office shall be filled up by the persons or body by whom or which each such Commissioner was elected or appointed; and the persons elected or appointed to fill such vacancies, and their successors in office, shall hold office for a period of two years next ensuing from the day of election or appointment. Any Commissioner going out of office at the period fixed for the retirement of the first Commissioners, or at an annual day of election or appointment, shall if otherwise qualified be eligible for re-election or reappointment.

Extraordinary vacancies.

17. Every vacancy in the office of Commissioner, through death, resignation, removal, disqualification, or any other cause whatever, shall be filled up within one month after the vacancy shall have occurred, by the election or appointment of a new Commissioner by the persons or body by whom or which the Commissioner whose vacancy is to be filled up was elected or appointed; and such new Commissioner shall hold office for the unexpired residue of his predecessor's term. But if from any cause the persons or body whose duty it is to elect Commissioners fail, neglect, or refuse so to do, within the time hereinbefore mentioned, the Governor may appoint as many fit and proper persons to be Commissioners as are required to fill vacancies caused by such failure, neglect, or refusal.

Bankrupts, &c., not to be or continue to be Commissioners.

18. No uncertificated bankrupt or insolvent shall be capable of being elected or appointed a Commissioner, and no Commissioner who shall be declared a bankrupt, or who shall apply to take the benefit of any Act for the relief of insolvent debtors, or who shall compound by deed or instrument in writing with his creditors, shall be capable of continuing a Commissioner, and the office of such Commissioner shall thereupon be vacant.

What acts, &c., to vacate office of Commissioner.

19. If at any time subsequent to his election or appointment any Commissioner shall accept or continue to hold any office or place of profit under the Commissioners, or be concerned in any contract, or participate in any manner in any work to be done, under the authority of this Act, or shall derive, or be entitled to, any benefit either directly or indirectly therefrom, or shall be absent from four consecutive periodical meetings of the Commissioners without leave first obtained from the Commissioners, such person shall cease to be a Commissioner, and his office thereupon shall become vacant. Provided always that no person being a shareholder or member of any incorporated or joint stock company consisting of more than twenty persons shall be disqualified from acting as a Commissioner by reason of any contract entered into between such Company and the Commissioners, but it shall not be lawful for any such shareholder or member to act as a Commissioner in any matter relating to any contract entered into between the Commissioners and such Company.

Exception.

Remuneration of Commissioners.

20. The Commissioners shall each year set apart out of the Harbour Trust Fund sums not exceeding, in any year, in the aggregate, the sum of six hundred pounds sterling, to be divided, with the approval of the Governor, among the Commissioners in such proportion, not exceeding two pounds for each Commissioner for each attendance, as they shall determine.

Office to be provided for Commissioners.

21. (1) The Commissioners may provide and maintain a suitable public office within the town of Wollongong for holding the meetings and transacting the business of the Commissioners, and for the use of their officers, and for transacting all business connected with the trust;

Wollongong Harbour Trust.

trust; and for such purpose may purchase or lease any building suitable for the purposes of offices, or may erect any building upon any land vested in or acquired by them under the provisions of this Act.

(II) The secretary, or some person duly authorized by the Commissioners in that behalf, shall attend at their office daily (Sundays and days appointed to be kept as public holidays or bank holidays at Wollongong or throughout the Colony alone excepted) for the purpose of receiving notices and transacting the ordinary business of the Commissioners, and due notice of the place of the office of the Commissioners, and of the hours during which attendance is given there, shall be published by the Commissioners in such manner as they shall think proper.

The Commissioners to provide daily attendance at an office.

22. The Commissioners shall hold their first meeting at some convenient place within the town of Wollongong upon the Wednesday next after all the Commissioners shall have been elected and appointed as herein provided, at the hour of Twelve at noon; and the Commissioners may, by adjournment of such meeting, or any subsequent meeting to be holden under the authority of this Act, meet together at any convenient place and hour, to be from time to time appointed by them for that purpose; and if at any such meeting there shall not be five Commissioners present within a quarter of an hour after the time appointed for such meeting, the Commissioners present, or the majority of them, or any one Commissioner if only one be present, may adjourn such meeting to another day, and, if no Commissioner shall be present, the secretary may so adjourn the meeting.

Meetings of Commissioners.

23. All powers vested in the Commissioners under this Act may be exercised by any five or more Commissioners present at any meeting holden in pursuance of this Act, and no business shall be transacted at any such meeting unless five or more of the Commissioners shall be present. All questions shall be decided by a majority of the votes of the Commissioners present, and in case of an equality of votes, the chairman shall have a second or casting vote in addition to his vote as a Commissioner.

Quorum of Commissioners.

24. The Commissioners shall at their first meeting, and in the corresponding month in every subsequent year, appoint one of their number as chairman for the year following such appointment, but any chairman on vacating his office shall, if qualified as a Commissioner, be eligible for re-election. If, at any meeting, the chairman is not present at the time appointed for holding the same, the members present shall choose some one of their number present to be chairman of such meeting. The chairman of the Commissioners shall be *ex officio* a member of all committees thereof.

Chairman

25. The Commissioners shall hold such periodical meetings as shall be appointed by them for any of the purposes of this Act, and shall fix the days and times for holding such meetings, a list of such days and times of meeting being exhibited in some conspicuous part of the usual place of meeting of the Commissioners; and all such meetings shall be held with open doors, unless it shall be necessary to exclude strangers on account of their disorderly conduct, or for any other reason sufficient in the opinion of the Commissioners.

Periodical meetings to be held.

26. No new regulations shall be adopted, nor any extraordinary business be transacted at any periodical meeting, unless due notice thereof has been given at a prior meeting, and the subject of such business notified to each Commissioner by written or printed notice delivered or left in the same manner as is herein required for special meetings.

No extraordinary business at periodical meetings unless notice be given.

27. The Commissioners may hold special meetings, and the chairman or any three or more of the Commissioners may require a special meeting to be held, provided that two days' notice thereof at the least be given, unless in cases of emergency.

Special meetings of Commissioners.

Wollongong Harbour Trust.

How notices of meetings of the Commissioners are to be given.

28. All notices of any adjourned or special meeting shall be in writing or print, or partly in writing and partly in print, and shall be delivered or sent by the secretary by post or otherwise to the usual place of abode or place of business of each of the Commissioners two clear days at the least before the appointed day for holding such meeting, except in cases of emergency; and every notice shall specify the time and place of meeting, and, in case of a special meeting, shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in such notice.

Proceedings to be entered into a book, and to be evidence.

29. The Commissioners shall cause entries of the names of all the Commissioners who shall attend any meeting, and notes, minutes, and copies, as the case may require, of all appointments made or contracts entered into by or on behalf of the Commissioners, and of the proceedings at all meetings of Commissioners and all meetings of committees, to be made and kept in books to be provided for that purpose, and under the superintendence of the Commissioners; and every such entry shall be signed by the person who shall be in the chair at the ordinary meeting of the Commissioners or committee, as the case may be, next following any such meeting; and a copy of such entry, certified under the common seal of the Commissioners, shall be received as evidence in all Courts and before all Judges, Justices, and others without proof of such respective meetings having been duly convened or held, or of the persons making such orders being Commissioners or members of such committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which lastmentioned matters shall be presumed until the contrary be proved; and all such books shall at all reasonable times be open to the inspection of any of the Commissioners.

When resolution of the Commissioners may be revoked at a subsequent meeting,

30. No resolution or other act at any meeting of Commissioners shall be revoked or altered at any subsequent meeting unless such meeting be called expressly for such revocation or alteration by notice given by the secretary three clear days at least before the holding thereof, nor unless such revocation or alteration be directed by a majority consisting of at least two-thirds of the Commissioners present at such meeting.

Acts of Commissioners not invalidated by vacancies.

Nor by irregularity in appointment or disqualification.

31. No act or proceeding of the Commissioners or any of them shall be invalidated by reason only of there being any vacancy in the number of Commissioners at the time of the act or proceeding; and all acts and proceedings of the Commissioners or of any of them, or of any person acting as a Commissioner, shall, although some defect in the appointment or election of, or some disqualification of, any such Commissioner or person acting as a Commissioner may afterwards have been discovered, be as valid as if every such person had been duly elected, appointed, or qualified, as the case may be.

Committees may be appointed.

32. (I) The Commissioners present at any meeting may appoint committees, each to consist of not fewer than three Commissioners, for any purposes which the Commissioners think proper, and at any meeting they may continue, alter, or discontinue such committee, but the proceedings of every such committee shall be submitted to the Commissioners for their approval.

Mode of proceeding of committee.

(II) Every such committee may meet and adjourn from place to place and time to time, as they may think proper, but no business shall be transacted at any meeting unless two members of the committee be present. At all meetings of the committee the chairman of the Commissioners, if present, shall preside as chairman, and in case of his absence, one of the members present shall be appointed chairman; and all questions shall be determined by the votes of the members present, and in case of an equality of votes, the chairman shall have a casting, in addition to his original, vote.

PART II.

Officers.

33. (I) The Commissioners shall appoint a secretary, treasurer, and clerk, and appoint or employ such engineers, surveyors, collectors, and other officers, servants, and persons to assist in the execution of this Act as the Commissioners shall think necessary; and such persons shall hold office during pleasure only. The Commissioners may remove such secretary, treasurer, clerk, engineers, surveyors, collectors, and other officers, servants, and persons, and appoint others in the room of such as shall be so removed, or as may die, or resign their offices; and shall pay such salaries, wages, and allowances to the secretary, treasurer, clerk, engineers, surveyors, collectors, officers, servants, and persons respectively as the Commissioners shall think reasonable. No person so appointed shall be permitted to engage in any employment other than in connection with the duties of his office without the sanction in writing of the Commissioners.

Commissioners to
appoint secretary
and other officers.

(II) If any such secretary, treasurer, clerk, engineer, surveyor, collector, or other officer employed by the Commissioners shall exact, take, or accept on account of anything done by virtue of his office, or in relation to the functions of the Commissioners any money by way of fee or reward whatsoever other than his fixed salary, or allowances, or be in anywise concerned or interested in any bargain or contract made by or on behalf of the Commissioners, otherwise than as a member only (but not as a director or officer) of any registered, incorporated, or joint stock company, he shall be incapable of being afterwards employed by the Commissioners, and shall forfeit the sum of fifty pounds; and any person may sue for such penalty by action of debt in the Supreme or District Court, and shall on recovery thereof be entitled to full costs of suit.

Officer taking fees
to lose his office and
forfeit £50.

(III) Before any person intrusted with the custody and control of moneys—whether treasurer, collector, or other officer of the Commissioners—shall enter upon his office, the Commissioners shall take sufficient security from him for the faithful execution of his office.

Commissioners to
take security from
officers intrusted
with money.

34. Every officer appointed or employed by the Commissioners under the authority of this Act shall, when required by the Commissioners, make out and deliver to them, or to any person appointed by them for that purpose, a true and faithful account in writing under his hand of all the moneys received by him on behalf of the Commissioners; and such account shall state how, and to whom, and for what purpose, such moneys have been disposed of, and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the Commissioners, or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him upon the balance of such account.

Officers to account.

35. (I) If any officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when required; or if, for five days after being required, he fail to deliver up to the Commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this Act, or belonging to the Commissioners, then, on complaint thereof being made to a Justice, such Justice shall summon such officer to appear before two or more Justices at a time and place to be set forth in such summons to answer such charge, and upon the appearance of such officer, or, in his absence, upon proof that such summons was personally served upon him, or left at his last-known place of abode, such

Summary recovery
against persons
failing to account.

Wollongong Harbour Trust.

such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear either upon confession of such officer, or upon evidence, or upon inspection of the account that any moneys of the Commissioners are in the hands of such officer, or owing by him to the Commissioners, such Justices may order such offender to pay the same, and, if he fail to pay the amount, such Justices may grant a warrant to levy the same by distress, or in default thereof to commit the offender to gaol, for any period not exceeding three months, unless the same be sooner paid.

Penalty on officer refusing to deliver up documents.

Warrant may be issued in the first instance for absconding officer.

(II) If any officer on being so brought before such Justice and being required so to do refuse to make out any such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Commissioners, such Justices may commit such offender to gaol until he shall have delivered up all the vouchers and receipts (if any) in his possession or power belonging to the Commissioners. Provided always that if any Commissioner, or other person acting on behalf of the Commissioners, shall make oath that he has good reason to believe upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer to abscond, or that he has absconded, it shall be lawful for the Justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for bringing such officer before such two Justices as aforesaid, but no person executing such warrant shall keep such officer in custody longer than forty-eight hours without bringing him before some Justice; and it shall be lawful for the Justice before whom such officer is brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody so as to be brought before two Justices at a time and place to be named in such order, unless such officer give bail to the satisfaction of such Justice for his appearance before two Justices to answer the complaint of the Commissioners.

Commitment not to discharge sureties.

(III) No such proceeding against, or dealing with, any such officer as aforesaid shall deprive the Commissioners of any remedy which they might otherwise have against any surety of such officer.

Power to appoint harbour-master and assistant harbour-masters.

36. The Commissioners may appoint such fit and proper persons to be harbour-master and assistant harbour-masters for the port as they shall think necessary, and at pleasure may remove such harbour-master and assistant harbour-masters; and such harbour-master and each of such assistant harbour-masters shall when acting be the port officer or harbour-master for the port within the meaning of this Act, and shall exercise any of the powers conferred upon such port officer or harbour-master by the said Act which are not inconsistent with this Act: Provided that every person now holding the office of harbour-master or assistant harbour-master by appointment of the Governor shall be and is hereby transferred to the Commissioners, and shall continue to hold such office under the Commissioners until he shall die, resign, or be removed, and that nothing herein contained shall be taken to affect or alter the mode in which such lastmentioned harbour-master or assistant harbour-master is now removable, except that the Commissioners shall exercise the rights now exercised by the Governor in that behalf.

Powers of harbour-master.

37. It shall be lawful for the harbour-master to give directions for all or any of the following purposes (that is to say):—

For regulating the time and manner in which any vessel shall enter into, go out of, or lie in the port, and the position, mooring, or unmooring, placing, or removing of any vessel within the same :

For



Wollongong Harbour Trust.

For regulating the manner in which any vessel shall take in or discharge cargo or any part thereof, or shall take in or deliver ballast.

Provided always that it shall not be lawful for such harbour-master to direct that any vessel shall lie or be within any part where by any Act of Parliament it shall or may be directed that no vessel shall lie or be, or to unmoor or remove from any part of the port duly appointed as a boarding, landing, or quarantine station any vessel moored or placed there under the authority of the Collector of Customs, or to moor or place any vessel within low-water mark of or alongside any quay, custom-house, station, or other place appropriated to the service of the Customs.

38. The master of every vessel within the port shall regulate such vessel according to the directions of the harbour-master made in conformity with this Act; and any master of any vessel who after notice in writing or partly printed or partly in writing signed by the said harbour-master of any such direction served upon him shall not forthwith regulate such vessel according to such direction shall be liable to a penalty not exceeding five pounds.

Penalty on not complying with directions of the harbour-master.

39. If the master of any vessel within the port shall not moor, unmoor, place, or remove such vessel according to the directions of the harbour-master in writing given to the said master, it shall be lawful for any such harbour-master to cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and to employ a sufficient number of persons for that purpose, and the expenses attending such mooring, unmooring, placing, or removing shall be paid by such master, and shall, together with the costs of ascertaining and recovering the same be ascertained and recovered from any such master in the same manner as any damages for the ascertaining and recovering of which no special provision is contained in this Act are hereby directed to be ascertained and recovered.

Power of harbour-masters to remove vessels.

40. If any master of any vessel within the port or any person on board the same shall hinder the said harbour-master or any person employed by him in mooring, unmooring, placing, or removing such vessel in manner aforesaid, such master or other person shall forfeit on conviction for every such offence a sum not exceeding five pounds.

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

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

Harbour-master may slacken ropes.

42. All actions to be brought against any person for anything done under this Act shall be commenced within six months after the act complained of was committed, and no writ shall be sued out against, nor any copy of any process served upon, any person for anything done by him under this Act, until notice in writing of such intended writ or process shall have been delivered to him, or left at his usual place of abode, by the agent or attorney of the party who intends to cause the same to be sued out or served, at least one month before the suing out or serving the same. Such notice shall clearly and explicitly set forth the nature of the intended action and cause thereof, and on such notice shall be endorsed the name and place of abode of the party intending to bring such action, and the name and place of business of his attorney or agent; and the defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Actions against officers.

Defendant may plead general issue.

Wollongong Harbour Trust.

evidence. No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action was brought, or if a sufficient sum of money shall have been paid into Court after the commencement of such action by or on behalf of the defendant, and if the matter or thing complained of appear to have been done under the authority and in execution of this Act, or if any such action shall be brought after the time limited for bringing the same or such notice shall not have been given as aforesaid, and in all such cases the jury shall find or judgment shall be given for the defendant.

PART III.

Property and Powers of Commissioners.

Lands, &c., vested in
Commissioners.

First Schedule.

43. Upon the passing of this Act there shall be vested in the Commissioners for the purposes of this Act, the bed and soil and shores of the waters, and the pieces and parcels of Crown Land according to the descriptions contained in the First Schedule, but subject to the right of Her Majesty to resume possession at any time, without payment of compensation, of any land required for purposes of national defence, or for giving ingress, egress, and regress to and from the shore. And the lands so vested in the Commissioners are in this Act designated "Harbour Trust Lands"; and whenever it shall be deemed necessary in the public interest the Governor may by proclamation dissolve the Trust and take control of the whole of the lands, works, goods and chattels of the Trust, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created or otherwise vested in such Trust.

Commissioners to do
certain works.

44. It shall be the duty of the Commissioners out of the Harbour Trust Funds to excavate, deepen, and dredge the port to a depth of at least twenty-six feet beneath and under low-water mark, and to construct and maintain a canal and docks of the said depth of twenty-six feet towards Tom Thumb Lagoon, not further from the present Belmore Basin than is found to be absolutely necessary to promote the trade of the port, and the convenience and safety of shipping trading to the port, and for the service and convenience of the public generally; and to erect and construct breakwaters and piers out into the sea, for the protection of shipping coming to Belmore Basin. It shall also be the duty of the Commissioners, out of the said funds, to construct and maintain all necessary works within the limits of the lands vested in the said Commissioners, for the purpose of continuing in, upon, through, and into the said rivers, creeks, or lagoons, drainage works which may be from time to time constructed by any Municipality on lands adjoining the lands vested in the Commissioners but outside the boundaries thereof. Provided that the Commissioners shall not be compelled to construct any such works until plans of such proposed works be submitted to the Commissioners by such Municipality, or unless the Governor, after hearing the Commissioners and such Municipality, shall direct such works to be carried out by the Commissioners.

Commissioners may
take and purchase
adjoining lands.

45. (I) Where any lands adjoining any portion of the Harbour Trust lands are required for extending and enlarging the docks, wharves, warehouses, or other works for improving and promoting the commerce and general convenience of the port, it shall be lawful for the Commissioners, with the sanction of the Governor, but without further or other authority than this Act, to resume all or any of such lands.

(II)

Wollongong Harbour Trust.

(II) The Commissioners shall cause a notice of the resumption of any land required by them for the purposes of this Act, together with a plan or diagram of the area required to be served on the owners of such land.

(III) Upon the service of such notice and plan, the land therein described shall for the purposes, and subject to the provisions of this Act be vested in the Commissioners for an absolute estate in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights of way, or easements whatsoever.

(IV) The owner of any portion of lands resumed, or the person who, but for the provisions thereof, would have been such owners, shall be entitled to receive compensation for the land so resumed, and the amount of such compensation shall be ascertained in accordance with the provisions of the Lands for Public Purposes Acquisition Acts, being the Acts of the forty-fourth Victoria number sixteen, and forty-fifth Victoria number twenty-six. For the purpose of ascertaining and dealing with such compensation, and for other purposes subsidiary thereto, the enactments hereinafter specified are declared to be incorporated with this Act, viz. :—

- (a) As to conversion of the estates of owners of lands into a claim to compensation,—Section eleven of the Act forty-fourth Victoria number sixteen.
- (b) As to notice of claim for compensation and abstract of title,—Section twelve of the Act forty-fourth Victoria number sixteen, and First Schedule thereto, as amended by section three of the Act forty-fifth Victoria number twenty-six.
- (c) As to procedure after receipt of notice of claim, and the institution of proceedings in the Supreme Court,—Sections thirteen and fourteen of the Act forty-fourth Victoria number sixteen.
- (d) As to the nature of the issue in actions for compensation, verdict and costs, the payment of compensation, the mode of assessing compensation, and the obligation of the party claiming payment to make out a Title,—Section two of the Act forty-fifth Victoria number twenty-six, section sixteen of the Act forty-fourth Victoria number sixteen, and section twenty-four of the “Public Works Act of 1888.”
- (e) As to procedure on registration or transfer,—Section twenty-four of the Act forty-fourth Victoria number sixteen.

And in order to carry out the intention of this section the words “this Act” whensoever occurring in any of the sections so declared to be incorporated herewith shall be held to include this present Act, and the words “under the sixth section of this Act” in section twenty-four of the Act forty-fourth Victoria number sixteen shall be held, for the like purpose, to refer to section two of this Act.

(v) The several sections of the “Public Works Act of 1888,” hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained are hereby declared to be incorporated with, and embodied in this Act to the intent that the same may be applied as fully and effectually to, and in respect of, the lands resumed by this Act as if the said sections had been specifically enacted herein. Provided that, wheresoever in any section so incorporated the words “Constructing Authority” occur, there shall, for the purposes of this Act, be substituted in lieu of such words, the expression “Commissioners;” the expression “authorized work,” wheresoever occurring in any such section shall be held to refer to the work authorized by this Act; and the words “this Act”

Compensation for resumed lands.

Incorporation of certain provisions of “Public Works Act of 1888.”

Wollongong Harbour Trust.

Act" shall similarly be held to refer to "this present Act." The following are the sections of the said Public Works Act so declared to be incorporated herewith—

- (a) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof; as to payment of such money in certain cases to trustees, or to the parties themselves, the exoneration of the Minister in respect thereof after payment, the presumption of ownership, and the payment of costs,—Sections sixty-two to seventy-two, both inclusive.
- (b) As to the procedure by the Minister in case the owner or occupier of any lands resumed by this Act shall refuse to give up possession thereof, or hinder the Minister from entering upon, or taking possession of the same,—Section seventy-seven.
- (c) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage is taken,—Sections eighty-one to eighty-six, both inclusive.
- (d) As to the release of lands from rent charges and other incumbrances, and the procedure thereon,—Sections eighty-seven to ninety, both inclusive.
- (e) As to the apportionment of rent where lands so resumed are taken under lease, and as to compensation to tenants,—Sections ninety-one to ninety-four, both inclusive.

Power to purchase land for the purposes of this Act.

46. In addition to the power of resuming land conferred by the last preceding section the Commissioners may purchase from any person who may be willing to sell the same in fee simple, or for any less estate or interest, any land which the Commissioners shall require for any of the purposes of this Act.

Certain Customs sheds vested in the Commissioners.

47. The Commissioners shall erect such sheds as may be necessary for the convenience and use of the Department of Customs in the transaction of the trade of the port, and such sheds, together with the sheds now occupied by the said department, shall be and are hereby vested in the Commissioners for the purposes of this Act, and the Commissioners shall keep all such sheds in repair, and shall enlarge and extend the same as often as may be required, but subject to the right of resumption by Her Majesty in this Act mentioned.

Power to make regulations with respect to sheds, &c.

48. The Commissioners may make regulations in respect of the said sheds, and of any depôts or sheds which may hereafter be erected by the Commissioners for the accommodation of Her Majesty's officers of Customs, or the reception of goods, and in respect of the goods in the sheds and depôts; and the power to make such regulations shall be deemed to be included among the powers conferred on the Commissioners by Part VI of this Act, and shall be subject to the provisions thereof.

Management of port and shipping vested in the Commissioners.

49. The exclusive management and control of the port (except as hereinbefore provided) and of the shipping, lightships, buoys, beacons, moorings, wharves, docks, piers, jetties, ferries, landing-stages, slips or platforms, light-houses, and the preservation and improvement of the port generally, is hereby vested in the Commissioners.

Mooring chain vested in Commissioners.

50. All mooring chains laid down within the port and being the property or under the control of any Government Department shall be transferred to and the property in the same is hereby vested in the Commissioners, and the Commissioners are hereby required to maintain the same in good order and repair, and also from time to time

Wollongong Harbour Trust.

time to remove the same to such other more convenient situations, and to lay down such additional mooring chains as they shall think desirable.

51. The Commissioners may, subject to the approval of the Governor, contract for and sell or lease for such considerations as they may deem reasonable, and by any deed under their corporate seal may convey to the purchasers or lessees thereof, any superfluous lands or any estate or interest of the Commissioners in such lands, or any part thereof, in such manner as they shall deem most advantageous; and such contracts, sales, leases, and conveyances from the Commissioners shall be valid and effectual to all intents and purposes; and the money produced by all such sales or leases shall be carried to and form part of the Harbour Trust Fund.

Power to sell or lease certain lands not wanted.

52. The Commissioners, with the approval of the Governor, may grant leases of any land vested in them by this Act which is not required for the accommodation of the shipping of the port upon such rent reserved and such conditions, and for such term, not exceeding twenty-one years, as they may think fit, as yards or sites for ship building, boat building, storing of timber, storing of coal, storing of merchandise or other property, erection of workshops or foundries connected with shipping.

Lands vested may be leased for certain purposes.

53. The Commissioners may agree with any person being the owner of any private mooring chains for the purchase of such mooring chains, and may pay to such person such purchase-money or compensation as may be agreed upon.

Commissioners may purchase private mooring chains.

54. All lands vested in the Commissioners by this Act, or which may hereafter be purchased or acquired by them pursuant to this Act, shall be exempt from any rate or tax which the Council of the corporation of the Borough of Wollongong or any Municipal Council might but for this section have imposed or levied thereon; but nothing herein shall preclude the Council of the Borough of Wollongong or any Municipality from levying and collecting rates upon tenements erected on such lands occupied for private purposes and by persons other than the Commissioners.

Lands vested in Commissioners when free from municipal rates.

55. (I) The Commissioners may construct and enclose any wharf, dock, pier, jetty, landing-stage, slip, or platform, or remove, alter, or repair the same.

Commissioners may construct wharves, sheds, &c.

(II) They may also authorize the construction of any wharf, dock, pier, jetty, landing-stage, slip, or platform, tramway, railway, or hoisting cranes, shears, or engines, on such waterside frontages or on such land as they may let or lease or license.

(III) They may construct such depôts and sheds for the reception of goods, and may construct and erect such steam-engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging or the masting or unmasting of vessels or the testing of chains and anchors, and provide such other conveniences upon or near the wharves, docks, piers, jetties, landing-stages, slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depôts, sheds, steam-engines, cranes, hoisting and weighing machines, and other such apparatus and conveniences as aforesaid.

56. (I) The Commissioners may, for the purpose of maintaining and improving the navigation of the rivers and canals within the port, dredge, cleanse, and scour the said rivers, and alter, deepen, cleanse, scour, dredge, cut, enlarge, and otherwise alter and improve the bed and channel of the said rivers or canals; and to reduce or remove any banks or shoals whatsoever within the said rivers or canals; and may abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in the said rivers and canals, or

Commissioners empowered to dredge, cleanse, and scour rivers, &c.

on

Wollongong Harbour Trust.

on the banks and shores thereof, which may now or at any time hereafter be injurious to the said rivers and canals, or obstruct, or tend to obstruct the free navigation thereof.

Power to remove any shoal, mud-bank, or accumulation in the port, and shorten bends of the river.

(II) They may remove, scour, and take away any shoal, mud-bank, or other accumulation which shall impede the navigation of the port, and may shorten any bend or remove any angle in the course of the rivers within the port.

Banks may be cut.

(III) They may cut the banks of the rivers within the port for the purpose of making, enlarging, or repairing any dock or canal, or any drain, sewer, or watercourse, or altering, laying down, or repairing any suction or other pipe, or for any other purpose whatsoever, and may authorize any person to cut the banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as such Commissioners shall think proper to impose.

Buoys and beacons.

(IV) They may place and lay down or take up within the port such buoys and beacons as shall be necessary and convenient for the navigation of such port.

Commissioners may make contracts, &c.

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

Contracts by the Commissioners how to be entered into.

58. The powers hereby granted to the Commissioners to make contracts may lawfully be exercised as follows (that is to say):—

With respect to any contract which if made between private persons would be by law required to be in writing and under seal, the Commissioners may make such contract in writing in the corporate name of the Commissioners under their common seal, and in the same manner may vary or discharge the same.

With respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, then the Commissioners may make such contract in writing in the corporate name of the Commissioners signed by the secretary and by any two of the Commissioners, and in the same manner may vary or discharge the same.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Commissioners and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be; and on any default in the execution of any such contract, either by the Commissioners or by any other party thereto, such actions or suits may be brought either by or against the Commissioners in their corporate name as might be brought had the same contract been made between private persons only.

Commissioners may compound for breach of contracts.

59. It shall be lawful for the Commissioners, at a meeting specially called for that purpose, of which meeting three days' notice shall be given, from time to time to compound and agree with any person who shall have entered into any contract in pursuance or under the authority of this Act, or against whom any action or suit shall be brought for any penalty contained in any such contract or in any bond or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security for such sum of money or other recompense as the Commissioners may think proper.

Wollongong Harbour Trust.

60. The Commissioners may appropriate particular wharves, docks, piers, jetties, landing-stages, or platforms, or portions thereof respectively to the use of steam vessels, either exclusively or in conjunction with sailing vessels, or to the use of any vessels engaged in particular trades, or to the use of any other vessels or class of vessels, or under any other circumstances which may render such appropriation expedient.

Commissioners may grant exclusive right to portions of wharves, &c.

61. The Commissioners may, upon such terms and conditions, and upon payment of such rents or other sums of money, and subject to such restrictions and regulations as they shall think proper, set apart and appropriate any particular portion of any wharf, dock, pier, jetty, landing-stage, or platform, shed, warehouse, or other works, with the appendages thereunto, for the exclusive accommodation of any person engaged in carrying on any particular trade who shall be desirous of having such exclusive accommodation for the reception of the vessels and goods belonging to or employed and conveyed by them. All persons to whom such exclusive accommodation as aforesaid shall be afforded, and their vessels, crews, and servants, and other persons employed by them or under their control, shall be subject to regulations to be made by the Commissioners.

Powers to set apart portions of works for special purposes.

62. The Commissioners, upon the payment of a fair and reasonable consideration, and subject to such regulations and restrictions as they may think proper, may grant licenses for the formation of such recesses or docks, wharves or quays, and the driving of such piles and other works as shall be required for the convenient use, protection, and improvement of premises, and the placing and mooring of vessels in such line, and at such levels as shall appear to them requisite for the above purposes, without injurious interference with the navigation of the port or its future improvement.

Commissioners empowered to grant licenses for the formation of recesses or docks and wharfing.

63. (I) The Commissioners, upon such terms and conditions as they shall think fit, may grant licenses for the erection by the owners or occupiers of lands adjoining the port at any convenient places, of piers or landing-places of such form and construction as the Commissioners shall consider most advantageous to the public, and as causing the least obstruction to navigation, and for the driving of piles and the formation of wharfing-ways and other conveniences to the adjoining premises, and may cause the form and construction of such piers or landing-places, and the position of such piles, and the mode of forming such wharfing-ways and other conveniences to be altered at the expense of the owners of or persons licensed to erect, drive, or form the same, and may also cause any such piers or landing-places, piles, wharfing-ways, and other conveniences, to be removed and taken away at the expense of the owners thereof, or of the persons licensed to erect, drive, or form the same; and in case such pier or landing-place, piles, wharfing-way, or other convenience, shall not be altered or removed within seven days after notice from the Commissioners to alter or remove the same shall have been given to the owner thereof, or to the person licensed to erect, drive, or form the same, or shall have been left upon or affixed to such pier or landing-place, or any part thereof, such pier or landing-place, piles, wharfing-way or other convenience, may be removed by the Commissioners.

Commissioners may grant licenses for the erection of piers and jetties.

(II) Before the Commissioners shall erect, or shall grant any license for the erection of, any pier or landing-place they shall give one month's notice of their intention so to do by advertisement to be repeated at weekly intervals in two local newspapers and in the *Gazette*, and shall also cause one month's notice of such intention to be served upon the person in charge of any pier or landing-place which shall be within the port, and upon the person in charge of any pier or landing-place existing at the time of the passing

Notice to be given previously to the erection or licensing of any pier.

of

Wollongong Harbour Trust.

of this Act, within three hundred feet of the pier or landing-place proposed to be erected: Provided always that nothing herein contained or anything done in pursuance of the directions herein contained shall be deemed or construed to give any person owning or having charge of any such existing pier, any rights, power, or authority beyond those possessed by him before the time of the passing of this Act.

Owners of land may
embank with
consent of Com-
missioners.

64. The Commissioners may grant to the owner or occupier of any land fronting and immediately adjoining any portion of the port a license to make any wharf, dock, basin, pier, jetty, landing-stage, slip, or platform or embankment wall, or other work immediately in front of his land and into the body of the said port, upon payment of such fair and reasonable consideration and subject to such other conditions and restrictions as the Commissioners shall think fit.

No mooring chains
to be laid down
without permission
of the Commis-
sioners.

65. After the commencement of this Act no mooring chains shall be put down or placed in any place within the port without the permission of the Commissioners previously obtained; and every such mooring chain which shall be put down or placed shall be so continued only during the pleasure of the Commissioners; and the Commissioners may at any time, by giving one week's notice in writing, require such mooring chains to be removed; and in case default shall be made in such removal beyond the time to be mentioned in such notice, such mooring chain may be treated by the Commissioners as a public nuisance, and removed accordingly.

Power to remove
wrecks, &c.

66. If any vessel be sunk or stranded within the port, the Commissioners may forthwith seize and attach such vessel and any goods therein until security shall be given to the satisfaction of the Commissioners for the due removal of such vessel or goods; and if the owner, master, or agent shall not provide such security or shall not remove and take away such sunk or stranded vessel, or the wreck thereof, within such time as the Commissioners, in writing, shall require, the Commissioners may then raise, destroy, remove, or take away such wreck of any vessel that shall be sunk or stranded, and be in their judgment an obstruction to the safe and convenient navigation and use of the port; and in case the owner, master, or agent of such vessel, or other obstruction, shall refuse or neglect to pay the charge of raising, destroying, removing, or taking away such vessel, wreck, or goods for the space of three days after demand, or in case any such owner, master, or agent cannot be found, then the Commissioners may sell such vessel, wreck, or goods, and out of the proceeds of such sale retain the expense incurred in raising, destroying, and removing such vessel, wreck, or goods, and the charges of sale, rendering the overplus to the person entitled to the same; and if from such proceeds sufficient to pay all the aforesaid charges shall not be recovered, then the amount of any deficiency shall be a lien or charge on any vessel, money, or goods belonging or payable to the owner of any such vessel so sunk or stranded as aforesaid, which may be then, or at any time within the period of twelve calendar months thereafter shall be in the Colony of New South Wales in the hands of any agent or other person of or on behalf of any such owner, subject and without prejudice to any prior lien or charge in favour of any other person. The lien or charge hereby given to the Commissioners may be enforced by proceedings in the Supreme Court to be instituted by the Commissioners against such owner, agent, or other person, and service of all process in any such suit shall be held good and binding on any such owner if such service has been duly effected on any such agent or other person. Provided that in no case the amount for which such owner shall be liable, or for which such lien shall be claimed, shall exceed the amount of the value of the vessel and the freight then due upon the said ship; and such value shall be estimated at the rate of
ten

Wollongong Harbour Trust.

ten pounds per ton of such vessel's tonnage. Provided further that when the sinking or stranding of such vessel is the result of accident or of causes beyond the control of such owner, such owner shall not be liable for any portion of the cost incurred in raising, destroying, or removing such wreck which may exceed the sum realized by the sale of such wreck.

67. It shall be lawful for the Commissioners, and they are hereby directed when any obstruction shall impede the navigation and use of the port or any part thereof (of which obstruction the Commissioners shall be the sole judges), to require the owner or occupier of such obstruction, by notice given or sent to him, to remove such obstruction as aforesaid within a time to be stated in such notice; and should such owner or occupier fail, neglect, or refuse to remove the obstruction stated in such notice, the Commissioners shall remove the same, and the expense and cost of so doing shall be repaid by the owner of the same, and the Commissioners may detain the materials of such obstruction for the securing the expenses, and on non-payment of such expenses on demand may sell such materials, and out of the proceeds of such sale pay such expenses, rendering the overplus, if any, to the owner on demand; if the sale of the materials aforesaid should not be sufficient to pay the said expenses, or instead of such sale if the Commissioners shall so determine, or for the balance of such expenses after such sale, the said owner or occupier may be sued by the Commissioners for such expenses and cost as aforesaid.

Obstructions may
be removed.

68. (i) The Commissioners shall make and maintain proper roads and approaches to all wharves, docks, piers, jetties, landing-stages, slips, or platforms, depôts, and sheds that are now or may hereafter be erected on the lands vested in them by this Act; and they shall cause such wharves, docks, piers, jetties, landing-stages, slips, or platforms, depôts, and sheds, and the roads and approaches thereto, to be kept in good repair, and well and sufficiently lighted, watched, and cleansed.

Roadways to be kept
in order and lighted.

(ii) The Commissioners may appoint a sufficient number of persons to preserve order on or at such wharves, piers, jetties, or landing-stages or platforms, and the avenues and approaches thereto, and to prevent the intrusion thereon of improper persons who have no intention of embarking on board any vessel from such wharves, docks, piers, jetties, landing-stages, or platforms, and to drive away any persons who may unnecessarily linger or loiter on or about such wharves, docks, piers, jetties, landing-stages, or platforms, and to assist any vessel in making fast to such piers or landing-places.

Persons may
be appointed to
preserve order, &c.,
at piers.

69. When in the opinion of the Commissioners any wharf, dock, pier, jetty, landing-stage, slip, or platform, or any portion thereof, shall be out of repair or insecure, so as to be dangerous to any person passing along the same, or to any vessel, either moored alongside of or passing by the same, or is in any manner injurious or likely to be injurious to the port or to the free navigation thereof, it shall be lawful for the Commissioners, by notice in writing given to the owner or occupier of such wharf, dock, pier, jetty, landing-stage, slip, or platform, or if such owner or occupier cannot be found, left upon or affixed thereto, to require the owner or occupier thereof to repair such wharf, dock, pier, jetty, landing-stage, slip, or platform, to the satisfaction of the surveyor for the time being of the Commissioners, within a time to be limited in such notice; and in case the owner or occupier of such wharf, dock, pier, jetty, landing-stage, slip, or platform, shall refuse or fail or neglect to repair the same to the satisfaction of such surveyor within the time to be limited as aforesaid, then and in such case it shall be lawful for the Commissioners to

Private wharves to
be repaired.

Wollongong Harbour Trust.

put the same into repair, and to recover the expenses incurred thereby from the owner or occupier thereof, or the owner or occupier of any house or land to which such wharf, dock, pier, jetty, landing-stage, slip, or platform may belong, or with which the same may be connected and used; and such owner or occupier shall also forfeit a sum not exceeding ten pounds for every day during which such wharf, dock, pier, jetty, landing-stage, slip, or platform, shall continue out of repair after the expiration of the time limited in the notice for the repair thereof.

Broken piles, &c., to be removed.

70. The Commissioners may remove any broken, dangerous, or useless piles or mooring chains and other nuisances, and may order the removal or shortening of any waterways, causeways, stairs, or other projections injurious to the navigation of the port.

Licenses for supply and removal of ballast.

71. The Commissioners may if they think fit grant licenses to persons for the supply and removal of ballast, and for the supply of water to shipping, subject to such regulations and restrictions as the Commissioners shall from time to time determine.

The Commissioners may prevent ballast from being taken in places where its removal might be injurious to the navigation.

72. The Commissioners, may by notice in writing prohibit any person from raising or taking any ballast or any materials for ballast in any place or places in or from which the raising or taking of ballast or materials for ballast may, in the judgment of the Commissioners, be injurious to the navigation of the port, or to the due execution of the works to be directed by them; and no person shall, after the delivery to them of any such notice as last aforesaid, raise or take any ballast or materials for ballast in any place or places in or from which they may have been by any such notice prohibited by the Commissioners from raising or taking any such ballast or materials for ballast as aforesaid.

Humane apparatus and assistants may be provided.

73. The Commissioners may purchase, provide and maintain all such apparatus, matters, and things as may appear to them to be necessary to assist in searching for drowned persons and restoring animation to persons apparently drowned, and to employ and reward assistants therein in such manner as to the Commissioners shall seem expedient.

Annual statement of accounts of all moneys received for sales, &c., of bed of port to be sent to the Colonial Treasurer.

74. The Commissioners shall on the first day of February in every year hereafter render and deliver to the Colonial Treasurer a true and correct schedule containing full particulars of all sales, leases or grants or licenses for docks, recesses, beds for boats or barges, wharves, piers, landing-places, piles, mooring chains, or works of any description of, in, or upon any portions of the said lands or bed or shores of the port, or any encroachments, embankments, and inclosures thereupon and therefrom, and also a true and correct account of all sums of money which they or any person or persons by their order or to their use may have received during the year ending on the thirty-first day of December immediately preceding for or in respect of any such sales, leases, grants, or licenses, or for or in respect of any permission, and of all rents, revenues, and proceeds of what nature or kind soever; the same accounts to specify the particular source from which all and every such sums of money, rents, and profits have been derived, and to be from time to time verified as being true and correct accounts by a statutory declaration in writing under the hand of the treasurer of the Commissioners for the time being.

Wollongong Harbour Trust.

PART IV.

Rates, &c.

75. The Commissioners may demand, collect, and receive in respect of all goods, merchandise, and things whatsoever, except goods belonging to Her Majesty's Government and passengers' luggage, shipped or unshipped, from any vessel at any wharf, dock, pier, jetty, landing-stage, slip, or platform within the port, such tolls, rates, or dues as shall from time to time be fixed by them subject to the approval of the Governor. Provided always that goods transhipped within the port not later than forty-eight hours after the vessel has finally discharged shall be exempt from such tolls and rates as aforesaid.

Power to collect
tolls and rates and
charges.

76. (I) The Commissioners may demand, collect, and receive tonnage rates computed on the tonnage of all vessels trading to or arriving at the port, in accordance with regulations to be made by the Governor; but not to exceed the respective rates prescribed by the Act forty-fourth Victoria number eight ("Wharfage and Tonnage Rates Act of 1880"). Provided that such rates shall not be charged on vessels seeking shelter and not breaking bulk.

Tonnage rates.

(II) Where any ship has been registered at a port in the United Kingdom or in any British possession, the amount of tonnage contained in the certificate of such registry shall for the purposes of this Act be considered to be the tonnage of such ship; and where any ship belonging to any nation which shall have adopted the rules of admeasurement of the Act of the Imperial Legislature intituled "*The Merchant Shipping Act, 1854*," or any Act amending the same, shall arrive at the port, the amount of tonnage contained in the certificate of such ship shall be considered to be the tonnage of such ship.

77. In order to ascertain the tonnage of any ship, any officer or person appointed by the Commissioners may measure such ship; and such officer or person in measuring such ship shall be guided by the regulations contained in the said "*Merchant Shipping Act, 1854*," or any Act amending the same.

Tonnage of foreign
ships how to be
calculated.

78. The Commissioners may from time to time, by regulation approved by the Governor, alter, raise, and lower at discretion all tolls, rates, and charges which the Commissioners are authorized to demand, collect, and receive under this Act: Such tolls, rates, and charges so altered, raised or lowered shall not exceed the amounts provided for in section seventy-five of this Act.

Commissioners may
alter rates, &c.

79. It shall be lawful for the Commissioners to demand, collect, and receive in respect and for the use of any of the property of the Commissioners such tolls, rates, and charges as the Commissioners shall from time to time determine and appoint by regulation under this Act.

Commissioners to
levy charges for
use of property.

80. The collection of tolls, rates, and charges authorized by this Act shall be prescribed by regulations under this Act; and for the convenience of such collection the Colonial Treasurer may, if he think fit, provide, at the cost and charges of the Commissioners, in the public office or long room of the Custom House, accommodation for any officer or officers whom the Commissioners may direct to receive and collect such tolls, rates, and charges.

Mode of collection.

81. No collector or clearing officer of customs shall give any vessel her clearing papers or discharge unless and until he receive from the master or agent of such vessel a certificate from the officer appointed by the Commissioners for the purpose that all tolls, rates, and charges payable under this Act have been duly paid.

Officers of Customs
to refuse to give
clearance until
rates are paid.

Wollongong Harbour Trust.

Commissioners may
sell goods, &c., for
payment of rates.

82. The Commissioners may, when default shall be made in the payment of any tolls, rates, or charges in respect of any goods, first paying the Customs duties and dues, if any, retain and sell the same goods, or any part thereof; and after reimbursing themselves the amount of such duties and dues, the Commissioners shall retain and pay in the first place the tolls, rates, and charges so unpaid as aforesaid, including the expenses of such sale, and in the next place the freight due on such goods (in case the Commissioners shall have received written notice that such freight has not been paid), rendering the surplus (if any), and also such of the said goods as shall remain unsold (the rates due in respect whereof having been discharged as aforesaid), to the person entitled thereto on demand. In lieu of selling such goods, or notwithstanding such sale, if the proceeds of such sale shall be insufficient, the Commissioners may recover the amount of such tolls, rates, charges, and expenses, as the case may be, which shall be due to them by action of debt in the Supreme Court.

PART V.

Harbour Trust Fund, &c.

Harbour Trust Fund.

83. All tolls, rates, and charges authorized by this or any other Act or otherwise, and also all moneys which may be received by the Commissioners under the authority of this Act, including all moneys which may be received by them from leases, licenses, rents, fines, penalties, and forfeitures, and any other source or fund whatsoever, together with any moneys borrowed under this Act, shall be paid into and form a fund to be called the "Harbour Trust Fund," and shall be applied by the Commissioners in the carrying out of this Act.

Application of sur-
plus of Harbour
Trust Fund.

84. When all the moneys which may have been raised by the Commissioners under the authority of this Act, and which for the time being may be due and owing on the credit of the tolls, rates, charges, fines, rent, and other profits, by this Act given to or vested in or authorized to be received by the Commissioners, shall have been repaid with all interest which may have accrued due in respect thereof, the surplus of the Harbour Trust Fund may be applied in reduction of such tolls, rates, and charges, by this Act authorized to be taken as the Commissioners may from time to time think it expedient to reduce; and in case there shall be any surplus of the said fund after the said tolls, rates, and charges shall have been reduced to such extent as the Commissioners shall think fit, such surplus shall be applied to and for such purposes and in such manner as Parliament shall direct.

Accounts to be kept
of receipts and
disbursements, which
shall be open to
inspection.

85. The Commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for or on account of this Act, and of the several purposes for which sums of money shall have been received and paid, and which books shall at all reasonable times be open to the inspection of the Commissioners and any mortgagee of and creditor on the tolls, rates, charges fines, rents, and other profits payable under this Act, without fee or reward; and the Commissioners and persons aforesaid, or any of them, may take copies of or abstracts from the said books without paying anything for the same; and any secretary, clerk, or other person having the custody of the said books who shall not on any reasonable demand permit any of the Commissioners or persons

Wollongong Harbour Trust.

persons aforesaid to inspect the said books or take such copies or extracts as aforesaid shall forfeit and pay for every such offence a sum not exceeding five pounds.

86. (i) All expenses incurred by the Commissioners or any of their officers in carrying out the provisions of this Act, including all debts and demands against the Commissioners, and all moneys payable by way of compensation shall be paid out of the Harbour Trust Fund. Expenses, &c., to be paid out of Harbour Trust Fund.

(ii) In case any action, suit, or other proceeding shall be brought or prosecuted against the Commissioners, or against any secretary, clerk, treasurer, officer, agent, engineer, contractor, or servant acting under the authority of the Commissioners by any party claiming any debt or demand, or so aggrieved as aforesaid, the debt or demand or damages or compensation and all costs and expenses recovered in such action, suit, or proceeding by any person so claiming or aggrieved as aforesaid shall be charged upon the Harbour Trust Fund, and the said fund shall be applicable and applied in payment or satisfaction thereof, under the order or direction of the court or other authority in or before which such action, suit, or other proceeding shall be brought or prosecuted, and by which court or authority, judgment, order, or decree therein shall have been given or made; and all such charges shall rank as to right or priority in payment or satisfaction according to the order of time in which notice thereof in writing, with a copy of the judgment, order, or decree, shall be delivered to the secretary of the Commissioners. Judgments, orders, and decrees in actions, suits, or other proceedings to be satisfied out of Harbour Trust Fund. And to rank in priority as notified to the secretary.

87. It shall be lawful for the Commissioners, in any case where they shall see fit so to do, to order and allow the reasonable expenses of witnesses, and of or attending the production of any books, maps, plans, agreements, accounts, documents, or writings, or copies thereof, to or before the Commissioners, and such expenses shall be considered as part of the incidental expenses attending the execution of this Act, and be paid accordingly. Expenses of witnesses to be allowed.

88. The accounts of all moneys received and disbursed by the Commissioners shall be audited once at least in every year by the Auditor-General, who shall have in respect to such accounts all the powers conferred on him by any law now or hereafter to be in force relating to the audit of the public accounts; and the Commissioners shall once at least in every year furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of the moneys received by the Commissioners, and of the expenditure thereof; and copies of such accounts and of such statement shall be laid before both Houses of Parliament, if then sitting, or at the next ensuing Session thereof if not then sitting. Accounts to be furnished.

89. For the first five years from and after the date of this Act coming into force, the Wollongong Harbour Trust shall be entitled to receive from the Consolidated Revenue Fund the sum of five thousand pounds sterling every year, by way of endowment, for the term of five years, payable at the rate of twelve hundred and fifty pounds sterling quarterly, and every quarter until the full expiration of the five years aforesaid; and on requisition by the Commissioners to the Governor for the time being requesting that any of the said quarterly payments of twelve hundred and fifty pounds sterling may be paid to them for the purposes of enabling them to carry out the objects and intentions of this Act, it shall be lawful for the Governor, by warrant under his hand addressed to the Colonial Treasurer, to direct him to pay from the Consolidated Revenue to the Commissioners any of the quarterly portions of the said endowment, not being more than twelve hundred and fifty pounds sterling in each or any quarter; and the Colonial Treasurer shall from time to time be allowed credit for any sum or sums of money paid by him in pursuance of such warrant or order in writing Endowment to be made by Government.

Wollongong Harbour Trust.

writing as aforesaid, and the receipt of the Treasurer of the Commissioners, or other proper officer acting as Treasurer, under his hand, countersigned by the Chairman of such Commissioners, shall be a sufficient discharge for the Colonial Treasurer.

Commissioners to raise a sum not exceeding Two hundred and fifty thousand pounds for the purposes of this Act.

90. For the purpose of defraying the expenses of carrying this Act into execution it shall be lawful for the Commissioners, subject to the approval of the Governor, from time to time to borrow and take up at interest any sum of money which shall not at any one time exceed the sum of Two hundred and fifty thousand pounds on the credit of the tolls, rates, charges, fines, rents, and other profits by this Act given to, vested in, or authorized to be received by the Commissioners, and in the event of all or any part of such moneys being repaid by the Commissioners to re-borrow the same, and so *toties quoties*, but so nevertheless that there shall not be owing under the authority of this Act any more than the said sum of Two hundred and fifty thousand pounds in the whole at any one time; and for securing the repayment of the moneys so to be borrowed with interest the Commissioners may assign over the said tolls, rates, charges, fines, rents, and other profits or any of them or any part thereof respectively to the person who shall lend and advance such money, or his trustees, as a security for the repayment of the money so to be borrowed together with interest for the same.

Receiver.

91. (I) In default of payment of any principal money or interest secured by an assignment of the whole or any portion of the tolls, rates, charges, fines, rents, and other profits, the Chief Judge in Equity may on petition of the person who shall have lent or advanced such principal money, or of his trustees, from time to time appoint and remove some person or persons to be a receiver of the whole or portion of the tolls, rates, charges, fines, rents, and other profits so assigned.

(II) Every such receiver shall be deemed an officer of the Supreme Court and shall act under the direction of the said Chief Judge, and shall be entitled to receive the whole or any portion of such tolls, rates, charges, fines, rents, and other profits so assigned, and to be paid such commission as and by way of remuneration as the said Judge may appoint.

(III) Such receiver shall hold all such moneys received by him after payment of costs and expenses and of his commission, for the benefit of the person who shall have lent or advanced such principal moneys, or his trustees.

Form of debenture. Second Schedule.

92. Any moneys borrowed under this Act may be borrowed in the form of inscribed stock or by the issue of debentures, and such debentures shall be in the form or to the effect set forth in the Second Schedule to this Act, and shall be sealed with the common seal of the Commissioners, and be numbered in arithmetical progression beginning with the number one; and all such debentures, with the interest coupons annexed thereto, and every interest coupon after being detached from such debenture shall pass by delivery only without any assignment or endorsement, and the bearer of every such debenture or detached interest coupon shall have the same rights and remedies as if he were expressly named therein, but no interest shall be payable in respect of any such debenture except to the holder of the coupon representing the interest claimed and upon delivery of the same—

Debentures may be made payable in London or in Sydney.

Evidence of authority for borrowing.

- (I) The principal and interest secured by any debenture issued under this Act may be made payable in London or in Sydney, at the discretion of the Commissioners.
- (II) A certificate under the hands of any two of the Commissioners and the secretary endorsed on any debenture issued by the Commissioners of the principal sum thereby secured, being

Wollongong Harbour Trust.

being part of the amount which the Commissioners at the date of such certificate may legally borrow, shall be conclusive evidence of the due incorporation of the Commissioners, and of the authority of such Commissioners to borrow and to issue such debenture.

- (III) In default of payment of the principal money or interest due in respect of any debenture, the holder thereof may apply to the Chief Judge in Equity for the appointment of a receiver, and a receiver may be appointed by the said Judge with the same powers and in the same manner as though such default were a default in payment of any principal money or interest due by the Commissioners, and secured by an assignment of tolls, rates, charges, fines and rents, under section ninety-two of this Act.
- (IV) No claim of any holder of debentures issued under this Act shall attach to or be paid out of the public revenues of New South Wales or by the Government thereof.

Loans.

93. The treasurer of the Commissioners, or some other person appointed by them for the purpose, shall keep a register of debentures, and within ninety days after the date of any debenture shall make or cause to be made an entry in the register specifying the number, date, and amount of the debenture, and the register may be inspected at all reasonable times by any person, on payment of one shilling for each inspection.

94. In addition to the moneys which the Commissioners are by any Act now or hereafter to be in force authorized to borrow, they shall have power from time to time to accept and take from any bank any advances by way of overdraft of the current accounts kept by the Commissioners with any bank or banks, but so that the principal moneys owing on overdraft do not at any time exceed the sum of twenty-five thousand pounds.

95. The Commissioners may, for the purpose of forming a sinking fund to pay off the principal sums borrowed under the authority of this Act, and from such time as the Commissioners may determine, appropriate and set apart annually such part of the surplus revenues as the Commissioners, after defraying or providing for the ordinary expenditure and the interest on money owing on the security of the revenues may think fit, and shall from time to time cause the sums so set apart and appropriated to be invested in such securities as trustees are by law for the time being authorized to invest in or in debentures issued under this Act, and to be increased by accumulation until the sinking fund is of sufficient amount to repay the said principal sums or some part thereof which the Commissioners may think ought to be paid off.

PART VI.*Regulations.*

96. The Commissioners may make regulations for or relating to all or any of the following subjects:—

- (1) The compilation of the rolls of persons entitled to vote as owner of a ship registered at Sydney or any other port in the Colony and trading to Wollongong, and rolls of merchants and

Wollongong Harbour Trust.

and traders, which rolls shall be compiled in the month of December of every year, and the revision of such rolls by a Police Magistrate or any two Justices sitting in a Court of Petty Sessions at Wollongong; such rolls, when certified to by any Police Magistrate or any two Justices as being a correct compilation of the names of owners of ships, and of the names of merchants and traders entitled to vote as herein provided, shall supersede the rolls then in force and become the rolls for the ensuing year.

- (II) The management and conduct of all elections of Commissioners.
- (III) The appointment of the place and hour of meetings of Commissioners and the management and conduct of business thereat.
- (IV) The control, supervision, and guidance of all officers and property appointed by or vested in or belonging to the Commissioners, and the time and mode of accounting by officers of all moneys coming to their hands.
- (V) The security and facility of the navigation of the port.
- (VI) The mode of leasing and licensing under this Act.
- (VII) The construction of wharves, docks, piers, jetties, or embankments, and of sheds thereon; of canals, landing-stages, slips, platforms, tramways, or hoisting cranes, shears, or engines.
- (VIII) The dredging, cleansing, and scouring the rivers within the port, and the improving the bed or channel thereof, and abating and removing wrecks, impediments, obstructions, and nuisances in the port, and the navigation thereof, and the shortening any bend, or removal of any angle in the course of the rivers.
- (IX) The management and mode of making contracts, and the conduct of same.
- (X) The supply of, and all matters relating to, ballast water for shipping, and the use of steam hoists on wharves or jetties.
- (XI) The improvement and management of the port.
- (XII) The imposing, levying, and receiving of all tolls, rates, or charges.
- (XIII) The regulation and government of boats.
- (XIV) The anchoring, mooring, riding, and fastening of vessels, and the stiffening, removal, and control of such vessels, whether under way, at anchor, at a wharf, pier, jetty, or landing place, afloat, or aground, hove down, or hauled up, or in dock within the port.
- (XV) The regulation and control of the use of lights and fire on board any vessel within the port.
- (XVI) The manner of boiling or melting pitch, tar, resin, turpentine, or any inflammable substance.
- (XVII) The appointment of the place or places for the lading merchant vessels with gunpowder, gun-cotton, dynamite, or any substance used for blasting or exploding purposes, and the unlading thereof, the licensing of powder vessels, and the transport of such gunpowder, gun-cotton, dynamite, and other substance.
- (XVIII) The mode of inquiry into any charges brought by or against any person subject to the Harbour Trust Commissioners.
- (XIX) The working of coaches, cabs, drays, carriages, and other vehicles, and the conduct and behaviour of porters, carters, draymen, coachmen, ferrymen, and others resorting to the rivers,

Wollongong Harbour Trust.

- rivers, piers, wharves, docks, jetties, landing-stages, canals, or other works within the port, and for prohibiting persons from acting as porters, carters, draymen, and cabmen within the port without previously obtaining a license to that effect.
- (xx) The licensing of steam tug boats, steam ferries, ferries, boatmen, ferry boatmen and others, and the sufficiency of the vessels and boats employed within the port.
- (xxi) The licensing of watermen and boatmen plying within the port, and the sufficiency of the boats used by them.
- (xxii) The communication between wharfs, docks, piers, jetties, landing-stages or platforms and vessels by means of gangways or otherwise.
- (xxiii) The imposing of penalties for any breach of any regulations by this Act authorized to be made, not exceeding for any offence the sum of twenty pounds nor less than one pound, except in those cases where this Act imposes a special penalty in respect of any such offence.
- (xxiv) The erection of baths and bath-houses;—making excavations for salt-water baths, and any fence or enclosure necessary for the protection or privacy of the same.
- (xxv) Any other purpose relating to the convenience of shipping or of the public, or for any local enterprise or object which the Governor may approve.

And generally for duly administering and carrying out the powers vested in the Commissioners by this Act. Any breach of such regulations, for which no specific penalty shall be therein provided, shall be punishable by a fine not exceeding twenty pounds, and no penalty for breach of any such regulation shall be for a sum exceeding twenty pounds or be punishable by imprisonment unless in default of payment, and any penalty in respect of the breach of any such regulation may be recovered as a penalty imposed by this Act.

Breaches of regulations punishable by fine.

97. No regulations to be made under this Act shall have any force or effect until approved by the Governor and published in the *Gazette*.

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

PART VII.

Miscellaneous.

98. Nothing contained in this Act shall be construed to repeal any provision of any Act now or hereafter to be passed relative to any Government or other railways, to affect the rights, powers, privileges, and obligations conferred or imposed by any such Act; or to repeal or affect any provisions of the "Navigation Act of 1871" or of any Act amending the same, save and except where the express provisions of this Act are inconsistent therewith.

Act not to repeal Railway or Navigation Acts.

99. Nothing contained in this Act shall extend to prejudice, diminish, alter, or take away any rights or powers of the Municipality of Wollongong or of any municipality existing at the time of the passing of this Act with reference to the construction and maintenance of sewers, and any other works for the sewerage, drainage, or improvement thereof.

Saving rights for sewerage, &c.

100. (1) The owner of every vessel shall be, and he is hereby made, liable for all trespasses, damages, spoil, or mischief that shall be done by such vessel or by any of the boatmen or other persons belonging to or employed in or about the same by any means whatsoever to any of the property or effects of the Commissioners or the banks or other

Owners accountable for damage done by boatmen to works or property of the Commissioners.

Wollongong Harbour Trust.

other works erected, maintained, or repaired under the provisions of this Act; and the owner of every such vessel shall for every such trespass, damage, spoil, or mischief so committed as aforesaid, upon conviction of the person so committing the same before any Justice, on the oath of any credible witness, or on the confession of the party offending, pay to the secretary of the Commissioners such damages and compensation as shall be ascertained, fixed, and determined by such Justice, together with all costs, charges, and expenses attending such conviction, provided that such damages and compensation shall not exceed the sum of twenty pounds besides the costs of such conviction; and in case such damages or compensation and costs shall not be paid on demand the same shall be recoverable in the same manner as any penalty is by this Act directed to be recovered, but in case such damage shall exceed the sum of twenty pounds the said owner may be sued by the Commissioners for such damages or compensation.

Boatmen to be answerable to their masters for all such damages and costs.

(II) Every such boatman or other person so offending shall be liable for, and shall repay all such damages and compensation as shall be so ascertained, fixed, and determined, and recovered as aforesaid, with all the costs of levying and recovering thereof to his master or such owner; and in case of non-payment thereof on demand on oath made by such master or owner of the payment made by him of such damages, compensation, and costs, and that the same have been demanded of such boatman or other person respectively, but that the same have not been repaid (such oath to be made before any Justice), the amount thereof shall be recovered in like manner as any penalty is hereby directed to be levied and recovered by warrant under the hand and seal of such Justice.

Inquiry into complaints.

101. In case any person complains of the operation of any regulation of the Commissioners, or of any determination or proceeding of the Commissioners, or of the conduct of any of their officers, he shall, on an application in writing to the Commissioners stating the substance of his complaint, be entitled to have his complaint publicly or privately, as he may desire, inquired into and decided on in manner following, namely:—

- (I) On receipt of such application the Commissioners shall depute one or more, not exceeding three, of their body to inquire into the complaint.
- (II) A suitable room shall be provided by the Commissioners, to which the complainant, his agent or attorney, and witnesses, and all other persons interested or desirous of attending shall have free access.
- (III) The Commissioner or Commissioners so deputed shall receive the statement of the complainant or his agent or attorney, and the counter statement of any person concerned or his agent or attorney, and shall hear any arguments offered and any evidence adduced in support of such statement or counter statement, and he or they or one of them shall write or cause to be written the substance of such statement, counter statement, and evidence, and he or they shall report the same and his or their opinion thereon for the information of the Commissioners.
- (IV) The Commissioners shall consider the report and shall decide on the complaint, and their decision shall be delivered in public either on the same day or on a subsequent day appointed for the purpose.
- (V) Notwithstanding anything in this Act, any person not requiring a public inquiry, but desirous of stating any complaint personally to the Commissioners, shall be at liberty to do so on attending at the offices of the Commissioners, having made application for the purpose.

(VI)

Wollongong Harbour Trust.

(vi) The Commissioners may from time to time by regulation regulate, subject to the provisions of this Act, the proceedings on any such public or private inquiry.

102. Every person who shall unload, put, or throw into any part of the port, or on any shore or ground below high-water mark, any rubbish, earth, ashes, dirt, mud, soil, or other matter, or allow any offensive matter to flow into the port, shall forfeit for every such offence any sum not exceeding twenty pounds.

Penalty on throwing ballast out of vessels into the port.

103. If any person shall pull down or injure any board put up or required by this Act for the purpose of publishing any regulation notice or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for such publications.

104. If through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and the amount of such damages in case of dispute shall be determined by the Justices by whom the party incurring such penalty shall have been convicted; and on non-payment of such damages on demand the same may be levied by distress, and any Justice may issue his warrant accordingly.

Damages to be made good in addition to penalty.

105. The Commissioners shall publish the short particulars of the several offences for which any penalty is imposed by this Act or by any regulation of the Commissioners affecting other persons than the officers or servants of the Commissioners, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, and shall cause such board to be hung up or affixed in some conspicuous place in the office of the Commissioners.

Publication of penalties.

106. (i) All penalties and other sums of money by this Act made payable or recoverable, may be recovered with costs, and all offences by this Act made punishable may, unless declared to be misdemeanours, be prosecuted and punished, and the costs of such prosecution recovered, at the suit of any person, by summary proceeding before two or more Justices.

Mode of enforcing penalties.

(ii) Whenever any penalty shall have been imposed by any Justices, under the provisions of this Act, and the person convicted shall not forthwith pay the same into the hands of the convicting Justices, such Justices may direct that such penalty be recovered by distress and sale of the goods and chattels of such person, and in default of a sufficient distress, or in the discretion of such Justices, without making any order or issuing any warrant for such distress, they may direct that such person be imprisoned in any gaol in New South Wales, with or without hard labour, for any period not exceeding one month if the penalty shall not exceed five pounds, for a period not exceeding three months if the penalty be above five pounds and not exceeding fifteen pounds, and for a period not exceeding six months if the penalty be above fifteen pounds; and such person shall be detained and kept to labour accordingly, unless he shall sooner pay the penalty and costs.

By distress and imprisonment.

107. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two Justices, and if the amount so ascertained be not paid by the Commissioners or other party liable to pay the same within seven days after demand, the

Provision for damages not otherwise provided for.

amount

Wollongong Harbour Trust.

amount may be recovered by distress of the goods of the Commissioners or other party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them, on application, shall issue their or his warrant accordingly.

Method of proceeding before Justices in questions of damages.

108. Where in this Act any question of compensation, expenses, charges, or damages is referred to the determination of any one Justice or more, it shall be lawful for any Justice, upon the application of either party to summon the other party to appear before one Justice or before two Justices (as the case may require) at a time or place to be named in such summons, and upon the appearance of such parties, or in the absence of them upon proof of due service of the summons, it shall be lawful for such one Justice or two such Justices (as the case may be) to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such Justices, and they shall determine the amount thereof.

Jurisdiction to be where the offence is committed, and wherever offender is.

109. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Burden of proof that a vessel is exempted.

110. If in any legal proceeding under this Act any question arises whether any vessel is or is not within the provisions of this Act, or of some particular part thereof, such vessel shall be taken to be within such provisions unless proof to the contrary is adduced.

How proceedings to be taken.

111. It shall be lawful for the Commissioners to sue and take any proceedings against any person who shall steal, take, or carry away, wilfully deface, or injure any property, article, or thing belonging to the Commissioners, and in every such case it shall be sufficient to state generally the property, article, or thing in respect of which such proceedings shall have been taken to be the property of the Commissioners by their corporate name.

Service of notice on Commissioners.

112. Any summons, notice, writ, or other proceeding at law or in equity required to be served upon the Commissioners, may lawfully be served by delivering the same personally to the secretary, or by leaving the same at the office of the Commissioners.

Service to be good if made personally, or at abode, or on board of ship, &c.

113. Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served, or if made at his last known place of abode or business, or if made on board any ship to which he belongs, and accompanied with a statement of the purport thereof to the person in command or appearing to be in command or charge of such ship.

Authentication of notices, &c.

114. Every summons, demand, or notice, or other like document given under the provisions of this Act may be in writing or in print, or partly in writing and partly in print, and shall be sufficiently authenticated if signed by the secretary or by any one Commissioner, and need not be sealed with the common seal of the Commissioners.

Transient offenders.

115. It shall be lawful for any officer or agent of the Commissioners, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act or any regulation made in pursuance thereof, and whose name and residence shall be unknown to such officer or agent, and convey him with all convenient despatch before some Justice, without any warrant or other authority than this Act, and such Justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Power to contract with municipalities as to streets and roads.

116. The Commissioners of the one part, and the council of the Municipality of Wollongong, or the council of any municipality whose district adjoins the port, of the other part, may from time to time, for the

Wollongong Harbour Trust.

the purpose of providing convenient ways to and from any of the lands, wharves, docks, piers, jetties, landing-stages, slips, platforms, depôts or sheds of the Commissioners, enter into and perform such contract as they may deem fit with respect to constructing, repairing or maintaining any street, road, bridge, or approach, or any part of any street, road, bridge, or approach, within the limits of the said borough or municipal district as the case may be, either by apportioning the work to be done, or by sharing the expenses thereof, or otherwise in the absolute discretion of the contracting parties.

117. The Governor may from time to time, upon the request of the Commissioners and of the council of any municipality mentioned in this Act, declare by notice in the *Gazette* any land vested in the Commissioners to be a public highway under the management and control of that council, and such highway shall be treated in all respects as if it were within the municipal district of that municipality and dedicated to the public.

The Governor with consent of Commissioners may proclaim highways.

118. Any contract of the Commissioners which is required by this Act or any other Act or law whatsoever to be in writing may be in writing or in print, or partly in writing and partly in print.

Contracts may be in print as well as in writing.

119. Whenever any day appointed for any purpose by this Act or the regulations of the Commissioners happens to be a Sunday or a bank holiday throughout New South Wales, then the next following day which is not a Sunday or a bank holiday throughout New South Wales shall be treated as the day appointed for the purpose.

Provision for case of any day appointed falling on a Sunday or holiday.

120. The production of a copy of the *Gazette* containing what purports to be regulations of the Commissioners approved of by the Governor-in-Council shall be received in all legal proceedings as evidence of the regulations of the Commissioners, and the term "regulations" is to be understood to include the alteration or repeal of any regulations.

Gazette to be evidence of regulations.

121. All penalties recovered for offences against this Act or against any regulation made under this Act shall be paid into the Harbour Trust Fund, and the proceeds of such penalties are hereby appropriated for the purposes of this Act.

Application of penalties.

SCHEDULES.

FIRST SCHEDULE.

County of Camden, parish of Wollongong: Commencing on the shore of the Pacific Ocean, at the eastern extremity of the southernmost boundary of Stuart Park, proclaimed twenty-ninth September, one thousand eight hundred and eighty-five; and bounded thence by that boundary and its prolongation westerly to the eastern boundary of C. T. Smith's three hundred acres, now subdivided; thence by that boundary south-easterly to the northernmost corner of the land appropriated for Gaol, Customs, and Police; thence by the north-eastern boundary of that land south-easterly to the intersection of the north-easterly prolongation of a line along the south-eastern wall of the gaol; thence by that line and its prolongation south-easterly to a north-eastern boundary of C. T. Smith's three hundred acres aforesaid; thence by part of that boundary and an eastern boundary of that land south-easterly and southerly to the intersection of the eastern prolongation of the northern side of Crown-street, town of Wollongong; thence by a line south to the intersection of the eastern prolongation of the southern side of Crown-street aforesaid; thence by a line partly forming part of the southern side of that street west to the eastern side of Harbor-street; thence by part of that side of that street south to the northern side of Burrelli-street; thence by part of that side of that street east to a point north of the north-east corner of John Reilly's two roods; thence by a line partly forming the eastern boundary of that land and the eastern boundary, W. Roemer's two roods south to the southern side of Stewart-street; thence by part of that side of that street west to the eastern side of Harbor-street aforesaid; thence by part of that side of that street south to the southern side of Swan-street; thence by part of that side of that street west to the eastern side of Church-street; thence by part of that side of that street

street

Mining.

- street south to a point east of the south-east corner of section thirty-seven; thence by a line partly forming the southern boundary of that section and the southern boundary of the general cemetery west to the eastern boundary of John Drummond's two hundred and eighty acres; thence by part of that boundary south to the northern boundary of Frederick Jones' one hundred acres; thence by part of that boundary east to the western shore of Tom Thumb's Lagoon; thence by that shore southerly and easterly to the shore of the Pacific Ocean aforesaid, and by that shore generally northerly to the point of commencement. But exclusive of the Wesleyan, Presbyterian, and Independent Cemeteries, the Racecourse, Agricultural Show-ground, and the land known as the Permanent Common.

SECOND SCHEDULE.

THE WOLLONGONG HARBOUR TRUST COMMISSIONERS.

No. TRANSFERABLE BY DELIVERY. £100.

(Under the authority of the "Wollongong Harbour Trust Act, 1889.")

This debenture entitles the bearer to the sum of hundred pounds on the day of with interest thereon in the meantime at the rate of per centum per annum, payable half-yearly on day of and the day of in every year, as per coupons annexed, which principal sum and interest are charged and secured upon tolls, rates, charges, fines, rents, and other profits given to, vested in, or authorized to be received by "The Wollongong Harbour Trust Commissioners," under the authority of the "Wollongong Harbour Trust Act." And, such principal sum and interest are payable at the bankers, for the time being, of the Commissioners in the city of Sydney, or [*as the case may be*] in the city of London.

Given under the common seal of the Commissioners, at the town of Wollongong aforesaid, this day of

(L.S.)

} Commissioners.
Secretary.
Treasurer.