

No. XVII.

NAVIGABLE WATERS PROTECTION. An Act for the better protection of Navigable Waters. [20th January, 1862.]

Preamble. **W**HEREAS it is expedient to make better provision for the protection of Navigable Waters Be it therefore 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 :—

Repeal of enactments.

1. The second third and fourth sections of the Act third William the Fourth number six are hereby repealed.

Interpretation.

2. The following terms in inverted commas shall for the purposes of this Act bear the meanings set against them respectively—

“ Navigable Waters ”—Any port harbour haven roadstead channel or navigable river or creek within the Colony.

“ Vessel ”—Any ship boat barge craft or other vessel of whatsoever description and howsoever propelled.

“ Master ”—The master commander or other person for the time being in command of any vessel.

“ Ballast ”—Any ballast rubbish gravel earth stone wreck filth or other refuse matter whatsoever.

“ Discharge ”—Discharge unlade land throw out or deposit.

“ Public Place ”—Any public pier quay or place for landing goods or passengers and any place on which the laying of ballast shall be prohibited.

Navigable Waters Protection.

3. The master of any vessel riding or being in any navigable waters from which any ballast shall be discharged except upon land where the tide or water never flows or runs or except upon places already duly authorized by Government or to be authorized in manner hereinafter enacted as places where ballast may be discharged shall be liable for every first such offence to a penalty not exceeding ten pounds and for every second such offence to a penalty not less than ten pounds nor exceeding fifty pounds and for every subsequent such offence to a penalty not less than fifty pounds nor exceeding one hundred pounds.

Ballast to be discharged only on dry land or authorized place.

Penalty.

4. If from any vessel in any navigable waters any ballast shall be discharged upon any public place and shall not within twenty-four hours thereafter be removed to some place already duly authorized or to be authorized as aforesaid the master of such vessel shall be liable for every such offence to a penalty not less than five pounds nor exceeding twenty pounds.

And not on public place.

Penalty.

5. If in taking ballast into any vessel or in discharging ballast from any vessel into any other vessel there shall not be used such a tarpaulin so stretched and spread or such other contrivance as effectually to prevent such ballast or any part thereof from falling into any navigable waters the master of both such vessels shall for every such offence be liable to a penalty not less than twenty pounds nor exceeding fifty pounds.

Tarpaulin to be used in changing from vessel to vessel.

Penalty.

6. The Governor with the advice of the Executive Council may by Proclamation authorize certain places on the banks of or in any navigable waters to be places where ballast may be discharged or prohibit the laying of ballast on certain other places. And upon such Proclamation being published in the *Gazette* such places respectively shall become and be places where ballast may be discharged or where the laying of ballast shall be held to be prohibited under this Act. Provided that all such places respectively shall be accurately described in such Proclamation and that notice of the contents and date of such Proclamation legibly printed shall be stuck up as near to such places respectively as may be practicable.

Places may be authorized for discharging ballast.

7. Any person who shall drive piles or construct or erect any wharf jetty wall or other erection or in any manner whatsoever reclaim or attempt to reclaim any land beyond or below the high-water mark of any navigable waters unless expressly authorized according to the law in that behalf shall be liable for every such offence to a penalty not exceeding twenty pounds and to a further penalty of five pounds for every day during which any such work as aforesaid whether completed or incomplete shall remain unremoved after notice in writing under the hand of the Minister for Public Works to remove the same shall have been served upon such person either personally or by leaving such notice at or transmitting the same by post to his last known place of abode or business. Provided that if not removed within twenty-one days after such service the said Minister may cause such work to be removed and may recover at law from such person in any Court of competent jurisdiction the whole charges and expenses thereby incurred together with costs.

Unauthorized works on navigable waters prohibited.

Penalty.

8. The Governor with the advice aforesaid may authorize the driving of piles and the construction or erection of any wharf jetty wall or other erection or work or the reclaiming in any manner of any land beyond or below the high-water mark of any navigable waters for any purpose connected with the convenience of the public or the improved navigation of such waters and the said Minister for Public Works may cause such works to be executed by such persons

Authorized works on navigable waters.

and

Appropriation (1861-2).

and in such manner as he shall think fit out of any moneys at his disposal applicable to such or to like public works.

Recovery and application of penalties.

9. All penalties under this Act may be recovered summarily before any two Justices of the Peace And one moiety thereof respectively shall be paid to the informer and the other moiety shall be paid to the Colonial Treasurer and be by him carried to the Consolidated Revenue Fund of the Colony.

Short title.

10. This Act shall be styled and may be cited as the "Navigable Waters Protection Act of 1862."
