No. 814.

An Act to amend the "Marine Board and Navigation Act, 1881," and for other purposes.

[Reserved, November 13th, 1902.]

Be it Enacted by the Governor, with the advice and consent of the Parliament of South Australia, as follows:

PART I.

PRELIMINARY.

1. This Act may be cited as "The Marine Board and Navigation Act Amendment Act, 1902," and, except so far as inconsistent therewith, shall be incorporated and read as one with the "Marine Board and Navigation Act, 1881," and all Acts amending the same, and shall be divided into Parts and Divisions as follows:

PART I.—Preliminary:

PART II.—Powers to Lease:

DIVISION I.—Extension of Powers:

DIVISION II.—The Semaphore Baths.

PART III.—Pilots and Pilotage.

PART IV.—Miscellaneous Provisions.

2. This Act shall not come into operation until His Majesty's pleasure thereon has been publicly signified in the State, but after the signification of such pleasure the Governor may, by Proclamation in the Government Gazette, appoint a day on and after which this Act shall come into force.

3. The
3. The enactment mentioned in the Schedule hereto is hereby repealed and amended to the extent mentioned in such Schedule.

4. Nothing in this Act shall affect—

(a) The past operation of any enactment, nor anything done or suffered under any such enactment:

(b) The operation of any proclamations, rules, or regulations made under the principal Act:

(c) The validity or effect of any orders, appointments, certificates, or documents made or issued under the said Act:

(d) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment:

(e) Any penalty, forfeiture, or punishment incurred in respect of any offence committed under any enactment:

(f) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid:

Any such investigation, legal proceeding, or remedy may be instituted, carried on, and prosecuted as if this Act had not been passed.

5. In this Act, unless the context or subject matter otherwise indicates or requires—

"Principal Act" shall mean as well the "Marine Board and Navigation Act, 1881," as all Acts amending the same:

"British Possession" means any part of His Majesty's dominions exclusive of the United Kingdom; and where parts of such dominion are under both a central and a local legislature all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession:

"Merchant Shipping Act" means the Imperial Act, the Merchant Shipping Act, 1894, and any Act amending the same or in substitution therefor:

"Commissioner" means the Commissioner of Public Works.

PART II.

POWERS TO LEASE.

DIVISION I.—EXTENSION OF POWERS.

6. The Board, with the consent of the Commissioner, may grant a lease or leases for any period not exceeding five years of convenient portions of the sea beach and of the land overflowed by the sea, together with the approaches thereto, situate within the jurisdiction of and vested in the Board, for the purpose
pose of appropriating and maintaining the same as and for public bathing places, and subject to such terms and conditions, and with such powers as to the erection of fences, bathing-boxes, and refreshment rooms, and for other incidental purposes, on any such beach so to be leased; and as to the formation of a harbor for boats; and as to the admission or refusal of admission to such portion of the sea beach when so leased as aforesaid, as to the said Board, with such consent as aforesaid, may seem fit, and to insert in any such lease any clauses, powers, provisos, or limitations that may be considered necessary.

7. The Board, with the consent of the Commissioner, may let any public wharf, jetty, pier, quay, or landing-place, or any portion thereof, situate within the jurisdiction of the Board, for any term not exceeding five years, either by public auction or by public tender, subject to such annual rental and other conditions and reservations as the Governor may prescribe, whether by general regulation or otherwise, and subject to any regulations which may be prescribed.

8. The Board, with the consent of the Commissioner, may issue to proprietors of steam ferryboats annual or other licences, in such manner as may be deemed advisable, to use any such public wharf, jetty, pier, quay, or landing-place, or portion thereof, for any period to be stated in such licence.

9. All such licences shall be revocable by three months' notice from the Board.

**Division II.—The Semaphore Baths.**

10. Doubts having heretofore arisen as to the legality of a certain indenture, dated the fourteenth day of March, one thousand eight hundred and eighty-nine, made between the Marine Board of South Australia of the one part, and the Semaphore Baths Company, Limited, of the other part, deposited in the General Registry Office, No. 63 of 1902, whereby the said Company were granted power, upon the terms and subject to the covenants, conditions, and agreements therein contained, to erect swimming baths on the land therein described, and subsequently occupied by the said Company, the said indenture is hereby confirmed, and shall be valid and effectual for all purposes as if the Marine Board at the date thereof had full power and authority to grant the same.

11. The said indenture shall hereafter have the same force and effect, and be valid and effectual for all purposes, as if it were a lease granted under the powers and provisions of this enactment, and as if the Marine Board at the date thereof had full power and authority to make and enter into the covenants, conditions, and agreements therein contained.

12. The
12. The said Company, its successors or assigns, may from time time, with the consent of the Commissioner, assign and transfer their respective rights and interests under the said indenture.

PART III.

PILOTS AND PILOTAGE.

13. From and after the passing of this Act all licences issued under the principal Act to pilots for Port Adelaide shall cease and determine.

14. The Board shall, subject to the approval of the Commissioner, and notwithstanding the provisions of the principal Act, grant, within the jurisdiction, licences to qualified persons as pilots and apprentices, and fix the terms and conditions of such licences and certificates.

15. Licences to pilots shall be issued for the Port of Adelaide to such persons only as the Governor may approve to employ, and each person to whom a licence is so granted shall act solely on behalf of the Government of the State, and the salary or reward of each person so licensed shall be annually voted by Parliament.

16. The pilotage rates payable upon every, ship on her arrival at or her departure from, any port shall not be less than Two Pounds Ten Shillings.

17. No such rates on the arrival at or departure from any port of any ship shall exceed Twenty Pounds.

18. All such rates and dues authorised by this Act shall be paid by the owner, master, or person in charge of any ship or vessel to the Board, and shall be paid by the Board when received into the Treasury on account of the General Revenue.

19. The rates for pilotage shall be due and payable—

(a) On arrival inwards immediately after the pilot leaves the ship or vessel;

(b) Immediately prior to the ship or vessel leaving the wharf or harbor:

and any owner, master, or person in charge of any such ship or vessel failing to pay to the Board the amount due shall be liable to a penalty of not exceeding Fifty Pounds.

20. Notwithstanding the provisions of the principal Act, pilotage exemption certificates shall be granted to British subjects only, and may be granted or issued only in respect of British ships registered at a port within the Commonwealth of Australia or
or in New Zealand, employed in trading or going between some port within the jurisdiction, and some port within the Commonwealth of Australia, or in New Zealand, or in the South Sea Islands, and in respect of ships engaged in the whaling trade, or in South Africa south of the twenty-sixth degree of south latitude.

21. Any person not being a duly licensed pilot in the employ of the Government who acts as a pilot for any ship of which he is not the master named on the certificate of registry of the ship, or any document having the effect of a certificate of registry of the ship, either entering in or navigating in or leaving Port Adelaide, shall, whether he holds or does not hold a pilotage exemption certificate, be liable to a penalty not exceeding Fifty Pounds.

22. The Governor at any time may, by Proclamation—

(1) Determine and abolish the licences of pilots at any port or place within the jurisdiction of the Board:

(2) Issue licences to pilots to be employed at any such port or place solely by the Government, and at such salaries as may be determined by the Government:

(3) Make any section of the Act applicable to pilots at Port Adelaide applicable to such port or place and to have the same effect as if directly enacted therefor.

23. Nothing contained in this Act shall be held to take away or extend any existing right to damages for negligence by pilots.

PART IV.

MISCELLANEOUS PROVISIONS.

24. (1) Notwithstanding anything contained in section 73 of the principal Act, any agreement with a seaman made under section 52 of the principal Act may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month’s wages, payable to the seaman under the agreement.

(2) Save as authorised by this section, any agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in the State shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman’s wages, and no person shall have any right of action, suit, or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(3) Nothing in this section shall affect any allotment made under the principal Act or any Act heretofore in force amending the same.

25. When
25. When any steamship in respect of which a certificate of survey has been issued by any authority recognised by the Board calls at any port in South Australia after the expiration of the term of such certificate and before the termination of her voyage, then, after an inspection of such steamship, and upon a recommendation made by one or more of the surveyors appointed under the Act, the Board may, if it thinks fit, grant permission for such steamship to clear from such port in continuation of her voyage to her port of destination without detention for survey.

26. When a certificate of survey issued by the Board in respect of any steamship has expired, or is about to expire, then, after an inspection of such steamship and upon a recommendation made by one or more of the surveyors appointed under the Act, the Board may, if it thinks fit, extend the term of such certificate for a period not exceeding one month from the day upon which the certificate of survey expired upon payment of a fee of Two Pounds and Two Shillings for steamships having condensing engines, and of One Pound and One Shilling for steamships having non-condensing engines.

27. Notwithstanding the provisions of section 353 of the principal Act the Board may licence as a magazine any suitable building (not being within any city, or town, or the suburbs thereof, nor within one hundred yards of any building or public road): Provided that such magazine is protected by solidly-constructed earth mounds on such sides of and at such distance from the magazine as may be deemed advisable by the Board, and extending to a height equal to that of the ceilings of the magazine.

28. The provisions of sub-divisions iii. and iv. of section 326 of the principal Act shall extend and apply to every coast trade ship or inter-State ship trading on the river, but shall not extend or apply to any lighter or hulk possessing no independent motive power or means of propelling itself, and in charge of a person duly licensed in that behalf: Provided that such lighter or hulk does not trade beyond the limits of the port for which such licence was granted.

29. If the owner or the master, officer, or person in charge or control of any ship referred to in the provisions of section 326 of the principal Act, or any section amending the same, permits or allows such ship to proceed to sea from or plies or engages in trade in any port or place in the State without being provided as in such section is required he shall incur a penalty of not exceeding One Hundred Pounds.

30. The master, officer, or person in charge or control of every ship, except coast-trade ships, shall, before such ship leaves any port, harbor, or place in the State, obtain from the Board, or other duly authorised officer, a certificate that the requirements of the Act relating
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relating to shipping have, as far as possible and practicable, been complied with in all matters affecting such ship, and in default of obtaining such certificate such master, officer, or person shall be liable to a penalty of not exceeding Fifty Pounds.

31. Notwithstanding anything contained in the principal Act, no master's certificate for sailing vessels under fifty tons gross registered tonnage and trading within restricted limits, heretofore issued under the seal of the Board, shall be deemed to be invalid.

32. In all cases where ships are trading in South Australia, and where seamen are engaged on time agreement, all wages earned shall be paid monthly, on the first day of the month, or within seven days thereafter, or as soon thereafter as the vessel arrives at her home port: Provided the same is within the State: Provided that Sundays and bank holidays shall not count as days within the meaning of this section.

33. Where by the principal Act powers and authorities are conferred and duties are imposed on the Treasurer the same are, subject to the provisions of this Act, and with the exceptions therein mentioned, hereby conferred and imposed on the Commissioner, and where in any part of the said Act the words "the Treasurer" appear the words "the Commissioner" are hereby substituted in lieu and place of the same, and the said Act shall be read and construed as if such words "the Commissioner" were originally inserted therein.

I reserve this Bill for the signification of His Majesty's pleasure.

S. J. WAY, Lieutenant-Governor.
THE SCHEDULE.

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Section</th>
<th>Extent of Repeal and Amendment</th>
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<tbody>
<tr>
<td>The Marine Board and Navigation Act, 1881</td>
<td>3</td>
<td>The words &quot;'The Merchant Shipping Act, 1854,' shall mean&quot; and all words thereafter defining &quot;The Merchant Shipping Act.&quot;</td>
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<td>The same</td>
<td>392</td>
<td>Add immediately after &quot;The Passengers Act, 1855,&quot; the words &quot;18 and 19 Vict., cap. 119.&quot;</td>
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<tr>
<td>Marine Board and Navigation Act Amendment Act, 1894</td>
<td>13</td>
<td>By striking out the words &quot;any ports in&quot; in the fifth and sixth lines, and the word &quot;or&quot; in the sixth line, and inserting in lieu of the said word &quot;or&quot; the word &quot;and.&quot;</td>
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