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CAP. CXXV.

An Act for the Regulation of Dockyard Ports.

[6th *July* 1865.]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited as The Dockyard Ports Regulation Act, 1865.

Interpretation of Terms.

2. In this Act—

The Term "Dockyard Port" means any Port, Harbour, Haven, Roadstead, Sound, Channel, Creek, Bay, or navigable River of the United Kingdom in, on, or near to which Her Majesty now or at any Time hereafter has any Dock, Dockyard, Steam Factory Yard, Victualling Yard, Arsenal, Wharf, or Mooring:

The Term "Vessel" includes Ship, Boat, Lighter, and Craft of every Kind, however propelled:

The Term "Master" applied to a Vessel means the Person having the Command or Charge of the Vessel for the Time being:

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The Term "Justice" and the Term "Magistrate" respectively mean a Justice of the Peace and a Magistrate acting for the Place where the Matter requiring the Cognizance of a Justice or Magistrate arises:

The Term "Sheriff" means the Sheriff Depute of the County or Ward of a County in *Scotland*, and the Steward Depute of the Stewartry in *Scotland* in which the Matter submitted to the Cognizance of the Sheriff arises, and includes the Substitute of a Sheriff or Steward Depute:

The Term "the Admiralty" means the Lord High Admiral of the United Kingdom or the Commissioners for executing the Office of Lord High Admiral.

Power to define Limits.

3. It shall be lawful for Her Majesty in Council, from Time to Time, by Order in Council, to define the Limits of a Dockyard Port for the Purposes of this Act.

Appointment of Queen's Harbour Masters.

4. The Admiralty may from Time to Time appoint for each Dockyard Port a fit Person to superintend the Execution of this Act, and otherwise to protect the Port, to be called the Queen's Harbour Master for the respective Port.

Port Regulations to be made by Orders in Council.

5. In relation to any Dockyard Port it shall be lawful for Her Majesty in Council, from Time to Time, by Order in Council, to make Regulations for all or any of the following Purposes; namely,

To prohibit the mooring or anchoring of Vessels so as to obstruct Navigation into, in, or out of the Port:

To appropriate any Space as a Mooring Place or Anchoring Ground for the exclusive Use of Her Majesty's Vessels, but not so as to authorize any User of such Space in such Manner as to obstruct Navigation into, in, or out of the Port:

To prohibit or restrict the having of Gunpowder and the having or discharging of shotted or loaded Guns on board any Vessel in any specified Part of the Port, and to regulate the loading and unloading of Gunpowder in the Port:

To restrict the Use of Fire and Light, and the having of Tar, Oil, or other combustible Substances on board any Vessel, in any specified Part of the Port:

To prohibit the navigating of Steam Vessels at a greater than a specified Speed in any specified Part of the Port:

To require the Presence of at least One Person at all Hours of the Day and Night on board every Vessel above a specified Size moored, anchored, or placed in any specified Part of the Port:

To prohibit or regulate the breaming of Vessels in any specified Part of the Port:

And for such other Purposes as from Time to Time seem necessary with a view to the proper Protection of Her Majesty's Vessels, Dockyards, or Property, or to the Requirements of Her Majesty's Naval Service.

Penalties in such Orders.

6. Any such Order in Council may impose such reasonable Penalties as seem fit, not exceeding for any Offence Ten Pounds; but any Provision imposing a Penalty shall be so framed that Part only of the Penalty may be ordered to be paid.

Orders in Council to be made as to Lights, Prevention of Collision, &c., with Concurrence of Board of Trade.

7. In relation to any Dockyard Port it shall be lawful for Her Majesty in Council, from Time to Time, by Order in Council, on the joint Recommendation of the Admiralty and the Board of Trade, to make Rules concerning the Lights or Signals to be carried or used, and the Steps for avoiding Collision to be taken by Her Majesty's Vessels and other Vessels navigating the Waters of the Port and of the Approaches thereto; and such Rules shall, with respect to Her Majesty's Vessels and other Vessels navigating those Waters, have the same Effect as if they had been Regulations originally contained in Table (C.) in the Schedule to The Merchant Shipping Act Amendment Act, 1862, or were Regulations duly substituted for the same, and as if such original or substituted Regulations applied to Her Majesty's Vessels as well as to other Vessels.

25 & 26 Vict. c. 63.

As to the printing and Sale of Orders.

8. The Admiralty shall cause printed Copies of every Order in Council under this Act relative to any Dockyard Port to be provided, and to be sold at a reasonable Price, to be fixed by the Admiralty, to all Persons desirous of buying the same.

Publication of Orders.

9. Every Order in Council under this Act shall be published in the *London Gazette*, and shall be made to take effect not sooner than the Expiration of Thirty Days from such Publication; and a Copy of the *London Gazette* containing any such Order shall be conclusive Evidence of the due making and Publication of such Order; and every such Order shall be judicially noticed without being specially pleaded.

Effect of Order.

10. Every Order in Council under this Act shall be binding on all Persons, and shall be sufficient to justify all Persons acting thereunder.

Power for Queen's Harbour Master to

11. If the Master of any Vessel within a Dockyard Port does not moor, anchor, place, unmoor, or remove the same according to Directions given by the Queen's Harbour Master in conformity with any

unmoor Vessels, &c.

any Order in Council under this Act, or if there is no Person on board of any such Vessel to attend to such Directions, the Queen's Harbour Master may cause the Vessel to be moored, anchored, placed, unmoored, or removed in conformity with the Order in Council, and for that Purpose may cast off, loose, or unshackle, and (if need be) sever any Chain or Rope of the Vessel, first putting on board a sufficient Number of Persons for the Protection of the Vessel in case there is not a sufficient Number of Persons on board to protect the same; and all Expenses attending the Exercise of the Powers of the present Section shall be paid by the Master of the Vessel.

Power to search, &c.

12. The Queen's Harbour Master, or any Person having Authority in Writing from the Admiralty in this Behalf, may, with proper Assistants, enter into any Vessel in a Dockyard Port, and there search for Gunpowder, shotted or loaded Guns, Fire, or Light, or combustible Substances had or suspected to be had on board in contravention of any Order in Council under this Act, and may extinguish any such Fire or Light; and if any Person wilfully obstructs the Queen's Harbour Master or other Person in the Execution of the Authority conferred by this Section he shall for each Offence be liable to a Penalty not exceeding Ten Pounds.

Power to remove Wreck, &c.

13. The Queen's Harbour Master may remove any Wreck or other Thing being an Obstruction to the Dockyard Port or to the Approaches thereto, and any floating Timber that impedes the Navigation thereof.

Power to remove unserviceable Vessels.

14. Any Vessel laid by or neglected as unfit for Sea Service shall not be permitted to lie within any Part of a Dockyard Port specified in this Behalf in any Order in Council under this Act; and the Queen's Harbour Master may cause every such Vessel to be removed from the Part of the Port so specified, and to be laid on some Part of the Strand or Sea Shore, or in some other Place where the same may without Injury to any Person be placed.

Recovery of Expenses of Removal of Wreck, &c.

15. The Expenses incurred by the Queen's Harbour Master in the Removal of any such Wreck or other Thing or Timber, or in the Removal or placing of any such Vessel, shall be repaid by the Owner thereof; and the Queen's Harbour Master may detain, and in case of Nonpayment of the Expenses, on Demand, may sell the Wreck or other Thing, Timber or Vessel, and out of the Proceeds of the Sale pay those Expenses and the Expenses of the Sale, rendering the Surplus (if any) to the Owner, on Demand; and any Deficiency may be recovered from the Owner.

16. If

Recovery of Expenses by Owner from Master, &c.

16. If the Owner of any Vessel or Thing is in any Case compelled to pay any Penalty, Expenses, Sum of Money, or Costs, by reason of any Act or Omission of the Master of a Vessel or other Person, he shall be entitled to recover the Amount paid by him, with Costs, from the Person who actually committed the Offence or did the wrongful Act in respect whereof the Owner was compelled to make such Payment.

Summary Proceedings for Penalties, &c.

17. Penalties, Expenses, and Sums of Money made recoverable by this Act, or by any Order in Council under it, may be recovered by summary Proceedings in *England* or in *Ireland* before a Justice, and in *Scotland* before a Sheriff, Justice, or Magistrate.

Application of Penalties.

18. Penalties, Expenses, and Sums of Money recovered as aforesaid, except when recovered by an Owner from a Master or other Person, shall be paid into the Receipt of Her Majesty's Exchequer in such Manner as the Commissioners of Her Majesty's Treasury from Time to Time direct, and shall be carried to and form Part of the Consolidated Fund of the United Kingdom.

Penalties, &c. may be raised by Sale of Vessel.

19. Where any Justice, Sheriff, or Magistrate, by virtue of this Act or any Order in Council under it, makes an Order directing Payment of any Penalty, Expenses, or Sum of Money by the Master or Owner of a Vessel, and Payment is not duly made, the Justice, Sheriff, or Magistrate who made the Order, or any other Justice, Sheriff, or Magistrate having the same Jurisdiction, may (in addition to any Power which he may have for the Purpose of compelling Payment) direct the Amount unpaid to be levied by Distress or Poinding and Sale of the Vessel, her Tackle, Furniture, and Apparel, or of any Part thereof.

Service of Summons.

20. Any Summons or other Document in any Proceeding on this Act or any Order in Council under it may (in addition to any other Mode of Service) be served by being left for the Person to be served on board any Vessel to which he belongs with the Person being or appearing to be in command or charge of the Vessel.

Local Jurisdiction.

21. For the Purpose of giving Jurisdiction, every Offence against this Act or any Order in Council under it shall be deemed to have been committed, and every Cause of Complaint shall be deemed 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 happens to be.

Jurisdiction of Justice of the Peace.

22. Where any District within which any Justice, Sheriff, or Magistrate has Jurisdiction for any Purpose under this or any other

Act, or at Common Law, abuts on the Shore of the Sea or other navigable Water, every such Justice, Sheriff, or Magistrate shall for the Purposes of this Act have Jurisdiction over any Vessel being or passing near the Shore, and over every Person on board thereof or belonging thereto, as if such Vessel or Person was within the ordinary Limits of the Jurisdiction of the Justice, Sheriff, or Magistrate.

Saving for Right of Property, &c.

23. Nothing in this Act shall prejudice, take away, abridge, or alter any Right of Property, Privilege, or Jurisdiction, or any Powers of Conservancy, held, possessed, enjoyed, or exercised by any Body or Person in, to, upon, or over any Part of a Dockyard Port, or of the Shores and Banks thereof.

Limitation of Actions, &c.

24. Any Action or Proceeding shall not lie against any Queen's Harbour Master or other Person acting under the Authority or in the Execution or intended Execution or in pursuance of this Act, or of any Order in Council under it, for any alleged Irregularity or Trespass or other Act or Thing done or omitted by him, unless Notice in Writing (specifying the Cause of the Action or Proceeding) is given by the intending Plaintiff or Prosecutor to the intended Defendant One Month at least before the Commencement of the Action or Proceeding, nor unless the Action or Proceeding is commenced within Six Months next after the Act or Thing complained of is done or omitted, or, in case of a Continuation of Damage, within Six Months next after the doing of such Damage has ceased.

In any such Action the Defendant may plead generally that the Act or Thing complained of was done or omitted by him when acting under the Authority or in the Execution or intended Execution or in pursuance of this Act, or of any such Order in Council (specifying it), and may give all special Matter in Evidence; and the Plaintiff shall not succeed if Tender of sufficient Amends is made by the Defendant before the Commencement of the Action; and in case no Tender is made the Defendant may, by Leave of the Court in which the Action is brought, at any Time pay into Court such Sum of Money as he thinks fit, whereupon such Proceeding and Order shall be had and made in and by the Court as may be had and made on the Payment of Money into Court in an ordinary Action; and if the Plaintiff does not succeed in the Action the Defendant shall receive such full and reasonable Indemnity as to all Costs, Charges, and Expenses incurred in and about the Action as may be taxed and allowed by the proper Officer, subject to Review; and though a Verdict is given for the Plaintiff in the Action he shall not have Costs against the Defendant unless the Judge before whom the Trial is had certifies his Approval of the Action.

25. This

25. This Act shall commence on such Day, not later than the First Day of *January* One thousand eight hundred and sixty-six, as Her Majesty in Council thinks fit to direct; save that any Order in Council may be made before that Day, so as it be not made to take effect before that Day. Commencement of Act.

26. Every Order in Council under this Act shall be laid before both Houses of Parliament within Thirty Days after the making thereof if Parliament is then sitting, and if not then within Thirty Days after the next meeting of Parliament. Orders in Council to be laid before Houses of Parliament.

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