



ANNO SEPTIMO ET OCTAVO

VICTORIÆ REGINÆ

No. 7.—1844.

By His Excellency GEORGE GREY Esquire Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies and Vice-Admiral of the same by and with the advice and consent of the Legislative Council.

AN ORDINANCE to Regulate the Whale Fishery Service in South Australia.

WHEREAS it is necessary to regulate the summary determination of disputes between persons engaged in the Whale Fisheries in South Australia:

Be it therefore Enacted by his Excellency the Governor of South Australia with the advice and consent of the Legislative Council thereof: That the provisions of an Ordinance of the Governor with the advice and consent of the Legislative Council of South Australia passed on the fifteenth day of November one thousand eight hundred and forty-one intituled "An Act for the summary determination of disputes between Masters and Servants" shall apply and extend to all owners and persons fitting out or providing for the Whale Fisheries and all Whalers and persons employed or engaged by them in that service subject to the jurisdictions of the Province: Provided that all the powers and authority which by the aforesaid Act or Ordinance are given to any Resident Magistrate or two Justices may for the purposes of this Ordinance be exercised by one Justice: Provided also that no Justice who is beneficially or as Agent for another interested in the Whale Fisheries shall act or adjudicate in any manner under this Ordinance.

Master and Servants Act to apply to persons engaged in the whale fisheries.

5 Vic. No. 10.

Articles of Agreement
to be deposited with
Magistrates.

II. And be it Enacted That Articles of Agreement between any owner or employer in the Fisheries and the several whalers or persons engaged by him in that service shall be in writing and signed by the parties to be charged therewith and all such Articles entered into after the passing hereof shall be signed only in the presence of some Justice of the Peace being distinctly read over to every party before he shall be required to sign the same and such owner or employer shall within twenty-one days from the passing hereof and on or before the twentieth day of April in every year thereafter or as soon thereafter as may be practicable deposit at the Office of the Resident Magistrate or Commissioner of Police at Adelaide or at the Police Office or Station nearest to the Fishery the original Articles so signed as aforesaid and any Magistrate there sitting shall on payment of the sum of five shillings receive and retain the same in secure custody and permit from time to time on the payment of one shilling for each signature additional signatures to be made thereto and allow inspection thereof to any party paying sixpence and shall on payment of ten shillings and on proof to his satisfaction of the signature of the parties sought to be charged or of the Justice or Justices attesting the same grant to any person interested therein office copies of such Articles certified as true copies under his hand and seal which office copies so certified shall be sufficient evidence of the agreement the same as if the original articles were produced and proved according to Law: And whosoever shall wilfully neglect to deposit such Articles in manner aforesaid shall on conviction forfeit and pay a penalty of not less than Five Pounds nor more than Twenty Pounds.

Names of whalers
engaged to be pub-
lished in *Gazette*.

III. And be it Enacted That every owner or employer as aforesaid desirous to avail himself of the provisions hereof shall within fourteen days from the date of signing any such Articles and in the case of Articles heretofore signed then before the thirty-first day of March next insert a notice in the *Government Gazette* setting forth the name of every whaler or other person engaged by him in the Whaling Service as aforesaid and the capacity in which such person is employed paying to the Printers of the *Government Gazette* a fee of five shillings for the insertion: And no such whaler or person engaged as aforesaid whose name is not published in manner aforesaid shall be bound by any such agreement.

Disputes respecting
services to be deter-
mined by Justices.

IV. And be it Enacted That in case of any dispute arising between different owners or employers respecting their claim to the services of any whaler or other person engaged as aforesaid the Justice before whom any complaint may be brought shall at discretion determine which party is intitled to such services having regard to priority in the time of entering into the engagement.

Penalty on seducing
hired whalers from
service.

V. And be it Enacted That whosoever shall during the continuance of the term of service contracted for by any such Articles knowingly or after fourteen days from the publication of the *Gazette* notice aforesaid employ or retain or assist in employing or retaining

retaining contrary to the true intent and meaning of such Articles any whaler or person who shall have so bound himself to any service still unperformed shall on conviction for every such offence forfeit and pay a penalty of not less than Ten Pounds nor more than Twenty Pounds.

VI. And be it Enacted That every such whaler or person bound under Articles as aforesaid who shall engage or hire himself in the service of any other owner or employer against the consent of his master and contrary to the intent and meaning of his Articles shall on conviction for every such offence be adjudged to forfeit any wages or lays then or thereafter payable or deliverable under the said Articles or any part thereof and in case any such whaler or person so breaking his agreement shall have received any advance against his lays or wages on faith of such agreement such whaler shall on conviction forfeit and pay a sum equal to double such advance and out of the moneys received the amount of such advance shall be paid to the employer or party who disbursed the same and the offender may further be committed to prison for a period not exceeding three calendar months and during that time be kept to hard labor as to the convicting Justice may seem reasonable.

Penalty on whalers under agreement hiring themselves to others.

VII. And be it Enacted That no such agreement shall be valid and binding beyond the period of the then next ensuing whaling season or beyond thirteen months from the date of signing the same.

Agreements valid only for one whaling season.

VIII. Provided always and be it Enacted That nothing herein contained shall prevent any whaler being engaged by his employer to serve as a seaman in accordance with the provisions of an Act of the Imperial Parliament of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth intituled "An Act to amend and consolidate the laws relating to the Merchant Seamen of the United Kingdom and for forming and maintaining a Register of all the men engaged in that Service."

Not to affect the Merchants Seaman Act.
5 & 6 Wm. IV. c. 19.

IX. And be it Enacted That all fines penalties and other sums of money levied or incurred under this Ordinance may be recovered and all proceedings may be had and taken before one Justice and every party aggrieved shall be entitled to appeal in manner and form respectively provided by the Law of the Province for regulating summary proceedings before Justices of the Peace.

Recovery of penalties.

X. Provided always that it shall be lawful for any Court of General Sessions of the Peace holden for the Province or the District within which any order under this Act shall have been made upon appeal to quash confirm or vary any such order either in whole or in part at discretion or to substitute a new order in lieu thereof and for that purpose every order made by any one or more Justices under this Ordinance shall be transmitted by such Justice or Justices under their hands and seals to the Clerk of such Court at any time on demand by either party.

General Sessions may modify orders.

XI. And

Appropriation of
moneys.

XI. And be it Enacted That all fines penalties and sums of money levied under this Ordinance shall except so far as not otherwise expressly mentioned be paid to the Colonial Treasurer on behalf of Her Majesty her heirs and successors for the public uses of the Province and support of the Government thereof.

GEORGE GREY,
Governor and Commander-in-Chief.

*Passed in the Legislative Council, this Twenty-
eighth day of February, 1844.*

W. L. O'HALLORAN,
Clerk of Council.