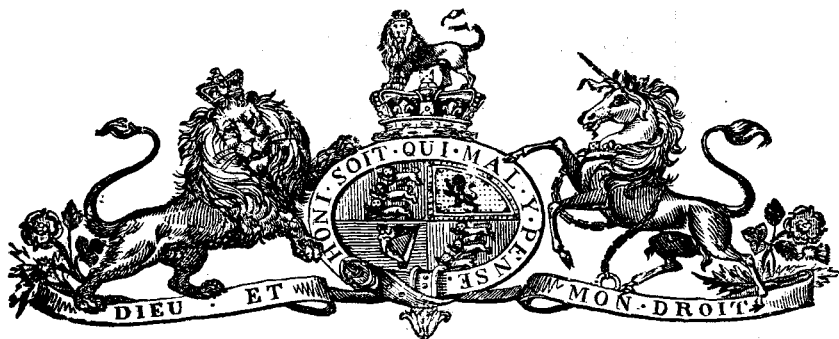


T A S M A N I A.

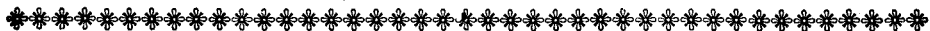


1874.

ANNO TRICESIMO-OCTAVO

VICTORIÆ REGINÆ,

No. 2.



AN ACT to constitute Courts of Enquiry into the Causes of Wrecks. [18 September, 1874.] A.D. 1874.

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 This Act may be cited as "The Enquiry into Wrecks Act, 1874." Short title.
- 2 This Act shall come into operation on the First day of *October*, One thousand eight hundred and seventy-four. Commencement of Act.
- 3 In this Act— Interpretation.
 - "Police Magistrate" includes a Stipendiary Magistrate :
 - "Magistrate" includes Police and Stipendiary Magistrates :
- 4 In any of the cases following, that is to say,— Enquiries to be instituted in cases of wreck and casualty.
 - 1. Whenever any ship has been on fire, or is lost, stranded, abandoned, or materially damaged on or near the coasts of *Tasmania* :
 - 2. Whenever any ship comes into collision with, or causes any loss or material damage to, any other ship on or near the coasts of *Tasmania* :
 - 3. Whenever by reason of any casualty happening to or on board of any ship on or near the coasts of *Tasmania* loss of life ensues :
 - 4. Whenever any such loss, abandonment, burning, stranding, damage, collision, or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in *Tasmania* :

it shall be lawful for the principal officer of Customs residing at or near the place where such loss, abandonment, burning, stranding, collision,

Enquiry into Wrecks Act, 1874.

A.D. 1874.

damage, or casualty occurred on or near the coasts of *Tasmania*, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found or can be conveniently examined, or for any other person appointed for that purpose by the Governor to make enquiry respecting such loss, abandonment, burning, stranding, collision, damage, or casualty.

Powers of officer of Customs or person appointed by the Governor.

5 For the purposes of such enquiry every such officer of Customs, and every such person appointed by the Governor, shall have the following powers; (that is to say,)—

1. He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, and particularly the boats, equipments, or articles to which the provisions of "The Merchant Shipping Act, 1854," or any Act amending the same or passed for like purposes, or any Rules, Regulations, or Bye-laws made under such Act, or any of them, apply, not unnecessarily detaining or delaying her from proceeding on any voyage :
2. He may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
3. He may by summons under his hand require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any enquiries he thinks fit to make :
4. He may require and enforce the production of all books, papers, or documents which he considers important for such purpose :
5. He may administer oaths, or may in lieu of requiring or administering an oath require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Witnesses to be allowed expenses.

6 Every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the Supreme Court; and in case of any dispute as to the amount of such expenses the same shall be referred to the Registrar of the said Court, who on request made to him for that purpose under the hand of such officer of Customs, or person appointed by the Governor as aforesaid, shall ascertain and certify the proper amount of such expenses.

Penalty for refusing to give evidence.

7 Every person who refuses to attend as a witness, after having been required so to do in the manner hereby directed, and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declaration which any such officer of Customs, or other person appointed by the Governor is hereby empowered to require as aforesaid, shall for each such offence incur a penalty not exceeding Twenty Pounds.

Penalty for obstructing officer of Customs, &c. in the execution of his duty.

8 Every person who wilfully impedes any such officer of Customs or person appointed by the Governor as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding Twenty Pounds, and may be seized and detained by such officer of Customs or other person, or by any person or persons whom he may call to his assistance, until such offender can be conveniently taken before some Justice of the Peace.

Enquiry into Wrecks Act, 1874.

9 If it appears to such officer or person as aforesaid, either upon or without any such preliminary enquiry as aforesaid, that a formal investigation is requisite or expedient, or if the Governor so direct, he shall apply to any Two Justices of the Peace or to a Police Magistrate to hear the case, and such Justices or Magistrate shall thereupon proceed to hear and try the same.

A.D. 1874.

Formal investigation before Justices.

10 In the event of such officer or person as aforesaid making application for a formal investigation as aforesaid, it shall be his duty to furnish a copy of the report or a statement of the case upon which he has made such application, to all such officers of the vessel or vessels with regard to which such investigation is to be held as hold, or are by law required to hold, certificates either of competence or service, and such copy of the report or statement of the case must be furnished to such officers aforesaid before the commencement of such formal investigation.

When formal investigation held certificated officers to be supplied with copy of the report.

11 Such Justices of the Peace or Magistrate shall, so far as relates to the summoning of parties, compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which they or he have power to make a summary conviction or order or as near thereto as circumstances permit.

Power of Justices or Stipendiary Magistrate.

12 It shall be lawful for such Justices or Stipendiary Magistrate to call upon the officers of any sailing or steam vessel in respect of which such investigation is to be or has been held, if such officers hold certificates of competence or service, whether the same be *Tasmanian* certificates or certificates issued by the *British* Board of Trade or by any Colonial authority, to produce and deposit the same in the custody of the Court; and if any such officer shall fail to produce and deposit such certificate in the custody of the Court on being required so to do, he shall be liable to a penalty not exceeding Fifty Pounds.

Officer of ship may be required to deliver certificate to be held until the close of enquiry.

13 In investigating cases of collision, special enquiry shall be made as to whether the person in charge of each ship has, so far as he could do so without danger to his own ship, crew, and passengers (if any), rendered such assistance to the other ship, her master, crew, and passengers (if any), as was practicable and necessary in order to save them from any danger caused by the collision; and in case it shall be proved that the person in charge of either ship has failed to render such assistance as may be practicable or necessary, and no reasonable excuse for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by the wrongful act, neglect, or default of the person so failing to render assistance; and such failure shall, if proved upon any investigation duly held under the provisions of this Act, be deemed to be an act of misconduct or default, for which the certificate (if any) of the person so failing may be cancelled or suspended.

In cases of collision neglect to render assistance, on evidence of default on part of ship neglecting, punishable by cancellation of certificate.

14 It shall be the duty of such officer of Customs, or other person appointed by the Governor as aforesaid, to superintend the management of the case, and to render such assistance to the said Justices or Magistrate as is in his power; and upon conclusion of the case, or as soon after as possible, the said Justices or Magistrate shall state in open Court the decision they may have come to on the whole case, and with respect to the cancellation or suspension of any certificate or certificates, and shall in all cases send a report to the Governor containing a full statement of the case and of their or his opinion thereon, accompanied by the evidence and such observations (if any) as they or he may think fit; and

Officer of Customs or other person to render assistance.

Enquiry into Wrecks Act, 1874.

A.D. 1874.

shall also, should they or he determine to cancel or suspend any certificate, forward such certificate (if produced in Court) to the Governor along with their or his report.

Power to appoint a nautical assessor.

15 In cases where nautical or engineering skill and knowledge or both are required, the Governor, or such principal officer of Customs, or such other person appointed by the Governor as aforesaid, shall have the power, either at the request of such Justices or Magistrate, or without such request, to appoint some person or persons of nautical or engineering skill and knowledge or both to act as assessor or assessors to such Justices or Magistrate; and such assessor or assessors shall, upon the conclusion of the case, either signify his or their concurrence in the report of such Justices or Magistrate by signing the same, or if he or they dissent therefrom shall signify such dissent and his or their reasons therefor to the Governor.

Justices or Magistrate to decide as to cancellation or suspension of certificate.

16 When the said Justices or Magistrate shall after due enquiry decide that the loss, abandonment of, or serious damage to any ship, or loss of life has been caused by the wrongful act or default of any certificated officer, it shall be their or his duty to decide whether the certificate of any such officer shall be cancelled or suspended, and to decide for what period it is to be suspended; but such decision shall not be valid unless the requirements of Section Ten of this Act have been complied with; and provided that no certificate of any master or mate shall be cancelled or suspended unless at least one nautical assessor shall concur in the report of the Justices or Magistrate aforesaid; and no certificate of any engineer shall be cancelled or suspended unless at least one engineering assessor shall concur in such report.

Governor empowered to re-issue cancelled or suspended *Tasmanian* certificates, or to shorten time for which suspended, and to make recommendation to Board of Trade as to cancelled or suspended *British* certificates.

17 It shall be lawful for the Governor at any time, if he thinks that the justice of the case requires it, to re-issue and return any *Tasmanian* certificate which has been cancelled or suspended, or to shorten the time for which it is suspended, or to grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended. It shall also be lawful for the Governor to recommend any such modification of any such sentence as aforesaid to the Board of Trade or any other *British* authority by whom the certificate which has been cancelled or suspended has been originally issued, and in the interim to issue a *Tasmanian* certificate of such grade as to him shall seem fit in lieu of such cancelled or suspended certificate.

Costs of investigation.

18 The said Justices or Magistrate may make such order with respect to the costs of any such investigation or any portion thereof as they or he may deem just, and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before them or him. And the Governor may in any case he thinks fit cause the expense of any such investigation to be paid by the Colonial Treasury, and such assessors as aforesaid to be paid such remuneration as the Governor thinks fit.

Investigation to be reported to Board of Trade.

19 All proceedings taken in the course of any investigation held under this Act shall be transmitted through the Governor, as soon as possible after the conclusion of such investigation, to the Lords of the Committee of the Privy Council for Trade in *England*.

Application of Act.

20 This Act shall not apply to ships belonging to Her Majesty.