

ACT No. XXII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 13th August 1855.)

AN ACT for the regulation of Ports and Port-dues.

WHEREAS it is expedient to provide for the safety of Vessels, and for
the convenience of traffic in the several Ports within the
Territories in the possession and under the Government of
the East India Company, and in navigable Rivers and Channels leading to
such Ports, and for the improvement, maintenance, and good government
of such Ports, Rivers, and Channels; also to regulate the levy of Port-dues,
or charges in such Ports, Rivers, and Channels, in order to defray the cost of
such improvement, maintenance, and good government; and to punish the
unlawful use of certain flags and colors in such Ports, Rivers, and Channels;
and whereas it is expedient to abolish the Anchorage dues heretofore levied
in the Presidency of Bombay: It is enacted as follows:—

Repeal of part of Act
I. of 1852.

I. Section XXI. of Act I. of 1852 and Schedule C.
appended to that Act, are hereby repealed.

Operation of certain
laws to cease in Ports,
&c., declared subject to
this Act.

II. Regulation VII. 1801 of the Bengal Code; so much of Regulation
II. of 1810 of the Bombay Code as is still in force; Sec-
tion XII. Regulation III. 1833 of the Bengal Code;
Act XIII. of 1839; Section XXXIX. of Act I. of 1852;
Sections XLII. and XLIII. of Act XIII. of 1852; and
Act XI. of 1853, so far as it relates to the removal of any obstruction,
impediment, or public nuisance affecting or likely to affect the navigation
of

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of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River, or Channel shall be declared to be subject to this Act.

III. The Local Government of any part of the said Territories may, with the sanction of the Governor General of India in Council, declare any Port within that part of the said Territories to be subject to this Act; and any navigable River or Channel leading to that Port to be subject to this Act. When any such Port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made specially applicable to certain Ports by order of the Local Government, shall have effect in that Port or navigable River or Channel.

IV. Every declaration by which any Port, navigable River, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel; and such limits shall extend always up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

V. The Local Government may from time to time, with the sanction of the Governor General of India in Council, alter the limits of such Port, River, or Channel.

VI. The Local Government shall appoint an Officer to be Conservator of every Port, River, or Channel subject to this Act. In Ports where there is a Master Attendant, such Master Attendant shall be the Conservator. In Ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In Ports where there are both a Master Attendant and a Harbour

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Harbour Master, the Harbour Master and his Assistants shall be subordinate to, and subject to the control of the Master Attendant and his Assistants. The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely,—

Local Government empowered to make Port-rules.

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any Port subject to this Act.

Entering or leaving Port.

Berths of vessels.

2. For regulating the berths and stations to be occupied by vessels in any such port.

Striking yards, &c.

3. For striking the yards and top-masts, and for rigging in the jib and driver booms, of vessels in any such Port, whenever it may be proper so to do.

Removal of anchors, &c.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such Port.

Taking in or discharging ballast.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

Keeping free passage.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same; and for marking out the spaces so to be kept free.

7. For

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- Regulating the anchoring. 7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.
- Moving and Warping. 8. For regulating the moving and warping of all vessels within any such Port and the use of warps therein.
- Use of mooring buoys. 9. For regulating the use of the mooring buoys, chain and other mooring, in any such Port, River, or Channel.
- Rates for use of mooring buoys. 10. For fixing from time to time, the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.
- Cargo Boats, &c. 11. For regulating cargo and other boats, and catamarans plying for hire in any such Port. Provided that nothing in this Act shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.
- Fires and lights. 12. For regulating the use of fires and lights within any such Port.
- Signal light. 13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government, or, where there is no Official Gazette, in such other public manner as that Government may order; and a copy thereof shall be fixed up in some conspicuous place in the Office of the Conservator of every Port to which such order shall relate, and in the Custom House, if any, of every such Port.

IX. If

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IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Penalty for disobedience to Rules.

X. The Conservator of any Port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such Port.

Conservator empowered to give directions for certain specified purposes.

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator, after notice thereof shall have been given to him, such person shall, for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further sum not exceeding One Hundred Rupees for every day on which he shall wilfully continue to disobey such direction; and, in case of such refusal or neglect, it shall be lawful for the said Conservator to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses which shall be incurred in doing such acts, shall be paid and borne by the person or person so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.

Penalties for disobedience to orders of Conservator.

Expenses caused thereby to be paid by the person offending.

Service of written notice.

XII. In every Port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master on board; or to move a vessel of any burthen less than 200 tons and exceeding

Special Rule.

Vessels in certain cases not to be moved without having a Pilot, &c., or the permission of the Harbour Master.

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100 tons without having on board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some Officer empowered by such Conservator to give such authority; and if any

Exception.

vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be

Penalty.

liable to a penalty not exceeding Two Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper Officer, be unable to procure a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

XIII. The Master of any vessel in any Port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel for the purpose of warping any other vessel in the Port, and shall not allow any such warp to be let go, until required so to do; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

Master to permit warps to be made fast to his vessel.

Penalty.

XIV. If the Master of any vessel shall cause or suffer any warp or lawser attached to his vessel, to be left out in any such Port, after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said Port, he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Penalty for leaving out lawser, &c., after sun-set.

XV. The Conservator of any such Port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or lawser, which shall endanger the safety of any vessel in such Port, or at or near to the entrance thereof.

Conservator may, in case of necessity, cut ropes, &c.

XVI. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, or shall cause any public nuisance affecting or likely to affect such navigation, every such

Penalties for causing obstruction or public nuisance.

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such person shall be liable to a penalty not exceeding One Hundred Rupees, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment; and the Conservator, or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such Port, which shall impede the free navigation of such Port; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such Port, and is not private property; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Any floating timber, &c., or any obstruction on shore within the limits of the Port, to be removed at the expense of owner.

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction; impediment, or public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and the Conservator may cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by Public Auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale,

Expenses of removal may be recovered as a penalty.

Timber, &c., may be sold.

Proceeds how to be dealt with.

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by a further sale of so much of the said timber or other materials as may remain unsold.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the Conservator shall report the same for the information of the Local Government and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate, relating to the determination of like disputes in the case of land required for public purposes.

XX. If any person shall wilfully and without lawful excuse lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by or by the authority of the Local Government in any Port, River, or Channel subject to this Act, he shall for every such offence be liable, in addition to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned, with or without hard labor, for a period not exceeding six calendar months.

XXI. If any vessel shall hook or get foul of any of the buoys or mooring laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator, and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel ;
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and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such Port, River, or Channel, without leave or authority from the owner or Master of such vessel, such person shall, for every such offence, forfeit a sum not exceeding Two Hundred Rupees, or, at the discretion of the Magistrate, be imprisoned, with or without hard labor, for a period not exceeding six calendar months.

Penalty for wilfully loosening a vessel from its moorings.

XXIII. If any vessel shall be wrecked, stranded, or sunk, in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof, the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be re-paid within one month after the completion thereof, may recover the same on behalf of the Local Government in the manner provided by Section XXXIX. of this Act.

Conservator may raise any wreck, &c. impeding navigation within the Port.

Expense how recoverable.

XXIV. If any ballast or rubbish, or if any other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River, or Channel, or into or upon any place on shore, from which the same shall be liable to be washed into any such Port, River, or Channel, either by ordinary or high tides, or by storms or land-floods, the person who shall so cast or throw the same, or cause the same to be so cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast or other thing shall

Penalty for improperly discharging ballast, &c.

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be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or within any limits within which such act may be authorized by Government.

XXV. If any person shall grave, bream, or smoke any vessel in any such Port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five Hundred Rupees for every such offence.

Penalty for graving, &c., vessel within prohibited limits.

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such Port, at any place where such act shall be prohibited by order of the Local Government or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board which such offence shall be committed, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for boiling pitch, &c., on board a vessel within prohibited limits.

XXVII. If any person shall, by candle-light, or other artificial light, draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Penalty for drawing spirits by candle-light, &c.

XXVIII. In every such Port to which the provisions of this Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances, for the purpose of extinguishing any fire that may occur on board; and the Master of every such vessel who, after having been required by the Conservator to comply with such provision shall, without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Special Rule.
Vessels above 200 tons to be provided with a force-pump, &c.

Penalty,

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XXIX. The Local Government may, by order, fix the limits within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder, rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight, whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an Officer to receive the same.

Vessels not to have powder, &c. exceeding 50 lbs. on board within certain limits to be fixed by Government.

Government to appoint place of deposit for powder.

XXX. The Local Government may, in such case, by order, fix the times at or within which, and the manner in which such gunpowder, rockets, or combustible ammunition shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

Government to fix the time and manner of landing and shipping powder, &c.

XXXI. The Master of such vessel shall, upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds; and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

Master to make declaration.

Penalty.

XXXII. The Officer, with whom such gunpowder or other combustible ammunition shall be deposited, shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

Officer to give receipt and to account for powder deposited.

XXXIII. If any vessel shall be prevented by stress of weather from landing or depositing such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the master or owner of such vessel shall,

If, by stress of weather, powder is not landed, notice must be given thereof.

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so soon as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other Officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

XXXIV. The Local Government may also, in respect to such Port, by order, fix the times and places at which, and the manner in which, vessels out-ward bound, requiring to take in any gunpowder, rockets, or other combustible ammunition, exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder, rockets, or other combustible ammunition, shall have been previously landed from such vessel or not.

Time, &c., for vessels out-ward bound to take in powder, may be fixed by Government.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence; and all gunpowder, rockets, or other combustible ammunition which shall be on board any vessel, contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other Officer authorized in that behalf by any general or special order of the Local Government, within the limits of their respective jurisdictions. Nothing in this Act contained shall extend to any gunpowder, rockets, or other ammunition belonging to Government, or carried for the use of troops of Her Majesty or of the Honorable East India Company on board of any such vessel.

Penalties for having prohibited powder, &c. on board.

Exception.

XXXVI. If any person shall, without lawful excuse, discharge any gun, musket, or other fire-arm in any Port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Guns not to be discharged in Port.

Exception.

Penalty.

XXXVII. In

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XXXVII. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending against this provision shall be liable to a penalty not exceeding One Hundred Rupees.

Special Rule.
Unauthorized person not to search for lost anchors or stores.

Penalty.

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any Officer employed by the Local Government for that purpose, from the bed of any Port, River, or Channel subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery ; a registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct; and such registry shall be open to public inspection at reasonable office hours, except on Sundays and such holidays as the Local Government may direct ; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered.

Salvage payable for wreck, &c.

Register to be kept.

XXXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII. of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith ; and if not of a perishable nature, may be sold at any period not less than six months after the recovery thereof, by Public Auction ; and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under Section XXIII. as aforesaid, shall be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or, if no such person shall appear and claim the same, shall be held in deposit for payment, without interest, to any person who may thereafter establish his right to the same.

Property recovered may, in certain cases, be sold.

Proceeds how to be applied.

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Special Rule.
XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the Bank or Shore of such Port, River, or Channel; and no person shall sink or bury in any part of such Bank or Shore, whether the same be public or private property, any mooring-post, anchor, or any other thing which is likely to injure, or to be used so as to injure such Bank or Shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such Bank or Shore.

Penalty.

Levy of Port-dues.
XLI. The dues and fees now usually collected at the several Ports within the said Territories, may, during the period of one year from the time of the passing of this Act, be collected at such Ports respectively. No Port-dues or fees shall hereafter be levied in any such Port except under the authority of this Act or of an Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-dues under Regulation VI. of 1831 of the Bombay Code and Act XIII. of 1854, or of fines or duties payable under Act XXVII. of 1850.

Local Government may vary the Port-dues.
XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel, in such manner as, having regard to the receipts and charges on account of that Port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorized to be taken by this or any subsequent Act.

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Local Government
may also remit or reduce
Port-dues on any vessels
during the period of one
year after the passing of
this Act.

vessels.

XLIII. The Local Government may also, during the period of one year after the passing of this Act, remit altogether or reduce the rate of dues and fees now usually collected on any particular description of

Distinct accounts of
Port-dues to be kept, and
an abstract thereof to be
published.

XLIV. For every Port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called the Account of the Port Fund of the Port to which it relates, shall be kept by such Officer as the Local Government may appoint for that purpose. This account shall shew in complete detail the receipts and charges of the Port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the Port shall be shewn. If, for any of the purposes of this Act, an advance of money shall have been or shall be made by Government on account of any Port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor-General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the Port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the Port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such Port, shall be charged in the Port Fund Account of that Port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such Port, shall be credited in the Port Fund Account of that Port.

Collection of Port-dues.

XLV. The Collector of Customs at every such Port, or such other Officer as the Local Government shall appoint, shall collect the Port-dues above-mentioned. The Officer, to whom any such Port-dues shall be paid, shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his Office, the port or place at which the

Voucher to be given.

same

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same shall be paid, and the name, tonnage, and other proper description of the vessel in respect of which such payment shall have been made.

XLVI. Within twenty-four hours after the arrival, within the limits of any such Port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such Port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Master to report the arrival of vessel to Harbour Master.

Penalty.

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act, shall be in any such Port without proper marks on the stem and stern posts thereof for denoting the draught of such vessel, the Conservator may, in any case in which it shall be necessary to ascertain the draught of such vessel, cause the same to be ascertained by means of the operation of hooking, and the Master of such vessel shall be liable to pay the expenses of such operation.

Conservator may in certain cases ascertain the draught, and charge the expense thereof to the Master.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following rules shall be observed:—

Tonnage of vessel liable to Port-dues how to be ascertained.

Clause 1.—If such vessel be a British registered vessel, or a vessel registered under Act X. of 1841, or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection; and if any such Master or other person shall, without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master, or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator

If registered.

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as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to be ascertained; and in such case the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

Clause 2.—If such vessel be not a British registered vessel, or a vessel registered under Act X. of 1841, or Act XI. of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

XLIX. If the Master of any vessel, in respect of which any Port-dues, fees, or charges, shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same, or any part thereof, on demand, the Collector of Customs, or other person authorized to collect such Port-dues or charges, may distrain or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid; and in case any part of the said Port-dues or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the Master of such vessel, upon demand.

On refusal to pay
Port-dues, &c., the
Collector may distrain
and sell.

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L. The Officer of Government, whose duty it shall be to grant a Port-clearance for any vessel, shall not grant such Port-clearance, until the Owner, Agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the Owner or Master of such vessel in respect thereof, shall be liable under this or any subsequent Act.

No Port-clearance to be granted until dues, &c., are paid.

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been, or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act; and the Collector of Customs, or other Officer appointed to collect any Port-dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so to do, for the performance of any duty imposed upon such Collector or other Officer under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any such Conservator or any of his Assistants or any such Collector of Customs, or other Officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Conservator, &c. may go on board any vessel in discharge of his duty.

Penalty for preventing entry.

LII. If any person shall wilfully obstruct or hinder any Officer, in the execution of any duty imposed or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

Penalty for obstructing Officer in discharge of his duty, &c.

LIII. All Acts, orders, or directions by this Act authorized to be done or given by any Conservator, may, subject to his control be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any Act, may call to his aid such assistance as may be necessary.

Powers of Assistant Conservator, of Harbour Master, and of Assistant Harbour Master.

LIV. If

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LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, Penalty for hoisting unlawful colors in Port. within the limits of any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17 and 18 Victoria Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees ; and such penalty shall be in addition to any other penalty which may be recoverable under the said Statute, or any future Statute to be made in that behalf ; and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

LV. All offences against this Act shall be punishable in a summary manner by a Magistrate. And, in addition to the means Offences how punishable, and penalties how to be recovered. prescribed by Act II. of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the Owner or Master of any vessel, for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof, as shall be necessary.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such Costs of conviction. conviction, in addition to any penalty or expenses to which he may be liable. Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

LVII. In

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Damages, &c., payable under this Act, how to be ascertained and recovered.
LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any penalty under this Act, and if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Costs of Distress.
LVIII. In any case in which any penalty, damages, or expenses shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

Magistrate to determine the amount to be levied in case of dispute.
LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment, may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate, who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

Act not to extend to vessels of War, nor to affect any private right of property, nor any Customs Law or Regulation.
LX. Nothing in this Act shall extend to any vessel belonging to, or in the service of Her Majesty, or of the East India Company, or to any vessel of War belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right, except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

Indemnity to East India Company, against default of Harbour Master, Pilot, &c.
LXI. The East India Company shall not be answerable for any Act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act; or of any Pilot; or of any Deputy, or Assistant

ant

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ant of any of the Officers above-mentioned ; or of any person acting under the authority or directions of any such Officer or Assistant, done within the limits of such Port, River, or Channel ; nor for any damage or injury sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used by such vessel. Provided that nothing in this

Proviso. Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Interpretation of word "Magistrate" in this Act.

LXIII. Whereas divers Ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act ; it is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act, in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River, or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed ; and that such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits ; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Jurisdiction over offences beyond the local limits of jurisdiction.

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LXIV. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state, on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and, if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only. Form of conviction, &c.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons for the time being immediately administering the Executive Government of that portion of the Territories under the Government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include anything made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel, shall mean and include any person having for the time being the charge, or command, or control of such vessel.

Construction of Act.