

1912.

No. 2.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

NAVIGATION BILL 1912.

MEMORANDUM (No. 2) SHOWING ALTERATIONS PROPOSED
TO BE MADE IN THE BILL.*(Circulated by the Minister for Trade and Customs, the Hon. F. G.
Tudor.)*

The words printed in erased type are words proposed to be omitted from the Bill.

The words printed in black type are words proposed to be added to the Bill.

The numbers refer to the numbers of the clauses of the Bill.

Clauses of the Bill which it is not proposed to amend are not printed.

286A.—(1.) A ship shall not engage in the coasting trade which is receiving, or which under any arrangement is to receive, or which in the immediately preceding twelve months has been receiving, directly or indirectly, any subsidy or bonus from any Government other than that of a part of the British Dominions.

Ships in receipt of foreign subsidies.

Penalty (on master, owner, or agent): Five hundred pounds.

(2.) Any payment for services bona fide rendered in the carriage of mails, passengers, or goods, at rates based solely on the actual commercial value of these services, shall not be taken to be a subsidy within the meaning of this section.

287. (1) No foreign ship shall engage in the coasting trade unless she is licensed so to do.

Licensing of foreign ships to engage in coasting trade.

Penalty (on master, owner, or agent): Five hundred pounds.

Cf. U.S. 1898, c. 26.

(2) Licences to ships to engage in the coasting trade shall be for such period not exceeding three years as is prescribed, and may be granted as prescribed.

(3.) Every licence shall be issued subject to compliance on the part of the ship, her master, owners, and agents, with the following conditions so long as the ship is engaged in the coasting trade:—

- (a) That the seamen employed on the ship shall be paid wages in accordance with this Part of this Act; and
- (b) That the ship shall be provided with the same number of officers and seamen, and with the same accommodation for them, as would be required if she were a British ship registered in Australia; and
- (c) That no subsidy or bonus shall be payable, and no agreement or arrangement shall be entered into or exist under which any subsidy or bonus will be payable, in respect of the ship to her owners, other than by the Government of the Commonwealth or a State.

Provided that any payment for services *bonâ fide* rendered in the carriage of mails, passengers, or goods, at rates based solely on the value of those services, shall not be taken to be a subsidy or bonus within the meaning of this paragraph.

- (4.) Any breach of any of the above conditions shall be a contravention of this Act.
- (5.) The Governor-General may cancel any licence if he is satisfied that any breach of any of the above conditions has been committed.
- (6.) No licence shall be cancelled unless an opportunity has been given to the master, owner, or agent of the ship to show cause against the cancellation.

287.—(1.) No ship shall engage in the coasting trade unless licensed to do so.

Penalty (on master, owner, or agent): Five hundred pounds.

(2.) Licences to ships to engage in the coasting trade shall be for such period, not exceeding three years, as is prescribed, and may be granted as prescribed.

(3.) Every licence shall be issued subject to compliance on the part of the ship, her master, owner, and agents, during such time as she is engaged in the coasting trade, with the following conditions:—

- (a) That the seamen employed on the ship shall be paid wages in accordance with this Part of this Act; and
- (b) That, in the case of a foreign ship, she shall be provided with the same number of officers and seamen, and with the same accommodation for them, as would be required if she were a British ship registered in Australia or engaged in the coasting trade.

(4.) Any breach of the above conditions shall be a contravention of this Act.

Licensing of ships to engage in coasting trade.
Cf. U.S.A., R.S. 4311.
Cf. Canada, 1906, ss. 953, 960.

(5.) Before granting any licence the Minister may require security to be given to his satisfaction by the master, owner, or agent for compliance with the conditions of the licence and the requirements of this Part of this Act.

(6.) In addition to, or in lieu of, any penalty otherwise provided, the Governor-General may cancel any licence if he is satisfied that a breach of any of the above conditions has been committed.

(7.) No licence shall be cancelled unless an opportunity has been given to the master, owner, or agent of the ship to show cause against the cancellation.

288. ~~The master of every ship engaging in the coasting trade, whether licensed so to engage or not, shall, when required by the superintendent, answer questions relating to the ship and to compliance on the part of her master, owners, or agents with the provisions of this Act or with the conditions of any licence under which the ship engages in the coasting trade.~~

Master to answer questions.

~~Penalty: One hundred pounds.~~

289.—(1.) Every seaman employed on a ship engaged in any part of the coasting trade shall, subject to any lawful deductions, be entitled to and shall be paid, for the period during which the ship is so engaged, wages at the current rates ruling in Australia for seamen employed in that part of the coasting trade, and may sue for and recover those wages.

Payment of Australian rates of wages.
Cf. N.Z. 1908, s. 75 (1).
N.Z. 1910, s. 2.

(2.) ~~The~~ In the case of ships trading to places beyond Australia, the wages to which a seaman is entitled under this section shall, ~~in the case of ships trading to places beyond Australia,~~ be paid before the departure of the ship from Australia, and the master shall produce to the satisfaction of the Collector at the last port of departure in Australia evidence of their payment.

290.—(1.) If the seamen employed on any British ship were not engaged in Australia, the master, ~~owner, or agent,~~ shall, before the ship engages in the coasting trade, make and sign, before a superintendent, an indorsement or memorandum on the agreement specifying the wages to be paid to the seamen whilst the ship engages in the coasting trade, and that indorsement or memorandum, when countersigned by a superintendent, shall have effect as an agreement between the master and those seamen.

Indorsement of rate of wages on agreement.

(2.) Where under the original agreement a seaman is entitled to be paid at a higher rate of wages than the rate ruling in Australia for seamen in a corresponding rating, nothing in this section shall affect his right to such higher rate during the engagement of the ship in the coasting trade.

291. (As printed.)

Evidence of rates of wages.

292. An award of the Commonwealth Court of Conciliation or Arbitration which is binding on or applicable to seamen employed in the coasting trade, or a certificate of a Registrar or Deputy Registrar of that Court, certifying what are the rates of wages ruling in Australia for seamen employed in any part of the coasting trade, shall be *prima facie* evidence of those rates of wages.

Wages to be paid before ship leaves Australia.

293.—(1.) In the case of any ship licensed to engage in the coasting trade, the wages to which the seamen are entitled under this Act shall (notwithstanding any agreement to the contrary) be paid before the departure of the ship from Australia, and the master shall produce to the satisfaction of the Collector at the last port of departure in Australia evidence of their payment.

N.Z. 1903, s. 75 (3).

(2.) The Collector may refuse to grant a certificate of clearance in respect of the ship until the master has complied with this section.

Responsibility of master, owner, and agent for compliance with Act.

294. The master, owners and agents of any ship not registered in Australia engaging in the coasting trade, shall be jointly and severally responsible for compliance with this Part of this Act by or in respect of the ship, and shall be liable to any pecuniary penalty provided by this Act for any breach or contravention of this Part of this Act, by or in respect of the ship, and where no penalty is provided shall be liable in respect of any such breach or contravention to a penalty of not more than One hundred pounds, and the ship in respect of which the offence is committed may be disqualified by the Governor-General from engaging in the coasting trade.

Power to exempt.

295. The Governor-General may, if he thinks fit, by proclamation, exempt ships registered in or sailing under the flag of any foreign country from the provisions of this Part of this Act requiring such ships to be licensed before they engage in the coasting trade, if he is satisfied—

- (a) that by the law of that country British ships may engage in the coasting trade of that country without a licence and as freely as ships registered in or sailing under the flag of that country; and
- (b) that the effect of the exemption will not be to give to ships of that country privileges or advantages in excess of those given to British ships.

Provided that no such exemption shall take effect with respect to any ship which is or has within twelve months been receiving a subsidy or bonus from any Government other than the Government of the Commonwealth or a State.

Summary determination of disputes as to salvage. M.S.A. 1894 s. 547.

320.—(1.) All disputes as to the amount of salvage, whether of life or property, arising between the salvor and the owners of any ship or wreck, shall, if not settled otherwise, be determined summarily in the following cases, namely:—

- (a) In any case where the parties to the dispute consent;
- (b) In any case where the value of the property saved does not exceed One thousand pounds;
- (c) Where the amount claimed does not exceed Three hundred pounds.

(2.) Subject as aforesaid, disputes as to the salvage may be determined by the Supreme Court of a State, but if the claimant does not recover in any such Court more than Three hundred pounds, he shall only be entitled to recover such costs as the Court allows, such costs not to exceed reasonable costs on the scale usually allowed in any inferior Court in which the case might have been brought, unless the Court certifies that the case is a fit one to be tried otherwise than summarily.

In the Supreme Court.

(3.) Disputes relating to salvage to be determined summarily may be so determined, on the application of either of the parties or his agent, by a County Court, District Court, or Local Court of a State.

(4.) Disputes relating to salvage may be determined on the application of the salvor or of the owner of the property saved, or of their respective agents.

321.—(1.) Disputes as to salvage which are to be determined summarily shall—

Court in which disputes to be determined. M.S.A. 1894, s. 548.

- (a) where the dispute relates to the salvage of wreck be referred to a Court having jurisdiction at or near the place where the wreck is found;
- (b) where the dispute relates to salvage in the case of services rendered to any ship, or to any wreck the cargo or equipment thereof, or in saving life therefrom—be referred to a Court having jurisdiction at or near the place where the ship is lying or the wreck is, or at or near the port in Australia into which the ship or wreck is first brought, after the occurrence by reason whereof the claim of salvage arises.

(2.) Any Court to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining the dispute, call in to its assistance any skilled person as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor such sum as the Minister directs.

Power to call in assessors.

322.—(1.) Where a dispute relating to salvage has been determined summarily in manner provided by this Act, any party aggrieved by the decision may if the sum in dispute exceeds One hundred pounds appeal therefrom to the Supreme Court of the State.

Appeal to Supreme Court. Ib. s. 549.

(2.) The appellant shall, within twenty days of the decision of the Court which has determined the matter summarily, take such proceedings as according to the practice of the Supreme Court of the State are necessary for the institution of an appeal.

324.—(1.) Where salvage is due to any person under this Act, the receiver shall—

Detention of wreck till salvage paid. Ib. s. 552.

- (a) if the salvage is due in respect of services rendered in assisting any ship, or in saving life therefrom, or in saving the cargo or equipment thereof—detain the ship and cargo or apparel equipment; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed—detain the wreck.

(2.) The receiver shall detain the ship and the cargo, or the wreck (hereinafter referred to as "detained property") until payment is made for salvage, or process is issued for the arrest or detention thereof by some competent Court.

(3.) A receiver may release any detained property if security is given to his satisfaction.

(4.) Any security given for salvage in pursuance of this section may be enforced by any Federal or State Court of competent jurisdiction in the same manner as if it had been given in that Court.

328. Where the aggregate amount of salvage payable in any case has been finally ascertained, and exceeds Two hundred pounds, then if any delay or dispute arises as to the apportionment thereof, any Court of competent jurisdiction may cause the amount to be apportioned amongst the persons entitled thereto in such manner as it thinks just.

328A. Where any dispute arises as to the apportionment of any amount of salvage amongst the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the Court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

333.—(1.) The Minister may, subject to the regulations, license persons (in this Act called ~~eeastal~~ "licensed pilots") to conduct ships from one port to another port in Australia, or to act as pilots for any ports at which pilotage is not compulsory.

(2.) A ~~eeastal~~ licensed pilot shall not (except as authorized by his licence) act as a pilot for any port at which pilotage is compulsory.

Penalty : One hundred pounds.

334.—(1.) The regulations may make provision for—

- (a) determining the qualifications of persons desirous of obtaining licences as ~~eeastal~~ licensed pilots ;
- (b) fixing the conditions under which licences to ~~eeastal~~ licensed pilots may be issued and held, and the form thereof ;
- (c) the general discipline of ~~eeastal~~ licensed pilots ;
- (d) the fees chargeable by ~~eeastal~~ licensed pilots.

335.—(1.) All uncanceled and unexpired licences, issued under any State Act, authorizing any persons to conduct ships from one port to another port in Australia, or to act as pilots for any port at which pilotage is not compulsory under this Act, shall continue as if issued under this Act, but shall, subject to this Act, be valid only for the purposes for which, and to the extent to which, they would have been valid in accordance with the provisions of the State Act under which they were

Apportionment of salvage by Courts. M.S.A. 1894, s. 566.

Apportionment of salvage amongst owners, &c., of foreign ships. 1 & 2 Geo. V., c. 57, s. 7.

Licensed pilots. N.Z. 1908, s. 190.

Regulations as to licensed pilots.

State licences to licensed pilots.

issued ; and for those purposes and to that extent the holder of any such licence shall be deemed to be a ~~eeastal~~ licensed pilot ; but no such licence shall entitle the holder to act as pilot at a port at which pilotage is compulsory under this Act.

(2.) Any such licence may be dealt with as if issued under this Act.

(3.) The holder of any such licence may, subject to the regulations, surrender it for a corresponding licence under this Act.

342. Certificates having the effect of exempting ships (the masters of which hold pilotage exemption certificates) from compulsory pilotage may be issued in the manner and under the conditions prescribed, and on payment of the prescribed fees.

Exemption certificates. M.S.A. 1894, s. 604. N.S.W. 1901, No. 69, s. 68.

Such certificates shall be called "pilotage exemption certificates" and shall—

- (a) be granted to British subjects only ; and
- (b) have effect only in regard to ships registered in Australia, and to such other classes of British ships as are prescribed ;

but nothing in this section shall affect the renewal of a pilotage exemption certificate granted before the commencement of this Act to a person who is not a British subject.

349.—(1.) The master of any ship requiring the services of a pilot shall receive on board the first pilot offering himself, and shall on demand by that pilot give the ship into his charge the charge of piloting the ship to that pilot.

Master to take in pilot.

(2.) The master of any such ship shall not quit his station or anchorage within any port proclaimed as above without first receiving a pilot on board.

Penalty : Twenty pounds.

(3.) The penalty under this section shall be in addition to the amount due for pilotage.

356.—(1.) Upon the commencement of this Act, Upon the proclamation of any port as a port at which the employment of a pilot shall be compulsory, all steam-ships, boats, buildings, plant, and property belonging to the licensed pilots for any port in Australia, that port, and used by them exclusively in their business as pilots, shall become the property of the Commonwealth.

Property of pilots to vest in Commonwealth.

(2.) The Commonwealth shall pay to the persons entitled thereto, as compensation for any property acquired under this section, the value thereof as agreed upon between those persons and the Minister, or, in default of agreement, as settled by arbitration.

(3.) Any dispute or difference which may arise between the pilots and the Minister, as to what property passes under this section, shall be settled by arbitration.

(4.) Any arbitration under this section shall be according to the laws relating to arbitration in force in the State in which the property is situated.

(5.) The reasonable costs of any arbitration under this section shall be paid by the Commonwealth out of moneys to be provided by the Parliament.

Cancellation or suspension of certificate.

~~377.—(1.) If the certificate of any master or officer, wherever issued, has been cancelled, by a Court of Marine Inquiry in Australia, the fact that his certificate has been returned to him by the Board of Trade or the authority which originally granted the certificate, other than a Court of Appeal, shall not enable any such master or officer to serve in Australia on board any ship in the capacity specified in the certificate so cancelled.~~

~~(2.) If the certificate of any master or officer has been suspended by a Court of Marine Inquiry in Australia, the master or officer shall not be permitted to serve in the capacity specified in the certificate so suspended until the period of suspension set out in the order of the Court of Marine Inquiry has expired, unless the suspension has been revoked on appeal to a higher Court.~~

Insubordination. N.S.W. 1898, No. 46, s. 101.

392. Upon complaint on oath by the master of a ship in port that any person, belonging to or employed on or being about or upon the ship—

- (a) is insubordinate ; or
- (b) refuses to work ; or
- (c) is inciting any other person to commit an offence against this Act,

any Police, Stipendiary, or Special Magistrate of the Commonwealth, or of a State, may cause such person to be apprehended by any police officer and brought before him, and on proof of the complaint he may commit the offender to prison for a term not exceeding three months with or without hard labour.

Limitation of actions. 1 & 2, Geo. V., c. 57, s. 8.

397A.—(1.) No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damage for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered.

(2.) No action shall be maintainable under this Act to enforce any contribution in respect of an over-paid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

(3.) Any Court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court extend any period mentioned in this section to such an extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the Court, or within the territorial waters of the country to which the plaintiff's vessel belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

(4.) For the purposes of this section, the expression " freight " includes passage money and hire, and reference to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

412. This Act shall apply to any unregistered British ship which ought to have been registered under this or any Imperial Act, as if the ship had been registered in Australia. Unregistered ships. M.S.A. 1894, s. 266.

415A.—(1.) No official performing any duty under this Act shall be taken to sea without his consent. Taking official to sea.

Penalty : One hundred pounds.

(2.) The owner or master of any ship in which any official is taken to sea illegally shall, in addition to any penalty for an offence against this section, be liable to pay all expenses incidental to the official's return to duty.

416. Where under this Act any ship is to be detained or may be detained, or where the requirements of this Act with regard to the ship or her officers, crew, or equipment have not been complied with, all officers of Customs shall may refuse to grant outward clearance to that ship or to grant her any transire or any document in the nature thereof. Refusal of clearance. M.S.A. 1894, s. 692 (3).

419. The seal of the Minister for the purposes of this Act shall be a seal having the Royal Arms in the centre, and the words " Minister for Trade and Customs, Commonwealth of Australia," in a circle surrounding the Royal Commonwealth Coat of Arms. Minister's seal.

422A. The Governor-General may by order declare that, subject to such conditions, limitations, and restrictions as are expressed in the order, the provisions of this Act or such of them as are mentioned in the order shall not apply to fishing boats, pleasure yachts, missionary ships, or other vessels not carrying passengers or goods for hire. Power to suspend application of Act to fishing boats, &c.

Page 107, Schedule III., omit—

Split peas	$\frac{1}{2}$ pint	} To be considered equal when issued with meat rations.
Flour	$\frac{3}{4}$ lb.	
Calavances or haricot beans	$\frac{1}{2}$ pint	
Rice	$\frac{3}{4}$ lb.	} To be considered equal.
Marmalade	1 lb.	
Jam	1 lb.	
Butter	$\frac{1}{2}$ lb.	

insert—

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1912.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

NOTICE OF PROPOSED AMENDMENTS.

NAVIGATION BILL.

Mr. Tudor :—

Page 72, clause 287, omit all words of the clause after "no" in line 9, and insert "ship shall engage in the coasting trade unless licensed to do so."

Penalty (on master, owner, or agent): Five hundred pounds.

(2.) Licences to ships to engage in the coasting trade shall be for such period, not exceeding three years, as is prescribed, and may be granted as prescribed.

(3.) Every licence shall be issued subject to compliance on the part of the ship, her master, owner, and agent, during such time as she is engaged in the coasting trade, with the following conditions:—

- (a) That the seamen employed on the ship shall be paid wages in accordance with this Part of this Act; and
- (b) That, in the case of a foreign ship, she shall be provided with the same number of officers and seamen, and with the same accommodation for them, as would be required if she were a British ship registered in Australia or engaged in the coasting trade.

(4.) Any breach of the above conditions shall be a contravention of this Act.

(5.) Before granting any licence, the Minister may require security to be given to his satisfaction by the master, owner, or agent for compliance with the conditions of the licence and the requirements of this Part of this Act.

(6.) In addition to, or in lieu of, any penalty otherwise provided, the Governor-General may cancel any licence if he is satisfied that a breach of any of the above conditions has been committed.

[C.2]—710/8.10.1912.—F.2273.