

No. III.

An Act for the regulation of Steam Navigation STEAM NAVIGATION. and for requiring Sea-going Vessels to carry Boats. [24th July, 1847.]

WHIEREAS it is expedient to provide for the inspection and better Preamble.
regulation of sea-going steam boats and other vessels carrying
passengers and for preventing the occurrence of accidents (as far as
may be possible) in steam navigation and for requiring sea-going
vessels to carry boats And whereas it is necessary that a Board of
competent persons should be appointed to carry out the provisions
requisite for such purposes Be it enacted by His Excellency the Board to be appointed
Governor of New South Wales by and with the advice and consent of for inspection and
the Legislative Council thereof That it shall and may be lawful for the regulation of sea-
Governor of the said Colony to nominate and appoint any number of going steam and
persons not exceeding five of whom three shall be a quorum with other vessels.
power to act to constitute and be a Board for the inspection and regula-
tion of sea-going steam and other vessels carrying passengers in and
from the said Colony and the said persons or any of them to remove
and displace from time to time and to appoint another or others in his
or their stead and that the said Board when so appointed shall have
full power and authority to carry out the provisions of this Act.

2. And be it enacted That all steam vessels built in this Colony Iron steamers of 100
of iron of one hundred tons burden or upwards the building of which tons and upwards
shall be commenced after the passing of this Act shall be divided by hereafter built in this
transverse water-tight partitions so that the fore part of the vessel Colony to have par-
shall be separated from the engine room by one of such partitions and titions separating the
so that the after part of such vessel shall be separated from the engine after part thereof from
room by another of such partitions. the engine room.

Steam Navigation.

Vessels of 100 tons and upwards to be provided with boats life-boat and life-buoys.

3. And be it enacted That from and after the first day of January one thousand eight hundred and forty-eight no vessel the tonnage of which shall be one hundred tons or upwards shall proceed to sea from any port whatsoever in this Colony unless it shall be provided with boats duly supplied with all requisites for their uses and not being fewer in number nor less in their dimensions than the number and dimensions set opposite to the limits of dimension in the table annexed Provided that the said limits of dimension be not considered applicable to vessels engaged in the whale fishery and that no vessel carrying more than ten passengers shall proceed to sea on any voyage unless in addition to the boats hereinbefore required it shall be provided with a boat fitted up as a life boat with all requisites for its use together with two life buoys.

Steamers hereafter built in this Colony to be provided with paddle-box boats instead of life-boat.

4. And be it enacted That every steamer the building of which in this Colony shall be commenced after the passing of this Act and which shall proceed to sea with passengers shall in addition to the boats specified in the foregoing table and in lieu of a boat fitted up as a life boat be provided either with such boats as are usually called paddle-box boats or with such other boats as may be directed in lieu thereof by the Board hereinbefore mentioned.

Steamers to be provided with fire-hose.

5. And be it enacted That no steam vessel of one hundred tons burden or upwards shall proceed to sea unless it shall be provided with a hose for the purpose of extinguishing fire capable of being connected with the engines of the vessel.

How tonnage of vessels to be ascertained for purposes of Act.

6. And be it enacted That for the purposes of this Act the tonnage of vessels shall be ascertained according to the rules of admeasurement prescribed by any Act of Parliament for the time in force regulating the admeasurement of the tonnage and burden of the merchant ships of the United Kingdom.

Penalty for not having partitions hose boats &c. or for wilfully injuring or neglecting to repair boats &c.

7. And be it enacted That if any such steam vessel as aforesaid proceed to sea without being provided with such hose as aforesaid or being an iron steam vessel commenced to be built in this Colony after the passing of this Act without being so divided as aforesaid or if any steam or other vessel of one hundred tons burden or upwards proceed to sea without being so provided with boats as aforesaid or if any of such boats be lost or rendered useless in the course of the voyage through the wilful fault or negligence of the owner or master or if in case of any such boats being accidentally lost or injured in the course of the voyage the master or other person having charge of the vessel wilfully neglect to replace or repair the same on the first convenient opportunity then and in every case where the owner shall appear to be in fault he shall forfeit a sum not exceeding one hundred pounds and in every case where the master or other person having charge of the vessel shall appear to be in fault he shall forfeit a sum not exceeding fifty pounds.

Vessels not to be cleared out without being provided with partitions hose boats &c.

8. And be it enacted That it shall not be lawful for any Officer of Customs to clear out any such steam vessel as aforesaid for any voyage to any port within the said Colony or to other parts beyond the seas without being provided with such hose as aforesaid or being an iron steam vessel commenced to be built in this Colony after the passing of this Act without being so divided as aforesaid nor to clear out any steam or other vessel of one hundred tons burden or upwards for any such voyage unless the same be provided with such boats as hereinbefore are required.

Regulations for vessels passing each other and penalty for their non-observance.

9. And be it enacted That every steam vessel when meeting or passing any other steam vessel shall pass as far as may be safe on the port side of such other vessel and every steam vessel navigating any river or narrow channel shall keep as far as is practicable to that side of the fair-way or mid-channel of such river or channel which lies on the

Steam Navigation.

the starboard side of such vessel due regard being had to the tide and to the position of each vessel in such tide and the master or other person having the charge of any such steam vessel and neglecting to observe these regulations or either of them shall for each and every instance of neglect forfeit and pay a sum not exceeding fifty pounds.

10. And be it enacted That the Board hereinbefore mentioned may from time to time make regulations requiring the exhibition of such lights by steam vessels in such manner and under such circumstances as the said Board may think fit and may from time to time make any other regulations revoking or altering any previous regulations Provided that such regulations shall not be inconsistent with this Act and before coming into force shall be subject to the approval of His Excellency the Governor.

Board may make alter or revoke regulations.

11. And be it enacted That the said Board shall cause such regulations as soon as conveniently may be after the same shall have been made to be published in four successive *Government Gazettes* and the same shall be deemed to be in force after the expiration of one month from the date of the first of such publications until the same shall have been altered or revoked and until the expiration of one month after such alteration or revocation shall have been twice published in like manner as aforesaid.

Regulations to be published in Government Gazette.

12. And be it enacted That the master or other person having the charge of any steam vessel which shall be in any river or narrow channel in New South Wales or the adjacent Islands being within the said Colony or upon the sea within twenty miles of any part of the coast of the said Colony shall whether under weigh or at anchor between sunset and sunrise exhibit such lights within such places in such manner and under such circumstances as by the said regulations hereinbefore authorized to be made by the said Board shall be required and in default thereof shall forfeit and pay a sum not exceeding twenty pounds for every night in which such default shall be made and the owner of any steam vessel in which such light shall not be exhibited as aforesaid shall not be entitled to recover any recompense or damage whatsoever which may be sustained by such vessel in consequence of any other vessel running foul thereof during the night.

Steamers to carry lights under penalty.

13. And be it enacted That if any damage to any person or property shall be sustained in consequence of the non-observance as respects any steam vessel of the rules contained in the two enactments relative to the passing of steam vessels and to the exhibiting of lights hereinbefore contained the same shall in all Courts of Justice be deemed in the absence of proof to the contrary to have been occasioned by the wilful default of the master or other person having the charge of such steam vessel and such master or other person shall be subject in all proceedings whether civil or criminal to the legal consequences of such wilful default.

Remedy for damage to persons or property resulting from non-observance of regulations.

14. And be it enacted That on or before the thirtieth day of April and the thirty-first day of October in every year the owners of every steam vessel shall transmit to the said Board the two following declarations in writing that is to say—First a declaration of the sufficiency and good condition of the hull of such steamer under the hand of a shipwright surveyor to be approved by the said Board—Second a declaration of the sufficiency and good condition of the machinery of such steam vessel under the hand of an engineer to be approved in like manner by the said Board such declarations bearing date of some day in the said months of April or October respectively And the said Board shall register such declarations and shall transmit to the owners of such steam vessels respectively certificates under the hand of two or more of the said Board of the registry of such declarations Provided always that if the owners of any such vessel shall certify to the said Board

Declarations to be transmitted to the Board for registry in April or October of the sufficiency of the hull and machinery of steamers.

Steam Navigation.

Board that such vessel has been during the whole of such month of April or October respectively and still is in foreign parts so that it is impossible to obtain the declarations hereinbefore required bearing date as is hereinbefore prescribed and shall at the same time transmit to the said Board the declarations hereinbefore required bearing date of a day not being more than seven days before such vessel last sailed or departed from any port of the said Colony then and in every such case the said Board shall register such declarations and shall transmit to the owners of such last mentioned steam vessels respectively certificates of the registry of such declarations. Provided nevertheless that this enactment shall not extend or apply to any steam vessels so employed as hereinbefore mentioned during the continuance of such employment (that is to say) whilst employed in the Royal Mail Service or the conveyance of the Royal Public Mails or Despatches under contract with and under the superintendence of the Lord High Admiral or the Commissioners for executing the office of Lord High Admiral.

Not to extend to steamers employed in Royal Mail Service or under the superintendence of the Lord High Admiral &c.

Provision where declarations cannot be so transmitted in the months of April or October.

15. And whereas it may happen that by reason of a steam vessel or the machinery thereof being under repair during either of the said months of April or October it may be impracticable to make such declarations as are hereinbefore required in either of the said months. Be it enacted That in such case it shall be lawful for the owners of such steam vessels at any time to make a representation to that effect to the said Board and to transmit therewith such declarations as are hereinbefore required and it shall be thereupon lawful for the said Board if they shall be satisfied of the truth of such representation to register such declarations notwithstanding they shall not bear date in either of the months of April or October and the said Board shall transmit to the owners of such steam vessels certificates of the registry thereof in manner hereinbefore provided and such certificates shall have the like force and effect and be used for all the same purposes and in the same manner as if the said certificates referred to declarations made in either of the said months of April or October.

Steamers not to proceed to sea or be cleared until such declarations previously made and registered.

16. And be it enacted That from and after the thirtieth day of June one thousand eight hundred and forty-eight it shall not be lawful for any steam vessel except as is lastly hereinbefore excepted to proceed to sea unless the owner thereof shall have duly transmitted to the Board such declarations and shall have received from the Board such certificates of the registry thereof as hereinbefore is mentioned and that it shall not be lawful for any Officer of Her Majesty's Customs or Port Officer to clear out any steam vessel carrying passengers for any voyage to any port within the said Colony or to parts beyond the seas unless upon the production of the certificate of the registry of the declarations which shall most recently have been made in respect of such steam vessel and unless such declarations shall have been so made within six calendar months of the application for clearance.

Penalty for proceeding to sea without certificate of the registry of such declarations.

17. And be it enacted That if any steam vessel proceed to sea with passengers the owner whereof has not duly transmitted to the said Board such declarations and received from the said Board such certificates of the registry of such declarations as hereinbefore is mentioned the owner of such steam vessel shall forfeit a sum not exceeding one hundred pounds.

Forging or altering declaration or certificate a misdemeanor.

18. And be it enacted That any person who shall knowingly or wilfully make or assist in making a false or fraudulent declaration or certificate or who shall knowingly or wilfully forge counterfeit or fraudulently alter or shall aid and assist in forging counterfeiting or fraudulently altering or who shall attempt to forge counterfeit or fraudulently alter any declaration or certificate provided for by this Act or any words or figures in any such declaration or certificate he shall be deemed to be guilty of a misdemeanor.

Steam Navigation.

19. And be it enacted That whenever any steam vessel shall have sustained or caused any serious accident occasioning loss of life or property or received any material damage affecting her sea-worthiness either in her hull or her engine by grounding or by collision with any other vessel or by any other means the master or other person having the charge of such vessel shall as soon as conveniently may be transmit through the Post Office by letter addressed to the said Board and signed by such master or other person a report of such accident or damage and the probable occasion thereof stating therein the name of the vessel the port to which she belongs and the place where she is in order that the Board may if they think fit investigate the matter and should the owner or owners of any steam vessel from her non-appearance or otherwise have reason to apprehend that such steam vessel is wholly lost he or they shall as soon as conveniently may be in like manner send notice thereof to the Board and every owner master or such other person as aforesaid who shall neglect to send such notice as hereby is required within a reasonable time after any such accident shall have happened shall for every such offence forfeit and pay a sum not exceeding fifty pounds.

Board to be informed of any accident to vessel or passengers under penalty.

20. And be it enacted That whenever any steam vessel shall have sustained or caused any serious accident occasioning loss of life or property or received any material damage affecting her sea-worthiness either in her hull or her engine by grounding or by collision with any other vessel or by any other means it shall be lawful for the Governor of the said Colony at the request of the said Board to appoint any proper person or persons as Inspector or Inspectors to inquire into and to report upon such accident and it shall be lawful for every person so authorized at all reasonable times upon producing his authority if required to go on board and inspect any such steam vessel and the machinery thereof and every part thereof respectively not detaining or delaying the vessel from proceeding on her voyage and to make such inquiries as to the nature circumstances and causes of such accident as he or they may think fit.

At request of Board Governor may appoint an Inspector to inquire into the nature and cause of such accident.

21. And be it enacted That the said Inspectors or any of them shall be and they are hereby empowered by summons under their or his hands or hand to require the attendance of all such persons as they or he shall think fit to call before them or him upon any question or matter connected with or relating to the execution of any of the powers and duties vested by this Act in the said Inspectors and also to make inquiries and to require answers or returns thereto in relation to any such matters and for the purpose aforesaid to administer oaths and to examine all persons upon oath and to require and enforce the production upon oath of all log-books accounts agreements or other papers or writings in anywise relating to every such matter as aforesaid or in lieu of requiring or administering an oath that the said Inspector or Inspectors may if he or they think fit require every such person to make and subscribe a declaration of the truth of the matters respecting which he shall be or shall have been examined or interrogated Provided always that no such person shall be required in obedience to any such summons to travel more than ten miles from his actual abode at the time of receiving such summons unless tender shall be made to him of such reasonable expenses in respect of his attendance to give evidence and his journeys to and from the place where he shall be required to attend for that purpose as would be allowed to any witness attending on subpoena to give evidence before any Court and in case of any dispute as to the amount of such expenses the same shall be referred by the Inspectors to the said Board who are hereby required to ascertain and certify the proper amount of such expenses on a request

Powers and duties of Inspectors.

Steam Navigation.

request made to them for that purpose under the hand or hands of the said Inspector or Inspectors.

Penalty for obstructing Inspectors.

22. And be it enacted That if any person shall wilfully obstruct or impede such Inspector or Inspectors or any of them in the execution of their duty whether on board any ship or vessel or elsewhere every person so offending and all others aiding or assisting therein shall and may be seized and detained by such Inspector or Inspectors or any person or persons whom he or they may call to his or their assistance until such offender or offenders can be conveniently taken before some Justice of the Peace having jurisdiction in the county or place wherein such offence shall be committed and when convicted before such Justice as aforesaid (who is hereby authorized and required upon complaint to him upon oath to take cognizance thereof and to act summarily in the premises) shall in the discretion of such Justice forfeit any sum not exceeding five pounds and in default of payment thereof shall and may be imprisoned for any term not exceeding two calendar months unless the amount of the penalty shall have been sooner discharged.

Recovery of forfeitures or penalties.

23. And be it enacted That every penalty or forfeiture imposed by this Act may be recovered by summary proceeding before two Justices and upon the exhibiting of any information in writing before any Justice such Justice shall issue a summons requiring the party complained against to appear before two Justices having jurisdiction at a time and place to be named in such summons and every such summons shall be served on the party offending either in person or by leaving the same with some inmate at his usual place of abode or on board any ship or vessel to which such person shall belong and upon the appearance of the party complained against or in his absence after proof of the due service of such summons it shall be lawful for any two Justices having jurisdiction to proceed to the hearing of the complaint and upon proof of the offence either by the confession of the party complained against or upon the oath of one credible witness or more it shall be lawful for such Justices to convict the offender and upon such conviction to adjudge the offender to pay such penalty as may seem fit and not greater than the penalty or forfeiture specified in this Act as well as such costs attending the conviction as such Justices shall think fit.

How offences on the high seas to be dealt with.

24. And be it enacted That in case any offence shall be committed upon the high seas against this Act or any penalty or forfeiture shall be incurred on the high seas for any breach of this Act such offence shall for the purposes of prosecution be deemed and taken to have been committed and such penalty or forfeiture to have been incurred at the place on land in the said Colony into which the person committing such offence or incurring such penalty or forfeiture shall be taken brought or carried or in which such person shall be found and in case such place or land is situated within any city or town corporate as well as any Justice of the Peace for such city or town corporate as any Justice of the Peace within the territory of New South Wales shall have jurisdiction to hear and determine all cases of offences against this Act so committed on the high seas and to convict the offender or offenders in the penalties or forfeitures prescribed by this Act any Act of Council to the contrary notwithstanding Provided always that where any offence shall be committed or any penalty or forfeiture incurred in any place upon the water not being within any place in the said Colony or where any doubt exists as to the same being within the said Colony such offence shall for the purposes of this Act be deemed and taken to be an offence committed on the high seas Provided also that it shall and may be lawful for any Justice of the Peace whatsoever on the exhibiting before him any information in writing for any offence against this

Act

Steam Navigation.

Act so committed or taken to have been committed on the high seas as aforesaid to issue a summons and such Justice of the Peace is hereby required to issue a summons for the appearance of the party against whom such information in writing shall have been exhibited and such summons directed to such party being served as hereinbefore is ordered shall be deemed to have been sufficiently served.

25. And be it enacted That if forthwith upon any such adjudication as aforesaid the amount of the penalty or forfeiture and of such costs as aforesaid be not paid the amount of such penalty and costs shall be levied by distress and such Justices or either of them or any other Justice having jurisdiction as aforesaid shall issue their or his warrant of distress accordingly.

On non-payment of penalty distress warrant may issue.

26. And be it enacted That it shall be lawful for any such Justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs unless the offender give sufficient security by way of recognizance or otherwise to the satisfaction of the Justice for his appearance before him on the day appointed for such return such day not being more than eight days from the time of taking such security but if before issuing such warrant of distress it shall appear to the Justice by the admission of the offender or otherwise that no sufficient distress can be had within the jurisdiction of such Justice whereon to levy such penalty or forfeiture and costs he may if he thinks fit refrain from issuing such warrant of distress and in such case or if such warrant shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justice then such Justice shall by warrant cause such offender to be committed to gaol there to remain without bail for any term not exceeding three months unless such penalty or forfeiture and costs be sooner paid and satisfied.

Proceedings where no sufficient distress.

27. And be it enacted That where in this Act any sum of money whether in the nature of penalty or otherwise is directed to be levied by distress such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same and the overplus arising from the sale of such goods and chattels after satisfying such sum of money and the expenses of the distress and sale shall be returned on demand to the party whose goods shall have been distrained.

Mode of levying by distress.

28. And be it enacted That no distress levied by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons conviction warrant of distress or other proceeding relating thereto nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not unlawful for want of form.

29. And be it enacted That all penalties and forfeitures recovered under this Act shall be applied as follows—one-half thereof shall be paid to the person who shall sue or proceed for the same and the other half to Her Majesty's use and shall be paid to the Treasurer of the said Colony and shall be duly accounted for by him and that all convictions before Justices and all fines forfeitures or penalties imposed in consequence of such convictions shall be returned to the Court of Quarter Sessions under the provisions of an Act of the said Governor and Legislative Council passed in the second year of Her Majesty's reign intituled "*An Act for the more effectual recovery of Fines and enforcement of forfeited Recognizances imposed and entered by and before Justices of the Peace in New South Wales.*"

Application of fines and penalties.

Steam Navigation.

How indictment preferred.

30. And be it enacted That no indictment shall be preferred for any offence against this Act unless under the direction of the said Board or the Collector of Customs and no suit or proceeding shall be commenced for the recovery of any penalty or forfeiture for any such offence unless in the name of Her Majesty's Attorney General for said Colony.

Limiting time within which complaints may be made.

31. And be it enacted That no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act for any offence made cognizable before a Justice unless the complaint respecting such offence shall have been made before such Justice within six months next after the commission of such offence.

Powers of Justices and penalty on witnesses not appearing or refusing to give evidence.

32. And be it enacted That it shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act at a time and place mentioned in such summons and to administer to him an oath to testify the truth in such matter and if any person so summoned shall without reasonable excuse refuse or neglect to appear at the time and place appointed for that purpose having been paid or tendered a reasonable sum for his expenses or if any person appearing shall refuse to be examined on oath or to give evidence before such Justice every such person shall forfeit a sum not exceeding five pounds for every such offence.

Commitment not voided for want of form nor proceeding removed by *certiorari*.

33. And be it enacted That no warrant of commitment consequent upon any summary conviction under this Act shall be held void by reason of any defect in such warrant provided it be therein alleged that the party has been convicted and there be a good and valid conviction to sustain the same nor shall any conviction order or other proceeding in pursuance of this Act be quashed or vacated for want of form nor shall the same be removed by *certiorari* or otherwise into any of the Superior Courts.

Appeal given within four months.

34. And be it enacted That if any person shall think himself aggrieved by any determination or adjudication of any Justice with respect to any penalty or forfeiture under the provisions of this Act he may appeal to the nearest Court of General Quarter Sessions for the county or place in which the cause of appeal shall have arisen but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication nor unless ten days' notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon.

Powers of Quarter Sessions in appeal.

35. And be it enacted That at the Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they think fit adjourn it to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his goods to be returned to him and may also order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

War and foreign vessels exempted.

36. And be it enacted That nothing in this Act contained shall extend to any of Her Majesty's ships of war nor to any vessel not being a Colonial or British registered vessel.

Not to alter or repeal.

37. And be it declared and enacted That nothing in this Act contained shall be construed as repealing or altering any of the provisions

Liens on Wool.

visions of an Act passed by the Imperial Parliament in the fifth and sixth years of the reign of Her Majesty Queen Victoria intituled "*An 5 & 6 Vic. cap. 107. Act for regulating the carriage of Passengers in Merchant Vessels.*"

38. And be it enacted That this Act may be amended or repealed by any Act to be passed in the present Session. Act may be repealed or amended.

39. And be it enacted That this Act shall commence and take effect from and after the first day of January next ensuing. Commencement of Act.

TABLE REFERRED TO.

| TONNAGE OF VESSEL. | Number of Boats. | LONG BOAT LAUNCH OR PINNACE. | | OTHER BOATS. | | | | | |
|-----------------------|---------------------|------------------------------------|---------|------------------|---------|---------------------------|---------|------------------|---------|
| | | Length. Breadth. | | Length. Breadth. | | Length. Breadth. | | Length. Breadth. | |
| | | Feet. | Ft. In. | Feet. | Ft. In. | Feet. | Ft. In. | Feet. | Ft. In. |
| 850 and upwards... | 4 | 26 | 8 0 | 24 | 7 0 | 22 | 6 6 | 16 | 5 6 |
| 650 to 850 | 4 | 24 | 7 0 | 22 | 6 6 | 18 | 5 6 | 16 | 5 6 |
| 350 to 650 | 3 | 20 | 6 6 | 18 | 5 6 | .. | | 14 | 5 0 |
| 200 to 350 inclusive | 2 | 18 | 6 0 | .. | | .. | | 14 | 5 0 |
| 100 to 200 | 2 | .. | | 16 | 5 6 | and a Punt or small Boat. | | | |