

No. XLVI.

STEAM NAVIGATION. **An Act to consolidate and amend the Laws relating to Steam Navigation and to the Boats and Lights to be carried and the Signals to be made by sea-going Vessels. [28th December, 1852.]**

Preamble.
15 Vic. cap. 79.

WHEREAS an Act of Parliament was passed in the fifteenth year of the reign of Her present Majesty intituled "*An Act to consolidate and amend the Laws relating to the regulation of Steam Navigation and to the Boats and Lights to be carried by sea-going Vessels*" And whereas it is expedient to assimilate the laws of New South Wales respecting Steam Navigation and to the boats and lights to be carried by sea-going vessels to the provisions contained in the said Act with such modifications and further provisions as are herein contained Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows :—

11 Vic. No. 3 and 14
Vic. No. 32 repealed
from the time this
Act comes into operation
except in certain
cases.

1. The Act of Council passed in the eleventh year of the reign of Her present Majesty and numbered three and the Act of Council passed in the fourteenth year of the said reign and numbered thirty-two shall be repealed from the time when this Act comes into operation except as to any penalties or liability to punishment incurred thereunder and also except as to any certificates or licenses of steam vessels issued by the Boards respectively appointed by virtue of the provisions of

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of the said two last-mentioned Acts or either of them which certificates or licenses unless the same be cancelled or revoked under the provisions of this Act shall remain and be in force as if this Act had been passed and had come into operation before the issuing thereof and they had been issued thereunder.

Existing certificates or licenses to continue in force.

2. It shall be lawful for the Governor to nominate and appoint any number of persons not exceeding five of whom three shall be a quorum with power to act as and to be a Board to be called "The New South Wales Steam Navigation Board" with full power to carry out the provisions of this Act and to fix the amount of remuneration to be paid to the members of the said Board respectively.

Governor to appoint a Board to be called "The New South Wales Steam Navigation Board."

3. It shall be lawful for the Governor to constitute and to appoint the members of any Local Board or Boards for any port harbour place or district in the said Colony at or in which it shall appear expedient to such Governor that any such Local Board should be established and every such Local Board shall consist of any number of persons not exceeding five three of whom or any less number being a majority of such Board shall be a quorum with power to act.

Power to the Governor to appoint Local Boards.

4. The provisions of this Act shall apply to the New South Wales Steam Navigation Board within the whole of the said Colony and its dependencies except within the local limits for which such Local Board shall be constituted as aforesaid and when any such Local Board shall be constituted and appointed as aforesaid then all the provisions of this Act shall within the local limits for which such Local Board shall be so constituted and appointed as aforesaid apply to such Local Board or Boards respectively.

Until Local Boards appointed the New South Wales Steam Navigation Board to act for the whole Colony.

5. It shall be lawful for such Governor to appoint such secretaries officers clerks and servants as he may deem necessary to assist any Board or Boards to be appointed in pursuance of the provisions hereof in the execution of this Act and such secretaries officers clerks and servants from time to time to remove as occasion may require and to appoint others in their room.

Governor to appoint officers &c.

6. The New South Wales Steam Navigation Board shall have power to settle and issue forms of the several documents which are required by this Act or by any other Act of Council relating to Steam Navigation and to alter and vary such forms as they shall think fit.

Power for Steam Navigation Board to settle issue and alter forms.

And with respect to the provision to be made for insuring the periodical survey of steam vessels Be it enacted as follows—

7. The owner of every steam vessel constructed or intended to carry passengers (except vessels employed in 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 and except also Her Majesty's ships of war) shall cause such steam vessel to be surveyed twice at least in every year whether the same be worked by high or by low pressure at the times hereinafter directed by a shipwright surveyor and by an engineer surveyor appointed for the purposes of this Act by the said Board and shall obtain a declaration of the sufficiency and good condition of the hull of such steamer and of the boats and other equipments thereof required by this Act and also if the said Board so require a statement of the number of passengers (whether deck passengers or other passengers) which such vessel is constructed to carry under the hand of such shipwright surveyor and a declaration of the sufficiency and good condition of the machinery of such steamer under the hand of such engineer surveyor and in such declaration it shall be distinguished whether such vessel is in construction and equipments adapted for sea service as well as for river or lake service or for river or lake service only and when any such vessel is adapted for lake and river service only such declaration shall state the local limits within

All steam vessels except ships of war or steamers conveying Royal Mails &c. to be surveyed and owners to transmit declarations to Board twice a year.

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within which such vessel is in the judgment of the surveyor adapted for plying and such owner shall transmit such declarations to the said Board within fourteen days after the dates thereof respectively.

Times appointed for
the surveys.

8. In all cases where the same may be possible such surveys shall be made in the months of April and of October and such declarations shall be transmitted on or before the last days of such months respectively or if the last preceding survey of any such steam vessel were not made in either of those months then such survey shall be made and such declaration transmitted in the course of the thirty days next before the expiration of six months next after the date of the certificate granted as hereinafter mentioned upon the last preceding survey but if the owner of any such steam vessel as aforesaid be unable to have the same surveyed in either of the said respective months as the case may be or in the course of such thirty days as aforesaid either by reason of such vessel being absent from the said Colony during the whole of those periods respectively or by reason of such vessel or the machinery thereof being under construction or repair or of such vessel being laid up in dock or for any other reason satisfactory to the said Board then the owner of such steam vessel shall have the same surveyed as aforesaid as soon thereafter as possible and shall transmit such declarations to the said Board within fourteen days after the date thereof together with a statement of the reasons which have prevented the survey of such vessel at the time hereinbefore prescribed and the owner of every such steam vessel in respect of which such declarations shall not have been transmitted at the times and in the manner hereinbefore directed shall except in any case in which the survey of such vessel shall have been prevented as hereinbefore is provided forfeit and pay the sum of ten shillings for every day that the sending of such declarations is delayed and such sum shall be paid upon the issue of the certificate hereinafter mentioned together with the fee hereinafter mentioned unless the said Board think fit in any case to remit such forfeiture or any part thereof.

Board to grant
certificates and
transmit lists to be
put up at Custom
Houses.

9. Upon the receipt of such declarations the said Board shall register the same and if they are satisfied that the provisions of this Act have been complied with shall cause to be transmitted to the master or owner of the steam vessel to which such declarations refer a certificate signed by one of the Secretaries to the said Board or by some one or more of the members of the said Board that the provisions of the law with respect to the transmission of declarations in respect of such vessel have been complied with and such certificate shall be called a "Sea-going Certificate" where according to the declaration of the surveyor such vessel is adapted for sea service as well as river or lake service and such certificate shall be called a "River Certificate" where according to such declaration such vessel is adapted for river or lake service only and shall set out the local limits within which such vessel is to ply and where any such vessel is constructed to carry passengers and the said Board think fit so to do in order to prevent the over-crowding of such vessel with passengers they shall insert in such certificate the number of passengers whether deck passengers or other passengers which such vessel is constructed to carry or is authorized to carry by the Act of the Imperial Parliament fifteen and sixteen Victoria chapter forty-four section twelve and the said Board shall from time to time transmit lists of the vessels in respect of which such certificates have been issued to the officers of Customs in all ports in the said Colony and such officers shall cause such lists to be put up in a conspicuous place in the Custom House at each port.

The Board may
cancel certificates
and require fresh
declarations.

10. The said Board may revoke and cancel such certificates or any certificates or licenses granted by virtue of the provisions of the said

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said Acts passed in the eleventh and fourteenth years of the reign of Her present Majesty or this Act or any of them in any case where they have reason to believe that the declarations of the sufficiency and good condition of the hull and machinery of any vessel or either of them have been fraudulently or erroneously made or that such certificate or license has otherwise been issued upon false or erroneous information or where they have reason to believe that since the making of such declarations the hull or machinery of such vessel has sustained any injury or is otherwise insufficient and in every such case the said Board may if they think fit require the owner to have the hull or machinery of such vessel again surveyed and to transmit a further declaration or declarations of the sufficiency and good condition thereof before re-issuing any certificate or license or granting a fresh one in lieu thereof and the said Board may at any time revoke any certificate or license for the purpose of inserting in any certificate or license to be issued in lieu thereof the number of passengers which the vessel to which such certificate or license relates is constructed to carry or is authorized to carry as aforesaid.

11. No certificate or license as to any steam vessel shall be held to be in force for the purposes of this Act for more than six months and no certificate or license shall be in force after notice to the owner or master of the vessel to which the same relates by the said Board that they have revoked the same. Provided always that if any such steam vessel shall have been absent from the Colony for the whole of the thirty days next before the expiration of the certificate or license last granted in respect of such vessel such last certificate or license (if not expressly cancelled or revoked) shall continue in force till the return of such vessel to the said Colony or for twenty-one days afterwards.

How long certificates to continue in force.

12. The owner of every steam vessel requiring a certificate under this Act shall pay for every certificate granted by the said Board such sum as the said Board appoint not exceeding the sums following that is to say—

Fees to be paid for certificates.

Where the tonnage of such vessel does not exceed one hundred tons a sum not exceeding one pound

Where such tonnage exceeds one hundred tons and does not exceed three hundred tons a sum not exceeding two pounds

Where such tonnage exceeds three hundred tons a sum not exceeding three pounds

And such fees as well as such forfeitures as hereinbefore mentioned shall be paid to the said Board and by them paid into the Colonial Treasury to be applied to the public uses of the said Colony and in support of the Government thereof in such manner as may be appointed by any Act of the Governor and Legislative Council.

Application of fees and forfeitures.

13. Every person who knowingly and wilfully makes or assists in making a false or fraudulent declaration or certificate with respect to any vessel requiring a certificate under this Act or who knowingly and wilfully forges counterfeits or fraudulently alters or assists in forging counterfeiting or fraudulently altering any declaration or certificate required by this Act or any words or figures in any such declaration or certificate or the signature thereto shall be deemed guilty of a misdemeanor or shall be liable on summary conviction to a penalty not exceeding fifty pounds or to imprisonment with or without hard labor not exceeding six months.

Forgery of declaration or certificate to be a misdemeanor or subject person summarily convicted to fine or imprisonment.

14. The owner or master of every steam vessel shall forthwith on receipt of any such certificate as aforesaid by him or his agent from the said Board cause the same or a true copy thereof in distinct and legible characters to be put up in some conspicuous part of the vessel

Copy of certificate to be placed in conspicuous part of vessel.

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vessel so as to be visible to all persons on board the same and shall cause it to be continued so put up so long as such certificate remains in force and such vessel is in use and in default such owner or if he can prove the default to have been caused by the master such master shall for every offence be liable to a forfeiture or penalty not exceeding ten pounds.

Vessel not to proceed on her voyage without certificate.

Penalty on owners and masters of vessels proceeding without certificate.

Penalty on owner &c. for carrying more passengers than specified in certificate.

Penalty on persons forcing their way on board when vessels are full.

Penalty on persons refusing to pay their fares or to quit the vessel.

15. It shall not be lawful for any steam vessel (other than any such mail packet as aforesaid) to proceed to sea or upon any voyage or excursion with any passengers on board the owner of which has not transmitted to the said Board the declarations hereinbefore required and the owner or master of which has not received from them a certificate that the provisions of the law in that respect have been complied with as hereinbefore provided for such certificate being a certificate applicable to the voyage or excursion on which such vessel is proceeding and if the owner or master of any steam vessel (other than any such mail packet as aforesaid) proceed to sea or on any voyage or excursion with any passengers on board without having such certificate as aforesaid or a true copy thereof in distinct and legible characters on board and so put up as aforesaid in some conspicuous part of the vessel (such certificate being a certificate then in force) the owner thereof shall for such offence be liable to a penalty not exceeding one hundred pounds and the master of such vessel shall also be liable to a further penalty not exceeding twenty pounds.

16. If in any such certificate the number of passengers which the vessel to which such certificate relates is constructed to carry is stated it shall not be lawful to carry on board thereof any greater number of passengers whether deck passengers or other passengers than the numbers thereof respectively stated in such certificate and if the owner or master or other person in charge of any such vessel receive on board thereof or if such vessel shall at any time have on board any greater number of passengers whether deck passengers or other passengers than the numbers thereof respectively specified in such certificate the owner or the master or other person having charge thereof shall forfeit a sum not exceeding twenty pounds and shall also forfeit five shillings for every passenger over and above the number so specified in the certificate as aforesaid.

17. If any person after having been refused admission into any steam vessel by the owner or person in charge thereof or by any person in the employ of the owner thereof on account of such steam vessel being full and after having had the full amount of his fare (if he has paid the same) returned or tendered to him shall nevertheless persist in attempting to enter the same or if any person having got on board any steam vessel be requested on the like account by the owner or person in charge thereof or by any person in the employ of the owner to leave such steam vessel before the same has quitted the place at which such person got on board and shall refuse so to do after having had the full amount of his fare (if he has paid the same) returned or tendered to him then and in either of such cases such person shall for such offence forfeit and pay to the owner of such vessel any sum not exceeding five pounds.

18. If any person travel or attempt to travel in any steam vessel that has been duly surveyed in conformity with the provisions of this Act without having previously paid his fare and with intent to avoid payment thereof or if any person having paid his fare for a certain distance knowingly and wilfully proceed in any such vessel beyond such distance without previously paying the additional fare for the additional distance and with intent to avoid payment thereof or if any person knowingly and wilfully refuse or neglect on arriving at the point to which he has paid his fare to quit such vessel every such

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such person shall for every such offence forfeit and pay to the owner of such vessel a sum not exceeding forty shillings in addition to the fare payable by him.

19. Every person who having committed any of the offences mentioned in the last two preceding sections or either of them refuses on application of the master of the vessel or other person in the employ of the owner thereof to give his name and address or who on such application gives a false name or address shall forfeit and pay to the owner of such vessel a sum not exceeding ten pounds.

Penalty on offenders refusing to give their name and address.

20. No horses cattle sheep or pigs shall be carried on the upper deck of any steam vessel engaged in the coasting trade unless properly secured in stalls or pens to be erected for the purpose with the approval of the Steam Navigation Board who shall grant a general certificate for every such vessel of the number of horses cattle sheep or pigs which in their opinion may be safely and conveniently carried on the deck thereof and no part of the cargo or of the provisions water or stores shall be carried on the upper deck excepting poultry in coops or baskets and fish butter cheese eggs fruit and vegetables in baskets or wooden boxes and carts carriages and other vehicles and all such articles shall be so placed as not to impede light or ventilation or interfere with the comfort of the passengers and if any articles or greater number of horses or other animals than shall be certified by the Board as aforesaid shall be carried on deck contrary to the true intent and meaning of this enactment the master or owner of the vessel carrying the same shall be liable to a penalty not exceeding fifty pounds.

As to horses cattle &c. carried on decks and as to certificate from Steam Navigation Board.

21. The said Board may from time to time with the approval of the Governor of the said Colony testified by some writing under his hand or under the hand of the Colonial Secretary for the time being of the said Colony appoint such number of fit and proper persons to be shipwright surveyors and engineer surveyors for the purposes of this Act at such ports or places as they think proper and may from time to time with such approval as aforesaid testified as aforesaid remove such surveyor or any of them and appoint others in their room.

Power for Board to appoint and remove shipwrights surveyors &c. and fix rates of remuneration subject to the approval of the Governor.

22. The said surveyors shall make such returns from time to time to the said Board with respect to the build dimensions draft burden rate of sailing room for fuel and the nature and particulars of machinery of the vessels surveyed by them as shall be required by the said Board and every owner master and engineer of any such vessel shall on demand give to such surveyors all such information and assistance within his power as may be required by them for the purpose of such returns and every such owner master and engineer who on being applied to for that purpose wilfully refuses or neglects to give such information or assistance shall be liable to a penalty not exceeding five pounds.

Surveyors to make returns of the build &c. of vessels and owners &c. to give information for that purpose.

23. The said surveyors shall execute their duties under the direction of the said Board and in the execution of such duties it shall be lawful for them to go on board any steam vessel at all reasonable times and to inspect the same or any part thereof or any of the machinery boats equipments or articles on board thereof to which the provisions of this Act or any of the regulations to be made by virtue thereof apply not unnecessarily detaining or delaying the vessel from proceeding on any voyage and if in consequence of any accident to any such vessel or for any other reason they consider it necessary so to do the Board shall require the vessel to be taken into dock or placed on a slip or on any other convenient place for the purpose of surveying the hull thereof and any person who hinders any such surveyor from going on board any such steam vessel or otherwise impedes him in the execution of his duty under this Act shall be liable to a penalty not exceeding five pounds.

Surveyors to act under direction of the Board to be allowed to go on board steam vessels to inspect &c.

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Penalty on surveyors demanding or receiving fees unlawfully.

24. Every such surveyor who demands or receives directly or indirectly from the owner or master of any vessel surveyed by him under the provisions of this Act any fee or remuneration whatsoever for or in respect of such survey or otherwise than as the agent and by the direction of the said Board shall be liable to a penalty not exceeding fifty pounds at the suit of any person whomsoever.

Iron steamers to be divided by water-tight partitions.

25. The owner of every steam vessel built of iron of one hundred tons burthen or upwards the building of which shall have been commenced since the twenty-fourth day of July in the year of our Lord one thousand eight hundred and forty-seven and the owner of every steam vessel built of iron of less burthen than one hundred tons the building of which shall have commenced after the passing of this Act except vessels used solely as steam tugs shall cause the same to be divided by transverse water-tight partitions so that the fore part of the vessel shall be separated from the engine room by one of such partitions and so that the after part of such vessel shall be separated from the engine room by another of such partitions and if any steamer hereinbefore required to be so divided proceeds to sea without being so divided the owner shall be liable to a penalty not exceeding one hundred pounds.

Penalty on owner for neglect.

And with regard to safety valves Be it enacted as follows—

Steam vessels to carry safety valves out of control of engineer and to be deemed a necessary part of machinery.

26. After the first day of July one thousand eight hundred and fifty-three it shall not be lawful for any steam boat of which surveys are required by the provisions of this Act to go to sea or to steam upon the rivers of the said Colony without having a safety valve upon each boiler out of the control and interference of the engineer except only for the purpose of opening the same and keeping it free and such safety valve shall be deemed to be a necessary part of the machinery upon the sufficiency of which the engineer surveyor is to report as herein provided.

And with respect to the boats and other equipments to be provided for sea-going vessels Be it enacted as follows—

Sea-going vessels to be provided with the number of boats and of the dimensions herein mentioned.

27. No decked vessel except vessels used solely as steam tugs shall proceed to sea from any port or place in the said Colony whatsoever unless it shall be provided according to its tonnage with boats duly supplied with all requisites for their use and not being fewer in number nor less in their cubic contents than the boats the number and cubic contents of which are specified in the following table Provided that the said limits of dimension be not considered applicable to vessels engaged in the whale fishery

TABLE.

REGISTERED TONNAGE.		COLUMN 1. To be carried by Sailing Vessels and Steam Vessels.								COLUMN 2. To be carried by Sailing Vessels and by Steam Vessels unless they carry the Boats in No. 3.				COLUMN 3. To be carried by Steam Vessels which do not carry the Boats in Col. 2.				TOTAL NUMBER OF BOATS.	
Sailing Vessels.	Steam Vessels.	Boats.				Boats.				Launches.				Boats.				Sailing Vessels.	Steam Vessels.
		Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.		
Tons. 800 and upwards }	Tons. 500 and upwards }	1	18	5 6	2 3	2	24	5 6	2 6	1	26	8 0	3 8	2	22	5 6	2 6	4	4 or 5
600 to 800...	350 to 500...	1	16	5 6	2 3	2	24	5 6	2 6	1	25	7 0	3 6	2	22	5 6	2 6	4	4 or 5
400 to 600...	210 to 350...	1	16	5 6	2 3	1	22	5 6	2 5	1	22	6 6	3 3	2	23	5 6	2 6	3	3 or 4
200 to 400...	120 to 240...	1	14	5 0	2 2	...	...	...	...	1	20	6 0	3 0	2	22	5 6	2 6	2	2 or 3
100 to 200...	60 to 120...	1	14	5 0	2 2	...	...	...	...	1	16	5 6	2 9	2	18	5 6	2 4	2	2 or 3
Under 100...	Under 60...	1	14	5 0	2 2	...	...	...	...	...	...	...	...	...	...	...	...	1	1

NOTE.—In the case of Steam Vessels two paddle-box boats may be substituted for any two of the boats in column 3.

And

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And no such vessel carrying more than ten passengers shall proceed to sea unless in addition to the boats hereinbefore required it also be provided with a life boat furnished with all requisites for use or unless one of its boats hereinbefore required be rendered buoyant after the manner of life boats and no such vessel shall proceed to sea with passengers as aforesaid unless it also be provided with two life buoys to be kept ready for immediate use.

28. No steam vessel except vessels used solely as steam tugs shall proceed to sea unless it shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the vessel and capable of being connected with the engines of the vessel nor if carrying passengers without being provided with the following means of making signals of distress that is to say twelve blue lights or twelve port fires and one cannon with ammunition for at least twelve charges or in the discretion of the master or owner of such vessel with such other means of making signals as shall have been previously approved by the said Board.

No steamer to proceed to sea without being provided with a hose and signals.

29. If any such steam or other vessel as aforesaid proceed to sea without being provided with such boats and other equipments as hereinbefore required for such vessel or if any of such boats or other equipments 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 of such boats or life buoys 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 be liable to a penalty 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 be liable to a penalty not exceeding fifty pounds.

Penalties on owners or masters &c. neglecting to provide boats equipments &c.

30. It shall not be lawful for any officer of Customs to clear out or to grant a transire to or allow to proceed to sea any such steam or other vessel as aforesaid unless upon the production of such certificate as aforesaid and in any case in which any vessel is delayed by reason of non-compliance with any of the provisions hereinbefore contained the tidewaiter or other officer or person left on board shall be maintained at the expense of the master or owner of such vessel until such provisions are complied with.

Officers of Customs not to clear out vessels not complying with the above provisions.

And with respect to the lights to be carried and other provision to be made for guarding against accidents from collision Be it enacted as follows—

31. The said Board shall from time to time make regulations requiring the exhibition of such lights and the giving of such audible signals by the ringing of a bell or otherwise by such classes of vessels whether steam or sailing vessels within such places and under such circumstances as they think fit and they shall cause such regulations to be published in the *New South Wales Government Gazette* and to be otherwise publicly made known and such regulations shall come into operation on a day to be named in such *Gazette* and they shall cause such regulations to be printed and shall furnish a copy thereof to any owner or master of a vessel who applies for the same and production of the *Gazette* containing such regulations shall be sufficient evidence of the purport and due making thereof and all owners and masters or persons having charge of vessels shall be bound to take notice of the same and shall so long as the same continue in force exhibit such lights and no others at such times within such places in such manner and under such circumstances as are enjoined by such regulations and in case of default the master or other person having charge of any vessel or the owner of such vessel if it appear that

Board to make regulations as to lights.

Penalty on owners and masters failing to obey them.

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Existing regulations
to continue in force
till revoked.

that he was in fault shall for each and every occasion upon which such regulations are infringed forfeit and pay a sum not exceeding twenty pounds Provided always that such regulations before coming in force shall be subject to the approval of the Governor of the said Colony and that all regulations made by the Boards respectively appointed under the authority of the said Acts passed in the eleventh and fourteenth years of the reign of Her present Majesty or either of them and in force at the passing of this Act together with the penalties applicable thereto shall continue and be in force as if the same had been made under this Act until the same be revoked.

Rules to be observed
by vessels passing
each other.

32. Whenever any vessel proceeding in one direction meets a vessel proceeding in another direction and the master or other person having charge of either such vessel perceives that if both vessels continue their respective courses they will pass so near as to involve any risk of a collision he shall put the helm of his vessel to port so as to pass on the port side of the other vessel due regard being had to the tide and to the position of each vessel with respect to the dangers of the channel and as regards sailing vessels to the keeping of each vessel under command and the master of any steam vessel navigating any river or narrow channel shall keep as far as is practicable to that side of the fairway or mid-channel thereof which lies on the starboard side of such vessel and if the master or other person having charge of any steam vessel neglect to observe these regulations or either of them he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Owners not entitled
to compensation in
certain cases of col-
lision but master to
be liable to penalty.

33. If in any case of a collision between two or more vessels it appear that such collision was occasioned by the non-observance either of the foregoing rules with respect to the passing of steamers or of the rules to be made as aforesaid by the said Board with respect to the exhibition of lights the owner of the vessel by which any such rule has been infringed shall not be entitled to recover any recompense whatsoever for any damage sustained by such vessel in such collision unless it appears to the Court before which the case is tried that the circumstances of the case were such as to justify a departure from the rule and in case any damage to person or property be sustained in consequence of the non-observance of any of the said rules 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 vessel and such master or other person shall unless it appears to the Court before which the case is tried that the circumstances of the case were such as to justify a departure from the rule be subject in all proceedings whether civil or criminal to the legal consequences of such default.

Accidents to be
reported to Board.

34. Whenever any steam vessel (other than a ship of war) has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or efficiency either in her hull or in any part of her machinery the owner master or other person having the charge of such vessel shall within twenty-four hours after the happening of such accident or damage or as soon thereafter as possible transmit through the Post Office to the said Board by letter signed by such master or other person a report of such accident or damage and the probable occasion thereof stating the name of the vessel the port to which she belongs and the place where she is and if such master or other person neglect so to do he shall for such offence be liable to a penalty not exceeding fifty pounds.

Notice to be given of
apprehended loss of
steam vessels.

35. If the owner of any steam vessel have reason owing to the non-appearance of such vessel or to any other circumstance to apprehend that such vessel has been wholly lost he shall as soon as conveniently may be send notice thereof in like manner to the said Board and

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and if he neglect so to do within a reasonable time he shall for such offence be liable to a penalty not exceeding fifty pounds.

And with regard to the provision to be made for the inspection of steam vessels Be it enacted as follows—

36. The said Board may from time to time whenever it seems expedient to them so to do appoint any of the surveyors to be appointed by them as aforesaid or any other fit person being a practical engineer or shipwright as an inspector to go on board any ship or vessel to report to them whether the provisions of this Act or the regulations made under or by virtue of this Act have been complied with and also whether the hull and machinery of such vessel if the same be a steam vessel are sufficient and in good condition or to report to them upon the nature and causes of any accident or damage which such vessel has sustained or caused or is said to have sustained or caused.

Board may send inspectors on board vessels whenever necessary.

37. It shall be lawful for any such inspector as aforesaid and also for any person being a member of the said Board to go on board any steam vessel at all reasonable times and to inspect the same or any part thereof or any of the machinery boats equipments or articles on board thereof to which the provisions of this Act or any of the regulations to be made by virtue thereof apply not unnecessarily detaining or delaying the vessel from proceeding on any voyage and in all cases of accident or damage such inspector or other person may make such inquiries and require answers or returns thereto as to the nature circumstances and causes of such accident or damage as he thinks fit and may by summons under his hand require the attendance of all person whom he thinks fit to call before him upon any question or matter connected therewith or relating thereto and may administer oaths and examine such persons upon oath and may require and enforce the production upon oath of all log books accounts agreements or other papers or writings in anywise relating to any such matter as aforesaid or in lieu of requiring and administering an oath may require any person to make and subscribe a declaration of the truth of the matters respecting which he has been examined or interrogated Provided always that no person shall be required in obedience to any summons from such inspector or other person to travel more than ten miles from his actual abode at the time of receiving such summons unless such reasonable allowance for expenses in respect of his attendance to give evidence and of his journeys to and from the place where he may be required to attend for that purpose be made and tendered to him as would be allowed to any witness attending on subpoena to give evidence before the Supreme Court of New South Wales at Sydney and in case of any dispute as to the amount of such expenses the same shall be referred by such inspector or other person to the officer of the said Supreme Court who is charged with the duty of taxing costs and such officer shall on a request made to him for that purpose under the hand of such inspector or other person ascertain and certify the proper amount of such expenses.

Powers of inspectors.

Proviso for expenses of witnesses.

38. If any person wilfully impede such inspector or other person in the execution of any part of his duty whether on board any ship or vessel or elsewhere every person so offending and all persons aiding and assisting therein may be seized and detained by such inspector or other person or by any persons called by him to his assistance until such offender can be conveniently taken before some Justice of the Peace or other officer having proper jurisdiction and every such offender and also every person who refuses to attend as a witness before any such inspector or other person when required so to do in the manner hereby directed or who refuses or neglects to make any answer or to give any return or to produce any document in his possession or to make or subscribe any declarations which such inspector or other person

Penalty for obstructing inspectors.

person

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person is hereby empowered to require as aforesaid shall for each offence be liable to a penalty not exceeding five pounds.

With respect to steam vessels plying for hire on the rivers or inland waters of New South Wales Be it enacted as follows—

Persons in charge of steam vessels to register their names and places of abode and thereupon receive licenses.

39. Every person having the principal charge of any steam vessel plying for hire on the rivers or inland waters of New South Wales shall on being approved of by any two of Her Majesty's Justices of the Peace in Petty Sessions assembled register his name and place of abode in the Police Office for the district in which the said steam vessel shall be plying for hire and shall thereupon receive a license signed by the Clerk of Petty Sessions for the said district on which shall be written his name and place of abode and the number of the license and for such license he shall pay the sum of ten shillings and if any person shall ply for hire with any steam vessel upon the said waters or rivers without being so licensed he shall forfeit and pay for every such offence the sum of five pounds and the said Clerk of Petty Sessions shall keep a duplicate of every such license which shall be evidence in all cases without giving notice to produce or producing the original license and every person having the principal charge of any steam vessel plying for hire as aforesaid shall be deemed and taken to be unlicensed unless at the hearing of any complaint against him he shall produce his license or give other satisfactory evidence of being duly licensed.

Duration of license.

40. Every license granted under the authority of this Act shall be and continue in force from the day of the date thereof until the first day of January then next ensuing and no longer and every such license shall be renewed from year to year and whenever any change in the owners or proprietors of any steam vessel plying for hire as aforesaid shall take place subject to all such and the like rules and regulations as are hereinbefore provided with respect to the granting of original licenses. Provided however that all licenses which shall be granted or renewed at any period during the year shall be and continue in force until the first day of January in the year then next ensuing and no longer.

How licenses are to be applied for.

41. Before any such license shall be granted or renewed under the provisions of this Act for or in respect of any person having the principal charge of any steam vessel plying for hire as aforesaid a requisition for such license shall be made and signed by the person applying for such license and in every such requisition there shall be truly specified and set forth the Christian name and surname and place of abode of the person applying for such license and of every person who shall be a proprietor of the steam vessel for the principal charge of which a license is required and in case any person shall neglect or omit to specify truly in such requisition as aforesaid the name of any person who shall be concerned as aforesaid in the keeping using or employing of such steam vessel every person so offending shall forfeit the sum of five pounds.

Proprietors of unlicensed steam vessels subject to penalty.

42. If any person shall keep use or employ or shall be concerned as proprietor or part proprietor in the keeping using or employing of any steam vessel as aforesaid the principal person in charge of which being without a license granted under the authority of this Act every person so offending shall forfeit the sum of twenty pounds.

Passengers not to be allowed to steer steam vessels and as to insulting language.

43. If the person having the principal charge of any steam vessel plying for hire as aforesaid shall permit any passenger to steer such steam vessel or if any such person having principal charge or any person assisting in the management of such steam vessel shall assault or use abusive or insulting language to any person travelling or about to travel or having travelled as a passenger with or by such steam vessel or to any person accompanying or attending upon any such passenger

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passenger in coming to or going from any such steam vessel every such offender in any of the several cases aforesaid shall forfeit a sum not exceeding five pounds.

44. It shall be lawful for any two or more Justices of the Peace to deprive of his license any such person having the principal charge of any steam vessel plying as aforesaid who upon complaint made before them upon oath shall be found guilty of drunkenness or other improper conduct.

Person in charge may be deprived of his license for drunkenness on complaint made.

45. Nothing in the six preceding clauses shall extend to any sea-going steam vessel.

Six preceding clauses not to apply to sea-going steam vessels.

And with respect to legal proceedings for enforcing the provisions of this Act Be it enacted as follows—

46. All misdemeanors or offences created by this Act may be prosecuted by information at the suit of Her Majesty's Attorney or Solicitor General or by indictment or other appropriate legal proceeding in any Court having appropriate jurisdiction and shall be punishable with fine or imprisonment or both as such Court thinks fit and all penalties and other sums of money hereby made payable or recoverable may be recovered with costs and all offences hereby made punishable may unless previously punished as misdemeanors be prosecuted and punished and the costs of such prosecution recovered by some appropriate summary proceeding before two or more Justices and all such proceedings shall so far as is consistent with the provisions of this Act be carried on in the manner directed by an Act of Parliament passed in the Session of the eleventh and twelfth years of the reign of Her Majesty Queen Victoria intituled "*An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders*" or according to the law in force for the time being regulating summary proceedings before Justices of the Peace out of Sessions.

Misdemeanors or offences to be prosecuted by information or indictment.

11 and 12 Vic. c. 43.

47. For the purpose of giving jurisdiction under this Act every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose or in any place in which the offender or person complained against may be.

Jurisdiction to be where the offence is committed and wherever offender is.

48. Service of any summons or other matter in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served or if made at his last known place of abode or business or if made on board any vessel to which he belongs and accompanied with a statement of the purport thereof to the person in command or to the person in charge of such vessel.

Service to be good if made personally or at abode or on board ship &c.

49. All certificates purporting to be issued in pursuance of this Act by the said Board and to be signed as hereinbefore required shall be taken to have been so issued and signed unless the contrary is proved and every document purporting to be an office copy of any such certificate as aforesaid and to be signed in the manner hereinbefore required for the signature of such certificate shall be received in evidence and shall be deemed to be a true copy of the original of which it purports to be a copy and in proving the transmission of any such certificate from the said Board to the master or owner of any steam vessel it shall be sufficient to prove that the same was duly received by some officer of Customs or other public servant and was by him delivered to or left at the place of abode or business of such master or owner of the vessel to which the same relates or forwarded to him through the General Post Office.

Proof of issue and transmission of certificates.

50. If in any legal proceeding under this Act any question arises whether any vessel is or is not within the provisions of this Act such vessel shall be taken to be within such provisions unless proof to the contrary is adduced.

Burden of proof that a ship is exempted.

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Application of penalties.

51. Any Justice or other Court imposing any penalty under this Act of which no specific application is herein provided may if he or they think fit direct that a part not exceeding one moiety thereof shall be applied to compensate any person for any wrong or damage which he may have sustained by reason of the default in respect of which such penalty is imposed and subject to such directions or specific application as aforesaid all such penalties shall be paid into the Colonial Treasury to be applied to the public uses of the Colony and in support of the Government thereof in such manner as may be appointed by any Act of the Governor and Legislative Council.

Indictments to be preferred by direction of the Steam Navigation Board.

52. No indictment shall be preferred for any offence against this Act unless under the direction of the said Board and no suit or proceeding shall be commenced for the recovery of any penalty or forfeiture for any such offence except where such penalty or forfeiture is made payable to the owner of a vessel and except in any other cases in which directions to the contrary are hereinbefore contained unless in the name of some public officer under the direction of the said Board and in any indictment preferred or suit or proceeding instituted under this Act the averment that the said Board have directed the same to be preferred or instituted shall be sufficient proof of the fact unless the contrary is shown.

Penalties to be sued for within six months.

53. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act and made summarily recoverable thereunder unless the complaint respecting such offence be made before such Justice within six months next after the commission of such offence.

No *certiorari*.

54. No conviction under this Act shall be quashed for want of form or be removed by *certiorari* or otherwise into the Supreme Court of the said Colony and no warrant of commitment or order for imprisonment shall be held void by reason of any defect therein provided it be therein alleged that the person has been convicted or ordered to be imprisoned and there be a good and valid conviction or an offence to sustain the same.

Distress not unlawful for want of form.

55. No distress levied in any proceeding under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser on account of any defect 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 parties aggrieved by such defect or irregularity may recover satisfaction for the special damage in an action.

Parties aggrieved may appeal to Quarter Sessions on giving security.

56. 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 General or Quarter Sessions but no such appeal shall be entertained unless within one month next after the making of such determination or adjudication 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.

Court to make such order as they think reasonable.

57. At the General or 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

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and may also order such further satisfaction to be made to the party injured as they judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they think reasonable.

58. Nothing in this Act contained shall apply to any ship belonging to Her Majesty nor to any vessel not being a British vessel or a vessel owned wholly or in part by British subjects nor to any steam ferry-boat working in chains commonly called a steam floating bridge.

Not to extend to ships of war or foreign vessels.

59. The master of every steam vessel to which this Act applies shall provide himself with a copy thereof and also of all regulations made by virtue of this Act by the said Board with respect to the exhibition of lights and shall at all times keep the same on board his vessel and in case he refuse or neglect to do so shall be subject to a penalty not exceeding five pounds.

Copy of this Act &c. to be kept on board.

Penalty for neglect.

60. This Act shall come into operation on the first day of March after the passing thereof and may be cited as “The New South Wales Steam Navigation Act 1852.”

Commencement of Act.
Short title.
