



ANNO VICESIMO QUARTO ET VICESIMO QUINTO

VICTORIÆ REGINÆ.

A.D. 1861.

No. 4.

An Act to regulate the Post Office Department in South Australia.

[Assented to, 30th August, 1861.]

BE it Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. The Act passed on the nineteenth day of October, one thousand eight hundred and fifty-three, intituled "An Act to consolidate and amend the law for conveyance and postage of letters," shall be and the same is hereby repealed, except as to anything done thereunder, and except so far as the same repeals the whole or any part of any other Acts or Ordinances.

No. 4 of 1853.

2. The Governor, with the advice of the Executive Council, may make rules and regulations for the establishing and managing of the several Post Offices within the said Province, and the receiving, dispatching, carrying, and delivering of letters, packets, and parcels, and the making, custody, and sale of stamps, and the receipt and payment of moneys in connection with the said Post Offices, and the conduct of all Postmasters and other officers of the department; and the said rules and regulations may alter, revoke, or vary, and such other rules and regulations may establish in their stead, as with the advice aforesaid he shall deem expedient; and also may reduce the postage on letters, packets, or parcels, under any such special circumstances

Governor and Executive Council to make rules for establishing Post Offices, receipt and delivery of letters &c., &c.

circumstances as shall appear to the said Governor and Executive Council to render such reduction expedient.

Governor may appoint and remove Postmaster-General, &c.

3. It shall be lawful for the Governor, from time to time, to appoint and to remove a Postmaster-General and an Inspector or Inspectors of Stamps, and to appoint and remove, or depute to the said Postmaster-General, the power to appoint and remove such officers, clerks, and servants, as may be required for the General Post Office at Adelaide; and it shall be lawful for the said Postmaster-General, from time to time, to appoint and to remove Postmasters for the various post towns and places out of Adelaide, and to require and take from such Postmasters such security as the Governor, by any regulations published in the *South Australian Government Gazette*, shall from time to time fix.

Declaration to be made by Postmaster-General, Postmasters, letter-carriers, &c.

4. The Postmaster-General, and every other Postmaster, letter carrier, or other person appointed under this Act, shall, before the exercise by him of the duties of his office, take and subscribe a declaration for the due execution of such duties before one of Her Majesty's Justices of the Peace for the said Province (which declaration such Justice is hereby authorized and required to administer) in the words following, that is to say—"I, A.B., do solemnly and sincerely declare, that I will not willingly or knowingly open, detain, return, or delay, or cause or suffer to be opened, detained, returned, or delayed, any letter or packet which shall come into my hands, power, or custody, by reason of my employment relating to the Post Office, except by the consent of the person or persons to whom such letter or packets shall be directed, or by an express warrant in writing for that purpose under the hand of the Governor, or unless otherwise in pursuance and under the authority of any of the provisions in that behalf contained in any Act, law, or duly authorized regulation in force within the said Province, now or hereafter passed and made, or to be passed and made, for or in relation to the postage and conveyance of letters."

Every parcel or packet sent by post, if not a letter to be deemed a parcel.

5. Every parcel or packet whatsoever, by whatever name called, or however made up, which shall be sent by post, or put or received into any Post Office for transmission or delivery by the post, shall, if not a letter, newspaper, or Parliamentary document, be deemed to be a parcel within the meaning of this Act.

Letters to be charged by weight.

6. All letters transmitted or received by post, except as hereinafter excepted, shall, from and after the commencement of this Act be charged by weight only, according to the following scale, that is to say—for any weight not exceeding half an ounce avoirdupois, one rate of postage; for any weight exceeding half an ounce and not exceeding one ounce, two rates of postage; and for each additional ounce or fraction of an ounce beyond one ounce, two additional rates of postage.

Rates of Postage.

7. The following shall be the rates of postage payable according to the scale aforesaid upon letters (except as hereinafter excepted) transmitted

transmitted or received by the post, that is to say—upon all letters posted at any post office for delivery within the said Province, the sum of Twopence; upon all letters to be transmitted by ship or otherwise to places beyond the limits of the said Province, the sum of Sixpence; and upon all letters received, either by mail or in ship's bags, from beyond the limits of the said Province, and delivered therein (except in cases where the Governor shall have made arrangements as hereinafter mentioned), the sum of Sixpence.

8. The sum of Twopence only for any weight not exceeding four ounces, and the additional sum of One Penny for any additional ounce or fraction of an ounce, shall be paid on all parcels: Provided that there shall not be in or upon any such parcel any letter or epistolary communication or intelligence, and that on the outside thereof, in addition to the name and address of the person to whom the same is to be delivered, the sender thereof shall subscribe, or cause to be printed, his name and address, with a statement of the contents thereof, in the following form, that is to say, "Parcel, without letter:" And provided also, that the Postmaster-General, or other Postmaster, shall be at liberty to refuse to transmit, by post, any such parcel when of the weight of more than three pounds, or of greater dimensions, in any one way, than two feet; or containing, or reasonably suspected to contain any article likely to injure the other contents of the mail bags: Provided also, that no parcel, letter, or paper of inconvenient weight or dimension, shall be transmitted by post to any place to which the mails shall be conveyed on horseback, unless the Governor, with the advice of the Executive Council, shall otherwise direct.

Postage on parcels

Proviso as to form,

And as to Postmasters' liberty to refuse.

9. All newspapers printed in the said Province, posted at some office within the limits of the city or town in which such newspapers shall have been printed, and within seven days of the date of publication, and all newspapers posted within the said Province for delivery beyond the limits of the same, and all newspapers received from places beyond the limits of the said Province for delivery within the same shall, if unenclosed, or enclosed in an envelope open at both ends, be received, conveyed, and delivered free of all postage whatever: Provided that no newspaper shall contain any note, letter, memorandum, or other things, or writing therein or thereon, excepting only the direction on the outside thereof, and that the exemption from postage shall not extend to newspapers posted at any office for delivery at such office, or at any place within the limits of the city or town in which such office is situate.

Colonial newspapers, and newspapers received from abroad, if under open cover, and not written upon excepting address, exempt.

10. The sum of One Penny shall be prepaid for every newspaper that is not entitled to be delivered free of postage.

Postage of 1d. on all papers not entitled to free delivery.

11. Members of the Executive Council and Members of the Legislature may receive by post, Parliamentary documents, petitions, and addresses to Her Majesty, His Excellency the Governor, the Executive Council, or either branch of the Legislature, exempt from postage: Provided such documents, petitions, and addresses, be sent without covers, or in covers open at both ends, and do not exceed thirty-two ounces in weight.

Petitions to the Governor or Executive Council or Legislature exempt, if under open covers.

12. It

No prepayment necessary in respect of returns of births, &c.

12. It shall not be necessary to prepay, by stamp or otherwise, the postage upon letters or parcels containing only returns of births, baptisms, marriages, and deaths, transmitted in compliance with the provisions of the law in that behalf, by ministers of religion or other parties, whose duty it may be to transmit such returns to any officer appointed to receive the same; but the postage thereon shall be paid by the said officer on delivery of such letters or parcels respectively: Provided that the same shall contain such returns only, and shall, on the outside thereof, be stated to contain such returns only, and be signed by the minister or other person transmitting the same.

Letters of sailors and soldiers.

13. The following classes of persons may both send and receive letters, not exceeding half an ounce in weight, by post, on their own private concerns, on prepayment of a postage of One Penny for each letter, either in the said Province, or elsewhere (as the case may be), namely, every seaman employed in Her Majesty's Navy, whilst such seaman shall be actually employed in Her Majesty's service; every serjeant, corporal, drummer, trumpeter, fifer, and private soldier in Her Majesty's Regular Forces, Militia, Fencible Regiments, Artillery, or Royal Marines, whilst actually employed in Her Majesty's service; but the letters of commissioned officers, or warrant officers, whether in the Army or Navy, or midshipmen, or mates of the Navy, are not included in this provision; and with respect to letters sent by any such privileged persons, the following conditions shall be observed, that is to say, the postage of each letter, unless sent from parts beyond the seas as hereinafter mentioned, shall be paid on such letter being put into a Post Office; and upon such letter shall be subscribed the name of the writer, and his class or description in the vessel, regiment, corps, or detachment to which he shall belong; and upon every such letter there shall be written, in the handwriting of, and signed by the officer having at the time the command of the vessel, or of the regiment, corps, or detachment to which the privileged person belongs, the name of such officer, and the name of such vessel, or of such regiment, corps, or detachment; and with respect to letters received by post by any of the said privileged persons, the following conditions shall be observed, that is to say—the postage of each letter, unless sent from parts beyond the seas as hereinafter mentioned, shall be paid upon its being put into a Post Office, and it shall be directed to the privileged person, specifying on the superscription thereof the vessel, or the regiment, corps, or detachment, to which he shall belong; and whenever the letters sent or received by any such privileged person shall be sent from parts beyond the seas, and shall appear to have had any postage whatsoever prepaid thereon, no Colonial postage shall be charged on delivery thereof within the said Province.

Governor and Executive Council may arrange as to prepayment of letters to Britain or foreign Ports.

14. The Governor, with the advice of the Executive Council, may make, or cause arrangements to be made with the Postmaster-General of England, and with the constituted authorities in foreign ports and separate Colonies, for the prepayment or for the optional prepayment

prepayment thereat, by stamps or otherwise, of the postages payable under the provisions hereof, or of such sum as may form a fair proportion, or an equivalent for such proportion of such a rate of postage as shall be arranged to be payable in Great Britain, or in any such foreign ports or separate Colonies, for the entire postage between the place at which the letters, newspapers, or parcels chargeable therewith, shall be posted, to the place of delivery; and also to make, or cause to be made, arrangements for the prepayment or for the optional prepayment in the said Province, on letters, newspapers, or parcels to be sent from the said Province to Great Britain, or to such foreign ports or separate Colonies, of the postages payable in Great Britain, or in any such foreign port or separate Colony, or for the payment of such entire sum as may be agreed upon as the postage between the place at which any such letter, newspaper, or parcel shall be posted and the place of delivery thereof, and as to the proportion of or equivalent for such proportion of such entire sum, which shall be retained for the use of the said Province.

15. The Governor, with the advice of the Executive Council, may make, or cause to be made, arrangements with the Postmaster-General of England, and with the constituted authorities in foreign ports and separate Colonies, for the transmission by post of parcels, and for the proportion of the charge, in respect of such transmission, to be retained for the use of the said Province: Provided that the postage to be charged on any such parcels, from the place at which the same shall be posted unto the place of delivery, shall not exceed the following rates:

Governor and Executive Council may make arrangement for prepayment of postage of books.

For a single parcel not exceeding quarter of a pound in weight, Fourpence.

For each additional quarter of a pound, or fraction of a quarter of a pound, Fourpence

16. Parcels transmitted by post within the said Province, to or from Great Britain, or to or from any foreign country, or separate Colony, shall be subject to the following conditions:

Regulations for posting of books.

The charge will be the same whether such parcels are posted or delivered at the port of dispatch or arrival, or at any place in the interior of the country, and whether sent by packet or private ship

The postage must in every case be prepaid by means of stamps

No such parcels shall be sent by any route which would entail the expense of transit postage through any intermediate country or Colony

To prevent the inconvenience which might otherwise ensue, any Postmaster may delay the dispatch of such parcels to or from the interior of the said Province for such periods as may from time to time be fixed by the Governor in Executive Council, in consideration of the distance, the means

of carriage, and the time occupied in the conveyance of mails in different localities

No single parcel must exceed three pounds in weight.

As to making and sale of postage stamps.

17. The Postmaster-General, or Inspector of Stamps, shall, with the approval of the Governor, cause stamps to be made or procured and sold, indicating such amounts of postage as may be directed in that behalf by the Governor.

Postmaster-General may licence persons to sell stamps.

18. The Postmaster-General may grant a licence to any person to deal in or to retail stamps; and any such person or any Postmaster who may obtain from the Postmaster-General, at any one time, stamps to the value of Five Pounds or upwards, shall be allowed thereon a rebate at the rate of Two Pounds and Ten Shillings in the Hundred Pounds.

No person to make moulds for stamps.

19. If any person shall make, or cause to be made, or assist in making, or knowingly have in his custody or possession, without lawful excuse (the proof whereof shall lie on the person accused), any mould or frame, or other instrument having thereon any words, letters, figures, marks, lines, or devices peculiar to paper heretofore or hereafter to be provided or used for postage stamps, or if any person (except as before excepted) shall make, or procure to be made, or aid, or assist in making of, or knowingly have in his custody or possession, without lawful excuse (the proof whereof shall lie on the party accused), any paper, in the substance of which shall appear visible any words, letters, figures, marks, lines, or devices peculiar to paper heretofore or hereafter to be used or provided for postage stamps, or any part of such words, letters, figures, marks, lines, or devices, and intended to imitate or pass for the same, then, and in every such case, every person so offending shall, for every such offence, be adjudged a felon, and shall be imprisoned for any period not exceeding seven years as the Court shall award, with or without hard labor.

Not to make or possess paper for imitating postage stamps.

Having possession of paper for stamps without authority.

20. If any person without lawful excuse (the proof whereof shall lie on the party accused) shall purchase, or receive, or take, or have in his custody or possession, any paper, provided by the Postmaster-General for the purpose of being used for postage stamps, before the same shall have been issued by him for public use, every such person shall for such offence be deemed guilty of a misdemeanor, and shall be imprisoned for not more than two years nor less than six months.

How stamps shall be affixed.

21. The stamps upon all letters and parcels shall be affixed or impressed upon the outside thereof, and above the address written thereon, and no Postmaster shall be bound to take any notice of stamps which shall be affixed elsewhere upon any such letters or parcels.

All letters, newspapers, and parcels must be

22. The postage upon all letters, newspapers, and parcels which shall

shall be posted at any Post Office within the said Province, excepting in cases in which the prepayment shall be optional, under any arrangement to be made as hereinbefore authorized, shall be prepaid by the person who shall desire to have the same transmitted by post, and such prepayment shall (except as hereinafter provided) be made by the affixing thereon of stamps issued by the Postmaster-General or Inspector of Stamps: Provided that it shall be incumbent on every Postmaster to procure and keep on hand a sufficient supply of Post Office stamps for sale, without premium, and in such quantities as the Postmaster-General may authorize or direct, to all persons desirous of purchasing the same; and that whenever it shall happen that any such Postmaster shall not have any stamps of the requisite value for sale as aforesaid, then and in such case prepayment on any such letters, newspapers, or parcels may be made in coin, and shall be acknowledged by the said Postmaster upon the face of the letter, newspaper, or parcel so prepaid: And provided also, that no prepayment of Colonial postage shall be required on letters received from beyond sea, for delivery to any part of the said Province: Provided further, that in all cases in which letters, newspapers, and parcels posted in, and addressed to, places within the said Province, shall be posted without the postage being prepaid, either by stamp or otherwise, there shall be charged on such letters, newspapers, or parcels, a postage of double the amount to which such letters, newspapers, or parcels would otherwise be liable under this Act.

prepaid, except as hereinafter excepted.

Postmasters to keep a sufficient supply of stamps.

23. It shall be the duty of every Postmaster to see that every post letter, newspaper, or packet bears a stamp or stamps of the proper amount, according to the rate for the time being established by law; but nevertheless every letter, newspaper, or parcel upon which a stamp or stamps shall have been affixed, shall be transmitted through the post, and shall be delivered to the party to whom it is addressed upon payment by him of double the amount of any postage deficient.

Postmasters to see that stamps of proper amount are affixed.

As to postage when deficient stamps affixed.

24. The sender of any post letter, newspaper, or parcel shall be entitled to have the same registered at the Post Office, upon payment of the proper amount of postage stamps, together with the sum of Sixpence, as a fee for such registration; but such registration shall not render any Postmaster, or the Post Office revenue, in any manner liable for the loss of any such post letter, newspaper, or parcel, or the contents thereof; and all registered letters and packets shall be received at any post office, and also be delivered at the place of delivery, at or between such hours in the day, and under such regulations in every respect as the Postmaster-General shall from time to time appoint; and such registration fee shall be prepaid by stamps.

Letters may be registered.

How registration fee to be paid.

25. In case any Postmaster shall suspect and believe that any letter, newspaper, or parcel put into his office or received by him as such Postmaster, and purporting to be a letter, newspaper, or parcel coming within any of the exemptions hereby created, or belonging in respect of its contents, to one of the classes in which the

How Postmaster may act in regard to letters put in as being exempt, or as chargeable at a lower rate of postage.

the lower rate of postage hereinbefore mentioned is chargeable, does not in fact contain solely and only that which the same shall so purport to contain as aforesaid, or contains some paper, note, or other thing in writing, which under this Act would subject such letter, newspaper, or parcel to postage, or to the higher rate of postage as the case may be, it shall be lawful for such Postmaster, and he is hereby required to mark upon such letter, newspaper, or parcel treble the amount of postage to which such letter, newspaper, or parcel was originally liable, and such amount shall be demanded and received accordingly: Provided that in every such case of surcharge, if it shall at any time within ten days next following the delivery of the letter, newspaper, or parcel, be made to appear to the satisfaction either of the Postmaster by whom the same was so delivered, or of the Postmaster-General, that the same was not in fact liable to postage, or to a higher rate of postage, then the amount of such surcharge shall be returned to the party who shall have paid the same: Provided also, that if the person to whom the letter, newspaper, or parcel is delivered shall so require, the Postmaster by whom the same shall be so delivered shall, at the time of such delivery thereof, examine not only the outside but the contents of the said letter, newspaper, or parcel in that person's presence, and thereupon demand and take only the postage lawfully due thereon, according to the provisions of this Act.

Penalty on persons putting in or sending letters as exempt from postage, or as liable to the lower rate only, when they ought to be subject to the higher rate.

26. If any person shall knowingly send or put, or cause to be sent or put, to or into any post office, any letter, newspaper, or parcel purporting to come within any of the exemptions aforesaid, or to belong, in respect of its contents, to one of the classes in which such lower rate of postage as aforesaid is chargeable, but which letter, newspaper, or parcel shall, to the knowledge of such person, not contain solely and exclusively that which the same is by this Act authorized to contain, or shall, to the knowledge of such person, contain or have written thereon or therein some letter, paper, note, communication, writing, or thing which under this Act would subject the same to postage, or to the higher rate of postage, the person so offending shall forfeit and pay a fine of not more than Twenty Pounds.

Using stamps which have been defaced.

27. Letters, newspapers, or parcels bearing stamps which have been previously obliterated or defaced shall be treated as unpaid, and the Postmaster-General may open, detain, and keep such letters for a reasonable time, until the same shall have been used or produced by him in evidence, and if any person shall wilfully and fraudulently remove from any Post Office stamp, which has been previously used, any mark which shall have been made thereon at any Post Office by way of obliteration or defacement, for the purpose of indicating that such stamp has been once used, or shall knowingly and fraudulently put off or use, or attempt to put off or use, any such stamp, the person so offending shall be guilty of a misdemeanor, and shall be liable to be imprisoned with or without hard labor, for any period not exceeding three years.

28. The

28. The Postmaster-General may detain or cause to be detained, any letters, newspapers, or parcels which shall be posted, or reasonably suspected to be posted, contrary to the provisions of this Act; and every other Postmaster shall forward the same and all refused letters, newspapers, or parcels to the General Post Office, at Adelaide; and all such irregularly posted and refused letters, newspapers, and parcels shall be immediately opened at the said General Post Office, at Adelaide, in manner hereinafter provided, for the purpose of ascertaining the writer or sender thereof.

Letters posted contrary to this Act may be detained.

29. Except in the case of unclaimed, refused, undelivered, and irregularly posted letters, no letter, newspaper, or parcel whatsoever shall, under any circumstances, be returned to the writer or sender thereof, without the express consent of the person to whom the same is directed; nor (except as hereinafter provided), unless by virtue of an express warrant in writing under the hand of the Governor, or of some person by him duly authorized to sign such warrant, shall any letter, newspaper, or parcel be sent or delivered to any other than the person to whom it is addressed, or his agent; or, in case of such person's death or absence, to his personal or other lawful representative or assignee.

No letter may be returned to the writer or sender thereof otherwise than as herein mentioned.

30. All unclaimed and undelivered letters, newspapers, and parcels which shall have been received at any post office, shall be kept thereat for a period of thirty days, during which time a list thereof shall be exposed in a conspicuous place in such post office, and at the expiration of such period of thirty days, or sooner if the Postmaster at any such post office shall ascertain that the person to whom the same is addressed is not to be found at such address, the same shall be forwarded to the General Post Office, at Adelaide; and the Postmaster-General shall, forthwith, cause the addresses of all such letters, newspapers, and parcels so forwarded to him, to be inserted in a list to be openly exposed in the post office, at Adelaide.

Unclaimed and undelivered letters, &c., to be kept for thirty days, during which, list thereof to be exposed at the post office.

31. The Postmaster-General shall, once in every month, or oftener if he shall think fit, cause a list to be published in the *South Australian Government Gazette*, of all detained, unclaimed, and undelivered letters and parcels from abroad which shall have been received at the General Post Office, at Adelaide, since the last preceding publication of the like kind; and after a period of six months, such of the letters and parcels mentioned therein, as shall not in the meantime have been claimed and delivered, may be opened, in manner hereinafter mentioned.

Postmaster-General to publish in the *Government Gazette* a list of unclaimed letters, &c.

32. All letters, newspapers, and parcels which shall be required to be opened, shall be opened by the Postmaster-General or by an officer of the post office, at Adelaide, to be specially nominated for that purpose by the Postmaster-General; and such officer shall, before he shall enter upon his duties in this respect, make oath or affirmation before the Postmaster-General (who is hereby authorized to administer such oath or affirmation) that he will not intentionally

How and by whom unclaimed letters, &c., may be opened.

read the contents, or any part of the contents of any letter, newspaper, or parcel which he shall open, except so far as it may be necessary so to do for the purpose of ascertaining the name and address of the writer, and that he will not divulge to any person whatsoever, except to the Postmaster-General upon demand by him, any of the contents of any such letter, newspaper, or parcel which may have come to his knowledge in the course of opening and examining the same for the purpose aforesaid; and if any such officer shall act in contravention of this enactment, or of his oath or affirmation, he shall for every such offence forfeit and pay to Her Majesty, for the public uses of the said Province, a penalty of not less than Five Pounds, and not exceeding One Hundred Pounds, to be recovered in a summary way before any two Justices of the Peace for the said Province, upon the complaint of the Postmaster-General, or by information of debt in the Supreme Court by Her Majesty's Attorney-General.

Penalty.

Detained or unclaimed letters, parcels, &c., to be returned to writers or senders thereof on payment of postage thereof.

33. The Postmaster-General shall cause all detained, unclaimed, and undelivered letters, newspapers, or parcels whatsoever, which shall have been so opened as aforesaid, to be returned to the writers or senders thereof, if the name and address of the writer or sender can be ascertained by examination of such letters, newspapers, or parcels, and such writers and senders shall thereupon be liable to pay the original postage payable thereon, if not prepaid; and if any such writer or sender shall refuse to receive any such letter, newspaper, or parcel, the same may be forthwith destroyed, but he shall nevertheless be liable to pay such postage as aforesaid thereon.

Postmaster-General may destroy all printed documents, patterns, &c., remaining unclaimed for three months or upwards;

And letters remaining unclaimed for one year.

34. The Postmaster-General may cause to be destroyed or sold all pamphlets, magazines, reviews, and periodical publications, and all printed Votes and Proceedings of Parliament and of Colonial Legislatures, and all prices current, catalogues of merchandize, and patterns and samples of merchandize, which shall continue to be unclaimed or undelivered after the lapse of six months from the date of the publication of the list in which they shall have been advertised; and he may cause to be destroyed all newspapers which shall have remained unclaimed for the period of six months; and also all unclaimed, refused, undelivered, and irregularly posted letters, newspapers, and parcels, of which he shall have been unable to ascertain the senders so as to return them, and which shall have continued to be so unclaimed and undelivered for the period of one year after the advertisement thereof as aforesaid: Provided that in such last mentioned case, a list shall be preserved of every such letter containing money or valuables, showing the address thereof, and the name of the writer, and of the place at which the same purports to have been written.

Contracts for conveyance of mails.

35. The Postmaster-General may, under such instructions as shall be from time to time in that behalf given to him by the Governor, enter into any contract or contracts, in writing, from time to time, in his own name, on behalf of Her Majesty, for or in respect

respect of the carriage or conveyance of the several mails throughout the said Province, or any or either of them, and to sue and be sued upon such contracts accordingly; and if any person having entered into any such contract with the Postmaster-General shall, during the continuance thereof, unlawfully refuse or neglect to perform the same, or shall in any manner omit to comply with any stipulation or provision therein, he shall forfeit and pay a penalty or sum of not more than One Hundred Pounds, over and above the penalty recoverable upon such default, by virtue of any bond into which such person, or his surety or sureties, may have entered for the due performance of the contract.

Penalty on contractors for default.

36. In any suit or other proceeding for the recovery of any postage, payable under or by virtue of this Act, the person from whom any letter, newspaper, or parcel, in respect of which any postage shall be sought to be recovered, shall purport to have come, shall be deemed the sender thereof, and the *onus* shall lie upon the party proceeded against, to prove that the same did not come from, and was not sent by him.

In suits for recovery of postage, *onus probandi* to lie on the party proceeded against.

37. In all proceedings whatsoever for the recovery of any postage, the Post Office charge upon any letter, newspaper, or parcel shall, in all cases, be evidence of the liability thereof to be so charged, and that the sum so charged thereupon is payable, as and for the postage thereof.

Post Office charge on any letter to be evidence.

38. All mail bags and packages, and also all loose letters and newspapers which, at the time of the arrival of any ship or vessel within the limits of any port or harbor in the said Province, shall be on board of such ship or vessel, directed to any person or persons within the said Province or its dependencies, shall be delivered immediately on demand to the Postmaster-General, or any Postmaster or Port Officer of such port or harbor, or to any person duly acting for such Postmaster-General, Postmaster, or port officer; excepting always letters concerning goods on board such ship or vessel, and to be delivered with such goods, and letters containing any conveyance or other deed, commission, writ, or affidavit, and letters sent by way of introduction only, or concerning the bearer's private affairs; and any master, passenger, or other person on board of such ship or vessel, who shall delay the delivery of, or shall knowingly or negligently detain on board of such ship or vessel, or keep in his possession any mail bag, mail box, packet of letters, letter, or newspaper (except as aforesaid), after such demand made as aforesaid, shall forfeit and pay for every letter or newspaper so delayed, detained, or kept, a penalty or sum not exceeding Fifty Pounds.

Ship letters inwards to be delivered on arrival and demand, under a penalty.

Exceptions.

39. The master or commander of any ship or vessel arriving at any port or harbor in the said Province, shall repair to the Post Office at such port, as soon after his arrival as shall be practicable, and shall then subscribe a declaration in the presence of some person authorized by the Postmaster-General to take such declaration; which declaration shall

Declaration to be made by masters of vessels, on arrival, as to letters.

Form of Declaration.

Penalty, if no declaration made, or if false.

shall be in the form or to the effect following, that is to say—"I, A. B., commander of (*state the name of the ship or vessel*) arrived from (*state the place*), do, as required by law, solemnly declare, that I have to the best of my knowledge and belief delivered, or caused to be delivered, to the person duly authorized to receive delivery thereof, every letter, bag, package, or parcel of letters, or packets that were on board the (*state the name of the ship or vessel*), except such letters as are exempted by law from postage;" and until such declaration shall have been made, and a certificate of the making thereof, under the hand of the officer taking the same, shall have been produced to the collector, comptroller, or principal officer of customs at such port or harbor, he shall not permit such ship or vessel to report; and any master or commander failing or neglecting to make such declaration, or making a false declaration, shall forfeit and pay a penalty or sum not exceeding Fifty Pounds.

Mails conveyed coastwise by steamers or other vessels, to be delivered on arrival and demand;

Under a penalty.

40. All mail bags and packages which are conveyed, or required by law to be conveyed by post from one part of the said Province to the other, and which at the time of the arrival of any steam boat or other vessel within the limits of any port, post town, or other place at which mails or mail bags are to be delivered, shall be on board such steam boat or other vessel, shall be delivered, on demand, to any port officer or Postmaster of such port, post town, or other place as aforesaid, or to any person duly authorized to act for them or either of them; and any master, commander, or other person belonging to any such steam boat or other vessel, having charge of such mails, who shall refuse or neglect to deliver the same on demand as aforesaid, or shall detain or permit the detention of the same on board such steam boat or other vessel, or shall not use due diligence in the delivery thereof, as well as for the secure and dry custody of the same while they shall be in his charge, shall forfeit and pay for every such offence a penalty or sum not exceeding Fifty Pounds.

Remuneration to masters of ships, &c.

41. Every master or other person in charge of any such ship or vessel arriving from parts beyond the said Province, shall be entitled at any time after the expiration of twenty-four hours next after the arrival of such ship or vessel, to receive from the nearest Postmaster (who is hereby required to pay such master or person) the sum of One Penny for every letter or parcel, newspapers excepted, so delivered on demand as aforesaid, or delivered voluntarily to any Postmaster, or port officer, or at any Post Office, excepting only mail bags and packages received from the General Post Office in England, by Government vessels or packets having contracted with the Government for carrying mails; and every such master or person shall give a receipt for the money so received, which receipt shall be to the Postmaster obtaining such letters or parcels a sufficient voucher, and the same shall be allowed him in his account accordingly: Provided that it shall be lawful for the said Postmaster-General to withhold the said gratuity, or a part thereof, in cases when the master of such vessel shall have been guilty of any negligence or delay in the delivery of the mails forwarded by such vessel.

42. If

42. If any master or person having the command of any ship or vessel about to depart from the said Province shall (after being thereto required by the Postmaster-General or by any such Postmaster or port officer, or by any person duly authorized to act for them, or either of them) refuse or wilfully neglect to receive on board such ship or vessel, any mail bag or packages, or to give a receipt for the same, or shall refuse or neglect carefully to deposit such mail bag or packages, in some secure and dry place on board of such ship or vessel, or to convey the same upon her then intended voyage, such master or person shall, for every such offence, forfeit and pay a penalty or sum not exceeding One Hundred Pounds: Provided that every such master or person in command, who shall receive on board any such mail bag, or packages, for the purpose of conveying the same, according to the direction thereof, shall be entitled immediately to demand and receive from such Postmaster or port officer, for the carriage thereof, One Penny for every letter or packet contained therein, newspapers excepted, such master or person giving a receipt for the amount so received by him, which receipt shall be a sufficient voucher for such payment, and the same shall be allowed such Postmaster or port officer in his account accordingly.

Masters of vessels departing from the Province compelled to take mails, under a penalty.

Allowances to masters of vessels for ship letters outwards.

43. If any master, commander, or other person having the charge of any steam-boat or other vessel proceeding or about to proceed from any port or place within the said Province to some other port or place within the same, shall refuse or neglect to receive any such Post Office mail on board such steam-boat or other vessel, or to give a receipt for the same, being thereto required, he shall forfeit and pay a penalty or sum not exceeding Fifty Pounds.

Masters of steamers or other vessels coastwise compelled to take mails, under a penalty.

44. For the conveyance of any mails by water from one port, post town, or other place to any other such port, post town, or other place, within the said Province, the master, or commander, or any other person having the charge of any such steam-boat or other vessel, shall be entitled to demand and receive at the rate of One Penny for every letter or parcel contained in such mail; and such payments shall be made at such place and time, and under such regulations, as the Postmaster-General shall appoint; and every such master, commander, or other person as aforesaid, shall give a receipt for the amount so received by him, which receipt shall be to the Postmaster-General, or to any Postmaster or other person as aforesaid, making such payment, a full and valid discharge for the same; and the said Postmaster-General, and every such Postmaster and other person in passing his accounts, shall receive credit for every such sum or sums which shall be therein mentioned accordingly.

Allowance to masters of steamers, &c., for letters conveyed coastwise.

45. The master of every vessel carrying letters or mails shall keep the same in some secure lockers or place, and if he shall neglect to do so shall not be entitled to any reward or gratuity for carrying such letters or mails.

Master to provide secure lockers, &c.

46. Whenever

Vessels not sailing pursuant to notice, mails and gratuities may be recovered back.

46. Whenever the master or person having the command of any steam-boat or other vessel shall have received mails from any Postmaster, for conveyance on board of such steam-boat or other vessel, and such steam-boat or other vessel shall not depart on her voyage according to the time fixed for the departure thereof, by any notice given as herein provided at or before the receiving of such mails, it shall be lawful for the said Postmaster-General to recover back from such master or person having the command as aforesaid, such mails, and also any gratuity which may have been paid for the conveyance of the same in a summary manner, before any two or more Justices of the Peace for the said Province.

Penalty on Postmasters, &c., retarding delivery of mails, &c.

47. If any port officer, Postmaster, or other person duly authorized to receive or dispatch any such mails as aforesaid, shall neglect or fail to deliver, or shall retard the delivery of, any bag, box, mail, letter, packet, or newspaper, he shall, for every such offence, forfeit and pay a penalty or sum not exceeding Fifty Pounds.

Letters not to be conveyed otherwise than by post, under a penalty.

48. No letter or parcel chargeable with postage shall be carried for hire or reward otherwise than by post; and if any such letter or parcel shall be so carried or conveyed, or be sent or taken charge of for the purpose of being so carried and conveyed, by any person (not being a person employed in the Post Office, or in the conveyance of post letters), the person so sending or conveying such letter or parcel, or taking charge of the same for such carriage or conveyance, shall, for every such letter or parcel forfeit and pay a penalty or sum not exceeding Twenty Pounds; and every such letter and parcel sent or carried, or taken charge of to be carried, otherwise than by post, shall be deemed, in any prosecution for this offence, to have been for hire or reward, unless the contrary shall be shown by the defendant.

Proviso as to letters exceeding sixteen ounces in weight, or sent with goods, or writs, &c.

49. Nothing in the last preceding clause contained shall extend to any letter or parcel exceeding sixteen ounces in weight, nor to any letter or parcel concerning goods, sent with such goods, and to be delivered therewith, or containing any writ or proceeding out of any Court of Justice, or deed, conveyance, affidavit, or letter of attorney, nor to any letter or parcel sent by any person concerning his or her private affairs by any special messenger, nor to any letter or parcel *bonâ fide* sent or carried to or from the nearest post office, nor to newspapers.

Privilege of newspaper to be decided by Governor in Council.

50. In all cases in which a question shall arise whether a printed paper is entitled to the privilege of a newspaper, so far as respects the transmission thereof by post, the question shall be referred to the Governor in Executive Council, whose decision shall be final.

Penalty on Postmaster, &c., offending against provisions of this Act.

51. Any Postmaster, or other officer belonging to the post office, or any person employed by or under a postmaster, or in the receiving, sorting, carrying, conveying, or delivering of post letters, or otherwise in the business of the post office, who shall offend against, or wilfully neglect

neglect or omit to comply with, any of the rules and regulations so from time to time to be made as aforesaid, or any of the provisions of this Act, shall for every such offence, neglect, or omission, forfeit and pay a penalty or sum not exceeding Fifty Pounds.

52. If the driver of any mail coach or other carriage used for the conveyance of the mail, or the guard, or any person in charge of a mail, whether conveyed by any such carriage, or on horseback, or foot, shall loiter on the road, or wilfully mis-spend or lose time, or shall not in all possible cases, convey such mail at the speed of such a number of miles an hour as are fixed by the Postmaster-General for the conveyance thereof, unless the circumstances of the weather, or the badness of the roads, or the occurrence of any accident, shall prevent the same, then, and in every such case, the driver or guard, or person in charge, as the case may be, so offending, and being convicted thereof, by his own confession, on view of a Justice of the Peace for the said Province, or the oath or oaths of one or more credible witness or witnesses, shall forfeit and pay a sum not exceeding Five Pounds for every such offence.

Penalties on mail coach drivers, guards &c.

53. Any person who shall fraudulently or wilfully, for the space of twenty-four hours, retain, secrete, keep, or detain, or being required by an officer of the post office, shall neglect or refuse to deliver up any post letter, newspaper, or parcel, which ought to have been delivered to any other person, or a post letter bag or mail, whether the same shall have been received or found by the person secreting, keeping, or detaining, or neglecting, or refusing to deliver up the same, or by any other person, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be punished by fine and imprisonment, with or without hard labor, not exceeding twelve months.

Penalties on persons fraudulently retaining or secreting letters.

54. No hackney carriage shall stand or ply for hire opposite the General Post Office, nor within twenty yards thereof, on either side thereof, and every driver or person having the management of any hackney carriage, who shall permit the same to stand or ply for hire contrary to this provision, shall forfeit for every such offence a sum not exceeding Five Pounds; and every hawker, newsvendor, or idle or disorderly person, who shall stop or loiter on the flagway or pavement, opposite the General Post Office, or within twenty yards thereof, on either side thereof, shall forfeit for every such offence, a sum not exceeding Two Pounds.

Prevention of obstructions opposite the General Post Office.

Penalty.

55. If any person, whether employed in the post office or otherwise, shall fraudulently take from the possession of any Postmaster, or person employed to convey post letters, or from out of any post office, or place appointed for the receipt or delivery of post letters, or shall steal, or shall for any purpose embezzle, take, secrete, or destroy any letter, newspaper, or parcel, or mail of letters, or other printed paper, or any matter or thing enclosed in any such letter, packet, or mail sent, or to be sent, by such post, every such person so offending shall be deemed guilty of felony, and on conviction thereof,

Penalties on postmasters, &c., stealing or secreting letters, &c.

thereof, shall be liable to be imprisoned, with or without hard labor, for any term not exceeding seven years, as the Court shall award.

Money in dead letters and parcels to be paid to Treasurer.

56. If upon the opening of any dead letter or parcel, the same shall be found to contain any money or article of value, then the Postmaster-General shall pay the same money or the price of such article of value, after disposing of the same, to the Treasurer, to be repaid to the person entitled thereto, upon proof being given to the satisfaction of such Treasurer: Provided that no article of value contained in any dead letter or parcel, shall be disposed of until six months after the opening of such letter or parcel containing the same.

Letters of insolvents to be delivered to Official Assignee.

57. Whenever any person shall be declared insolvent within the meaning of the laws for the time being in force in the said Province, it shall be lawful for the Postmaster-General, upon an order made in that behalf by the Commissioner of Insolvency for the time being, during the period named in such order, to deliver any letter addressed to such insolvent to the Official Assignee or other person in such order named.

Twenty-four hours' notice of time of sailing to be given.

58. Every master of any vessel not carrying mails under a contract with Her Majesty's Government or with the Governor for the time being of the said Province, shall before sailing from any port within the said Province for any place beyond the limits thereof, give to the Postmaster at the Port from which such vessel shall be about to sail twenty-four hours' notice, in writing, of the time or intended time of sailing of such vessel; and every master of any vessel not carrying mails under any such contract as aforesaid shall, before sailing from any port within the said Province for any other port within the same, give to the Postmaster at the port from which such vessel shall be about to sail, six hours' notice in writing of the time, or intended time, of sailing of such vessel: Provided that such last-mentioned notice shall expire between the hours of nine in the morning and five o'clock in the afternoon; and every such master shall also from time to time give notice to such Postmaster, as aforesaid, of any postponement of such time of sailing; and every master of any vessel who shall omit to give notice as hereby required, or who shall sail from the said port before the expiration of the time mentioned in such notice, shall, for every such offence, forfeit and pay the sum of Fifty Pounds.

Penalty for not heaving-to for mail boat.

59. Every master of any vessel who shall refuse to heave-to for the mail-boat, when required by the person in charge of the same, such mail-boat carrying a distinguishing flag with the words "Mail Boat" inscribed thereon, and every master of a vessel who shall evade, or attempt to evade any such mail-boat, shall for every such offence, forfeit and pay a sum not exceeding Ten Pounds nor less than Forty Shillings.

No building to appear to be a Post Office unless one in reality.

60. Any owner or occupier of any building which shall have been used as a Post Office, who shall knowingly suffer or permit any letter-box

letter-box or receptacle for letters to remain open thereon or therein for the space of one week after such building shall have ceased to be a Post Office, or who shall knowingly suffer or permit to be or remain in or upon any such building, not being a Post Office, any words, letters, marks, or devices whatsoever, whereby any person may be misled or induced to believe that such building is a Post Office, shall forfeit and pay a fine of not less than Five Pounds or more than Twenty Pounds.

61. Any person who shall post or cause to be posted, or attempt to post, any letter or parcel containing any explosive or other dangerous material or substance whatsoever, shall forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds.

No dangerous substance to be posted.

62. Any person who shall place or keep upon any vehicle, carriage, or boat, except the same shall be used with the sanction of the Postmaster-General, the words "Royal Mail," "Mail Coach," "Mail Boat," the letters "R. M.," the device of a crown, or any words, letters, marks, or devices whatsoever, calculated to lead to the belief that such vehicle is employed with such sanction as aforesaid, or for carrying mails, shall forfeit and pay a penalty of not less than One Pound nor more than Five Pounds.

Vehicles not engaged in carrying mails not to have words "Royal Mail."

63. Any person who shall post, or cause to be posted, any obscene letter without any signature, or with an anonymous signature, or a signature purporting to be the signature of any other person, or of some person who never existed, shall forfeit and pay for every such offence a penalty of not more than Twenty Pounds.

No obscene letter to be posted.

64. Any person who shall be employed in the carrying or delivering of any mails, letters, newspapers, or parcels, who shall lose or omit to deliver the same in due course, and notwithstanding that the same may be subsequently found and delivered, shall be liable for every such loss or omission to forfeit and pay a penalty of not more than Twenty-five Pounds.

Carriers losing letters to forfeit Twenty-five Pounds.

65. The provisions of an Act, passed on the ninth day of December, one thousand eight hundred and fifty-three, No. 19, intituled "An Act to provide for the regulation and licensing of Public Conveyances, and to prevent the wanton ill-treatment of horses and cattle;" also, an Act, passed on the fourteenth day of September, one thousand eight hundred and fifty-three, numbered 1, intituled "An Act to amend an Act to provide for the regulation and licensing of Public Conveyances, and to prevent the wanton ill-treatment of horses and cattle," shall extend and apply to all conveyances used for carrying mails, and whether at a greater distance from the external boundary of the city of Adelaide than thirty miles or not.

Act No. 19 of 1853.

No. 1 of 1854.

All mail vehicles to be licensed.

66. And for the more effectual prosecution of offences committed against the Post Office Department, in any indictment or information for any offence committed upon or in respect of any property which

Prosecution of offences.

which may be stated to belong to, the Postmaster-General, it shall be sufficient to state any such property to belong to the Postmaster-General of the said Province, and it shall not be necessary to specify the name or addition of the Postmaster-General; and that whenever in any indictment or information for any offence committed against this or any other Act relating to the Post Office Department, it shall be necessary to mention for any purpose whatever the said Postmaster-General, it shall be sufficient to describe such Postmaster-General as the Postmaster-General of the said Province, without any further or other name, addition, or description whatsoever.

Proceedings for penalties.

67. All offences against this Act, or against any rule or regulation made under this Act as aforesaid, in respect of which said offences any pecuniary fine or penalty is by this Act imposed (where no other provision for the recovery thereof is in that behalf made), shall be heard and determined, and such fines and penalties be awarded and imposed in a summary way, by and before any two or more Justices of the Peace for the said Province, upon complaint in that behalf made: Provided that all such proceedings shall be taken in the name of Her Majesty's Attorney-General, or of the Postmaster-General, or of some other officer employed in the Post Office department of the said Province.

In default of payment of penalty, imprisonment.

68. When any fine or penalty shall have been imposed under the authority of this Act, it shall be lawful for the Court or the Justices of the Peace by whom such fine or penalty shall have been imposed, to order that, in default of payment of such fine or penalty, the person on whom such fine or penalty shall have been imposed, may be imprisoned, with or without hard labor, for any period not exceeding six calendar months.

Limitation of actions.

69. If any action or suit shall be commenced against any person or persons, for anything done in pursuance of this Act, the same shall be commenced within twelve months after the fact committed, and not afterwards; and the defendant or defendants in such action shall and may plead the general issue, and give the special matter in evidence, under such plea; and if it shall appear that the act was done under this Act, or that the action was commenced after the time before limited for bringing the same, the jury shall find for the defendant or defendants; and upon a verdict for the defendant, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover costs, and have the like remedy for the same as any defendant or defendants hath or have by law in any other cases.

Appropriation of postage duties, penalties, &c.

70. The moneys to arise by and from the several rates and duties as aforesaid, and also all sums of money imposed and levied by way of penalty under the provisions of this Act (except such part thereof as may be payable to the party suing or informing in respect thereof),

thereof), shall respectively be paid to Her Majesty, Her heirs, and successors, for the public uses of the said Province, and in support of the Government thereof.

71. This Act may be cited as the "Post Office Act of 1861."

Short title.

In the name and on behalf of the Queen I hereby assent to
this Act.

RICHARD GRAVES MACDONNELL,
Governor.

Government House, Adelaide,
30th August, 1861.