



1846.

No. 8.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

Further to Regulate the Post Office Department in South Australia.

[31st July, 1846.]

*Repealed
No. 4. 1853*

WHEREAS it is expedient to enlarge the provisions at present Preamble. in force, for regulating the Post Office Department :

BE IT THEREFORE ENACTED by the Governor of South Australia, with the advice and consent of the Legislative Council thereof, that from and after the passing hereof, this Ordinance shall commence and take effect, and shall be construed as one Act with an Ordinance passed on the thirteenth day of July, one thousand eight hundred and forty-one, entitled an "Act to Regulate the Post Office Department in South Australia." Commencement and construction. 5 Vict. No. 2.

II. AND BE IT ENACTED, that if any Master or Officer, or other person on board of any ship or vessel arriving at any port or place within the Province, and having charge of any mail, letters, packets, or newspapers (not being exempted by law), shall not duly deliver such mail, letters, packets, or newspapers, to the proper Officer authorised to receive the same, without unavoidable delay after his arrival, every such offender shall, on conviction, forfeit Neglecting to deliver mails duly on arrival.

feit and pay a penalty or sum of not more than Ten Pounds, nor less than Twenty Shillings.

Opening bags, &c.,
or destroying mails.

III. AND BE IT ENACTED, that if any Master or Officer, or other person, on board of any ship or vessel within the Province, shall in any manner unlawfully and wilfully open any bag of letters or mail, with which he shall have been entrusted for delivery to the Post Office authorities, or shall, unlawfully and wilfully, take out of such bag or mail any letter, or newspaper, or shall wilfully or negligently destroy any such bag, mail, or letter, every such offender shall, on conviction, forfeit and pay a penalty or sum of not less than Fifty Pounds nor more than One Hundred Pounds.

Officers of Customs
may seize letters un-
lawfully on board
ship.

IV. AND BE IT ENACTED, that it shall be lawful for the Collector, or any other Officer of Customs, who in the due execution of his duty as a Revenue Officer shall discover any letters or packets on board any ship or vessel in any port or place within the Province, contrary to the provisions of any law in force relating to the Post Office, to seize and take all such letters, and to forward the same to the Postmaster-General; and that the Officer seizing and sending the same shall be entitled to one moiety of the penalty, which may be recovered for any such offence; and that in all cases of such seizure, the proof shall lie on the person in whose possession or baggage the letters or packets shall be found that the provisions of law have been complied with.

Declaration by mas-
ters as to delivery of
letters.

V. AND BE IT ENACTED, that on the arrival of any ship or vessel in port, it shall be lawful for the person authorised by the Postmaster-General, at the port or place, to require a Declaration in writing, to be made and signed by the Master or Commander of such vessel in the presence of such person authorised as aforesaid (who shall also sign the same), which declaration shall be in the form or to the effect following; that is to say—

“I, A. B., Master or Commander of the (*name the vessel*), arrived from (*state the place*), do solemnly declare that I have, to the best of my knowledge and belief, delivered or caused to be delivered to the Post Office authorities at (*state the place*), every letter, bag, package, or parcel of letters that were on board my said vessel, except such as are exempted by law.”

And that until such declaration shall be made and produced to the Collector, or principal Officer of Customs, such ship or vessel shall not be permitted to report.

Penalty on making
false declaration.

VI. AND BE IT ENACTED, that if any such Master or Commander shall wilfully refuse or neglect to make the declaration hereby required, or to produce the same, or shall wilfully make any false declaration,

declaration, every such offender shall, on conviction, forfeit and pay for every such offence a penalty or sum of not less than Fifty Pounds nor more than One Hundred Pounds.

VII. AND BE IT ENACTED, that in any action or suit against any person for collecting, carrying, conveying, delivering, or sending letters or packages, contrary to the provisions of any law at any time in force within the Province, the proof that the letters or packets were collected, carried, conveyed, delivered, or sent, according to the provisions of any such law, shall lie on the person against whom such action or suit shall be brought.

In actions brought for carrying letters contrary to law, onus probandi shall lie with defendant.

VIII. AND BE IT ENACTED, that if any action or suit shall be commenced against any person, for anything done in pursuance of this Ordinance, or any other such law as aforesaid, the same shall be commenced within twelve months after the fact committed, and not afterwards; and the defendant in such action or suit may plead the general issue, and give this Ordinance and the special matter in evidence, and that the same was done in pursuance and by the authority of such law: And if it shall appear to be done, or that such action or suit shall be commenced after the time before limited for bringing the same, then the jury shall find for the defendant; and upon a verdict for the defendant, or if the plaintiff shall be non-suited, or discontinued his action or suit, after the defendant shall have appeared, or if upon demurrer judgment shall be given against the plaintiff, the defendant shall and may recover treble costs, and have the like remedy for the same as any defendant hath in any other case by law: And though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

Limitation of actions.

FREDK. H. ROBE,
Lieutenant Governor.

Passed the Legislative Council, this thirty-first day of July, One Thousand Eight Hundred and Forty-six.

W. L. O'HALLORAN,
Clerk of Council.