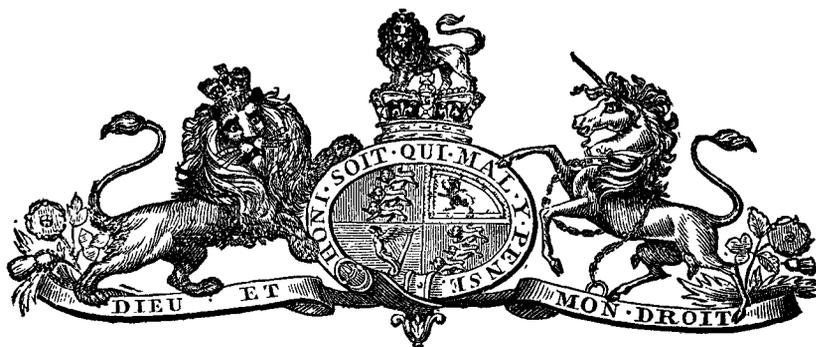


NEW ZEALAND.



TRICESIMO SECUNDO ET TRICESIMO TERTIO

VICTORIÆ REGINÆ.

No. III.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. "The Enquiry into Wrecks Act 1863" repealed. Proceedings pending at time of coming into operation of this Act. 3. Enquiries to be instituted in cases of wreck and casualty. 4. Powers of Officer of Customs or person appointed by the Governor. 5. Witnesses to be allowed expenses. 6. Penalty for refusing to give evidence. 7. Penalty for obstructing Officer of Customs &c. in the execution of his duty. 8. Formal investigation before Justices. 9. When formal investigation held certificated officers to be supplied with copy of the report. 10. Power of Justices or Resident Magistrate. | <ol style="list-style-type: none"> 11. Officer of ship may be required to deliver certificate to be held till the close of enquiry. 12. In cases of collision neglect to render assistance on evidence of default on part of ship neglecting punishable by cancellation of certificate. 13. Officer of Customs or other person to render assistance. 14. Power to appoint a Nautical Assessor. 15. Justices or Magistrate to decide as to cancellation or suspension of certificate. 16. Governor empowered to re-issue cancelled or suspended New Zealand certificates or to shorten time for which suspended and to make recommendation to Board of Trade as to cancelled or suspended British certificates. 17. Costs of investigation. 18. Investigation to be reported to Board of Trade. 19. Application of Act. Schedule. |
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AN ACT to constitute Courts of Enquiry into the Title.
Causes of Wrecks. [27th July 1869.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be "The Enquiry into Wrecks Act 1869" and it shall come into operation on the first day of September one thousand eight hundred and sixty-nine. Short Title.

2. The Act shortly intituled "The Enquiry into Wrecks Act 1863" is hereby repealed. Provided that all proceedings taken or commenced under the authority or in execution of the said Act before this Act comes into operation shall be as valid to all intents and purposes and may be continued executed and enforced after this Act shall come into operation in the same manner as if this Act had not been passed. "The Enquiry into Wrecks Act, 1863" repealed.
Proceedings pending at time of coming into operation of this Act.

3. In any of the cases following that is to say—

- (1.) Whenever any ship has been on fire or is lost stranded abandoned or materially damaged on or near the coasts of New Zealand

Enquiries to be instituted in cases of wreck and casualty.

"Merchant Shipping Act 1854" s. 432.

Enquiry into Wrecks.

27 Vict. No. 5 (1863)
s. 2.

- (2.) Whenever any ship comes into collision with or causes any loss or material damage to any other ship on or near the coasts of New Zealand
- (3.) Whenever by reason of any casualty happening to or on board of any ship on or near the coast of New Zealand loss of life ensues
- (4.) Whenever any such loss abandonment burning stranding damage collision or casualty happens elsewhere and any competent witness thereof arrives or is found at any place in New Zealand

It shall be lawful for the Principal Officer of Customs residing at or near the place where such loss abandonment burning stranding collision damage or casualty occurred on or near the coasts of New Zealand but if elsewhere at or near the place where such witnesses as aforesaid arrive or are found or can be conveniently examined or for any other person appointed for that purpose by the Governor to make enquiry respecting such loss abandonment burning stranding collision damage or casualty.

Powers of Officer of
Customs or person
appointed by the
Governor.

4. For the purposes of such enquiry every such Officer of Customs and every such person appointed by the Governor shall have the following powers (that is to say)

Ib. s. 3.

- (1.) He may go on board any ship and may inspect the same or any part thereof or any of the machinery boats equipments or articles on board thereof and particularly the boats equipments or articles to which the provisions of the Acts mentioned in the Schedule hereto or any of them or any Acts amending the same or passed for like purposes or any Rules Regulations or Bye-laws made under such Acts or any of them apply not unnecessarily detaining or delaying her from proceeding on any voyage
- (2.) He may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make
- (3.) He may by summons under his hand require the attendance of all such persons as he thinks it fit to call before him and examine for such purpose and may require answers or returns to any enquiries he thinks fit to make
- (4.) He may require and enforce the production of all books papers or documents which he considers important for such purpose
- (5.) He may administer oaths or may in lieu of requiring or administering an oath require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

"Merchant Shipping
Act 1854" s. 15.

Schedule.

Witnesses to be
allowed expenses.

Ib. s. 4.

5. Every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the Supreme Court and in case of any dispute as to the amount of such expenses the same shall be referred to one of the Registrars or Deputy Registrars of the Supreme Court who on request made to him for that purpose under the hand of such Officer of Customs or person appointed by the Governor as aforesaid shall ascertain and certify the proper amount of such expenses.

Ib. s. 15.

Penalty for refusing
to give evidence.

Ib. s. 5.

6. Every person who refuses to attend as a witness after having been required so to do in the manner hereby directed and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid 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 declaration which any such Officer of Customs

Ib. s. 15.

Enquiry into Wrecks.

or other person appointed by the Governor is hereby empowered to require as aforesaid shall for each such offence incur a penalty not exceeding twenty pounds.

7. Every person who wilfully impedes any such Officer of Customs or person appointed by the Governor as aforesaid in the execution of his duty whether on board any ship or elsewhere shall incur a penalty not exceeding twenty pounds and may be seized and detained by such Officer of Customs or other person or by any person or persons whom he may call to his assistance until such offender can be conveniently taken before some Justice of the Peace.

Penalty for obstructing Officer of Customs &c. in the execution of his duty.
27 Vict. No. 5 (1863) s. 6.

Ib. s. 433.

8. If it appears to such officer or person as aforesaid either upon or without any such preliminary enquiry as aforesaid that a formal investigation is requisite or expedient or if the Governor so directs it he shall apply to any two Justices of the Peace or to a Resident Magistrate to hear the case and such Justices or Magistrate shall thereupon proceed to hear and try the same.

Formal investigation before Justices.
Ib. s. 7.

9. In the event of such officer or person as aforesaid making application for a formal investigation as aforesaid it shall be his duty to furnish a copy of the report or a statement of the case upon which he has made such application to all such officers of the vessel or vessels with regard to which such investigation is to be held as hold or are by law required to hold certificates either of competence or service and such copy of the report or statement of the case must be furnished to such officers aforesaid before the commencement of such formal investigation.

When formal investigation held certificated officers to be supplied with copy of the report.

10. Such Justices of the Peace or Magistrate shall so far as relates to the summoning of parties compelling the attendance of witnesses and the regulation of the proceedings have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which they or he have power to make a summary conviction or order or as near thereto as circumstances permit.

Power of Justices or Resident Magistrate.
Ib. s. 8.

11. It shall be lawful for such Justices or Resident Magistrate to call upon the officers of any sailing or steam vessel in respect of which such investigation is to be or has been held if such officers hold certificates of competence or service whether the same be New Zealand certificates or certificates issued by the British Board of Trade or by any Colonial authority to produce and deposit the same in the custody of the Court and if any such officer shall fail to produce and deposit such certificate in the custody of the Court on being required so to do he shall be liable to a penalty not exceeding fifty pounds.

Officer of ship may be required to deliver certificate to be held till the close of enquiry.

12. In investigating cases of collision special enquiry shall be made as to whether the person in charge of each ship has so far as he could do so without danger to his own ship and crew and passengers (if any) rendered such assistance to the other ship her master crew and passengers (if any) as was practicable and necessary in order to save them from any danger caused by the collision and in case it shall be proved that the person in charge of either ship has failed to render such assistance as may be practicable or necessary and no reasonable excuse for such failure is shown the collision shall in the absence of proof to the contrary be deemed to have been caused by the wrongful act neglect or default of the person so failing to render assistance and such failure shall if proved upon any investigation duly held under the provisions of this Act be deemed to be an act of misconduct or default for which the certificate (if any) of the person so failing may be cancelled or suspended.

In cases of collision neglect to render assistance on evidence of default on part of ship neglecting punishable by cancellation of certificate.

13. It shall be the duty of such Officer of Customs or other person appointed by the Governor as aforesaid to superintend the management

Officer of Customs or other person to render assistance.

"Merchant Shipping Act 1854" s. 16.

"Merchant Shipping Act 1862" s. 23.

"Merchant Shipping Act 1854" s. 438.

"Merchant Shipping Act 1862" s. 24.

Ib. s. 33.

Ib. s. 23.

"Merchant Shipping Act 1854" s. 433.

Enquiry into Wrecks.

27 Vict. No. 5 (1863)
s. 9.

of the case and to render such assistance to the said Justices or Magistrate as is in his power and upon conclusion of the case or as soon afterwards as possible the said Justices or Magistrate shall state in open Court the decision they may have come to on the whole case and with respect to the cancellation or suspension of any certificate or certificates and shall in all cases send a report to the Governor containing a full statement of the case and of their or his opinion thereon accompanied by the evidence and such observations (if any) as they or he may think fit and shall also should they or he determine to cancel or suspend any certificate forward such certificate (if produced in Court) to the Governor along with their or his report.

Power to appoint a
Nautical Assessor.

Ib. s. 10.

14. In cases where nautical or engineering skill and knowledge or both are required the Governor or such Principal Officer of Customs or such other person appointed by the Governor as aforesaid shall have the power either at the request of such Justices or Magistrate or without such request to appoint some person or persons of nautical or engineering skill and knowledge or both to act as Assessor or Assessors to such Justices or Magistrate and such Assessor or Assessors shall upon the conclusion of the case either signify his or their concurrence in the report of such Justices or Magistrate by signing the same or if he or they dissent therefrom shall signify such dissent and his or their reasons therefor to the Governor.

"Merchant Shipping
Act 1854" s. 434.

"Merchant Shipping
Act 1862" s. 23.

Justices or Magistrate to decide as to
cancellation or suspension of certificate.

15. When the said Justices or Magistrate shall after due enquiry decide that the loss abandonment of or serious damage to any ship or loss of life has been caused by the wrongful act or default of any certificated officer it shall be their or his duty to decide whether the certificate of any such officer shall be cancelled or suspended and to decide for what period it is to be suspended but such decision shall not be valid unless the requirements of section nine of this Act have been complied with and provided that no certificate of any master or mate shall be cancelled or suspended unless at least one nautical Assessor shall concur in the report of the Justices or Magistrate aforesaid and no certificate of any engineer shall be cancelled or suspended unless at least one engineering Assessor shall concur in such report.

Ib.

Governor empowered
to re-issue cancelled
or suspended New
Zealand certificates
or to shorten time
for which suspended
and to make recom-
mendation to Board
of Trade as to can-
celled or suspended
British certificates.

16. It shall be lawful for the Governor at any time if he thinks that the justice of the case requires it to re-issue and return any New Zealand certificate which has been cancelled or suspended or to shorten the time for which it is suspended or to grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended. It shall also be lawful for the Governor to recommend any such modification of any such sentence as aforesaid to the Board of Trade or any other British authority by whom the certificate which has been cancelled or suspended has been originally issued and in the interim to issue a New Zealand certificate of such grade as to him shall seem fit in lieu of such cancelled or suspended certificate.

Costs of investigation.

Ib. s. 11.

17. The said Justices or Magistrate may make such order with respect to the costs of any such investigation or any portion thereof as they or he may deem just and such costs shall be paid accordingly and shall be recoverable in the same manner as other costs incurred in summary proceedings before them or him. And the Governor may in any case he thinks fit cause the expense of any such investigation to be paid by the Colonial Treasury and such Assessors as aforesaid to be paid such remuneration as the Governor thinks fit.

Investigation to be
reported to Board of
Trade.

Ib. s. 12.

18. All proceedings taken in the course of any investigation held under this Act shall be transmitted through the Governor as soon as possible after the conclusion of such investigation to the Lords of the Committee of the Privy Council for Trade in England.

Enquiry into Wrecks.

19. This Act shall not apply to ships belonging to Her Majesty.

Application of Act.
27 Vict. No. 5 (1863)
s. 13.

SCHEDULE.

Schedule.

Of what Legislature.	Title or Short Title of Act.
Imperial Parliament ...	"The Merchant Shipping Act 1854."
General Assembly of New Zealand	"The Steam Navigation Act 1866."
	"The Steam Navigation Act Amendment Act 1867."
	"The Marine Act 1867."

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